

# The Rights Angle: Human Rights Education Using the Media

PRINCE EDWARD ISLAND  
EDITION

ACLRC  
Alberta  
Civil Liberties  
Research  
Centre

**The Rights Angle:**  
***Human Rights Education***  
***Using the Media***

Prince Edward Island Edition



by the  
**Alberta Civil Liberties Research Centre**

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## CHAPTER 1—INTRODUCTION TO HUMAN RIGHTS

**Chapter Purpose:** *The overall approach for this chapter is to use the media to discover and explore the meaning of human rights.*



Photo by: Flickr/Emu582

### Objectives:

1. Students will gain a general understanding of what constitutes human rights. They will also gain awareness of the fact that rights come with certain responsibilities.
2. Students will learn to identify human rights issues in the media.
3. Students will gain knowledge about current human rights issues, both in Canada and throughout the world. This includes developing an awareness and understanding of the impact of human rights abuses throughout the world, and that they are condemned internationally.
4. Students will gain an appreciation of the importance of standing up for their own rights, as well as for the rights of others.

## BACKGROUND INFORMATION

### Definitions

Funk & Wagnalls Standard College Dictionary provides the following definition for the word “right”: *A just and proper claim or title to anything, or that which may be claimed on just, moral, legal or customary grounds.*<sup>1</sup>

For the phrase “natural rights”, Funk & Wagnalls says: *Rights with which mankind is supposedly endowed by nature.*<sup>2</sup>



<sup>1</sup> Funk & Wagnalls Standard College Dictionary, Canadian Edition, *sub verbo* “right”.

<sup>2</sup> Funk & Wagnalls, at 1158.

Finally, Black's Law Dictionary says that "right" means *justice, ethical correctness, or consonance with the rules of law or the principles of morals.*<sup>3</sup>

None of these sources provides a definition of "human rights", even though this phrase has become common since the United Nations first drafted the *Universal Declaration of Human Rights* in 1948. Simply put, human rights are moral rights that belong to everyone. The only qualifications required to obtain human rights are to be born and to be human. It does not matter where you live, who your friends and family are, how much money you have, what race or ethnic group you belong to or identify with, or whether you are female, male or transgender. All of us have the same human rights, because we are all human.

### **Human Rights—What Are They About?**

At their core, human rights are concerned with very basic issues. They include the right to life, liberty and a decent human experience. Human rights also include all of the political, social, and economic rights necessary for people to live dignified lives.<sup>4</sup>

### **Human Rights—A Brief History**

The idea that human beings are entitled to certain basic rights is not new.<sup>5</sup> The first laws dealing with human rights were established four thousand years ago by the Babylonian ruler Hammurabi. As time passed, virtually every major religion embraced the dignity of human beings. However, not all religious leaders had the same ideas about the content of human rights. For example, many believed that slavery was acceptable and that women should not have as many rights as men.

In 1215, a document called the *Magna Carta* was drafted in England. It provided the foundation for many of the human rights laws that exist throughout the world today. It said that no one, not even a monarch, was above the law. Some of the rights contained in the *Magna Carta*

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<sup>3</sup> *Black's Law Dictionary*, 7<sup>th</sup> ed., *sub verbo* "right".

<sup>4</sup> Michael Kronenwetter, *Taking a Stand Against Human Rights Abuses* (Toronto: Franklin Watts, 1990) at 18.

<sup>5</sup> Jean Pictet, *Development and Principles of International Humanitarian Law* (Geneva: Henry Dunant Institute, 1985) at 3.

made their way into legislation that was drafted in the 18th and 19th centuries in the United States and France. During this time, the notion of liberalism was prevalent throughout western nations. Liberalism included the idea that citizens had inborn, fundamental, and inalienable rights. In other words, people were entitled to these rights by virtue of being human, and people could not lose these rights for any reason whatsoever.

### **Human Rights—Two Categories**

Human rights are divided into two general categories. First, civil and political rights are concerned with giving individuals freedom of action, freedom of choice and freedom to participate in political life. These rights are sometimes referred to as “civil liberties”. They include:

- freedom of speech;
- freedom of movement;
- the right to vote;
- freedom of religion and conscience; and
- freedom of thought, belief and expression.

Second, economic, social and cultural rights seek to protect peoples’ physical, material, social, and economic well-being. They include:

- the right to work;
- the right to rest and leisure; and
- the rights to adequate food, clothing, housing, and medical care.

The foundation of human rights is the belief that everyone is born with equal rights and dignity.

One set of rights is not more important than the other. A particular situation will determine a person’s priorities. For example, people facing starvation may find the concept of freedom of expression to be irrelevant at that time.<sup>6</sup> All rights are interrelated and dependent upon one another.

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<sup>6</sup> Amnesty International, *Human Rights Education* (1989) at 2.



## Human Rights—The Past 50 Years

Why are human rights discussed so often today? Why have they become such an important topic internationally, as well as nationally and locally? The answer is found in the aftermath of World War II. People were aghast at the terrible abuse millions had suffered during the war, and wanted to take every possible step to ensure that World War III did not occur. As a result, immediately following the end of the war in 1945, forty-five nations came together and created an organization pledged to promote “universal respect for and observance of human rights and fundamental freedoms.” That organization was, and still is, called the United Nations.<sup>7</sup>

In this chapter and in chapter 3, international human rights laws and how they apply to Canadians will be examined. The *Canadian Charter of Rights and Freedoms* and provincial human rights legislation will be examined in chapter 4. Below is a brief summary of human rights laws and how they apply to Canadians. The Chart will be a useful reference in later chapters.

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<sup>7</sup> For more information on the United Nations see *Basic Facts About the United Nations*. Copies can be purchased online at <http://shop.un.org>.

### Application of Human Rights Law to Canadians

Law or Legislation	To whom does it apply?	Whom does the law protect?	What rights are covered by the law?	Where will one go for assistance?
International Bill of Rights	federal and provincial governments	Canadians	basic human rights and civil liberties	after all legal avenues do not work in Canada, make individual complaint or communication to the United Nations
<i>Canadian Charter of Rights and Freedoms</i>	federal, provincial and municipal governments	Canadian citizens or individuals (see wording of individual sections)	basic human rights and civil liberties	Canadian courts are permitted to provide Charter remedies
Provincial human rights legislation	provincial governments and private citizens  (note: some other provincial laws include human rights)	people in the particular province	freedom from discrimination in particular settings (e.g., employment and services) under particular grounds (e.g., race and sexual orientation); settings and grounds vary between provinces	various provincial human rights commissions administer the legislation
Canadian federal human rights legislation	federal government and private businesses under federal jurisdiction (e.g. banks)	people dealing with the federal government or businesses under federal jurisdiction	freedom from discrimination in particular settings (e.g., employment and tenancy) under particular grounds (e.g., disability and religion)	Federal Human Rights Commission
<i>Criminal Code of Canada</i>	individuals in Canada	individuals in Canada	war crimes provisions; hate crimes provisions; harassment and assault laws; sentencing provisions which apply to crimes involving discrimination	Courts/police

### **The *Universal Declaration of Human Rights***

The United Nations originally consisted of the nations who were eventually victorious in World War II. On December 10, 1948, the United Nations passed the *Universal Declaration of Human Rights* (UDHR). Below is a brief description of the content of some important articles (sections) contained in the UDHR.

**Article 1:** All human beings are born free and equal in dignity and rights.

**Article 2:** Everyone is entitled to all of these rights in the UDHR regardless of race, colour, sex, language, religion and place of origin.

**Article 3:** People have the right to life, liberty and security of the person.

**Article 5:** No one shall be subject to torture or to cruel, inhuman or degrading punishment.

**Article 9:** No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10:** Everyone is entitled to a fair trial by an independent tribunal.

**Article 11:** Everyone has the right to be presumed innocent.

**Article 18:** Everyone has the right to freedom of thought, conscience and religion.

**Article 19:** Everyone has the right to freedom of opinion and of expression.

**Article 23:** Everyone has the right to work and to free choice of employment.

**Article 24:** Everyone has the right to rest and leisure, including reasonable working hours and holidays with pay.

**Article 25:** Everyone has the right to an adequate standard of living, including food, clothing, housing, social services and immediate care.

### **Human Rights Are Not Absolute**

It is important to understand that human rights are not absolute. With these rights come responsibilities. The UDHR emphasizes this sentiment in article 29(2), which states that people have duties towards others. A person's rights and freedoms are limited by the need to respect the rights and freedoms of others. In other words, having rights also means being fair to others—to each other, to our families and to the community we live in. Sometimes, however, it

can be difficult to determine what is fair. Limits must be imposed on a person's rights when those rights come into conflict with another person's. If one person is allowed to do whatever she wants whenever she wants, it automatically means that other people cannot do whatever they want whenever they want. Deciding what kinds of limits can be justifiably imposed on a particular right can be difficult. For example, freedom of speech is viewed as a positive thing for the most part. However, when hateful speech is directed at other people, it might cause these individuals to feel threatened, and might contravene their right to security of the person and their right to equality and dignity, among other rights. Deciding exactly what people can and cannot say is an extremely challenging task that is fraught with controversy.

### **Discrimination**

The foundation of human rights is the belief that everyone is born with equal rights and dignity, as article 1 emphasizes. In other words, people should be protected from discrimination. It is difficult to come up with a precise legal definition of the word "discrimination" because what is considered to be discrimination is constantly evolving. It changes over time as societal values change. What is considered to be discrimination today may not have been seen as discrimination one hundred years ago.<sup>8</sup> For example, in the early part of this century, women were not allowed to vote, and it was not until 1918 that some women were permitted to vote in federal elections. Aboriginal men and women were not allowed to vote in federal elections without losing their status until 1960. In Alberta, women were not allowed to hold civic, judicial or governmental positions until 1930. Still, if you were looking for a very basic and non-legal definition of discrimination, you could say that it is treating someone unfairly.

### **Discrimination, Prejudice and Stereotypes**

In order to better understand the meaning of discrimination, it is important to distinguish between discrimination, prejudice, and stereotyping. Legally, discrimination can be described as unfair treatment because of a certain characteristic. The characteristic can be race, religion, nationality, or a physical disability, to name a few.

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<sup>8</sup> Russel Zinn and Patricia Brethour, *The Law of Human Rights in Canada* (St. Aurora: Canada Law Books Inc., 1996) at 1-2.

Discrimination is based on prejudice, which is an attitude or belief that is formed or held without really considering the facts.<sup>9</sup> Prejudice means judging in advance.

Stereotyping involves making universal assumptions without knowing all the facts. A stereotype assumes that all members of a group share some general quality, such as they are all smart, stupid, hard-working, or bad drivers. Stereotyping of people or groups may be derogatory and can lead to prejudice and discrimination.

Stereotyping and prejudice involve thinking in a certain biased way. Discrimination is different in that it involves actually acting on these biased thoughts. People are often hurt by prejudicial attitudes and discriminatory behaviour. People may lose out on jobs or apartments because of discriminatory attitudes. The law cannot control stereotyping or prejudiced attitudes because they are only thoughts, even though those thoughts may eventually manifest themselves through harmful actions. However, it can address discrimination. For example, a person may be prejudiced against people with brown hair. If this person keeps this prejudiced feeling to herself or himself, then it is not illegal. However, if this person starts to beat up all people with brown hair, it becomes discrimination and possibly assault, which is illegal and can be acted upon by the authorities. Prejudice is a state of mind, while discrimination is a definite action that results from prejudice.

**Examples of discrimination, prejudice and stereotyping:**

1. ***Joe says he doesn't like Martians, even though he has never met a Martian.*** Joe is prejudiced against Martians.

2. ***Jeff refuses to eat shrimp, because he insists that he will not like it, even though he has never tried it before.*** Jeff is prejudiced against shrimp. However, in this particular case Jeff's

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<sup>9</sup> Alberta Human Rights Commission, *Human Rights: Respecting Our Differences Students' Manual* at 6.

prejudice is unlikely to cause harm to anyone. Prejudiced attitudes do not always result in negative consequences.

3. Jenny fell and hurt her leg. She was approached by a female doctor but refused help. ***She does not trust female doctors, even though she has never been treated by one.*** Jenny is prejudiced against female doctors, and is discriminating against the one who tried to help her. In this case, Jenny's prejudiced attitude may negatively affect the female doctor, who is not being treated with the dignity and respect that she deserves. Jenny's prejudice may also affect herself negatively, because her attitude will result in a delay before her injured leg is treated. Discrimination hurts not only those who are its victims, but also its perpetrators.

4. Jill wanted to play on the boys' soccer team. ***She is a skilled player and can easily outrun most of the boys on the team, but the coach won't even let her try out. The coach believes that girls cannot play soccer as well as boys, so he doesn't want to spend time watching a girl playing soccer.*** The coach is discriminating against Jill. Once again, both people are negatively affected by the discrimination. Jill cannot play on the team, and the coach loses a good player.

5. Holly owns an apartment building in town. ***She makes it a policy to rent only to married people.*** Holly is discriminating against single people and unmarried partners.

6. ***All Asians are excellent mathematicians.*** This is an example of a stereotype. Although this appears at first to be a positive stereotype, it can still be harmful. For one thing, it is not true—not all Asians are good at math. If you were Asian and you were not good at math, you might feel as though there was something wrong with you.

**Forms of discrimination:**

**Direct Discrimination:** *When a rule or policy obviously discriminates against a particular group of people.* For example, an employer who has a policy that states that no persons of colour,

women or Catholics may be hired is directly discriminating against these groups. Direct discrimination is easy to spot.

**Adverse Effect Discrimination:** *When the discrimination is not intentional.* For example, an employer may have a policy that appears to be fair because it applies to all people, but is actually unfair to a certain group. There was a Canadian legal case that involved two female pilots who were refused employment because they did not meet the standard height requirement.<sup>10</sup> Although the height requirement applied to everyone, it had the effect of eliminating 82% of women from employment as pilots. Even though employers may not intend to discriminate it may still be considered discrimination because the law looks at the impact of the company policy, not its intent.

**Systemic Discrimination:** *When a number of policies, rules and attitudes act together to form an atmosphere of discrimination.* This kind of discrimination is difficult to detect, and emerges only over time.

### **THE MEDIA AND HUMAN RIGHTS**

The media and human rights have a very close relationship. A large percentage of news stories posted online or broadcasted on T.V. and the radio relate directly to human rights issues. In fact, human rights concepts can be found, at one time or another, across virtually every form of mass media. Below are some examples of human rights issues that were posted online in a 24-hour period. These stories represent the type of news stories that are commonly re-told across different forms of news media:

#### **Home Screen:**

- The British Columbia Government wants to start posting the content of Freedom of Information requests on the British Columbia Government website as soon as they are received. (Human rights issue: right to **privacy** – people want to be able to make

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<sup>10</sup> *Chapdelaine v Air Canada* (1988), 9 Canadian Human Rights Reporter D/4449, 87 Canadian Labour Law Cases 17 (Canadian Human Rights Tribunal).

requests for information without having their request published in a public place for all to see).<sup>11</sup>

- A man is facing child pornography charges for filming a young boy using the bathroom in the West Edmonton Mall. (Human rights issue: right to **security of the person** – the boy’s parents were worried about his safety as this man was filming their child as he used the urinal, right to be **presumed innocent** – the accused should be presumed to be innocent until he is found guilty in a court of law).<sup>12</sup>
- Police in India are on the hunt for a Toronto woman who is wanted for supposedly paying for men, including two of her lovers, to murder her estranged husband in India. (Human rights issue: **security of the person**—the deceased husband’s right to be safe and unharmed was violated by his ex-wife’s plot to murder him, right to be **presumed innocent** – the ex-wife should be presumed to be innocent until it is proven in a court of law that she is guilty of the alleged crime).<sup>13</sup>

#### Life:

- Former “Bachelorette” Star reveals secret after secret in her tell all book “It’s Not Okay” about her breakup with “Bachelorette” winner. (Human rights issue: the right to **privacy** – The ex-boyfriend may feel as though his privacy is being violated as his ex-partner is sharing intimate details about his life, the right to **freedom of expression** – The Bachelorette star should have the ability to express herself and share stories about her personal life and her opinions on people she knows).<sup>14</sup>
- Two famous singers cancel their appearance on Late Night Show because a controversial presidential candidate was slated to be a guest on the same episode of

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<sup>11</sup> *Huffington Post*, “BC Government is Dodging Necessary FOI Reforms” Vincent Gogolek, (May 26, 2016), online: *Huffington Post* <[http://www.huffingtonpost.ca/vincent-gogolek/bc-government-foi-reforms\\_b\\_10135508.html](http://www.huffingtonpost.ca/vincent-gogolek/bc-government-foi-reforms_b_10135508.html)>

<sup>12</sup> *Huffington Post*, Aaron Voon, “Edmonton Man Facing Child Pornography Charges” Sarah Rieger, (May 26, 2016), online: *Huffington Post*, <[http://www.huffingtonpost.ca/2016/05/25/edmonton-police\\_n\\_10133286.html](http://www.huffingtonpost.ca/2016/05/25/edmonton-police_n_10133286.html)>

<sup>13</sup> *Huffington Post*, Pawandeep Kaur, “Toronto Woman Accused of Arranging Hit on Estranged Husband in India” Paola Loriggio.

<sup>14</sup> *Huffington Post*, “Andi Dorfman Reveals Secret After Secret in New Book ‘It’s Not Okay’”, Leigh Blickley, (May 26, 2016), online: *Huffington Post* <[http://www.huffingtonpost.com/entry/andi-dorfman-reveals-secret-after-secret-in-new-book-its-not-okay\\_us\\_5745d076e4b03ede44137836](http://www.huffingtonpost.com/entry/andi-dorfman-reveals-secret-after-secret-in-new-book-its-not-okay_us_5745d076e4b03ede44137836)>



the show. (Human rights issue: the right to freedom of expression – the singers are able to openly express their disgust towards the presidential candidate).<sup>15</sup>

**Politics:**

- A Conservative party convention became a forum for discussion on same-sex marriages and the right to have an abortion in Canada. (Human rights issue: the right to **security of the person** – women should be able to choose what happens to their own bodies and if they want to have an abortion, the right to **equality**- people should be able to marry someone of the same gender in the same manner that opposite sex couples are able to choose to get married).<sup>16</sup>
- Canada is recognizing that Trans people deserve to have the same rights as those afforded to other members of the Canadian public. (Human rights issue: right to **equality** – trans people should have the same rights as any other Canadian)<sup>17</sup>.

**Business:**

- A social media site is no longer relying on outside news outlets to determine what news stories to post to their trending page, as some have suggested that the social media site does not publish stories that express conservative views. (Human rights issue: right to **freedom of expression** – the social media site should not suppress conservative views from being shared, even if they do not like the content of those views; on the other hand, the social media site also has the right to express whatever views they feel are most representative of the site)<sup>18</sup>.

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<sup>15</sup> *Huffington Post*, “The Weekend and Belly Cancel ‘Jimmy Kimmel’ Appearance Over Donald Trump Because Obviously”, Hayley Cuccinello, (May 26, 2016)., online: Huffington Post < [http://www.huffingtonpost.com/entry/the-weeknd-belly-cancel-jimmy-kimmel-appearance-over-donald-trump\\_us\\_5746e7b9e4b03ede4413e6d0](http://www.huffingtonpost.com/entry/the-weeknd-belly-cancel-jimmy-kimmel-appearance-over-donald-trump_us_5746e7b9e4b03ede4413e6d0)>

<sup>16</sup> *Huffington Post*, “Tories to Settle Old Scores as They Prepare for Future Without Harper” Althia Raj, (May 26, 2016), online: Huffington Post, < [http://www.huffingtonpost.ca/2016/05/26/tories-convention-harper-speech-leadership\\_n\\_10144194.html](http://www.huffingtonpost.ca/2016/05/26/tories-convention-harper-speech-leadership_n_10144194.html)>

<sup>17</sup> *Huffington Post*, “Canada is Finally Moving Forward on Trans Rights” Sandeep Prasad (May 26, 2016), online: Huffington Post [http://www.huffingtonpost.ca/sandeep-prasad/canada-trans-rights\\_b\\_10118348.html](http://www.huffingtonpost.ca/sandeep-prasad/canada-trans-rights_b_10118348.html) >

<sup>18</sup> *Huffington Post*, “Facebook is Changing the Way it Decides What “Trending Content” to Post”, Associated Press (May 26, 2016), online: Huffington Post < Huffington Post, Facebook is Changing the Way It Decides What “Trending Content” to Post, Associated Press, May 26, 2016>

**Sports:**

- A Toronto soccer star is excluded from representing Italy in a soccer tournament because he chose to play on a Major League Soccer team. (Human rights issue: the right to **work** and **free choice of employment** – The soccer player had the right to choose where he wanted to work and to pursue the best opportunities for himself)<sup>19</sup>.

All of these stories are from only one day of news media, and there were many other stories relating to human rights that were not included. Clearly, the media and human rights have a close connection. They are important to each other for many reasons. One is that, as demonstrated above, various media forums, such as television broadcasts, online news reports, and Facebook and Twitter posts, obtain much of their content from stories relating to human rights issues. The media, at least in a democratic country, uses the right to freedom of expression, and in newspaper columns and editorials, blog or Facebook posts, and Twitter feeds, the right to freedom of opinion. In fact, the relative ability of an area's media reporters to speak their minds provides an accurate barometer of how many freedoms the citizens of a country are likely to possess. If an area's news reports and media reporters are controlled by the government, and therefore never question or criticize the government, then the nation's citizens likely do not have the right to criticize or question the government either.

If the media is operating in a free market economy, it is likely to favour a very broad approach to freedom of expression, because that is one of the main purposes of the media : to express stories, ideas, opinions, statistics, etc.. However, it is important to realize that as far as the issue of freedom of expression is concerned, the media may have a somewhat biased view. They are unlikely to promote or support publication bans, and will be concerned that any limit on freedom of expression, even if it has as its goal the prevention of a type of expression that a

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<sup>19</sup> *Huffington Post*, "Toronto FC Puzzled by Giovanco's Exclusion from Italian Team", Laura Armstrong (May 26, 2016), online: *Huffington Post* <(Toronto Star, Toronto FC Puzzled by Giovanco's Exclusion From Italian Team, Laura Armstrong, May 24, 2016)>

form of media does not use, will be a threat to their ability to express themselves in the ways they see fit.



Photo: Flickr/The Open University

### ***Human Rights Vocabulary***

Here are some words and phrases (with definitions) that indicate an underlying human rights issue. These words are used in an activity, described below in the activity section.

**aboriginal rights:** rights belonging to the original inhabitants of a country.

**abortion:** a miscarriage produced artificially and on purpose.

**basic needs:** what people require in order to live and sustain a minimal level of health.

**capital punishment:** the penalty of death imposed upon someone who has committed a crime.

**ensorship:** the action of suppressing material that someone in control finds politically or morally objectionable.

**child labour:** the full-time employment of minors under a legally defined age.

**citizenship:** the quality of possessing a certain number of civil and political rights in a certain state or country.

**defamation:** communicating in a way that harms the reputation of another person, lowering her or him in the estimation of the community or deterring third parties from associating or dealing with her or him. Defamation is illegal, and can be both a criminal and a civil law matter.

**democracy:** a form of government in which political power resides in all the people and is exercised by them directly or is given to elected representatives with each citizen sharing equally in political privilege and duty, and with this situation protected by free elections.

**deportation:** the act of expelling someone from a country, usually involving sending a person whom a country has deemed undesirable back to her or his native country.

**dictatorship:** a state or country under the control of a dictator, who has absolute powers of government. Often, “dictator” refers to a leader considered by many to be a tyrant or an oppressor.

**Disabled (persons with disabilities):** people whose functional ability is restricted in some way so that their bodies or minds do not allow them to function in the ways that are customarily expected.

**discrimination:** to act with prejudice toward an individual or a group of people.

**displaced persons (or displaced people):** people who have fled or been driven from their communities to other areas within their country or territory.

**equality:** the state of being equal, which means having the same rights and responsibilities as everyone else in a particular community.

**ethnic cleansing:** the racist activity of forcing people of a particular ethnic background to leave a particular area in order to create a population comprised only of one or more specific ethnicities.

**euthanasia:** the deliberate putting to death, in an easy, painless way, of a person suffering from an incurable and agonizing disease.

**(in) exile:** the situation people find themselves in when they have been expelled from their country by the official authorities for political reasons.

**freedom of expression:** a right guaranteed in some democratic countries that allows citizens to express themselves as they wish. The right to freedom of expression includes the right to the following freedoms: freedom of speech, freedom of religion, and a free press.

**gender identity:** one's personal experience of their own gender identity, which may or may not conform to all of the aspects of gender that are assigned to their biological sex.

**genocide:** the systematic extermination or destruction of an entire people or national group.

**harassment:** unwanted attention that has a negative effect on someone's work or school environment and makes that person feel uncomfortable or threatened.

**hate propaganda:** material that promotes bias, prejudice and discrimination against certain groups, usually ethnic or religious groups.

**human rights commission:** in Canada, a body formed by provincial human rights codes or by the *Canadian Human Rights Act* that receives and investigates alleged human rights violations.

**immigrant:** a person who has come into a country or region of which she or he is not a native in order to settle there.

**intersex:** general term used for a variety of conditions in which a person is born with reproductive anatomy that does not seem to fit the typical definitions of male or female.

**indigenous people:** people who are native to a certain region.

**land mines:** explosive bombs placed discretely in the ground that detonate when someone comes into contact with them.

**language rights:** rights regarding what languages can and cannot be used in different situations in a particular nation.

**migrant:** a person who periodically moves from country to country, usually because she or he does not feel safe in her or his country of origin, and is not legally within the boundaries of the countries she or he migrates to.

**minorities:** racial, religious, political or national groups smaller than and usually different in some ways from the larger group that populates a particular area or country.

**persecution:** the mistreatment or oppression of people because of their race, religion or beliefs.

**pornography:** communication of which the dominant characteristic is the exploitation of sex. More extreme examples add to the exploitation of sex the exploitation of such subjects as crime, horror, cruelty and violence.

**poverty:** the condition or quality of being poor without sufficient sustenance.

**prejudice:** a judgment or opinion formed beforehand without thoughtful examination of the pertinent facts, issues, or arguments. Prejudice often manifests itself as an irrational hatred or dislike of a particular group, race or religion.

**publication ban:** the legal exclusion of press and public from a trial, sometimes because of concerns for a child involved with the proceedings.

**race:** a group of people having or assumed to have a common origin and a constant set of genetically determined physical traits.

**racism:** a belief in or advocacy of the superiority or inferiority of a particular group on the basis of supposed racial differences.

**referendum:** a vote by the people of a nation, state or province on a public measure that has been proposed by the government.

**refugee:** a person who flees a particular country or area to escape persecution or political danger.

**reproductive rights:** rights pertaining to the act or the power to produce offspring.

**sexual orientation:** the particular disposition of a person's sexual interest, whether it is with the opposite sex, the same sex, or either sex.

**slavery:** legalized behaviour that involves human beings being owned by other human beings as though they are property.

**torture:** the infliction of or subjection to extreme physical pain, often implemented systematically by repressive governments or regimes.

**Transgender or transexual:** a person whose gender identity does not match with their assigned sex

**totalitarian:** a kind of government or regime that is maintained by political suppression or terror.



Photo:

Flickr/UN

Geneva

**\*\* Activities are designed for online news sources but students may also do the same sort of activity using a newspaper, zine, or other hardcopy source**

## **ACTIVITIES**

**Materials: (for sheets and handouts, see Appendix)**

- **Computers, Phone, or Tablet**
- **Internet service**
- **Sheet 1: The *Universal Declaration of Human Rights***
- **Handout 1: The Ship of Rights**
- **Handout 2: Word Search**
- **Handout 3: Vocabulary**
- **Handout 4: Brief History of the *Universal Declaration of Human Rights***
- **Handout 5: Crossword and Crossword Solution**

### **1. Fairness**

An easy way to access the concept of human rights is through the idea of *fairness*.

- Have the students look at an online news source (such as globalnews.ca) for an unfair situation.
- Have the students write down where the events surrounding the unfair situation are taking place, and who is involved. This will include attempting to identify who is the victim and who is responsible for the situation.
- Have the students analyze the unfair situation, and write down why it is unfair, and what they would do to rectify it.

### **2. Fairness (part 2)**

- Assist the students to locate examples of situations covered by an online news source that involve someone trying to bring fairness to a situation that was previously unfair. (This will be more difficult to find than a situation that is simply unfair.) For example, an article entitled “Government expands summer job program for youth” would qualify.
- Have the students identify where the events took place and who was involved.



c. Have the students identify the methods used to rectify the previously unfair situation, as well as who was responsible for the improvement, and what obstacles had to be overcome.

### **3. Standing Up**

This activity will demonstrate to students that rights issues do not only apply to people who are mentioned in the media. In fact, they apply to everyone.

a. Ask students to compare in writing the situation they discussed in activity #2 with a situation in their own lives that involved them or someone they know “standing up” for a certain belief or a certain right.

b. The composition should include information about whether taking a stand was successful or not, and discuss why it was or was not worth it for the person involved.

c. Ask students to write about a situation where they wished they had taken a stand, but did not. They should say why they should have taken a stand, why they did not, and how the result made them feel. If appropriate, have the students share their experiences with their classmates.

d. Students can imagine and write about what would be a triumphant example of standing up for something they believe in. They could include a discussion about whether such a situation could actually happen, and explain why this is so.

### **4. Human Rights Vocabulary**

Certain words provide an indication that a human rights issue is being discussed.

a. Without giving the students the definitions, ask them to search online news sources for the words or phrases in Handout #3. Inevitably, some of the words will be found in a particular online news source, while others will not be found. (Exactly how many words each student discovers is not important. While searching for these words, the students will become more familiar with online news sources as a whole, and with the different types of online news sources and the various sections and purposes of these sources.)

b. For the words they find, students will write down what they think the word means, based upon the context in which they discovered it in the online news source. Students

may invent their own definitions for the words they do not find during their search of online media.

c. As a class, discuss the meanings students have created for the words and compare them to the definitions provided in the background information above.

## 5. The Universal Declaration of Human Rights

a. Discuss the background material with the students (use sheet 1).

b. Distribute a copy of the *Universal Declaration of Human Rights* (PDF accessible at: [http://www.ohchr.org/EN/UDHR/Documents/UDHR\\_Translations/eng.pdf](http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf)) to students.

c. Discuss some of the most important articles.

d. Discuss the difference between civil and political rights and economic and cultural rights. Voting in elections, joining a trade union and writing a letter to a news source are all examples of exercising civil and political rights. The right to eat, the right to health and the right to work are all examples of economic, social and cultural rights. Ask students for other examples of civil and political rights. Ask students what kinds of things in Canada help to provide for economic, social and cultural rights. Examples of this include provincial medical insurance, free education and old age pensions.

## 6. Rights and Responsibilities

a. Discuss the difference between “rights” and “responsibilities”. Students then list five human rights they have or think they should have. The rights could be at home, school, or anywhere.

b. The students will list five responsibilities they have or think they should have.

Examples:

The right to:

1. rest and play time
2. food and shelter
3. be listened to

The responsibility to:

1. attend school
2. listen to others
3. be fair to others

*NOTE:* This activity may be best suited to students in grades 6-8.

### **7. Ranking Rights**

- a. Distribute Handout #1 to the students.
- b. Explain to students that they are in a country with limited rights. In order to survive the students have to choose only the rights that are most important to them.
- c. Instruct the students to number the rights from 1 to 10 starting with the most important right. Make sure that the students understand that they are giving up the least important right first. Number 1 will be the most important right.
- d. Vote on the different rights in order to come up with a class ranking of the importance of each right.
- e. Compare the class ranking with the rankings of the students. Do any of the students' rankings match the class ranking exactly? Discuss with the students why some people have different opinions on what rights are important, and why people's values differ.

*NOTE:* This activity may be best suited to students in grades 6-8.

### **8. Discrimination**

- a. Using the information in this chapter, discuss the difference between prejudice, stereotyping and discrimination. Ask the students to find examples of stereotyping and discrimination in the newspaper. Where possible, have the students identify whether the discrimination is direct discrimination, adverse effect discrimination or systemic discrimination.
- b. Ask students to compare their examples of discrimination with the situations regarding fairness that they examined in activities 1 and 2. Do the unfair situations from before involve discrimination? What kind?

### **9. Crossword**

Have students complete the crossword puzzle in Handout #5. It contains human rights vocabulary.

*NOTE:* This activity may be best suited to students in grades 6-8.

### **11. Word Search**

Have the students complete the word search in handout #2. Some of the words are the same or similar to the ones in activity 4, and some are different.

### **12. Authenticating News Sources**

This activity is meant to teach students media literacy, and the importance of verifying one's news source. Using the internet, have students try to find an online article or a blog post on a human rights issue. Ask the students to answer the following questions:

- a. Who is the source of the information? (What news source is the article from?)
- b. What is the information that you are getting? (Does the information seem biased in any way, or does the article seem to take a neutral stance?)
- c. Where is the news from? (Are any sources quoted? Does the author mention where they are getting their information from?)
- d. When was the site created or the article written? (The students should try and look for up-to-date news)
- e. How can you verify the info in the article or post is correct? (Have the students double check the news story against other sources—do the other sources seem to present the same facts and opinions?)

NOTE: This activity may be best suited to students in grades 9-12.

### **13. International Human Rights Day**

The United Nations has declared that December 10<sup>th</sup> is International Human Rights Day. What might your class or school do to celebrate the day? For activities and ideas, write to the United Nations Association, Suite 300, 309 Cooper Street, Ottawa, ON, K2P 0G5. Web site address: [www.unac.org](http://www.unac.org)

### **14. Human Rights Club**

Give students the opportunity to form a human rights club. Open the membership to all interested students and staff. At the first meeting define the purpose of the club. Decide how many times the club will meet and what kind of activities will be held at the meetings.

## CHAPTER 2—THE MEDIA AND HUMAN RIGHTS

**Chapter Purpose:** *The overall objective of this chapter is to learn about the media and how to critically interact with it using human rights as a subject matter.*



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### **Objectives:**

1. Students will gain an understanding of the functions, content, and structure of the different media outlets.
2. Students will gain an understanding of the relationship between the media and human rights, and why they are important to each other.
3. Students will learn about critical analysis and how this practice applies to the news media. This will include developing an ability to recognize bias and stereotypes in the media and why and how these ought to be eliminated.

## **BACKGROUND INFORMATION**

### **The Media, Discrimination and Stereotypes**

The media and human rights have a close relationship. The activities and background information in Chapter 1 of this guide focus on the way that the media tells stories about human rights. There is another side to this relationship, however. The media can look at events or issues from a certain perspective, and can influence the way that a community's citizens feel about these events and issues. The media needs to respect the human rights of individuals and groups to avoid promoting discrimination and creating conflict. Some argue that oppressive regimes use the media as an instrument to voice their viewpoints and to further their own agenda. In a democracy, the media is not operated by that government, but the political aspirations of the owners of a particular media outlet or the desire to sell more copies of a newspaper, or get more website visits. This can lead reporters to embellish stories and ignore the rights of the people they depict. The media and the people who operate these media

outlets can be powerful. To make sure that they do not abuse their power, there are rules, regulations, and laws that they must follow as well as principles that the various media outlets, such as newspapers, television, or radio, strive to adhere to.

### *Laws, Regulations, Rules and Policies*

To understand how the media is regulated, it is important to know the difference between laws, regulations, rules and policies. Primary sources of Canadian law include statutes, regulations, common law and the rules of court. Legislation, which is passed by Parliament and the legislatures, is applied by police, courts and the government. Regulations, by-laws and rules of court—sometimes called subordinate legislation—are passed by bodies that receive their authority from enabling legislation. The common law, which is judge-made law, is another major source of law. All of these laws are legally binding on individuals to whom they apply. On the other hand, policies and other procedures written by various organizations and businesses are not usually legally binding. However, if policies, principles or guidelines are breached, there may be penalties or other consequences.

In order to highlight how the law applies to the media, one can look to the newspaper industry as an example. Newspapers, both in print and online, are subject to Canadian laws. For example, in many jurisdictions, notices published in newspapers must not contravene the provincial human rights laws of the province they are published and circulated in. Provincial human rights laws are designed to prevent discrimination. Although the overwhelming majority of the advertising that appears in a newspaper is produced by sources other than the people who publish the newspaper, the newspaper is responsible for what it publishes, and must ensure that all advertising is appropriate, and meets the human rights standards established by law.

Another legal concern for newspapers is defamation. The written form of defamation, called libel, occurs when published material is likely to injure the reputation of any person by

exposing her or him to hatred, contempt or ridicule.<sup>20</sup> Published material may include twitter posts, Facebook posts, or other online communication. Someone who has been the subject of a libelous statement can sue the publisher of the statement for damages. In order to ensure that they are not the targets of lawsuits, newspapers try to avoid publishing such statements. However, statements that might otherwise be called libel are acceptable if they are true. The effect of libel laws is to encourage newspapers and other publications to be truthful and accurate.

Newspapers are also subject to pressure to conform to certain standards, such as those applied by Advertising Standards Canada. Its Canadian Code of Advertising Standards sets the criteria for acceptable advertising in Canada<sup>21</sup>. The Code says that advertisements shall not “(a) condone any form of personal discrimination, including that based upon race, national origin, religion, sex or age, (c) demean, denigrate or disparage any identifiable person, group of persons, firm, organization ... or attempt to bring it or them into public contempt or ridicule, or (d) undermine human dignity; or display obvious indifference to, or encourage, gratuitously and without merit, conduct or attitudes that offend the standards of public decency prevailing among a significant segment of the population.”<sup>22</sup>

An organization called Newspapers Canada has produced the following statement of principles:<sup>23</sup>

PREAMBLE

This statement of principles expresses the commitment of Canada’s daily newspapers to operate in the public interest. A newspaper is a vital source of information and a private business enterprise with responsibility to the community it serves.

<sup>20</sup> Black’s Law Dictionary, *sub verbo* “libel”.

<sup>21</sup> Advertising Standards Canada, “The Canadian Code of Advertising Standards” online < <http://www.adstandards.com/en/Standards/canCodeOfAdStandards.aspx#overview>>

<sup>22</sup> Advertising Standards Canada, “The Canadian Code of Advertising Standards”, online: < <http://www.adstandards.com/en/Standards/canCodeOfAdStandards.aspx#overview>>

<sup>23</sup> Newspapers Canada, “Statement of Principles”, online: < <http://newspaperscanada.ca/about-newspapers/statement-of-principles/>>



### FREEDOM OF THE PRESS

Freedom of the press is an exercise of every Canadian's right to freedom of expression guaranteed in the Charter of Rights and Freedoms. It is the right to gather and disseminate information, to discuss, to advocate, to dissent. A free press is essential to our democratic society. It enables readers to use their Charter right to receive information and make informed judgments on the issues and ideas of the time.

### INDEPENDENCE

The newspaper's primary obligation is fidelity to the public good. It should pay the costs of gathering the news. Conflict of interest, real or apparent, should be declared. The newspaper should guard its independence from government, commercial and other interests seeking to subvert content for their own purposes.

### ACCURACY AND FAIRNESS

The newspaper keeps faith with readers by presenting information that is accurate, fair, comprehensive, interesting and timely. It should acknowledge its mistakes promptly and conspicuously. Sound practice clearly distinguishes among news reports, expressions of opinion, and materials produced for and by advertisers. When images have been altered or simulated, readers should be told.

### COMMUNITY RESPONSIBILITY

The newspaper has responsibilities to its readers, its shareholders, its employees and its advertisers. But the operation of a newspaper is a public trust and its overriding responsibility is to the society it serves. The newspaper plays many roles: a watchdog against evil and wrongdoing, an advocate for good works and noble deeds, and an opinion leader for its community. The newspaper should strive to paint a representative picture of its diverse communities, to encourage the expression of disparate views and to be accessible and accountable to the readers it serves, whether rich or poor, weak or powerful, minority or

majority. When published material attacks an individual or group, those affected should be given an opportunity to reply.

#### RESPECT

The newspaper should strive to treat the people it covers with courtesy and fairness. It should respect the rights of others, particularly every person's right to a fair trial. The inevitable conflict between privacy and the public good should be judged in the light of common sense and with decency.

The Statement of Principles shows that people who produce newspapers know, or ought to know, that they can have a serious impact on society, and that there is a responsibility to publish newspapers in accordance with strenuous moral principles. There are other interesting aspects to this statement of principles. One is the prominence given to the concept of "freedom of the press". This topic directly follows the introductory preamble, suggesting that it is one of the most important principles. While certainly vital to a newspaper, as well as other forms of the media, "freedom of the press" is a self-serving principle. Although most people believe that freedom of the press is generally a good idea, some people feel that certain issues should not be covered in the press, in certain situations, in order to promote the common good. Because newspapers promote unfiltered expression, they will naturally be biased in favour of complete freedom of expression, regardless of the fact that the right to freedom of expression can come into conflict with other rights. This is why newspaper editorials on the subject of freedom of expression or freedom of the press are so often weighted heavily in favour of freedom of expression. While an editorial promoting freedom of the press may seem very effective and fact-driven, readers may wish to consider the source of the opinion and the potential for bias.

Another interesting paragraph is the one entitled "Community Responsibility". Although this paragraph says that a newspaper's "overriding responsibility is to the society it serves", it also admits to four other areas of responsibility: readers, shareholders, employees and advertisers. It is conceivable that the interests of the readers may not be completely compatible with the

interests of the shareholders, or the interests of the advertisers. The idea that “the operation of a newspaper is a public trust” is admirable, but it is not hard to envision situations that would encourage a newspaper to put its own interests ahead of the community’s. For example, publishers and editors may feel pressure from shareholders, who want to make money, to increase sales and advertising revenues. As a result, some stories may be covered with more of a sensationalist angle in order to catch people’s attention and induce them to buy the newspaper or visit the newspaper’s website.

### **Critical Analysis: Fact vs. Opinion**

Critical reading, or viewing, requires that one does not immediately accept provided information at face value, but rather questions it to see if it withstands closer scrutiny. This type of analysis involves reading between the lines; it is just as important to consider what is not explicitly stated, as well as the actual written or stated content of the piece. Using critical reading techniques is especially crucial when reading or viewing news media reports on breaking events, such as an online news article or a television news broadcast, because they are often presented as factual accounts. By “factual”, we mean real or actual—the truth. However, many factors, such as personal opinion or bias, can influence how people report facts. In order to see that one person’s “facts” concerning a particular event can differ from another’s, all one has to do is look at two different newspapers or television broadcasts and compare how they report on the same story. No two stories are exactly alike. It is not necessarily that one report is more accurate than another’s, but different writers and editors will choose to focus on different aspects of the same event. There are several reasons for this, one of which is that different media outlets are aimed at different viewers. For example, a television news station primarily watched by older adults might report on a particular event in a much different fashion than a magazine that is marketed towards teenage girls. Other reasons include writers’ different styles and approaches, and the fact that some events are so large that different reporters will inevitably end up acquiring information from different sources who will have a diverse range of perspectives on the events.

Reporter’s reactions to news events are usually easily identifiable as personal opinions, but

these recounts of an event have to be scrutinized carefully, because reporters can make their personal opinions or perspectives on an event appear to be facts. Advertising is another area that should be targeted for a critical approach. As opposed to news reports, which usually attempt to project an air of objectivity, advertisers dispense with objectivity from the outset so that they are able to portray their product or service in the most favourable light. Critical analysis helps consumers avoid being misled.

The preceding discussion about why critical reading (or viewing) of events reported in the media is necessary covers ground that most adults are well aware of. However, young people are often more susceptible to the idea that if something is being published or broadcasted, it must be true. Young children in particular will believe, for example, the most extravagant claims made by advertisers. The older children get, the more realistic they become. However, their realism is often directed at those close to them, such as their parents, instead of at society at large. As a result, many teenagers fail to question the different forms of media hype, including what they might see in a newspaper or on a media news report.

Media expert Dr. David Considine suggests an approach to teaching media literacy that focuses on deconstructing the news. News is often portrayed as a reflection of reality. Deconstructing news stories will show that they are like any other story, in that they are constructed in a certain way so that they will have a particular impact on the audience. This applies for all news, including content found in newspapers or in a television and radio broadcast. This approach will demonstrate that news stories reflect only a partial reality, not reality itself. Teachers often use a deconstruction approach when studying a novel or a poem. Students familiar with this approach should be able to recognize the parallel with news media, and will realize that news stories can be presented in many different ways, depending on what styles, characters, settings, genres and themes are employed.

Dr. Considine's framework for deconstructing news focuses on the following components of a news story in a newspaper, although many of the concepts outlined apply to different forms of news media:<sup>24</sup>

### THE STORIES

Newspapers, like other media outlets, must choose which stories they are going to cover. A variety of factors influence which stories are written, including what is deemed to be important, what readers will want to read, and what stories are easiest to cover. To highlight the selection process, it is helpful to compare a newspaper to another newspaper or a television or radio news broadcast and note how different media outlets will focus on different events. If news were simply news, they would be covered in exactly the same way. Every single media outlet would choose to focus on the same news story, as all news would be deemed equally relevant and interesting to the prospective audience.<sup>25</sup> Also, note how people often refer to "the news", in much the same way that people will refer to "the law". Unlike the law, which is, or should be, the same for everybody in a particular jurisdiction, the news can be and is presented in different ways by different people every day.

### THE SEQUENCE

Media sources present their stories in a particular order. Generally, the most important stories are at the front of the newspaper, or on the home page of the online edition of the newspaper. Obviously, somebody has to make a decision about which stories are the most important. Savvy readers might ask why this story is of particular interest or importance to the readers, and whether there are other factors that can explain why these specific stories are featured on the front page. Again, like in the above section on the stories, comparing different examples of news sources to see which stories are commonly featured on the front page is important and is a helpful way to bring this concept into focus.

### THE SCOPE

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<sup>24</sup> Dr. David Considine, "How to Analyze News: A Practical Framework for Teaching Students" (1993) 39:1-2 Telemedium. Online: <[www.mediasmarts.ca](http://www.mediasmarts.ca)>

<sup>25</sup> From MediaSmarts website ([www.media-smarts.ca](http://www.media-smarts.ca)).

Scope refers to how much space a story takes up in a newspaper. Not all stories are of the same length. Sometimes, a short story will be on the front page, while a longer one will occupy the back pages. Teachers and students can ponder questions surrounding why this happens, and whether the different amounts of space devoted to various news stories reflects a particular meaning. Why would the newspaper devote an entire full-page spread to one story while another story only receives a few sentences with no accompanying photos?

#### THE STRUCTURE AND STYLE

Although most newspaper reports are structured using the same inverted pyramid approach, different kinds of writing are employed throughout the newspaper. A story's structure can affect its impact. The style, which is related to the structure, includes the kind of vocabulary employed as well as aesthetic considerations, such as whether or not there is an accompanying photo, and the wording and size of the headline.

#### THE STATEMENT AND SLANT

Stories should be examined for their level of objectivity. Some stories appear to be fairly neutral, while others take an obviously positive or negative slant. It is important to consider the tone of the story, whether positive or negative, because the slant of an article can subconsciously impact one's perception of the news story.

#### THE ADVERTISING

As most of the revenue raised by newspapers is derived from advertising, advertising should not be ignored. Newspapers, as well as most media outlets, and the information they provide would not be possible without advertising. As such, advertisers have a significant impact on the choices that are made by the newspaper. Newspapers must keep the advertisers happy in order to ensure that they are able to sustain the newspaper through the revenue from advertisements. The influence of advertisers on the content published by newspapers is a very relevant discussion topic in order to understand the true context of the news stories presented by that particular media source. For example, if the advertiser that is the biggest source of income for the newspaper does not want the newspaper to post articles that suggest a pro-gay

marriage stance, is it unlikely the newspaper will post such articles so that they can appease their biggest money-maker.

Online sources rely on funding from advertising in much the same way as print newspapers. Online sources may also use “Targeted Advertising”, where they find out as much as possible about the user of the site and then bring targeted ads that are likely to appeal to that demographic<sup>26</sup>. For example, if the news source is targeted towards young adults, the advertisements may be for services or products that are popular with that age group. The companies that place advertisements on online sources also have a great deal of influence over the type of news stories that a site posts, as the online source depends on the funding from the advertisements in order to operate. A site that receives its primary funding from a company that aligns itself with Pro-Choice and Pro-LGBTQ values, for example, may be reluctant to post any news stories that suggest the author does not believe in a woman’s right to have an abortion, as the advertiser may not want to associate itself with these kind of articles and may pull their advertisements from that online news source. Similarly, a company that holds very conservative values may be hard pressed to place advertisements with an online news source that constantly celebrates human rights victories that go against the beliefs of that company.

### **Bias**

One way to become aware of how news reports are constructed in different ways dependent on the source, as discussed in the critical analysis section above, is to consider the experience of actually being present at an event and comparing your experience to the subsequent media coverage of that same event. The news report may not portray the event in a way that is synonymous with your personal experience of the event. One example is when you attend a sporting event, and then read the recap of the game the next day. Often, the reporter’s impressions of the game or contest differ greatly from yours. This experience does not apply only to sporting events. People who are present and involved in a more news-oriented event will often feel the same about the media story pertaining to the event. Of course, if you were to write the story yourself, not everybody would be satisfied with your take on a particular

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<sup>26</sup> Forbes, “How Do Free Services on the Web Make Money?”, online:  
<<http://www.forbes.com/sites/quora/2013/02/26/how-do-free-services-on-the-web-make-money/#6ba5688d4b98>>

situation either. The reason people are rarely satisfied with a re-telling of an event is that the reporter has made certain judgments about the occurrence, and these judgments inevitably make their way into the story she or he writes or tells. Everyone presenting a news story has to make these judgments; otherwise the story would be very bland and purely a re-telling of facts that would not engage readers or viewers. When these judgments are slanted overwhelmingly and unreasonably in favour of a particular point of view, it is called bias.

Even writers and reporters taking great pains to be as neutral as possible will inadvertently allow some judgments to slip into their work. Determining whether or not bias is present is a matter of degree. Usually, only a particularly slanted account will be called biased. A dictionary definition of bias is “A mental tendency, preference, or prejudice.”<sup>27</sup> Bias in a news story can be easy or difficult to detect, depending on your feelings about the subject being discussed. What you should look for is if you think that the tone of the article is unfair, and if it makes you angry. If you agree with the reporter’s approach to a certain topic, then you will not be upset or annoyed by the article, and you will not notice any bias. However, if the tone of the article does annoy you, and you think it is unfair, you will likely believe that the article is biased in some way. However, just because you agree or disagree with an article does not make that article inherently biased; this just shows how agreeing with a news story makes a story appear neutral, whereas disagreeing with the portrayal of the story makes it seem biased.

In Chapter 1, Introduction to Human Rights, the links between fairness and human rights are discussed. If a news report describes a situation that you think is unfair, it is likely that a human rights issue is at stake. In this chapter, one of the issues we are examining is the way that the media itself affects human rights. There is also a relationship between bias and fairness. Although a biased report may not necessarily contravene any human rights laws, such a report will cause people to react negatively because they will think it is unfair.

Although it is easier to detect bias when you feel that the tone of a particular report is unfair, it is possible to detect the bias if you look for certain clues.

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<sup>27</sup> Funk & Wagnalls Standard College Dictionary, Canadian Edition., *sub verbo* “bias”.



Here are some questions that you can ask to help determine if there is bias in a particular news source:<sup>28</sup>

1. Bias through placement—Where is the story placed? Readers of papers judge first page stories to be more important than the stories that are on the later pages, while news websites place the most important on their home page. Television, radio and online sources run the most important stories first and leave the less important stories for later in their broadcasts. Where a story is placed can influence what the reader or viewer thinks about its relative importance in relation to the other news stories.
2. Bias through organization—Think about the organization of the article or news broadcast. Most news stories are written in the “inverted pyramid” style, so that the most newsworthy facts are included at the beginning, followed by the important details relating to those facts and then the background information to provide context. The last part of the story contains the information that the readers or viewers are less likely to deem as important. Ignoring the end of an article or report can produce bias, as the background information may help the public better understand the topic at hand. For example, if an article on mental health issues in prisons waits until the fourth paragraph to detail how mental health sufferers are no more likely to be violent than members of the general public, the readers who only read the beginning half of the story may come away with a misguided view of the link between mental health issues and one’s likelihood to commit violent acts.
3. Bias by source—What sources are used? To detect bias, always consider where the news “comes from”. Look at whether sources only support the overall point of view of the article, or whether opposing views are represented as well. Writers will usually devote more space to sources that are favourable to their view, and can make one viewpoint appear more correct than another. Sometimes what would appear to be obvious sources are not even consulted. Sources can be named directly, or they can be described using

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<sup>28</sup> MediaSmarts, “Bias in News Sources”, online: <[http://mediasmarts.ca/sites/mediasmarts/files/pdfs/lessonplan/Lesson\\_Bias\\_News\\_Sources.pdf](http://mediasmarts.ca/sites/mediasmarts/files/pdfs/lessonplan/Lesson_Bias_News_Sources.pdf)>

vague terms such as “most people” or “official sources”. The more vague the source identification, the more suspicious the reader should be.

4. Bias by headline—Does the headline reflect the content of the story? Many people only read the headline of a news story, so they are likely to be biased to believe whatever the headline suggests, whether it be approval or condemnation for a specific event or person. Some headlines are relatively neutral, while others convey a particular slant. Sometimes a “slanted” headline does not actually reflect the tone of the accompanying story.
5. Bias by selection—What is the basic message of the story? Look at the message of the item and its context. Is it related to any wider issues? Also look at the methods used to convey the message, and whether the message is convincing or not. Sometimes apparently crucial points are left un-discussed, and sometimes arguments are purely emotional and lack any supporting evidence.
6. Bias by word choice and tone—Are “loaded” words used? The use of particular words with a positive or negative association can strongly influence the reader or viewer. Sometimes certain assumptions and value judgments made by the writer can be discerned because of word choices. For example, one person may describe a group as “freedom fighters”, while another person may call that same group “terrorists”. Another example would be the way statistics are presented—consider the difference in tone between “over 100 people attended the event” as compared to “only 90 people showed up for the event”.
7. Bias by photos and captions—What do photos and captions say? If there is a picture accompanying an article, it will often focus on a particular aspect of it and can influence the overall affect the article has on the reader. Some papers or television stations may choose photos to influence opinions about a candidate for election by choosing to run photos where the candidates look either extremely happy or angry, so that people begin to think the candidates are either “nice guys” or “grumps”.

Finally, a question that sums up all of the others:

8. Who stands to gain? Ask who would benefit if the point of view presented in the story were to be believed by the public at large.

## **Stereotypes**

Stereotypes, as discussed in Chapter 1, are universal assumptions that are made without knowing or considering all the facts. They assume that all members of a group share some specific quality. Thoughtless acceptance of stereotypes makes things simpler for people. Instead of having to take the time to appreciate everyone's differences, people can feel comfortable "knowing" that certain groups of people are all alike, at least in certain respects. These people then do not need to expend the mental energy to learn about the differences between people who belong to the same race, culture, religion, and so forth; rather, it is easier to assume that belonging to a specific group means all the members share the same characteristics. Sometimes, news stories resort to using stereotypes because it is easier than actually bothering to investigate to see if the stereotype is accurate or has merit. Other times, writers, reporters, and editors simply do not recognize the stereotypes they use.

An example of a situation where a racial stereotype was readily adopted by several media outlets involved the shooting of a white woman by black robbers in a downtown Toronto restaurant. Several newspapers published security camera photographs of the suspects on their front pages. These pictures were so grainy and unclear that the three robbers were undistinguishable. One newspaper quoted the homicide squad leader as advising people to cut out the photos and tape them to the visors in their cars, so that they would be able to recognize the robbers if they saw them. This resulted in people becoming scared while in the presence of any black males, as they could not discern the actual individuals captured in the photograph from innocent citizens walking on the street.<sup>29</sup>

The crime discussed above was called "black crime". Crimes involving specific ethnic groups are often labeled in a similar fashion. For example, the newspapers will often speak of "Asian crime". However, this same grouping of crimes committed by a certain ethnic group does not occur when the perpetrators of the crime are white: white people commit a preponderance of crimes in societies in which they form a majority, but the media never refers to such crime as

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<sup>29</sup> John Miller, *How Canada's Daily Newspapers Shut Out Minorities*, Media Magazine, July 1994.

“white crime”. As a result, certain ethnic groups incorrectly become associated with different criminal activities, whereas white people are able to retain their individuality; members of certain ethnic groups lose the ability to be evaluated on their own actions, not perceptions about their race.

Stereotyping does not only apply to crime reporting. Stories and photographs throughout the media can evoke stereotypes. Human interest items, entertainment stories, and sports exposés can all contribute to stereotypes. Before sprinter Ben Johnson was revealed to be using steroids, stories about him were mainly positive, and he was proudly referred to as a Canadian. After the steroid discovery at the 1988 Seoul Olympics, he was suddenly referred to as “Jamaican-born” or as a “former Jamaican”. Apparently, he was no longer Canadian. This switch has something to do with a misplaced nationalism, but it is also based on stereotypes. Describing Johnson as Jamaican-born is a more discreet way of describing him as a black man. When Johnson is described as a Canadian, it would be easy to picture him as white, because of the familiarity of his name. Attitudes such as this contribute to negative stereotyping of ethnic minorities.

As soon as Johnson engaged in an illicit activity, he was no longer associated with his previously held identity as a Canadian. This switch from labelling Johnson as a “Canadian citizen” to a “Jamaican-born man” signifies something much deeper than a change in the way the news labelled his nationality; rather, now that Johnson had become involved in an undesirable practice, he was more strongly tied to a country with a predominantly black population rather than to Canada.

### **Statistics on Newspaper Readers**

Vividata, which serves as the principal research arm of the Canadian daily newspaper industry, undertakes an annual readership survey. The annual 2014 survey provided the following statistics<sup>30</sup>:

- 70% of Canadians read a printed newspaper every week.

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<sup>30</sup> Newspapers Canada, “NADbank and PMB Release Spring 2015 Readership Studies”, online: <http://newspaperscanada.ca/news/research/nadbank-and-pmb-release-spring-2015-readership-studies/>

- Canadians spend an average of 46 minutes weekdays reading print copies of daily newspapers, and 30 to 40 minutes per day reading digital versions of newspapers.
- 70% of young Canadians, aged 18-34, read the newspaper each week. Unsurprisingly, this age group is more likely to read digital copies of the newspaper.
- Mobile readers of the newspaper grew 30% in one year, with 1.7 million people reading the mobile copy of the newspaper each day.
- Moreover, 4 in 10 people now access their newspaper content on a digital platform. This represents a 40% increase in digital readership since 2010.

Newspapers Canada also released a 2016 factsheet, “Newspapers 24/7- Young Adults” on the relationship between young adults and the newspaper. The organization found that<sup>31</sup>:

- Young adults (aged 18-34) are embracing technology to access newspaper content, while still reading in print;
- Millennials read newspapers as much as other demographics, but they read differently, accessing news from all platforms to suit their “on-the-go” lifestyle;
- Newspaper access is multi-platform- more than a quarter of young adults (28%) read the newspaper on all four platforms (print, computer, phone, tablet); and
- The majority (71%) of young adults access their newspaper content on their phones, followed by using their laptop (50%), reading the printed newspaper (47%), and using their tablet (44%) .

Overall, people continue to read the news, but their readership habits are evolving with increases in technological advancements. Seventy-five percent of Canadians still read a printed newspaper, but the number has decreased in the past five years (from 90%) while digital and cross-platform usage has increased<sup>32</sup>.

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<sup>31</sup> Newspapers Canada, “2016: Newspapers 24/7- Young Adults/Millennials”, online: <<http://newspaperscanada.ca/wp-content/uploads/2016/04/2016-Newspapers-24-7-Young-Adult-1.pdf>.

<sup>32</sup> Vividata, “Vividata Finds Print is Platform of Choice, but Cross-Platform Usage Continues to Grow”, online: <<https://vividata.ca/news/vivintel-reports-newsletters/>>

A 2015 study by the Pew Research Centre and the Knight Foundation examined the recent surge of Americans who rely on social media as one of their primary news sources. According to the study<sup>33</sup>:

- Facebook and Twitter's uses across all demographics are increasingly using these social media sites as news sources;
- 1 in 10 U.S. adults get news on Twitter, while about 4 in 10 U.S. adults get news on Facebook;
- Of the 17% of U.S. adults who use Twitter, 10% of these adults get their news on Twitter; meanwhile, of the 66% of U.S. adults who use Facebook, 41% of these adults get their news on Facebook;
- 8% of U.S. adults use both Facebook and Twitter to find news;
- 63% of both Twitter and Facebook users stated that they received their news on the social networks – that's an increase from 52% of Twitter users and 47% of Facebook users who told the Pew Research Centre in 2013 that they use each platform to receive their news; and
- 59% of Twitter users said that they follow breaking news on the platform, whereas only 31% of Facebook users follow break news on the social media site.

As more of the media audience goes online, it will be imperative for newspapers to attract loyal site visitors<sup>34</sup>.

Another interesting element of the news media is the actual demographics of the people responsible for gathering, editing, and reporting the news—the news gathering staff. Racial minorities have criticized the mass media for stereotypical or non-inclusive coverage—these communities are unhappy with the ways that newspapers, television stations, and advertisers depict them. Other critics of the mass media point to the fact that the newsrooms are mostly controlled by white males. In a study conducted in 2004, the managing editors at 37 Canadian

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<sup>33</sup> Nieman Lab, "New Pew Data: More Americans are Getting News on Facebook and Twitter", online: <<http://www.niemanlab.org/2015/07/new-pew-data-more-americans-are-getting-news-on-facebook-and-twitter/>>

<sup>34</sup> Frances Henry & Carol Tator, *Discourses of Domination: Racial Bias in the Canadian English-language Press*, (Toronto: University of Toronto Press, 2002).

daily newspapers provided demographic data on their newsgathering staff<sup>35</sup>. The “census” focused on information pertaining to women and minority groups. The last study that was completed on the topic of minority representation in Canadian news gathers occurred in 1994, and the findings showed a serious under-representation of minorities- only 67 (2.6%) of news professionals were identified as non-white. As the Canadian population has only continued to diversify over the last few decades, one might expect that the representation of minorities in the newsroom would have increased between the 1994 and 2004 survey. The findings for the 2004 study are as follows<sup>36</sup>:

- Non-white individuals constituted 3.4 percent of the newsgathering staff of 37 papers that responded to questionnaires, as compared to only 2.6 percent of the staff at papers that responded to a similar survey in 1994;
- On average, at any given daily newsroom in the country, minorities are more than six times under-represented in the staff population;
- Only 72 minorities were identified as being on staff at 37 daily newspapers in all 10 provinces, as compared to a total staff count of 2,119 across all of the papers;
- 57 of the 61 minority journalists who participated in the study work for the largest newspapers surveyed, with the biggest increase of positions filled being in the job category of reporter (31 positions, up from 12 in 1994);
- There is a very stark under-representation of minorities in the more prestigious, high-powered role of managers, the key individuals who dictate the news agenda, as there were less minority managers at the largest newspapers in 2004 than there were in 1994;
- Minorities remain largely excluded from the staffs of smaller newspapers (under 25,000 circulations)—this would indicate that minorities do not gain the experience and training that reporters, editors, and photographers find at smaller papers;

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<sup>35</sup> John Miller, “Who’s Telling The News?” (2005), 5 *International J of Diversity in Organizations, Communities, and Nations* 1.

<sup>36</sup> John Miller, “Who’s Telling The News?” (2005), 5 *International J of Diversity in Organizations, Communities, and Nations* 1.

- Of the 72 minority journalists identified as full-time news gatherers at the 37 newspapers, there were 27 Chinese journalists, 16 South Asian journalists, and 16 Black journalists, and only 1 Aboriginal journalist; and
- The results of the study suggest that Aboriginal Canadians are 70 times less likely to be employed by daily newspapers than their numbers in Canadian society would warrant—this is a very poor inclusion rate, and might help explain the stereotyping and marginalization of aboriginals in the media.

It would appear that there are still significant concerns with the level of minority representation in the newsroom. These same concerns also exist in the United States. The American Society of Newspaper Editors News Room Census annually looks at how many minorities work in newsrooms. Its findings from 2008 include<sup>37</sup>:

- \* The number of full-time journalists working at America’s daily newspapers decreased by 4.4% since 2007, the largest decrease in the past 30 years;
- \* In 2008 there were 52,600 full-time journalists working in daily newsrooms of which 13.52% were minority journalists;
- \* Minority persons account for 11.4% of all newsroom supervisors. This is the same percentage as in 2006; and
- \* The percentage of women working in daily newsrooms is 37.36% (a slight decrease from 2007), with minority women accounting for 17.16% of female newsroom staffers.

As Dave Zeeck, ASNE president notes, “diversity isn’t just about numbers, it’s about making our news reports better. Diverse staffs lead to better journalism.”

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<sup>37</sup> Press Release, “Newsrooms shrink; minority percentage increases slightly”, April 13, 2008. From the ASNE (American Society of Newspaper Editors) website (<http://www.asne.org/files/08Census.pdf>).



A study in 2004 examined gender and minority roles in comics from four daily newspapers over a month-long period<sup>38</sup>. This study found that the preexisting stereotypes found in previous studies remained the standard. Some of the new findings were:

- \* Male characters appeared more frequently than female characters, but female characters gained most as major characters;
- \* Female characters were more than twice as likely to appear in the home as male characters and were less likely to be identified with a job;
- \* When female characters were identified with a job, it was less likely to be a professional position and more likely to be a support-type position;
- \* Most acts of physical aggression were carried out by male characters against other male characters, but female characters were more likely to be verbally aggressive;
- \* 96% of all characters in the daily comics were white, while the real-life representation of minorities in the American population in 2004 was 25%;
- \* Minority characters were more likely to be younger than white characters;
- \* Minority men characters were less likely to be identified with an occupation than white men characters, and more likely to be classified as blue collar workers;
- \* 69% of adult black characters had no identifiable job; and
- \* The representation of minorities is less prevalent since 1997.

Statistics show that the print media are improving with regard to minority representation, both with newspaper content and with the number of minority employees.<sup>39</sup> However, they also show that in some respects there is still much work to be done in this area.

Here are two quotes that reflect the need for improvement. Augie Fleras writes the following in 1995:<sup>40</sup>

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<sup>38</sup> Jack Glascock and Catherine Preston-Schreck, *Gender and Racial Stereotypes in Daily Newspaper Comics: A Time-Honored Tradition?*, *Sex Roles*, Vol.51, Nos.7/8, 2004.

<sup>39</sup> Miller and Prince.

<sup>40</sup> Augie Fleras, *Please Don't Adjust Your Set*, *Communications on Canadian Society*, 4th Edition, Nelson Canada, 1995.

Generally speaking, aboriginal and racial minorities exemplify a 'social problem' as far as the media are concerned. They are described in the context of having problems in need of solutions that expend an inordinate amount of political attention or a disproportionate slice of national resources. In addition, the media are likely to define minorities as villains who 'create problems' by making demands unacceptable to the social, political, or moral order.

Leslie Joynt's article "Too White", also from 1995, begins like this:<sup>41</sup>

As Cecil Foster talks about his career, the pain in his voice is haunting. During his dozen years in journalism, he has worked at The Globe and Mail, The Financial Post, The Toronto Star, and CBC TV and Radio, written dozens of magazine pieces and two nonfiction books due out later this year, and taught at Ryerson and Humber College. Yet he says, 'I have been working in mainstream media in Canada for about 12 years and I am still an outsider. I can count on two fingers or less the number of people I can count as friends that I have made in the media.' He's never joined the Canadian Association of Journalists; no one ever asked him. And on the few occasions he went to the Toronto Press Club, he felt excluded. 'You get a sense of being invisible, of your presence being tolerated, but not expected.'

To confirm the lack of minority presence in the daily newspapers, all you have to do is look at the pictures of the columnists. The opinions you read in the newspapers do not often come from minority writers.

### **Structure of the Newspaper**

There are thousands<sup>42</sup> of newspapers, both online and in print, throughout the world, and they are all different. However, most newspapers and media outlets employ the same basic structure. They are designed to allow readers to absorb a large amount of information in a short period of time. The people who produce newspapers understand that readers do not want to spend a lot of time with the paper trying to figure out what is going on in the world. People are busy with their own concerns such as their careers, families or education. It is the job of the newspaper to sift through all the new stories and information that is out there and

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<sup>41</sup> Leslie Joynt, *Too White: Canada Has Changed. Our Major Dailies Haven't. Why Aren't They Doing More to Make Sure They're Read All Over?* Ryerson Review of Journalism, Spring 1995.

<sup>42</sup> The following sources were consulted for this section on Structure and Content: Canadian Daily Newspaper Association, *News is Not Just Black and White* ([www.mediasmarts.ca/](http://www.mediasmarts.ca/)) and *We can Learn From Newspapers*, ([www.gooddocuments.com/techniques/invertedpyramid.htm](http://www.gooddocuments.com/techniques/invertedpyramid.htm)).

print what people want to know about. This means that newspapers are not usually going to produce the most in-depth analysis of a particular event. Newspapers aim instead to provide a running commentary on events and keep people up to date. There are exceptions, of course. Newspapers will sometimes have special features on particular topics that will be more comprehensive. It also depends on which newspaper you are reading. If you prefer a tabloid format, you are unlikely to encounter many particularly probing analyses of the events of the day. However, more scholarly papers will provide such treatments more often.

Other functions of the newspaper include entertaining readers with comics, cross-words and humour pieces, and providing an outlet for advertising with the classifieds and with the space they sell for display advertisements. Some feel that newspapers even contribute to a recorded history that people can use to document how past events transpired and affected a community or society.

### **The Front Page**

The front page, or the home page for an online version of the newspaper, is always the first part of a newspaper a reader will see, and because of this it is the paper's most important page. The front page is the paper's most crucial promotional tool. People trying to decide which newspaper to purchase at a newsstand will usually simply glance at the front page before making their decision. The front page contains the masthead, which displays the paper's name, the most important news headlines and stories, and information about what is contained in the newspaper's other pages. Any advertisements on the front page will garner a lot of money, because this is the page that everybody who looks at the newspaper will almost certainly examine, or at least glance at.

Most print newspapers are designed so that they are folded in half before they are delivered to news stands, newspaper boxes, or readers' homes. Tabloid-style newspapers are an exception to this. Conventional newspapers, therefore, recognize that it is more likely that people will see the top part of the first page than the bottom half. This is why newspapers try to get the most important information printed "above the fold" on the first page. Often, many stories begin on

the front page but are finished on other pages of the paper. There are a couple of reasons for this approach. First, editors will try to include as many different stories on the front page as possible in order to pique the interest of as many potential readers as possible. Different people will be curious about different news items, so when there are more items visible on the front page, more people might be persuaded to purchase the paper. Second, newspaper publishers recognize that the front page, especially above the fold, can usually be viewed for free. For example, people can see through the glass in a newspaper box and read the top stories without buying the paper. Stories are not concluded on the front page in order to persuade people to buy the paper so they can finish reading a story they saw on the front page. If newspapers managed to put everything that people want to see on the front page, they would not sell.

### **Headlines**

News headlines are designed to inform readers about what a story's content is. Headlines are important because people generally will not read the entire news story. Instead, readers use the headlines to determine what stories will interest them. There are different headline styles, such as informational, teasing, and cute. Headlines sometimes contain puns, and they are not often written as complete sentences. Instead, words or phrases deemed unnecessary are omitted in order to save space and make the headlines more concise. The lack of grammatical correctness can make understanding headlines difficult at times. It can also result in headlines that are somewhat inaccurate. Editors are probably not overly concerned with this, because sometimes an unclear headline can lead a curious reader to read the article accompanying the headline in order to determine what the headline means. Sometimes there is more than one headline for a particular story. A shorter headline depicted with large type can be supplemented by a more detailed headline in smaller type. This technique allows for more precise headlines.

### **The Lead**

The lead is the first sentence or two of a news article. Its goal is to sum up the story. Leads are generally fairly short, but they should contain basic information about what is covered in the

story and should give an indication about what a reader can expect to find later on in the article. There are different kinds of leads for different kinds of stories. For example, a lead for a story containing breaking news will be informational, whereas a more in-depth and stylish feature story will often try to pique the reader's interest by using a more artistic approach. The lead is like a second headline. If a reader is interested by a particular headline, she will then begin reading the lead. If the lead is also intriguing, she will likely continue to read the article. If not, she will move on to something else.

### **Inverted Pyramid Style**

News stories, especially breaking news stories, are usually written using the inverted pyramid style. This approach starts with the basic facts and the conclusion, and follows with more and more detail and background. This kind of writing is the exact opposite of much creative writing that involves building towards a conclusion. There are a variety of reasons that this approach has been adopted by news stories. Readers who do not have much time for or interest in the story can get a decent understanding of the result and impact of the story without reading the entire article. Meanwhile, readers who have more time and want to delve deeper into the story can continue to read and can gain a more thorough understanding of it. Another benefit of the inverted pyramid is for editors, who when trying to decide how much space they have for a story, can simply cut from the end without having to do any complicated or tedious editing.

### **Hard and Soft News**

Hard news refers to stories about a major event that has just occurred or is in the process of occurring. Time is a factor for hard news. A reporter writing a hard news story will try to provide answers to all the questions that can be asked about an event: who?, what?, where?, when?, why? and how? Editors will attempt to get these stories into the paper as soon as possible, so that readers can be kept as up to date as possible.

Soft news is news that is not necessarily related to a current major event. It is not as sensitive to time as hard news. Instead, it allows for more thorough research and a deeper understanding of the material. Also, soft news often possesses more of a human-interest element to it. In other words, while the information provided by the article may be interesting

to readers, it is not necessarily what readers may feel they really *need* to know at that particular time. Human interest stories are often entertaining or thought-provoking, but might not have as direct and immediate an impact on the reader as hard news.

### **Sections**

As with the inverted pyramid style and the use of headlines, the different sections of a news source help readers to get the information they need as quickly as possible. A reader looking for a particular story does not have to comb through the entire paper or website to find it. Instead, you can look in the appropriate section. The front page will often contain an index outlining the different sections of the news source, and what order they are packaged in, to make things easier for the reader. News sources will also have certain information in the same place in the same section of the source every day. This means that people who want to view the television listings, the weather forecast or the comics can know where to look without wasting time.

### **Editorials and Comment**

Editorials, opinion columns and letters to the editor are often printed in the same section or on the same page. It is here that journalists, cartoonists, the editors and publishers of the newspaper, and the general public can air their feelings about policies or ideas. Unlike most regular news stories, these pieces do not attempt to portray themselves as completely objective. They are about opinions. Sometimes the opinions expressed in such columns are related more to the writer's feelings on a topic than on any facts obtained. Of course, the most persuasive opinion pieces are those that support the expressed opinion with carefully researched and reliable information.

It is often in the editorial section that the political bias of a newspaper is revealed. An editorial board may adopt an approach designed to provide a forum for the entire spectrum of ideas and opinions. In this circumstance, different columnists and writers with varying political and societal opinions would be commissioned to write on the editorial page. A different tactic would be to use the editorial page as an instrument to attempt to change society in some particular ways. Such editorial pages contain columns and letters that usually express the same

opinions on issues. Although newspapers do print letters sent to them by the general public, it must be remembered that the newspaper itself always has the last word on what is printed and what is not. Most newspapers adopt an approach in between the two extremes outlined above. They will take a particular stand on an issue in their editorials, but will allow columnists and letters to the editor to express similar and contrasting views.

Likewise, most online news sources have commentary sections and provide places for the public to respond and comment. Often, though, the online source also has control over what is posted or will remove some commentary if it is considered offensive or otherwise unsuitable.

### **Advertising**

Advertising is the lifeblood of a newspaper. A newspaper's goal might be to inform, educate and generate discussion, but advertising generates about 80% of a newspaper's revenue. Generally, newspaper content is about 60% advertising and 40% news and other features. Advertisements are put down on the page first, and then the space that remains is delegated for news.

There are three main kinds of advertising in the newspaper:

- \* Display advertising appears throughout the newspaper, and will contain information about products and services. These days, display advertisements utilize lots of artwork, colour and photographs to make them more eye-catching and appealing;
- \* Classified advertising has its own section in the newspaper. Classified ads are placed by people who want to buy, sell, hire or be hired. They are generally made up of words only, no artwork, and are usually placed by individuals or smaller companies, as opposed to display advertising that is produced by larger operations with more money to devote to advertising. Their name comes from the fact that they are grouped according to the type of item or service they are about. People are usually charged a certain amount for each word or line of a classified ad, so most of them are short and concise; and

- \* Special advertising sections and features are entire sections devoted to advertising a particular product or service. There is often an entire newspaper department devoted to producing these sections. They sometimes utilize written pieces to complement more conventional display advertising. Because of this, a less-discerning reader might not recognize that sections like these are actually entirely devoted to advertising. However, “stories” in special advertising features are always identified as advertising.



## **ACTIVITIES**

### **Materials: (for handouts, see appendix)**

- \* Computer, Phone, or Tablet
- \* Internet Service
- \* Handout 6: Analyzing a Newspaper Article
- \* Handout 7: Sample Human Rights Article
- \* Handout 8: Examining Photographs
- \* Handout 9: Editorials and Opinion Columns
- \* Handout 10: Sample Letter to the Editor
- \* Handout 11: Sample Editorial
- \* Handout 12: Sample Opinion Column
- \* Handout 13: You Be the Editor

### **1. Locating Human Rights Issues**

Using several sections of an online newspaper, have the students identify human rights articles or issues and print and mount the stories on posters to illustrate the various issues. See Handout #7 for a sample human rights article.

### **2. Analyzing a Newspaper Article: Critical Reading**

Locate two different online news stories on the same event. Break the students into two groups—each group is responsible for analyzing one story or the other and will answer the questions on Handout #6. Have the students from the two groups compare answers to the questions to evaluate how the same story can be portrayed differently.

### **3. Posting a Letter to the Editor**

Students will take the story they used for Activity 2 and the answers they gave to the questions posed, and will compose a letter to the editor expressing their feelings about the story. Their response, of course, can be negative, positive or neutral. See Handout #10 for a sample letter to the editor.

#### **4. Examining Photographs (Visual Literacy)**

Students will locate an online newspaper and look at the photographs in it, and will answer the questions on Handout #8.

#### **6. Editorials and Opinion Columns**

a. Students will follow the instructions on Handout #9, which involve searching an online news source for editorials and opinion columns that they agree with. They will say why they think the opinions expressed in the article are right. They will identify what are facts and what are opinions in the article. Students should be aware that opinions should be supported by facts; otherwise they are not persuasive. See Handout #12 for a sample opinion column, and Handout #11 for a sample editorial.

b. Students will look for an opinion piece that they disagree with, and will comment on why they disagree with it. Students will look for words or phrases that they feel are evidence of “bias” on the part of the writer.

c. Students will write an opinion column of their own on an issue of their choice.

d. Each student will exchange the opinion columns they wrote with another student, and will identify any bias in the writing of the other student, and if the columns touch upon any human rights issues.

#### **7. Creating an Op/Ed Page**

Students will design and produce an opinions and editorial page, complete with editorials, letters to the editor, opinion columns, political cartoons, information on who the publishers and editors are, and perhaps even a motto of some kind that indicates a principle that the newspaper strives to uphold. This should be done on a piece of construction paper or something similar that resembles the size of a newspaper page. The letters, editorials, columns and cartoons should contain comments and opinions on a variety of issues of the day. Students can include the opinion column they wrote for activity number #7. Handout #10 contains a sample letter to the editor.

*NOTE:* Activity might be best suited to students in grades 9-12, or could be modified for students in grades 6-8.

### **8. Writing a News Story**

Students will write a real or fictitious news story relating to a human rights issue. They write their own headline, and will use the inverted pyramid style, starting off with an appropriate lead to introduce the story.

### **9. You Be The Editor**

Students will decide whether or not they would post certain stories, comics or advertisements in the online newspaper if they were the editor. See Handout #13.

### **10. Stereotyping**

Students will search an online news source for examples of stereotyping. All areas of the news source should be examined. Students will identify any stereotyping or possible stereotyping they detect, and will describe why they think it is stereotyping, and how they would have produced the story or advertising or whatever the news content is in a way that would have eliminated the stereotypes.

### **11. Comparing Newspapers**

Compare two popular online newspapers. Can you identify which is the better paper? Why is it better? Can you identify what race(s), religion(s), age(s) or gender(s) the newspaper is trying to market to?

### **12. Comparing Newspapers With TV News**

Students will watch the news on TV and then compare it to what is in the online newspaper. They will answer questions relating to what differences there are, what reasons there are for these differences, which news format is better and why.

## CHAPTER 3—INTERNATIONAL HUMAN RIGHTS ISSUES

*The overall purpose of this chapter is to explore the current state of international human rights using the media.*



Photo: Flickr/United Nations Photo

### **Objectives:**

1. Students will learn about the organization of the United Nations and its impact on human rights, internationally.
2. Students will become familiar with some international human rights issues that are often discussed in the media.
3. Students will become familiar with the primary international human rights instruments, including the remedies that these instruments provide.

## **BACKGROUND INFORMATION**

Some information on international human rights and the United Nations (UN) is contained in Chapter 1. This chapter presents additional information about the UN.

The phrase “human rights” was included several times in the United Nation’s founding Charter, making the promotion and protection of human rights across the globe one of the key purposes and guiding principles of the United Nations.

The United Nation's work in human rights across the world is carried out by a number of different UN bodies. There are both **Charter-based** and **Treaty-based** human rights bodies, and it is important to understand the distinction between these two bodies.

### **Charter-based Bodies of the United Nations**

Charter-based bodies derive their establishment from different provisions of the Charter of the United Nations. These bodies hold broad human rights mandates, address an unlimited audience, and take action on human rights matters based on a majority vote. The Human Rights Council is a charter-based body, as it was established by resolutions of the main organs of the United Nations whose authority flows from the UN Charter. The current charter-based bodies include the Human Rights Council and its subsidiaries, such as the Universal Periodic Review Working Group and the Advisory Committee.

The **UN Human Rights Council [the "Council"]** is the principal United Nations intergovernmental body responsible for human rights.<sup>43</sup> Its role is to promote and protect human rights across the globe through addressing violations of human rights, including gross and systematic violations. It also serves as a forum for dialogue on human rights issues, makes recommendations to the General Assembly for the continuous development of international law in the field of human rights, and undertakes periodic reviews of each State to see if the State has fulfilled its human rights obligations and commitments. The Council consists of 47 elected Member Nations who serve for an initial period of 3 years, and cannot be elected for more than 2 consecutive terms.

**Special Procedures** is the name given to the mechanisms that were created by the Commission on Human Rights and later assumed by the Human Rights Council to address both specific country situations and thematic issues across the globe. Special Procedures can either be a

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<sup>43</sup> United Nations Human Rights Office of the High Commissioner, "United Nations Human Rights Council, online:< <http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>>

single individual, a special rapporteur or an independent expert, or a working group. Those individuals who are part of Special Procedures are prominent, independent experts working on a voluntary basis and are appointed by the Human Rights Council. Special Procedures' mandates usually ask that mandate holders examine, monitor, advise, and publicly report on human rights issues in specific countries, known as **country mandates**, as well of on human rights issues of concern worldwide, known as **thematic mandates**. As of November 1, 2014, there are 39 thematic mandates and 14 country mandates. All of the Special Procedures will communicate with the Human Rights Council regarding their findings and recommendations. At time, they may be the only human rights mechanism that will alert the international community about various human rights concerns as they are able to address situations in all parts of the world without the need for countries to have ratified a human rights instrument.

### **Treaty-based Bodies of the United Nations**

Treaty based bodies derive their existence from provisions contained in a specific legal instrument— a treaty. These bodies have narrower mandates, as they only deal with the issues that have been codified in the legal instrument. These bodies also address a limited audience, as they work with the countries that have ratified the legal instrument, and base their decision-making process on a consensus.

There are currently ten human rights treaty bodies that monitor implementation of the core international human rights treaties: Human Rights Committee, Committee on Economic, Social, and Cultural Rights, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination Against Women, Committee Against Torture, Subcommittee on Prevention of Torture, Committee on the Rights of the Child, Committee on Migrant Workers, Committee on the Rights of Persons with Disabilities, and Committee on Enforced Disappearances. These treaty-based bodies are comprised of independent experts who meet to consider State parties' reports as well as individual complaints or communications. These bodies also publish general comments on human rights topics, which are related to the

particular treaties they oversee. The Office of the High Commissioner Human Rights supports the work of the treaty bodies and helps them to harmonize their working methods and reporting requirements through their secretariats.<sup>44</sup>

Focus shifted to the reform of the treaty-bodies after the completion of the reform on the Charter-based human rights bodies and the establishment of the Human Rights Council. On April 9, 2014, the UN General Assembly adopted a resolution called “Strengthening and enhancing the effective functioning of the human rights treaty body system”.

The **UN Human Rights Committee (UNHRC)** was established under and monitors the *International Covenant on Civil and Political Rights (ICCPR)*. The UNHRC consists of 18 independent experts and meets three times every year. The UNHRC can also receive individual complaints from citizens of countries who have signed the proper covenants under the first Optional Protocol to the ICCPR. Citizens can do so when they believe that their civil and political rights have been violated by the State, but only after they have shown that they have unsuccessfully pursued all legal avenues in their own country. An example of a Canadian citizen who has brought an individual complaint to the UN Human Rights Committee is Sandra Lovelace.

#### *The Lovelace Case*

In 1979, an Aboriginal woman, Sandra Lovelace, made a complaint to the Committee. She was a member of the Tobique reserve. Lovelace married a white man, and under the law at that time, an Indian woman who married a non-Indian man lost her status as an Indian. This did not work the other way; an Indian male never lost his status if he married a non-Indian female. This issue became particularly relevant to Lovelace when she got divorced. She wanted to move back to her reserve and raise her children there, but because she had lost her status, she was unable to get her own house. She could not change this law in Canada because the Supreme Court of Canada had already ruled against an Indian woman in an earlier case that was similar.

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<sup>44</sup> Online: <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>.

In 1981, the Human Rights Committee said that Canada had violated its international obligations by denying Sandra Lovelace her culture. This influenced the development of the *Canadian Charter of Rights and Freedoms*, which was not in force at that time, and led to the *Indian Act* being changed. In fact, even before the Human Rights Committee handed down its decision, the federal Indian Affairs Minister stated that “We don’t intend to wait...This section of the *Indian Act* is discriminatory. All Canadians should be concerned. We are a country that espouses equal rights in the world, and that means that we must remove discrimination at home.”<sup>45</sup>

### **Other International Human Rights Bodies**

The **International Court of Justice (ICJ)** is a court established by the UN. It is designed to handle any international legal questions. The court does not have the automatic authority to decide a case between two member states, as states are not required to have their case decided by the ICJ. However, two countries involved in a dispute may sometimes agree to have the matter decided by the ICJ. It is located in the Hague, Netherlands, and is comprised of 15 judges elected by the General Assembly and the Security Council. No two judges may be from the same state, but apart from this rule, their nationalities are not considered. In making its decisions, the ICJ will consider international treaties and agreements, as well as customary law. As its name suggests, customary law is law that has evolved over the years and has become generally accepted, or customary.

The ICJ, and international law in general, can be extremely helpful in solving contentious issues that arise between nations. However, because countries are not required to submit to the ICJ’s decision-making power, unless they opt to do so, the court lacks the power that could really bring about substantial change.

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<sup>45</sup> Daniel J. Baum, *Law and the World Community* (Toronto: IPI Publishing Ltd., 1989) at 64.



The **International Criminal Court** (ICC) is an independent permanent court that tries persons accused of the most serious crimes of international concern. The court deals with individuals who commit crimes like genocide, war crimes and crimes against humanity. This court complements national legal systems and helps handle cases that transcend national borders. It is, however, a court of last resort. That means the ICC will not act if a case is investigated or prosecuted by a national judicial system and the proceedings in that country are genuine.

The ICC has been a part of the United Nations since the end of the 20<sup>th</sup> century. On July 17<sup>th</sup>, 1998, a conference of 160 states adopted a treaty, which was known as the *Rome Statute of the International Criminal Court* that established the ICC. A treaty can be “adopted” by an international conference that has been specifically created to set up the treaty through voting (where two thirds of the states present vote in favour of the treaty). The *Rome Statute of the International Criminal Court* entered into force on July 1, 2002 once 60 States had become Parties.<sup>46</sup> As of March 4, 2016, 124 states were Parties to the *Rome Statute*, which means that these countries have accepted the mandates of the Rome Statute. Canada signed the treaty on December 18, 1998.

Canada has played a large role in the development of the ICC.<sup>47</sup> Canada chaired a group of like-minded states that worked for two years on developing the basic concept of the ICC. In addition, Canada provided financial assistance that helped some developing countries to take part in the development proceedings. The Committee of the Whole for the Conference, which was the group that prepared the final report about what the ICC would eventually look like, was chaired by Philippe Kirsch, a Canadian.

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<sup>46</sup> International Criminal Court, “What is the ICC and What Does it Do?”, online: <<https://www.icc-cpi.int/iccdocs/get-involved/lesson1.pdf>>

<sup>47</sup> Department of Foreign Affairs and International Trade, “The International Criminal Court” (1998), 1, Canada World View 2.

## How to Make a Complaint to the United Nations

The United Nations has established human rights complaints procedures through which individuals may bring a human rights concern to the attention of the United Nations. In 2014, annual reports from each of the UN human rights treaty bodies collectively indicated that the UN human rights treaty system registered only 313 new cases.<sup>48</sup>

There are three ways for individuals to make a complaint to the United Nations if they feel their rights are being violated. They are: 1) **communications** under the special procedures mechanism of the Human Rights Council, 2) **petitions** under the international human rights treaties, and 3) **1503 procedure** now known as the Human Rights Council Complaint Procedure.

Complaints under #2 provide individual solutions and remedies. Complaints under #1 and #3 focus more on systematic patterns and trends of human rights violations and may be brought against any country in the world.

### 1. Communications Under Special Procedures

“Special procedures” is the name given to the mechanisms under the Council to address either specific country situations (called country mandates) or thematic human rights issues (called thematic mandates) in all parts of the world.<sup>49</sup> Examples of thematic mandates are: the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, and Special Rapporteur on extrajudicial, summary or arbitrary executions. Examples of country mandates are: Independent Expert on the situation of human rights in Sudan, or Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea.

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<sup>48</sup> Human Rights Voices, “UN 101”, online: <[http://www.humanrightsvoces.org/EYEontheUN/un\\_101/facts/?p=54](http://www.humanrightsvoces.org/EYEontheUN/un_101/facts/?p=54)>

<sup>49</sup> Human Rights Council, “Special Procedures of the Human Rights Council”, online: <<http://www2.ohchr.org/english/bodies/chr/special/index.htm>>

Special procedures are either an individual (called a "Special Rapporteur", "Special Representative of the Secretary-General", or "Independent Expert") or a working group usually composed of five members.

Special procedures mechanisms allow for complaints (called **communications**) to be made concerning either individual cases or a more general pattern of human rights abuse.<sup>50</sup> Some, but not all, special procedures mechanisms intervene directly with Governments on specific allegations of violations of human rights that come within its mandate.<sup>51</sup> Check each mandate's website for details.<sup>52</sup> The intervention can relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring.

The specific rules for an individual communication under the special procedures vary with the thematic or country mandates. However, in general:<sup>53</sup>

- Cases may be brought *regardless* of the country where they occur and *regardless* of whether the country has ratified a treaty;
- There must be a special procedure in place covering the specific human rights issue complained of or that specific country complained about;
- The communication does not necessarily need to be made by the victim, although the source must be reliable;
- Communications that contain abusive language or that are obviously politically motivated are not considered;<sup>54</sup>
- Communications should not be based solely on media reports;<sup>55</sup>

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<sup>50</sup> OHCHR Guide, at p.87.

<sup>51</sup> Office of the United Nation High Commissioner for Human Rights, "Communications", online: <<http://www2.ohchr.org/english/bodies/chr/special/communications.htm>>

<sup>52</sup> United Nations Human Rights Office of the High Commissioner, "Country Mandates", online: [http://spinternet.ohchr.org/\\_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx](http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx)> United Nations Human Rights Office of the High Commissioner, "Thematic Mandates", online: <[http://spinternet.ohchr.org/\\_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx?Type=TM](http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx?Type=TM)>

<sup>53</sup> OHCHR Guide, at p.87.

<sup>54</sup> Office of the United Nation High Commissioner for Human Rights, "Communications", online: <<http://www2.ohchr.org/english/bodies/chr/special/communications.htm>>

<sup>55</sup> Office of the United Nation High Commissioner for Human Rights, "Communications", online:

- It is not necessary to have exhausted all domestic remedies before using the special procedure;
- Special procedures are not legally binding mechanisms: It is at each country's discretion whether to comply with the recommendations of the special procedures final decision.

The following minimum information must be provided in the communication in order for it to be assessed:<sup>56</sup>

- Identification of the alleged victim(s);
- Identification of the alleged perpetrators of the violation;
- Identification of the person or organization submitting the communication, if different from the victim (this information is kept confidential);
- Date and place of incident;
- A detailed description of the circumstances of the incident in which the alleged violation occurred;
- Questionnaires relating to several mandates are available to help report a violation, but are not necessary; communications will be considered even if they are not submitted in the form of a questionnaire.

Once the complaint is received, the process, in general, involves sending a letter to the concerned Government requesting information, seeking clarification and comments on the allegation, and reminding the Government of its obligations under international law. When necessary, the UN will request that preventive or investigatory action be taken.

Communications may be addressed to:

***Special Procedures Branch***

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<<http://www2.ohchr.org/english/bodies/chr/special/communications.htm>>

<sup>56</sup> Office of the United Nation High Commissioner for Human Rights, "Communications", online:

<<http://www2.ohchr.org/english/bodies/chr/special/communications.htm>>

***c/o Office of the United Nations Commissioner for Human Rights  
8-14, Avenue de la Paix  
1211 Geneva 10, Switzerland***

## 2. Individual Complaints Under International Human Rights Treaties

Five international human rights treaties allow for individual complaints. One of these is *The International Covenant on Civil and Political Rights* (ICCPR) under its First Optional Protocol. Under the Optional Protocol the UN Human Rights Committee looks at an individual's complaint and determines whether there has been a violation of a treaty right. This procedure results in a response to each individual complaint. The most common remedy is compensation, but other remedies include release from imprisonment, investigation, or re-trial. The States have a moral obligation to implement the Committee's decisions, but they are not legally bound to.

The rules for making a complaint (called a **petition**) under the ICCPR are:<sup>57</sup>

- The petition need not take a particular form, but it must be in writing and signed;
- The petition cannot be anonymous, but if you are afraid to disclose your name you can request that it not be disclosed when the final decision is published;
- The petition should:
  - Provide basic personal information (e.g. name, nationality, date of birth) and specify the State against which the complaint is directed.
  - Set out, in chronological order, all the facts on which the complaint is based.
  - State why the facts of the case are a violation of the Treaty.
  - Supply all documents relevant to the complaint and arguments, especially administrative or judicial decisions that national authorities have made in the case. It is also helpful to provide copies of relevant national laws.
- The complainant's government must have signed and ratified the Treaty;

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<sup>57</sup> United Nations Human Rights Office of the High Commissioner, "Individual Complaints Under the United Nations Human Rights Treaties", online: < <http://www.ohchr.org/Documents/Publications/FactSheet7Rev.2.pdf> >

- The complainant must claim to be a victim of a violation of the rights specified by the Treaty, or be representing such a victim;
- The Committee may accept a communication on behalf of a person who is unable to make a complaint, but the person must provide written consent;
- The complaint must be against a State, not a private individual or an organization;
- The complaint cannot have been submitted under another international settlement mechanism, for example the European Court of Human Rights; and
- The individual must have exhausted all options in her or his own country.

After the petition has been submitted, the Human Rights Committee generally takes the following steps:

- If the Committee determines that the complaint is admissible, it considers the merits of the complaint.
- People who have submitted the complaint may need assistance before the Committee has had time to make an assessment. The Committee may have to give an interim opinion to the country.
- The country is asked to submit (within 6 months) explanations or statements clarifying the matter and any remedy that it has provided.
- Once the country's comments are received, the complainant is given 2 months to comment on them.
- The Committee then formulates its views and forwards them to the State Party and the complainant.
- While the committee is reviewing the complaint, the proceedings are confidential. However, once the Committee reaches a decision the findings are always made public. Decisions are final; there is no appeal against the Committee's decision.

At the end of this process, which can take 2-3 years, the United Nations Committee tells the government of the country from which the complaint originated whether or not it is complying with the Treaty. States have a moral obligation, but are not legally bound, to implement a decision.

Although the international legal system does not have the strong coercive powers of a functioning domestic legal system, there is significant pressure from the international community to enforce human rights obligations.

Complaints under a Treaty should be sent to:

***Petitions Team  
c/o Office of the United Nations Commissioner for Human Rights  
8-14, Avenue de la Paix  
1211 Geneva 10, Switzerland***

### 3. Council Complaint Procedure (formerly 1503 Procedure)

This is the oldest human rights complaint mechanism in the United Nations system.<sup>58</sup> The 1503 procedure (now called the Council Complaint Procedure) is the only universal complaint procedure covering all human rights in all countries. *Any violation of human rights falling under the Universal Declaration of Human Rights can be complained about.* A State does not need to have signed a treaty for a complaint to be submitted against it, and neither does there have to be a special procedures mandate in existence.

This method does not result in any specific action being taken with regard to a particular complaint. Instead, the accumulated communications end up providing the United Nations with a compilation of consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms in any country of the world under any circumstances. The entire procedure is confidential.

Not every complaint is admissible. The rules are:<sup>59</sup>

- The communication must be consistent with the aims of the United Nations Charter, the Universal Declaration of Human Rights, and other legal instruments in the field of human rights;

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<sup>58</sup> OHCHR Guide, at p.88.

<sup>59</sup> Human Rights Council website (*HR Council Complaint Procedure*) – <http://www2.ohchr.org/english/bodies/chr/complaints.htm>

- There must be a consistent pattern of gross and reliably attested to human rights violations (it cannot happen only once);
- Complaints from individuals or groups who claim to be victims of human rights violations may be admitted. They may also be admitted when they come from any person or group of people who had direct, reliable knowledge of violations. Non-governmental organizations may make complaints if they have direct, reliable evidence of the situation they are describing;
- The complaint cannot be exclusively based on reports disseminated by mass media;
- Each complaint must describe the facts, the purpose of the complaint, and the rights that have been violated. The language in the complaint must not be abusive or contain insulting remarks;
- The complaint cannot refer to a case already being dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights;
- All possible remedies in the country where the alleged violations occurred must be exhausted. This means that individuals (or perhaps groups) must have tried to resolve their problems using domestic courts and government.

The complaint first goes to a working group, which screens out ill-founded and anonymous communications. The working group must decide whether the communication alone or in combination with other communications appears to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. The ones meeting this criterion are forwarded to the State involved in order to get its views on the allegations. The original complaint and the State's replies are then given to a second working group which prepares a report for the Human Rights Council on the consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms. The working group also makes recommendations to the Council as to what to do to address the violations.

Communications may be addressed to:

***Complaint Procedure Unit***



***Human Rights Council Branch  
Office of the United Nations High Commissioner  
United Nations Office at Geneva  
CH-1211 Geneva 10, Switzerland***

### **International Humanitarian Law**

There is a difference between international human rights law and what is called international humanitarian law (IHL). While human rights law applies to all circumstances, IHL applies only to armed conflict, or war. IHL exists because human rights laws are often ineffective and inappropriate during wars, as the whole concept of war violates very basic human rights. Essentially, IHL tries to make the best of a bad situation. Still, like human rights law, IHL is based on respecting each human being and his or her dignity, without discrimination.

Humanitarian law concerns how parties involved in a conflict treat non-combatants, such as the wounded, prisoners of war, political prisoners and civilian populations generally. It also attempts to regulate parties' behaviour toward the environment, goods essential to a population's survival, and cultural sites. For example, one treaty says that the starvation of civilians as a method of combat is prohibited, which means that a party to a conflict cannot attack foodstuffs, crops or drinking water sites.<sup>60</sup> While both the effectiveness and the logic behind IHL are sometimes questioned, having humanitarian rules in place during war-time provides the nations involved in conflict with guidelines for appropriate conduct and activities to avoid. IHL may help protect the many individuals who are inadvertently affected by the war and would otherwise not receive appropriate care or attention. The International Committee of the Red Cross has played a significant role both in treating the wounded and in promoting the enforcement of humanitarian laws.

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<sup>60</sup> GC. Protocol II, 1977.

## **SOME INTERNATIONAL HUMAN RIGHTS ISSUES OFTEN SEEN IN THE MEDIA**

### **Peacekeeping**

Another high profile activity of the UN is peacekeeping. Sometimes when there is a conflict—neither side wants the fighting to continue, but they feel incapable of maintaining peace without outside assistance. If all parties to a conflict agree, the UN will deploy peacekeeping soldiers to the affected area. The soldiers' presence will, hopefully, deter any further hostilities, and allow for tempers to subside and aid to be brought to those who need it. Notable UN peacekeeper roles include helping restore a safe and secure environment in Haiti after the devastating earthquake of January 2010, protecting civilians and human rights defenders under imminent threat of physical violence in the Democratic Republic of Congo, and helping maintain the ceasefire between the Israeli and Syrian forces. While the peacekeepers may be a tremendous help, their hands are often tied. First, unless the parties involved in the conflict and the UN can agree to their presence, the peacekeepers will not be able to deploy to the problem area. Second, once there, peacekeepers may never be able to quell the violent intent of a particularly determined warmonger; they may be able to help decrease some of the tension, but not completely eradicate the fighting. Nevertheless, peacekeepers are very effective in the right circumstances.

### **Landmines**

An issue of severe consequence in many countries around the world is that of anti-personnel landmines. These devices are designed to explode when somebody steps on them. They are usually left behind by retreating armies in order to dissuade rivals from pursuing them. The issue with landmines is exacerbated by the fact that they often remain armed and ready to detonate for decades after a conflict has ended. Although momentum to ban landmines has been building since the 1980s, a treaty banning their use, the Ottawa Treaty, has not been signed by some of the most powerful countries, such as China and Russia; However, in 2014, the US declared that it will abide by the terms of the Treaty, except for landmines used on the

Korean Peninsula. South Korea has not signed the treaty, as they believe the use of landmines is crucial to the defense of their territory against North Korea<sup>61</sup>.

### **Immigration and Emigration**

Immigration and emigration is the movement of people from one country to another in order to settle and live in the new country. Immigration refers to moving into the new country, and emigration refers to leaving the original country. Emigration usually occurs because the individual believes that better opportunities can be found elsewhere. Sometimes, this means that relatively healthy and safe people are looking for a higher standard of living than what they are currently experiencing; other times, people in more economically dire situations are trying to leave a country that is wrought with difficulty. Canada is a country where immigration is common, while emigration is less so. This is because Canada is a relatively wealthy nation and has a reputation for being a safe and prosperous place to live. Not many people want to leave a place that is wrought with opportunities for economic and social growth. While many people want to come to Canada to live, not everyone gains admittance. Canada has a relatively strict immigration policy, and prefers to allow in those immigrants who have the most to offer the country, generally in terms of employment potential. A potential immigrant must make her or his case in front of the immigration board, who will decide if the criteria are met.

Immigration is often a hot political topic, and is therefore continually discussed by the media. Some feel that immigration is a vital source of new ideas and a way to increase the country's dwindling birthrate. Others feel that immigration should be severely restricted. Immigration is a contentious issue because of its link to concerns about discrimination. Citizens who see problems with Canada may choose to focus their attention on visible minorities, some of whom are immigrants. These minorities are accused of being a drain on the country's resources or of "stealing" the jobs of Caucasians. As a result, immigration is seen as a major source of this country's problems. While these feelings may be misguided, or grounded in a false perception

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<sup>61</sup> International Committee of the Red Cross, "Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 September 1997", online: <<https://www.icrc.org/ihl/INTRO/580>>

rather than in the reality, anti-immigration sentiments are evident throughout Canadian society and the mass media.

### **Refugees**

The 1951 *UN Convention Relating to the Status of Refugees* says that a refugee is a person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable, or owing to such fear, is unwilling, to avail himself of the protection of that country...” Refugees are like immigrants, except that they left their original country because of a fear of persecution. As with immigration, refugee candidates are screened by a board established for that purpose. Some of the most critical questions posed by the refugee board will concern the level of danger that the individual faced in their country of origin, and how they knew it would be dangerous to remain in that country<sup>62</sup>.

Canada has ratified the *United Nations Convention Relating to the Status of Refugees*, and, as a result, has certain obligations with regard to refugees. For example, Canada cannot expel a refugee who is lawfully in its territory, except when a legitimate legal process demonstrates that national security or public order is jeopardized by the presence of the refugee. Also, Canada must give refugees the same treatment as the other people living here with regard to social assistance, public education and the opportunity to work for money.

In the same way that there are concerns about immigration, the debate surrounding the influx of refugees given protection in North America is also controversial. Like many contentious topics, the debate surrounding refugees becomes prime media fodder. The system is designed to prevent people from leaving their home country for purely economic reasons and trying to pass themselves off as political refugees whose lives have been threatened because of their beliefs. However, there are those who feel that this scenario happens regardless. Also, some refugee claimants do not go through the proper channels, such as putting in a refugee

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<sup>62</sup> UNCHR, *The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol* (Geneva: UNCHR, 2011)

application with Immigration Canada, either because they are at immediate risk, or for other reasons that are seen as less acceptable or sympathetic. This complicates the job of the refugee board in terms of trying to decide who can be awarded refugee status and who cannot. As well, the board is subject to intense media scrutiny for their decision making procedures<sup>63</sup>.

### **War Criminals**

During the Twentieth Century there has been a growing recognition by the international community that individuals may be prosecuted and found liable for international criminal acts such as crimes against peace, war crimes, crimes against humanity, apartheid and genocide. After World War I, people become concerned that there must be some rules that soldiers must follow in times of war and that these rules must be encoded and systematically applied. A conference was held and representatives from several countries attended. A treaty was drawn-up and called the *Treaty of Versailles*. The treaty allowed allied forces to bring people accused of violating the laws of war before a military tribunal to be punished according to the law.<sup>64</sup> The procedure was not widely used and only a small number of Germans were prosecuted before German courts following World War I.<sup>65</sup>

The issue of war criminals did not arise again until World War II. After this war, many thousands of war criminals were tried at hearings conducted under various tribunals. The Nuremberg trials, held in the 1940s in Germany, were the first established military tribunals. The Nuremberg tribunals handed down twelve death sentences, seven prison terms and three acquittals.<sup>66</sup> The judges included members from the United States, France, Britain and the Soviet Union. The trials lasted for over 10 months and 24 German Nazi leaders were charged with one or more of the following crimes:

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<sup>63</sup> Gabriel Yiu, "Conservatives' Bills Continue To Haunt Immigrants And Refugees", *Huffington Post* (28 March 2016), online: < [http://www.huffingtonpost.ca/gabriel-yiu/bill-c-31\\_b\\_9555414.html](http://www.huffingtonpost.ca/gabriel-yiu/bill-c-31_b_9555414.html)>

<sup>64</sup> For more information on World War I, see Alberta Civil Liberties Research Centre, *Volume III—Background to International Human Rights Law*, 1996.

<sup>65</sup> W.J. Fenrick, "The Prosecution of War Criminals in Canada" (1989) 12:2 Dal. L.J. 256 at 285.

<sup>66</sup> M.C. Bassiouni, *Crimes Against Humanity in International Criminal Law* (London: Martinus Nijhoff Publishers, 1992) at 210.

- Crimes against peace; waging the planning of wars of aggression contrary to international treaties and agreements;
- crimes against humanity; extermination, enslavement, genocide, racial and religious persecution;
- war crimes: specific crimes in German-occupied areas. These included murder, torture, destruction of cities, towns and villages, and the killing of prisoners of war and hostages; and
- common plan conspiracy.

The war crimes trials had several long term results. Crimes that had been considered moral crimes became legal crimes as well, as the waging of aggressive warfare was considered a crime. Inhumane acts against civilians were recognized as crimes. Individuals were even held responsible for crimes they committed under the orders of their superiors. It was determined that individuals could not argue that they were merely following orders. Finally, heads of state were held accountable for international crimes. The few war crimes trials held from 1947 to date have sometimes resulted in the conviction and prosecution of war criminals.

### **War Crimes Laws in Canada**

In 1984, the Law Reform Commission of Canada published a working paper in which it recommended that the government study war crimes with a view to determining the type of war crimes legislation that should be drafted in Canada to replace old legislation.<sup>67</sup> In February, 1985, a Commission was established to officially determine whether there were alleged Nazi war criminals living in Canada and what could be legally done in order to punish these individuals for their actions. The commission determined that there were Nazi war criminals living in Canada and that the existing laws were not effective for dealing with this situation. The result was that war crimes laws became part of the *Criminal Code* of Canada in 1987, and are

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<sup>67</sup> (February 7, 1984) P.C. 1985-348.

now part of a separate act, called the *Crimes Against Humanity and War Crimes Act*.<sup>68</sup> This Act defines “war crime” as follows:

- An act or omission committed during an armed conflict that, at that time and in the place of its commission, constitutes a war crime according to customary international law or conventional international law applicable to armed conflicts, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

“Crimes against humanity” are defined as:

- Murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

It was difficult to prosecute war criminals using the *Criminal Code* of Canada ( crimes against humanity provisions were in force until late 2000), especially for war crimes that occurred during World War II. One reason is that a long period of time can elapse between when the crime was allegedly committed and when the prosecution happens. This is contrary to section 11(b) of the *Canadian Charter of Rights and Freedoms*, which says that a person must be tried within a reasonable amount of time. Another problem is that sometimes a regime that is allegedly responsible for war crimes is still in place, which means that a person who seeks prosecution of someone here in Canada may fear that relatives in the home country will be endangered as a result.

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<sup>68</sup> S.C. 2000, c. 24, s. 1, in force October 23, 2000 (SI/2000-95).

Canada did not use its *Criminal Code* war crimes provisions often. In most cases, the provisions were used to address war crimes that had occurred in World War II. In 1993, Imre Finta was acquitted of robbery, unlawful confinement, kidnapping and manslaughter in relation to the treatment of Jews in Hungary in 1944. More recently, some Canadians who became citizens many years ago have been stripped of their citizenship and deported because they were found to have made false statements while applying for citizenship. For example, Wasily Bogutin was found to have become a Canadian citizen by “false representation or fraud or by knowingly concealing material circumstances.”<sup>69</sup> The Canadian court found that Mr. Bogutin was personally and directly involved in rounding up young people to complete forced labour in Germany.

Canada was the first country in the world to incorporate the obligations of the Rome Statute into its national laws when it adopted the *Crimes Against Humanity and War Crimes Act* on June 4, 2004. The *Crimes Against Humanity and War Crimes Act* contains laws that deal with genocide, crimes against humanity, and war crimes, among others. One thing the Act does is direct proceeds of crime into a Crimes Against Humanity Fund, which can be distributed to victims of offences under the *Crimes Against Humanity and War Crimes Act* or the Rome Statute by the Attorney General of Canada.<sup>70</sup> In 1999 former Foreign Affairs Minister Lloyd Axworthy said, “I am proud that Canada is the first country to introduce such comprehensive implementation legislation. In doing so, we are building on the momentum that started with the negotiations on the ICC Statute in Rome last year and ensuring that Canada is at the forefront of making the International Criminal Court a vital, functioning entity.”<sup>71</sup>

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<sup>69</sup> S. Bindman, “Suspected Nazi Collaborator May Lose Citizenship” *The Calgary Herald* (23 February 1998) A7. See also: [1998] F.C.J. No. 211 (T.D.).

<sup>70</sup> Sections 30 and 31.

<sup>71</sup> Canada Department of Justice News Release, *Canada Introduces New Act to Implement International Criminal Court*, Ottawa, December 10, 1999.



### Human Rights Advocacy and Letter Writing

If you are concerned about a human rights issue, whether it is within Canada or an international concern, one thing you can do is write a letter expressing your point of view. Groups like Amnesty International have used this approach extensively, and have achieved some success through letter writing. Governments will sometimes give in to the pressure placed upon them by the international community, and change their behaviour. A big part of this pressure often comes from letter writing campaigns. Some of the changes the government might implement include adjusting policies relating to human rights and releasing prisoners of conscience. Of course, it is more impressive and persuasive when many letters are written about a specific situation than when just one letter is written. However, this requires a lot of organization, and should not dissuade anyone from acting alone and writing an individual letter.

Amnesty International provides the following ten important points about letter writing:<sup>72</sup>

**1) Be brief.**

**2) Be simple.**

**3) Write politely!** Governments will not respond to abusive letters, however well-deserved they may be. Also, be sure not to criticize any particular political system, only the *effects* of any political system that takes away people's basic human rights.

**4) Be factual and accurate.**

**5) Write in your own words.**

**6) Write more than once.**

**7) Get others to write too.** Points 6 and 7 reflect the idea that one letter is easy to ignore, whereas hundreds of letters are a lot more difficult to ignore.

**8) Say who you are.** Including your own address and making your signature legible will show that the letter is genuine and that you are truly concerned about what you have written about.

**9) Write when you hear good news as well as bad news.** When positive changes are made, it is important to show appreciation.

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<sup>72</sup> Amnesty International. *Human Rights Education* (1989) at Unit 6.

**10) Write in English.** It is the most used language in the world, and no matter where you send your letter, someone will be able to understand it and translate it if necessary.



## **ACTIVITIES**

### **Materials: (for sheets and overheads, see appendix)**

- Computers, Phone, Tablet
- Handout 14: International Human Rights Activity
- Handout 15: UDHR Articles
- Handout 16: International Committee of the Red Cross
- Handout 17: Gandhi's Story
- Handout 18: Sample Advocacy Letter
- Handout 19: International Human Rights Personality Activity

### **1. Current International Human Rights Issues**

Following the instructions on handout #14, students will examine online news media to determine what are presently the most publicized international human rights issues. They will answer questions about whom these issues affect, and whether they affect the students themselves. Sometimes even events that happen on the other side of the world can affect all of us in some way.

### **2. Responsibilities and Rights**

Students will look at the human rights they discussed in activity 1 and will try to name the corresponding responsibilities that go with these rights.

### **3. Universal Declaration of Human Rights**

Students will look at the rights discussed in activities 1 and 2 and will try to determine which articles of the UDHR apply to these rights. Students can refer to handout #15 for a brief description of some of the important articles of the UDHR. (The same information is also contained in the background information for Chapter 1 at page 5.)

### **4. International Human Rights Personality**

Referring to handout #19, students will examine an online news source and discover a personality who is related to international human rights issues. The activity on handout #19 involves reading about an individual involved with international human rights in the newspaper, and doing follow-up research on the individual. This research will show what can be learned from a newspaper as opposed to what can be learned through more extensive research. The one page biography that the students produce could be presented to the class.

### **5. Human Rights Advocacy**

Students will find a situation on an online news site involving a violation of human rights and will write a letter stating their position on behalf of Amnesty International or a similar group to the government involved with the rights violation. Please see handout #18 for a sample letter, and refer to the background information in this chapter on page 60 for advice on how to write an advocacy letter.

### **6. Editorial Discretion**

Students will take an international human rights issue and write a newspaper editorial on it. They will then pretend they are writing for an online news site that is controlled by a totalitarian regime, and will write an editorial on the same issue. When this is completed, students will discuss the differences between the two editorials they have produced and the reasons for the differences. Students will also comment on the level of objectivity of the Canadian press; is it high or low? Please see handout #11 for an example of an editorial from a Canadian newspaper. The students will have to decide how to approach an editorial that is written for a totalitarian government.

### **7. Security Council Debate**

Students will organize a mock UN Security Council, and will debate a current international topic found through an online news source. For example, in late 1999, Russia carried out continuous attacks on Chechnya, and there were many stories about this in the newspapers at the time. Each student will represent a country that is a

member of the United Nations. Certain students will represent the 5 permanent members of the Security Council, and these students will have veto power. These 5 members are China, France, Russia, the United Kingdom and the United States. The UN Security Council usually has 15 total members, with 10 of the spots rotating among the countries that are not permanent members. A class will usually not have exactly 15 students, so for the purposes of the activity, the Security Council will have as many members as there are students. Each student will be allowed to represent their country and express their feelings on what should be done about the problem the Security Council is discussing. Students will propose courses of action and vote on them, remembering that the 5 permanent members of the Security Council can veto anything that is proposed. The challenge will be to see if any sort of agreement can be reached. In the example of Russia and Chechnya mentioned above, it would be very unrealistic to believe that an agreement would result, because Russia, the country on the offensive, has a veto. In other scenarios, however, a solution may very well be possible. Whether or not an agreement is reached, the goal of the activity is to show how complicated international politics are, because of the fact that there are many nations, each with a different perspective.

*NOTE:* This activity may be better suited for students in grades 9-12.

### **8. Battle of Solferino**

Students will refer to Handout #16 and will read about the Red Cross and answer related questions. Please note that Handout #16 consists of 3 pages.

### **9. Refugee Board Role Play**

Discuss refugees and the United Nations with the students. Students will form groups of 3 or 4 that will include a refugee board of more than one member and one refugee applicant. The students who are refugee board members will meet for 10 or 15 minutes and discuss how they will conduct a hearing, including what questions they will ask. The

student who is playing the refugee will come up with a story to tell the board, which involves leaving a country in fear and making it all the way to Canada. The refugee applicant will present her or his case to the board. The board members will ask questions of the applicant. The questions will try to determine what the refugee applicant has to offer Canada, as well as whether or not she or he would be in danger back in her or his native country. Once all questions have been asked, the board members will meet and decide whether or not the applicant will be admitted to Canada.

### 10. Gandhi's Story

Students will read the Amnesty International story about Gandhi on handout #17, and will answer questions about his method of producing social change.<sup>73</sup>



Photo: Flickr/David

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<sup>73</sup> Gandhi's story is from the Amnesty International website—[www.amnesty.org](http://www.amnesty.org)

## CHAPTER 4—HUMAN RIGHTS ISSUES IN CANADA AND PRINCE EDWARD ISLAND



***The overall objective of this chapter is to examine how Canada has approached concerns about human rights, and how Canadian citizens can act to protect their own human rights.***

### **Objectives:**

1. Students will become familiar with the Canadian Charter of Rights and Freedoms, how it functions in Canada, and how it is related to international human rights instruments such as the Universal Declaration of Human Rights.
2. Students will become knowledgeable about current issues relating to the Charter, such as racism, equality, gender identity and expression, and sexual orientation.
3. Students will learn about provincial human rights instruments, what areas they cover, and what remedies they provide to those whose rights have been violated.
4. Students will learn about the legal methods Canada has used to combat organized hate.

## **BACKGROUND INFORMATION**

### ***The Canadian Charter of Rights and Freedoms***

In modern Canadian society, the movement to promote human rights for all individuals has seen great improvements, and the Canadian government has made concentrated efforts, through legislative changes, to ensure that the human rights of all its citizens are protected. However, these rights and freedoms were not always enshrined in law. Civil rights were initially given recognition in the Canadian Bill of Rights and later became entrenched in the *Canadian Charter of Rights and Freedoms*.

The Canadian Bill of Rights was introduced by Prime Minister John Diefenbaker, and became law on August 10, 1960.<sup>74</sup> Because it was only an Act of Parliament and not part of the

<sup>74</sup> Dwight Gibson & Terry Murphy, *All About the Law—Exploring the Canadian Legal System*, 5<sup>th</sup> Ed, (Toronto:

Constitution, the government could change the Bill of Rights fairly easily. The Bill of Rights still applies today but only to matters falling under federal jurisdiction. Since then, all the provinces and territories have adopted some form of Human Rights legislation that only applies to them, such as the *Alberta Human Rights Act* or the *Yukon Human Rights Act*.

The Canadian Bill of Rights protects Canadians from discrimination based on race, national origin, colour, religion or sex.

The *Canadian Charter of Rights and Freedoms* was passed in 1982. The *Charter* lists the fundamental rights and freedoms that are important to the Canadian people and are protected and guaranteed in Canada. The *Charter* is part of the Constitution of Canada and can only be changed by an amendment to the Constitution, which is difficult to do.<sup>75</sup>

Section 52 of the Constitution says that “the Constitution of Canada is the supreme law of Canada and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect”. This statement makes it clear that the *Charter* is the supreme law of the land, and any law that contradicts the *Charter* is invalid. The *Charter* governs the application of both provincial and federal law. Of all the human rights legislation in Canada, the *Charter* is the most powerful. The similarities between certain sections of the *Charter* and particular articles in the *United Nations Declaration of Human Rights* are striking.

If you, as an individual, feel that the government has violated your rights, you need to show in court that the applicable law goes against what the *Charter* mandates. The courts can strike down laws if they are found to be inconsistent with the *Charter*. The courts may also sever a part of the law, which means that only the part of a law that is deemed un-Constitutional will be declared “of no force and effect”. The courts may also “read in” new language to a law. For example, in the *Vriend*<sup>76</sup> decision, the Supreme Court of Canada said that the words “sexual orientation” should be read in to the (then) *Alberta Human Rights, Citizenship and Multiculturalism Act*.

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Nelson Education, 1996) at 30.

<sup>75</sup> Any proposed change to the *Charter* must receive the approval of the Senate, the House of Commons and at least seven provinces (representing at least fifty per cent of the Canadian population).

<sup>76</sup> *Vriend v Alberta*, [1998] 1 SCR 493, rev’g [1996] 8 WWR 405 (Alta CA), rev’g (1994) 18 Alta LR (3d) 286 (Alta QB) [*Vriend*].



The courts can also “read down” the law. This is different than reading in. “Reading down” legislation means that the Court gives an interpretation to certain words in the legislation so that the law complies with the *Charter*. The court orders this particular interpretation even though the words may be capable of taking on other meanings.

Here is an example of a legal case where the *Charter* had the effect of striking down a section of the *Criminal Code*:<sup>77</sup>

*In 1988 the Supreme Court of Canada declared that the abortion law in the Criminal Code of Canada was un-Constitutional. Section 251 of the Criminal Code made it illegal to either have or assist a woman in having an abortion. An abortion would only be permitted if it were shown that continuing the pregnancy would endanger the mother’s health. Dr. Morgentaler set up abortion clinics in defiance of this law. He was charged under section 251 of the Criminal Code. He argued that this section violated a woman’s right to liberty and security of the person under the Charter, section 7. The Supreme Court agreed with Dr. Morgentaler and struck down section 251.*

## **Fundamental Freedoms—Section 2**

Section 2 of the *Charter* guarantees the following basic freedoms:

- freedom of conscience and religion;
- freedom of thought, belief, and expression, including freedom of the press and other media of communication;
- freedom of peaceful assembly; and
- freedom of association.

Without the right to freedom of religion and freedom of expression, a person could be persecuted for belonging to an unpopular religious group or for speaking out against the government. For example, in 1933 Québec passed a by-law prohibiting Jehovah’s Witnesses from distributing their literature without permission of the police department.

Freedom of expression, thought, belief and opinion are freedoms that Canadians have enjoyed for many years. We have the right to speak out on most controversial issues (notwithstanding

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<sup>77</sup> *R v Morgentaler*, [1988] 1 SCR 30, 26 OAC 1.

hate speech, which will be discussed later in the chapter) without fear of repercussion. This right does not exist in all countries. In some nations, people who criticize the government are jailed, tortured, or even murdered.

Freedom of assembly and freedom of association mean that we can belong to any group, join trade unions and gather in peaceful groups without fear of reprisals.

### **Democratic Rights—Charter sections 3 to 5**

Democratic rights include:

- the right to vote;
- the right to require the state to hold an election at least every five years; and
- the right to seek political office.

The right to vote is a right *some* Canadians have enjoyed for many years. However, in the past, the government has denied some groups this right. For example, Canadians of Japanese and Chinese origin were denied the right to vote until after World War II. Aboriginals were denied the right to vote until 1960, and women were not permitted to vote in federal elections until 1918. There are still some restrictions on this right. People under the age of 18 are not permitted to vote, and only Canadian citizens can vote.

### **Mobility Rights—Charter section 6**

Mobility rights include:

- the right to enter, remain in and leave Canada;
- the right to move and take up residence in any province; and
- the right to pursue the gaining of a livelihood in any province.

This part of the *Charter* confirms the right of Canadians to move and seek work in other provinces. This section is not without limits. For example, if you are a member of a certain profession you may have to pass a test based on that province's standards before you can practice, such as how a lawyer must pass a provincial bar exam in order to be able to practice law in that province. Mobility rights are guaranteed only to citizens of Canada.

### **Legal Rights—Charter sections 7 to 14**

Legal rights include, but are not limited to:

- the right to life, liberty and security of the person;
- the right to be secure against unreasonable search and seizure; and
- the right to a fair trial when charged with a crime.

These are extremely important sections of the *Charter*. Without these sections, the authorities could put you in jail without a reason, deny you legal counsel or conduct unfair trials against you.

### **Equality Rights—Charter section 15**

Section 15 guarantees the right to equal protection and benefit of the law without discrimination based on the following factors:

- race
- national or ethnic origin
- colour
- religion
- sex
- age, or
- physical or mental disability

Other grounds, such as sexual orientation, have been deemed to be analogous grounds and have been read into section 15.

### **How the Charter Works: Three Steps**

#### **1. Has a Right Been Infringed?**

Once it has been established that a situation falls within the domain of the *Charter*, the court must determine if the government action or body has infringed a right specified in the *Charter*. This is done in two steps. The first step involves analyzing the impugned law by looking at its purpose and effect. The next step is to determine the meaning or content of the right or freedom being infringed. By analyzing both the law and the right or freedom in this manner, the Court is able to determine if the impugned law has infringed a *Charter* right or freedom.

#### **2. Is the Infringement Justified?**

Once it has been established that an infringement has occurred, the Courts must then determine if the law can be justified under section 1 of the *Charter*. Section 1 reads as follows: “The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a

free and democratic society”.<sup>78</sup> This section is commonly referred to as the “reasonable limits clause” because it can be implemented to determine whether the infringement is reasonably justified. Section 1 of the *Charter* is used by Courts to balance the right or freedom of the individual against the purpose and objective of the impugned law. The government may rely on section 1 as a defence where its actions have been found to violate the *Charter*.

### **Oakes test**

The court has developed a test to decide what constitutes a "reasonable limit" that can be "demonstrably justified in a free and democratic society." The test is called the "Oakes test" because it was developed in a Supreme Court of Canada case called *The Queen v Oakes*.<sup>79</sup> The first step of the test is that the Court must examine the government’s objective in the legislation (i.e., the problem the government wants to solve). The objective served by limiting the right must be of sufficient importance to society (“pressing and substantial”) in order to warrant overriding a constitutionally protected right. The more serious the infringement, the more important the objective has to be to justify the infringement. Generally, the government does not have a difficult time highlighting the importance of the law’s objectives to Canadian society, so the test does not usually fail at this step.

Second, the court will determine whether the government has implemented reasonable methods to achieve its legislative objectives. This is called the proportionality test. The proportionality test involves three components. The first step of the proportionality test is to determine if there is a "rational connection" between the government's objective and the means used to attain it (i.e., the legislation has to be connected to the objective of the government). The second step of the test requires that the government shows it has used means that impair the *Charter* rights as little as possible. It would not be a justifiable limitation on a *Charter* right if the government chose to use the most oppressive means possible to achieve its legislative objective. Third, there must be proportionality between the effects of the limiting measure and the objective. At this step, the courts try to achieve a balance between any negative effects concerning the limitation of *Charter* rights and the positive effects that the law might have for Canadian society as a whole. The courts may look at whether the benefits outweigh the negative effects produced by limitations on *Charter* rights.

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<sup>78</sup> Ontario Justice Education Network, “Section 1 of the Charter and the Oakes Test”, online: <[http://ojen.ca/sites/ojen.ca/files/resources/In%20Brief\\_STUDENT\\_Section%201%20and%20Oakes\\_0.pdf](http://ojen.ca/sites/ojen.ca/files/resources/In%20Brief_STUDENT_Section%201%20and%20Oakes_0.pdf)>

<sup>79</sup> *R v Oakes*, [1986] 1 SCR 103, 19 CRR 308, 65 NR 87.

**Example**

*Suppose that an artist creates a picture that is considered to be obscene. In order for a Charter challenge to be started, the artist must first be charged under the appropriate Criminal Code section. The artist could then raise a Charter challenge of that Criminal Code section. The artist could argue that his freedom of expression is being unreasonably limited. If the court finds that this section unreasonably contravenes the right to freedom of expression then it will be of no "force or effect." Also consider the Supreme Court of Canada decision in *R v Sharpe*<sup>80</sup>.*

*The court will examine whether the artist's piece of work is obscene and whether the law that applies is an unreasonable limitation. The Constitutional question will be examined first. If the limitation is unreasonable it will be irrelevant whether or not the judge believes that the work in question is obscene. The government may argue that no right or freedom has been infringed or it can argue that there is a limitation but the limit is reasonable and justified.*

**3. What is the Appropriate Remedy?**

The next step is to determine what the appropriate remedy will be under the circumstances. As mentioned earlier, under section 24 the courts may order a remedy that is just and appropriate under the circumstances.

**The “Notwithstanding Clause”—Section 33**

Section 33 is one of the most controversial sections in the *Charter*. It is referred to as the “notwithstanding clause” and is seldom used. It allows provinces and the federal Parliament to override sections in the *Charter*. This can be done when the legislation specifically states it is to be exempted from one or more of the Charter provisions. For example, in 1989 Premier Bourassa of Québec used the clause to override a decision of the Supreme Court of Canada which set aside a law requiring signs displayed on the outside of public buildings to be in French only.<sup>81</sup> However, the notwithstanding clause was eventually removed from the legislation.

**To whom does the Charter apply?**

Before deciding whether a right has been infringed, it must first be determined if the *Charter* covers the situation in question. **The Charter only applies to actions of the government**, albeit all levels of government. The *Charter* does not cover private relations between individuals. Provincial and territorial human rights codes and fair practices acts are intended to cover this type of relationship. The *Charter* may (but does not automatically) also apply to entities in which the government plays a significant role, such as public schools, school boards, and the

<sup>80</sup> *R v Sharpe*, 2001 SCC 2, 1 SCR 45.

<sup>81</sup> *Ford v Attorney General Québec*, [1998] 2 SCR 712, 10 CHRR D/5559.

provincial or territorial Ministers of Education.

### ***Provincial Human Rights Legislation***

Each province, territory and the federal government have a body that protects individuals against discrimination. Provincial or territorial human rights laws apply when a particular situation is covered by the areas and the grounds under the particular province's laws.

### Prohibited Grounds of Discrimination

PEI's *Human Rights Act* provides protection from discrimination on the following grounds:

- religion or creed;
- colour or race;
- ethnic or national origin;
- marital or family status;
- sex or gender (including sexual harassment and pregnancy);
- sexual orientation;
- gender expression;
- physical or mental disability;
- age;
- source of income;
- criminal conviction (only in employment);
- association (with an individual or group of individuals who is protected under the *Act*);
- political belief.

### **Current Human Rights Concerns**

#### Sexual Harassment

Many cases that come before human rights commissions involve claims of sexual harassment. The Supreme Court of Canada has stated that sexual harassment is a kind of gender discrimination.<sup>82</sup> Gender does not need to be the only ingredient in the discriminatory conduct

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<sup>82</sup> *Janzen v Platy Enterprises Ltd*, [1989] 1 SCR 1252, 59 DLR (4<sup>th</sup>) 352.

for it to be sex discrimination. Even if gender is only one factor in the sexual harassment, it is enough to be considered gender discrimination.

Many cases that come before human rights commissions involve claims of sexual harassment. One kind of sexual harassment often considered in human rights cases is *quid pro quo* sexual harassment. *Quid pro quo*, which is Latin for “something for something”, is more direct harassment, and involves sexual demands being made upon someone in exchange for something. For example, in a job setting, an employee may lose an employment benefit unless she or he goes along with a sexual demand. Consequences vary from denial of a promotion, to a reduction in hours, to demotion and finally, to threat of dismissal or actual dismissal. This kind of sexual harassment can be implicit or explicit.

Examples:

**Explicit:** “To get this job, you’ll have to have sex with me.”

**Implicit:** “If you think you want this job, you might consider staying late once or twice, if you know what I mean.”

Most sexual harassment cases involve men harassing women. The fact that only some, not all, women are the victims of sexual harassment does not mean that the conduct is not sex discrimination. The reverse is also possible, as is same-sex harassment.

### Pregnancy

Other cases in which the ground of discrimination is gender have involved the rights of pregnant women to benefits, and the right of women to be paid equally for doing work of the same value as men.

### Sexual Orientation

Another ground of discrimination is sexual orientation. All provinces’ human rights laws, including that of Prince Edward Island, include sexual orientation as a prohibited ground of discrimination. Some provinces did not add sexual orientation as a protected ground until more recently; Sexual orientation was only added to the *Alberta Human Rights Act* in 2009. However, sexual orientation had been read into Alberta human rights legislation since the *Vriend* case, in 1998.

In the *Vriend* case, Delwin Vriend worked at a college in Alberta as a laboratory coordinator. Despite positive work evaluations, pay increases and a promotion for his work performance,

Vriend was asked to resign when it became known to his superiors at the college that he was gay. He refused and was fired. He took his case to the Alberta Human Rights Commission, but because sexual orientation was not a protected ground of discrimination, he could not get any help there. Eventually, eight years after he was terminated, the Supreme Court of Canada decided that sexual orientation should be “read in” to the Alberta Act. This means that sexual orientation should be considered a protected ground, even though it is not actually written in the Act.<sup>83</sup>

### Gender Identity and Gender Expression

The Prince Edward Island *Human Rights Act* includes gender identity and gender expression as protected grounds from discrimination. Gender identity refers to an individual’s internal experience of gender, which does not always coincide with the sex assigned to them at birth. A person may identify as a man, a woman, both, or neither. Gender expression refers to the various ways in which an individual expresses their gender, which may be through different manners of dress, grooming, demeanour, social behaviour, and other factors<sup>84</sup>. All people should be able to pursue the same opportunities and benefits and be treated with equal dignity and respect, regardless of whether the person is transgender or otherwise.

Discrimination related to gender identity and expression is still very common in Canada. In Ontario, a study conducted by TransPULSE on the discrimination faced by transgendered individuals shows that 73% of these people have been made fun of, 39% have been rejected for a job, 26% have been assaulted, and 24% have been harassed by law enforcement<sup>85</sup>. However, the changes in provincial human rights legislation provides concrete protection for these individuals, as they can now bring claims against organizations and employers who discriminate on the basis of gender identity and expression.

### Age

Some provincial human rights laws protect individuals in a certain age range, such as 18 - 65 years, or only above a certain age, such as 18 or over. The PEI *Human Rights Act* does not put either an upper or lower limit on the protection against age discrimination.

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<sup>83</sup> *Vriend*.

<sup>84</sup> Alberta Human Rights Commission, “Notice of Changes to Alberta’s Human Rights Legislation, online: <[http://www.albertahumanrights.ab.ca/documents/pubsandresources/Notice\\_of\\_changes\\_\\_Dec\\_15\\_2015.pdf](http://www.albertahumanrights.ab.ca/documents/pubsandresources/Notice_of_changes__Dec_15_2015.pdf)>

<sup>85</sup> Egale, “FAQ: Gender Identity and Canada’s Human Rights System”, online: <<https://egale.ca/faq-gender-identity/>>



There are exceptions, however. For example, an employer may be able to justify the requirement to retire because of the duties or needs of the job, or because of safety issues or dangers. These true demands of a job are called *bona fide* occupational requirements.

### Criminal Conviction

The Prince Edward Island *Human Rights Act* only protects against discrimination based on a criminal conviction in the area of employment. An employer cannot dismiss or refuse to employ an individual because he or she has been convicted of a criminal offence that is unrelated to the position. Even if the conviction is not pardoned, it is still a prohibited ground of discrimination. Under some provincial human rights laws, the conviction does have to be pardoned before it can be considered a prohibited ground.

### **Areas of Discrimination**

The PEI *Human Rights Act* applies to discrimination in the following areas:

- employment and employment advertising;
- accommodations (such as a hotel or an apartment);
- professional trades and associations;
- public services (restaurants, stores, hotels, government services, etc.);
- publications, broadcasts, public displays, or advertisements;
- lease or sale of property;
- volunteer work.

### Employment

Everyone is entitled to equal treatment in employment. For example, an employer cannot refuse to hire an individual because he is married or because she is female. An employer cannot refuse to hire an individual because of his race or nationality. In addition, employers are responsible for maintaining workplaces that are free from harassment and discrimination. If they fail to do so, they may be held responsible.

The following case documents a situation where gender is the ground upon which the discrimination is based and employment is the area; it demonstrates a poisoned environment

because of sexual harassment. This type of sexual harassment occurs when there is an offensive or intimidating work or school environment:<sup>86</sup>

*Ms. Magill was hired by Atlantic Turbine Inc. as a Detail Parts Inspector. Sometime during her first six months working there she discovered a cartoon in the test cell area of the company's shop. The cartoon showed a background similar to the background in the test cell area. The cartoon also showed 5 males, one being a clown, and 1 female figure in the bottom right hand corner of the picture. The name of one of Ms. Magill's male co-workers was written beneath the clown, and Ms. Magill's name was written beneath the female character. Also, a heart was drawn around both cartoon figures, and beside the female character the words "I party naked!" had been added.*

*Ms. Magill removed the cartoon from the work area. She went to speak with the Quality Manager and told him that she did not appreciate the cartoon and was considering making a human rights complaint. The manager ignored her complaint. He also told Ms. Magill that upper management would not look favourably upon her were she to make a formal complaint. Ms. Magill did nothing further at the time for fear of losing her job.*

*The PEI Board of Inquiry found that the cartoon was sexual harassment. The Board found the company liable for failing to provide a harassment-free workplace and for failing to respond to the complaint. Ms. Magill was awarded \$2,500 compensation for hurt feelings and loss of dignity due to the display of the cartoon. The company was also ordered to develop and implement a Sexual Harassment Policy.*

### Tenancy

Tenancy refers to the rental of residential or commercial accommodation. Nobody can be denied accommodation because of the grounds listed above. Everyone must be treated equally regarding the amount of rent, leases, rules and regulations.

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<sup>86</sup> *Magill v Atlantic Turbines Inc.* (1997) Prince Edward Island Board of Inquiry, Reasons for Decision.

Landlords must ensure that their procedures and policies are fair, as the following example demonstrates:<sup>87</sup>

*Ms. Jay telephoned Royalty Holdings regarding an apartment at 44 Beach Grove Road for a short term period. As soon as she told the company that she had a young child, she was told that children were not allowed at 44 Beach Grove Road. Apparently current residents would object to allowing larger families in the building, and children may cause an annoyance to long-term tenants. The company did offer her an apartment in another building managed by the company.*

*The Panel noted that customer preference (i.e., the preference of other tenants not to have children in the building) does not justify discrimination. It found that Royalty Holdings had discriminated against Ms. Jay on the basis of family status by not renting her the apartment at 44 Beach Grove Road.*

*The Panel ordered the company to write a letter of apology to Ms. Jay, refrain from discriminating against families with children at 44 Beach Grove Road, and pay Ms. Jay \$500.00 for hurt and humiliation.*

Studies on the housing of minorities in Canada show that racial discrimination in the housing market is common.<sup>88</sup> More than twenty unrelated studies conducted over the 40-year period from the 1950s to the 1990s have found discrimination against racial minority groups<sup>89</sup>. Also, the combination of various protected grounds, such as race and sex, was found to result in a greater likelihood of discrimination. For example, while low-income single mothers generally face a high degree of discrimination, the likelihood of discrimination against an Aboriginal single mother would be ten times as great<sup>90</sup>.

A study conducted in Regina, Saskatchewan, showed that most treaty Indians who tried to find housing were refused by a landlord at least once.<sup>91</sup> A study conducted by the Québec Human

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<sup>87</sup> *Jennifer Jay v Royalty Holdings Ltd.* (2002) Prince Edward Island Human Rights Commission Panel .

<sup>88</sup> Allan Melnychuk, *Toward Intercultural Understanding: An Anti-Racist Training Manual* (Calgary: Weigl Educational Publishing, 1993) at 70 (hereinafter Melnychuk).

<sup>89</sup> Sylvia Novac, Joe Darden, et. al., *Housing Discrimination in Canada: The State of Knowledge* (Canada Mortgage and Housing Corporation, February 2002) (hereinafter CMHC Study)

<sup>90</sup> CMHC Study, at 47.

<sup>91</sup> Melnychuk at 71.

Rights Commission in 1989 showed that 30% of blacks looking for rental accommodation were turned down three or more times compared to 12% of whites.<sup>92</sup>

### Services Customarily Available to the Public

Programs and services provided by businesses, local organizations, and municipalities are particularly important because they affect all people on a daily basis. The Supreme Court of Canada has defined “services” as “restaurants, bars, taverns, service stations, public transportation and public utilities.” Services have also been held to include schools.<sup>93</sup> This means that every person should have equal access to hospitals, shops, restaurants, and all other services.

### Notices

In PEI the following are illegal: any notice, sign, symbol, implement or other representation published, displayed, or broadcast in any medium that indicates discrimination, or an intention to discriminate.

### **Defences**

In a human rights complaint, the person or company that is complained about is called the respondent. In most Canadian jurisdictions, respondents have defences available to them. Thus, even if a respondent has discriminated against a person for grounds and under areas covered by the legislation, they may have an excuse that will prevent them from being found liable under the human rights laws.

One such excuse occurs in the area of employment. It is called the “*bona fide* occupational requirement” defence. The other defence applies more generally and is called the “reasonable and justifiable” defence; that is, if the respondent can show that the discrimination was reasonable and justifiable under the circumstances, it will be permitted. Some examples of reasonable and justifiable discrimination include:

- Voting—People under the age of 18 are not permitted to vote in federal or provincial elections.
- Driving— People under the age of 16 are not permitted to drive.

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<sup>92</sup> Melenchuk at 72.

<sup>93</sup> June Larkin, *High School Girls Speak Out* (Toronto: Second Story Press, 1994) at 13.

Human rights acts in Canada allow discrimination in certain employment situations. It may be considered to be a *bona fide* occupational requirement, which means that the discrimination might be considered to be necessary for the safe, efficient, and economical performance of the job.

Example: A school refused to employ a bus driver who was over the age of 65. The bus driver complained that he was being discriminated against on the basis of age. The Board of Inquiry held that a requirement that a school bus driver be less than 65 years of age was reasonably necessary to the efficient, economical and safe performance of the job.<sup>94</sup>

### **The Purpose of Provincial and Territorial Human Rights Laws**

Unlike the *Criminal Code*, which has punishment as one purpose, provincial and territorial human rights codes are not meant to punish offenders. Instead, the purpose is to provide relief for victims. Since these laws are not intended to punish, large monetary awards are not usually handed out for this purpose. Instead, human rights commissions will often order individuals to:

- apologize for their discriminatory behaviour;
- establish non-discriminatory policies;
- take courses to learn about discrimination and how to avoid perpetrating it;
- reinstate someone who has lost her or his position as a result of discrimination.

There has, however, been a trend towards increasing monetary awards called “general damages”. Human rights panels order this kind of monetary award to compensate for injury done to a person’s dignity and feelings when their human rights are violated (i.e., for non-economic losses).

Unlike some provinces, the PEI *Human Rights Act* does not limit the amount of money that can be awarded as compensation for injury to dignity. Human Rights Panels across Canada have followed the general principle that, if a monetary award is given, it is meant to make the victim “whole” again.<sup>95</sup> It should put the complainant, as much as is possible, in the position he or she would have been in had their human rights not been violated. The award should not result in

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<sup>94</sup> *MacDonald v. Regional Administrative School Unit No.1* (1992), 16 Canadian Human Rights Reporter D/409.

<sup>95</sup> *Matheson v. Presbytery of Prince Edward Island* (2007), Prince Edward Island Human Rights Panel, at para. 15 (hereinafter *Matheson*)

unrealistic or windfall compensation, but it should also be high enough to encourage respect for the law and not be a mere “licence fee” for continued discrimination.<sup>96</sup>

### **Making a Complaint to the PEI Human Rights Commission**

As the person making the complaint, you are the *complainant*. The person or organization against whom you are making the complaint is the *respondent*. A complaint may be settled or withdrawn at any time in the process.

In PEI the following steps can be taken if you feel you have been discriminated against:

1. Complaints can be made by completing a form and filing it with the PEI Human Rights Commission. Complaints must be filed within **one year** of the alleged incident. The information you need can be found at <http://www.gov.pe.ca/humanrights>.
2. An Intake Officer from the Commission will send a copy of the complaint and a response form to the Respondent. The Respondent has 30 days to file a written response.
3. A copy of the response is forwarded to you, and you will have 30 days to submit comments to the Commission in reply to the response.
4. If more information is required about the complaint, an investigation will be conducted by the Commission. The investigation can include interviews with parties, witnesses, or experts, and gathering other documents. An Investigation Report is prepared and is sent to you and the Respondent.
5. Both you and the Respondent have 30 days to submit written comments about the Investigation Report.
6. The Commission will contact both you and the Respondent and try to help settle the complaint. Complaints may be settled or withdrawn at any stage of the process.
7. If the matter cannot be settled at this stage, the report is forwarded to the Executive Director of the Commission.

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<sup>96</sup> *Jennifer Steeves v Woody's Place, O'Brien's Pub/RPK Inc. and Jeff Johnson* (2007) New Brunswick Labour and Employment Board, sitting as a Human Rights Board of Inquiry.

- a. The Executive Director decides whether to: (a) discontinue the case because it can be resolved in another way, (b) dismiss the complaint if it is without merit or you have refused to accept a proposed settlement that is fair and reasonable, or (c) send the complaint to a Panel Hearing.
8. At the panel hearing, which is open to the public, both parties present evidence to support their case. Neither the complainant or the respondent is required to have legal representation, though they may do so at their own cost. The Panel then issues a decision.
9. If you wish to have a judicial review of the Panel decision, you can apply to the Supreme Court of PEI within 30 days of the decision to do so.

To file a human rights complaint:

**PEI Human Rights Commission**  
**53 Water Street, PO Box 2000**  
**Charlottetown, PEI**  
**C1A 7N8**

### ***Hate Propaganda***

Hate motivated activity is any action, material or organization that promotes bias against identifiable groups.<sup>97</sup> Hate crimes include, but are not limited to, the dissemination of material promoting hatred and assaulting another individual because of their race or religion. Racism and hate propaganda have long been a part of Canadian history. Early European settlers promoted ideas that Aboriginals were inferior and uncivilized.<sup>98</sup> In addition to continued promotion of hatred against First Nations peoples, there is evidence of anti-Semitism in the early days of Canada.

Organized racist activity in Canada became a concern in Canada in the early 1920s when the Ku Klux Klan began to establish chapters in Western Ontario.<sup>99</sup> The Ku Klux Klan spread into the prairie provinces, and was particularly successful in creating a stronghold in Saskatchewan. The

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<sup>97</sup> Jacquelyn Nelson & George Kiefl, *Survey of Hate-Motivated Activity* (Federal/Provincial/Territorial Working Group on Multicultural and Race Relations in the Justice System, 1995).

<sup>98</sup> Karen Mock, "Combating Racism and Hate in Canada Today: Lessons of the Holocaust" in B'nai Brith Canada and the Nizkor Project, *Hate and the Internet - Selected Readings*.

<sup>99</sup> For more information about the history of hate groups in Canada see Warren Kinsella, *Web of Hate*. (Toronto: Harpers Collins Publishers Ltd., 1995).

Ku Klux Klan began to viciously attack Blacks, Catholics and Jews. As immigration increased after World War I, so did the backlash against minority groups, foreigners and individuals.<sup>100</sup>

When the distribution of hate propaganda increased in the late 1950s and 1960s, a special committee was created to examine the problems relating to hate propaganda and to make recommendations. The Special Committee on Hate Propaganda (commonly referred to as the Cohen Committee) presented its report on the existence of hate propaganda in Canada and in 1965 urged the inclusion of hate propaganda laws in the *Criminal Code*. The committee took 11 months to make its findings. They found that hate propaganda, although not alarming in Canada, was sufficiently serious to require government action. The first anti-hate criminal laws were enacted in 1970.

A second wave of racist activity took place in the mid-1970s. Groups such as the Nationalist Party of Canada, the Edmund Burke Society and the Western Guard Party were active and the Ku Klux Klan was revived.<sup>101</sup> Hate propaganda was transmitted via leaflets and pamphlets, the telephone, and videocassettes. New computer technologies made it possible to send hate messages via the Internet. The second wave of hate group activity has been accompanied by prosecutions of perpetrators of hate literature. Some cases were highly publicized, such as the *Keegstra* and *Zundel* cases.<sup>102</sup>

### **The Criminal Code and Hate Propaganda**

Although most of this chapter has focused on federal and provincial or territorial human rights laws, the *Criminal Code* of Canada is also responsible for protecting human rights in Canada. Sections of the *Criminal Code* that deal with hate propaganda are found mainly in sections 318 to 320.

Section 318 prohibits advocating or promoting genocide. Genocide, as mentioned in chapter 1, is the killing or destruction of an identifiable group of people. “Identifiable group” is defined as any section of the public distinguished by colour, race, religion, or ethnic origin. There are no reported cases in Canada dealing specifically with this section of the *Criminal Code*. It has, however, been mentioned in immigration cases.<sup>103</sup>

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<sup>100</sup> B’nai Brith Canada, “Is Your Child a Target? Guidelines for Parents and Teachers on the Dangers of Hate Group Recruitment in Canada” (B’nai Brith League for Human Rights).

<sup>101</sup> Philip Rosen, “Hate Propaganda”, *Current Issue Review*, September 1995.

<sup>102</sup> *R v Keegstra*, [1990] 3 SCR 697 and *R v Zundel*, [1992] 2 SCR 731.

<sup>103</sup> *Mugesera v Canada (Minister of Citizenship and Immigration)*, [2005] SCR 100, at para 83.



Section 319 of the *Criminal Code* prohibits public incitement of hatred. In order for a person to be found guilty of publicly inciting hatred against an identifiable group, his or her statements must be made in a public place. The statements must also be likely to lead to a breach of peace. “Public place” is defined to include any place to which the public has access as of right or by invitation, express or implied. In the *Keegstra, supra* case, the court emphasized that the term hatred “connotes emotion of an intense and extreme nature that is clearly associated with vilification and detestation.” “Hatred” is an emotion that if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect and made subject to ill treatment on the basis of group affiliation. A number of cases have been brought to court regarding public incitement of hatred.

Section 320 allows a judge to issue a warrant to seize copies of publications found by the courts to be hate propaganda, if they are held for sale or distribution. In 2001, the *Anti-terrorism Act* added section 320.1 to the *Criminal Code*. This new section is the equivalent of s.320, but for the computer world. It allows the courts to order the deletion of publicly available on-line hate propaganda from computer systems. The court can only make this order if the hate propaganda is located on a Canadian computer system.<sup>104</sup> However, the material can be deleted regardless of where the owner of the material is located, or whether he or she can be identified. The federal government added s.320.1 to help fight terrorism because it feels that fighting hate speech and intolerance against specific ethnic or religious groups in our society helps prevent terrorism.

Section 181 of the *Criminal Code* makes it illegal to spread false news likely to cause mischief or injury to a public interest. This section was challenged as unconstitutional in a case called *R. v Zundel*. Mr. Zundel was accused of spreading false news when he published a pamphlet suggesting that the Holocaust was a myth. At trial, Mr. Zundel was convicted. He appealed his conviction. Ultimately, the Supreme Court of Canada struck down section 181 as an infringement on freedom of expression under the Charter’s section 2. This section remains

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<sup>104</sup> Federal Department of Justice Fact Sheet, “Anti-Hate Provisions in the Criminal Code and the Canadian Human Rights Act”, online: Federal Department of Justice <<http://canada.justice.gc.ca/eng/antiter/sheet-fiche/hate-haine.html>>

written in the Criminal Code, but if anyone were to try and enforce it they would not be able to, because it has been struck down.

The Crown opposed Zundel on many grounds and argued that even if the *Criminal Code* section violated freedom of expression, it could be justified because it protected Canadian society from falsehoods being promoted as truths. The Supreme Court of Canada held that the false news provision could not be used to limit the expression of honestly believed, though mistaken, opinions.

### **The Criminal Code and Hate-Related Crimes**

Hate crimes are hard to prove and there have only been a few times when people have been charged, but there are other crimes that often fit the bill. For example, many kinds of harassment would be caught by the present criminal law. For example, serious acts of violence against people or property, or threats of such violence would fall under the *Criminal Code*. Minor assaults such as spitting may also be considered to be an assault.<sup>105</sup> “Assault” is defined as the intentional application of force or the threat of force without the victim’s consent.<sup>106</sup> Assault may be motivated by hate. If a person has experienced any kind of assault, a complaint should be made to the police. The harasser will usually be given a criminal record if found guilty.

In addition, the *Criminal Code* was changed so that judges could impose more severe penalties if crimes are motivated by hate.<sup>107</sup> When the judge convicts people and sentences them, the fact that the crime was motivated by hate may factor into the type of sentence they receive. The government added this new sentencing provision to make it easier to combat hate crimes. The *Criminal Code* says that if a crime is motivated by hate, the court must give the offender a harsher penalty.

### **ACTIVITIES**

#### **Materials: (for handouts and sheets, see appendix)**

- Computers, Phone, Tablets
- Internet
- Handout 15: The *Universal Declaration of Human Rights*
- Handout 20: The *Canadian Charter of Rights and Freedoms*

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<sup>105</sup> Glenn A. Gilmour, “Hate Motivated Violence” in League for Human Rights of B’nai Brith Canada, *Symposium on the Legal Remedies for Hate Crimes*, (Toronto, 1994) at 2.

<sup>106</sup> *Criminal Code* RSC 1985, c C-46, s 265 (1).

<sup>107</sup> *Criminal Code*, RSC 1985, c C-46, s718.2

- Sheet 2: Human Rights Codes
- Sheet 3: Human Rights Codes—Grounds
- Sheet 4: *Charter* Facts

### **1. Current Charter Issues**

Using the materials in this chapter and Handout 20, explain the content and use of the *Charter of Rights and Freedoms*. Have students examine an online news source to find examples of current issues affected by the *Canadian Charter of Rights and Freedoms*. Have them print and mount the article (opinion piece, etc.). Beside the article, they should write a summary of its key points, illustrating how the *Charter* is involved.

### **2. The Charter and the Universal Declaration**

Students will compare the *Charter* to the *Universal Declaration of Human Rights* and will determine which sections of each instrument have the same purpose. Please see Handout 15 on the UDHR and Handout 20 on the *Charter*. Have students examine an online news source to find examples of current issues affected by the *Universal Declaration of Human Rights*. Have them write and present a skit in which the right is illustrated.

### **3. Territorial Human Rights Laws**

Using the materials in this chapter and Sheets 2 and 3, explain the content and use of territorial human rights laws. Have students examine an online news source to discover current local issues that are impacted upon by the territorial human rights laws. Students may write a letter of complaint to their local human rights commission, stating their thoughts on why there are grounds (in the particular article) for a human rights complaint and what they think should be done about it.

### **4. Territorial Human Rights Commission**

Students will write a scenario involving a human rights violation that affects them. Students will then exchange their scenario for another student's and will write a response on behalf of the territorial human rights commission saying what their decision is regarding the problem. Students will not necessarily know the law, but will make their decisions based upon what they think is fair.

### **5. Canadian Human Rights Hero**

Students will research a Canadian human rights hero they feel has made a significant impact on human rights, either in Canada or throughout the world. Students will write a feature newspaper story on the person they choose. The story will be more of a personal profile than a simple accounting of historical facts. Since it is not a straight news story, the inverted pyramid style of writing is not required, or even desired. Instead, students will fashion human-interest stories, and will employ interesting, evocative writing styles in order to catch a potential reader's attention.

## 6. Mock Human Rights and Citizenship Commission

- A. This activity will be quite lengthy, but will hopefully involve all students. The final result should be video-taped so that it could be shown to students in the future to assist them in preparing for the assignment. The ultimate aim of the activity is for the students to see the practical application of the Prince Edward Island *Human Rights Act*.
- B. The class should be divided into three large groups. Each group should contain students of a variety of abilities. The following activities will be performed three times, once by each group.
- C. Organize a group of about 7 students. Assign a group recorder and leader.
- D. The task of this group is to write a play of about 10 minutes to be performed in front of the class. Several members of the group should be in the play, although some could be in charge of props and costumes. Two members of the group will be acting as "lawyers" at a later stage. They should be careful to note all of the facts of the case and should start to think about arguments for the second stage of the proceedings. The group should report to the teacher within a specific time frame: Group names and jobs or roles, props required and who will be providing them, subject matter of the play.
- E. The subject matter of the play must include some type of discrimination. The discrimination could be subtle or overt. The students could rely upon some examples provided in class exercises or could brainstorm their own ideas. The teacher should maintain the right to veto any dialogue or activity that is offensive. The play should end with the complainant contacting the "Human Rights Commission" to outline his or her complaint, a brief section on efforts made to conciliate between the parties, and ultimately a lack of success in reaching a satisfactory resolution to the problem.
- F. The play will be performed in front of all of the class.
- G. In the meantime, organize a group of 3 students who will be responsible for running the Human Rights Adjudication Panel. While the other group is preparing its play, the members of the Board of Adjudication should be preparing a list of rules for conducting a hearing (e.g.: Who will speak first? How long will each speaker be allowed

to speak? What type of evidence will be permitted?) The list should be typed up and distributed to the “lawyers”, the “discriminator” and the “complainant” ahead of time, so that they know the rules. Alternatively, the rules could be posted ahead of time for all to see.

H. On the day that the play is performed, the Human Rights Adjudication Panel will view the play, taking notes for possible questions. After the play is performed, there should be a break so that they may meet to make questions and to decide last minute issues. At this time, the lawyers and their clients should also meet to finalize what they are going to say at the Adjudication Panel hearing. The persons acting out the role of the discriminator should focus on possible defences such as reasonable and justified discrimination. Other group members may be of assistance during this process.

I. Perform the Human Rights Adjudication Panel hearing at the front of the class. A table may be used and the students may be seated. The students are obligated to follow the rules and time limits decided by the Human Rights Adjudication Panel.

J. After the matter is performed, permit the Human Rights Adjudication Panel to adjourn in privacy to discuss the decision it has made, the reasons for its decision and the remedy it proposes for the complainant, if it finds that there has been discrimination and that no defence is available.

K. Have the Human Rights Adjudication Panel announce or read its decision to the class.

L. Repeat the above steps for the two other groups.

M. The class may discuss whether they agree or disagree with the decision of the Human Rights Adjudication Panel and why.

N. As a follow-up activity, students could write a news story about one of the hearings.

## **7. Online News Sources and the Territorial Human Rights Act**

Using the materials in this chapter and Sheets 2 and 3, explain the content and use of territorial human rights laws. Students will then examine an online news source to see if there are any possible human rights code violations as far as notices about employment and tenancy are concerned. Students will look for evidence of wording designed to make sure that display advertisements or classified ads comply with the law. Students may write a letter of complaint to their local human rights commission, stating their thoughts on why there are grounds (in the particular article) for a human rights complaint and what they think should be done about it.

**8. The Charter—What Do You Think?**

Students will write an online editorial stating whether or not they feel that the *Canadian Charter of Rights and Freedoms* works well, and why they feel this way. Students will include in their editorials ways that they think that the *Charter* could be improved. Please see Sheet 4 for some *Charter* facts.

*NOTE:* This activity may be best suited for students in grades 9-12.

## CHAPTER 5—HUMAN RIGHTS AND YOUTH

**Chapter Purpose:** The objective of this chapter is to explore how human rights can affect and be affected by young people.



### **Objectives:**

1. Students will gain an understanding of how human rights are relevant to young people.
2. Students will learn how to make an impact on human rights issues in their own communities.
3. Students will learn how human rights issues are represented (or ignored) in the media, and how the media is or is not directed at them.

### **BACKGROUND INFORMATION**

Human rights are vital for youth, especially young children, because they are not always able to fend for themselves. Children rely on adults to provide for them, protect them, and give them guidance. When adults decide to not only neglect the needs of children, but rather exploit these children, horrible human rights violations can occur. The recognition that violations of children’s human rights are significant issues has led to laws and treaties concerned solely with preventing these violations. The most notable international example is the United Nations’ *Convention on the Rights of the Child*.

#### ***The United Nations Convention on the Rights of the Child***

The United Nations has become increasingly aware of the numerous human rights violations relating to children that occur across the globe. Their response to these violations was to draft a treaty that would aim to protect children from the perpetrators of these violations. This lengthy process resulted in the *Convention on the Rights of the Child*. The prime considerations of the Convention are the best interests of children. The Convention’s preamble says:

*Bearing in mind* that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”,  
and later:

*Recognizing* that, in all the countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

The Convention’s different articles cover the following children’s rights issues:

- \* **Article 1:** a child means a person under 18 years of age, unless under a country’s laws the age of majority is younger.
- \* **Article 2:** children must not be discriminated against.
- \* **Article 3:** the best interests of the child must be the primary consideration of public institutions making decisions involving children.
- \* **Article 5:** countries must respect the responsibilities, rights and duties of parents.
- \* **Article 6:** every child has the right to life.
- \* **Article 7:** children must be registered and have the right to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by their parents.
- \* **Article 9:** children must not be separated from their parents, except when it is in their best interests.
- \* **Article 12:** children who are capable of forming their own views have the right to express their views in matters concerning them, and these views will be given appropriate weight when their age and maturity is considered.
- \* **Article 13:** children have the right to express themselves freely; this includes the right to receive and impart information and ideas of all kinds, although there are some restrictions on this, such as for moral considerations.
- \* **Article 14:** children have the right to freedom of thought, conscience and religion.
- \* **Article 15:** children have the right to freedom of association and peaceful assembly.
- \* **Article 16:** children have a right to privacy.
- \* **Article 17:** children have the right to access mass media.



- \* **Article 24:** children have the right to the highest possible standard of health care.
- \* **Article 27:** children have the right to an adequate standard of living.
- \* **Article 28:** children have the right to an education.
- \* **Article 31:** children have the right to rest, leisure and play.
- \* **Articles 32 and 38** acknowledge the problems of child labour and child soldiers.

Article 32: children have the right to be protected from economic exploitation and from performing dangerous work.

Article 38: children under 15 must not be recruited for the army.

The *Convention on the Rights of the Child* came into effect in Canada in 1992, when it was signed by Prime Minister Jean Chrétien. However, there has been some controversy surrounding the adoption of the Convention in Canada. Some people feel that the Convention takes away the rights of parents to raise their children as they see fit. This view was highly publicized in the province of Alberta, where “parental rights” groups urged the provincial government not to sign the treaty.

It is important to note that international treaties such as the Convention do not need to be signed by provincial governments in order for them to come into effect; regardless of whether the Alberta government or any other provincial government approves of the Convention, it still applies to each Canadian province. The Alberta government finally gave its approval to the Convention in 1999, albeit without publicizing its approval as much as it publicized its original concerns surrounding the Convention.

The concerns that some individuals have about the *Convention on the Rights of the Child* are based on a misconception. The Convention does not have the authority to interfere with families and the way parents choose to raise their children. In fact, the Convention acknowledges the rights of parents in its preamble, where it says:

*Convinced* that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community...

What the Convention *is* designed to do is regulate the relationship between governments and children. The underlying premise of the Convention is to prevent abuses and unfairness that can occur in particularly harsh and oppressive regimes. For example, during the reign of the communist government in China, there were times where children were not permitted to read anything that was not directly approved by the government. The United Nations, and many others, believe that this form of “thought control” is wrong, and the Convention attempts to prevent it. However, while Articles 13 and 17 of the Convention say that children should have the right to access information of all kinds, including the mass media, this does not mean that children have a right to read or see anything they want. Article 13 is limited by “morals”, and parents have the final say in such matters.

### **Canada’s Reporting Obligations for the Convention on the Rights of the Child**

When a country ratifies an international treaty, its government may sometimes have an obligation to send reports to the United Nations showing that the country is appropriately complying with the provisions of the treaty. For the *Convention on the Rights of the Child*, a report is required every five years. A UN committee evaluates the report, and will indicate what improvements must be made to ensure the country is adequately complying with the requirements of the Convention. The committee favours a report that includes input from both the country’s government as well as non-governmental organizations. This is because the committee feels that a more objective analysis of a country’s compliance can be achieved through the consideration of a non-government perspective. The committee may ask for additional information, or it may request a completely new report if the original one is deemed inadequate. Sometimes the committee will suggest that new laws are required, or that adjustments in policy and practice are necessary. The reports are made public, and are available at public libraries.

### **How Children Can Use International Conventions**

Canada has ratified the United Nations *Convention on the Rights of the Child*, as well as other international human rights conventions, and therefore these conventions' requirements have become part of the law in Canada. As a result, Canadian law must reflect the Conventions' articles. Canadian children who are being denied the rights they are guaranteed under these conventions can use the Canadian legal system to remedy their situations. Possibilities include bringing a complaint before the provincial or federal human rights commission and using the court system.

If these options are not successful, there is no procedure under the *Convention on the Rights of the Child* for individual complaints from children to the United Nations.<sup>108</sup> However, children could potentially bring a complaint under the *International Covenant on Civil and Political Rights* to the United Nations Human Rights Committee. They would do this using what is called a "petition". This process was explained in Chapter 3. An example of this procedure working for an individual Canadian, although not for a child, is the Lovelace case also discussed in Chapter 3.

### **Child Labour**

A prominent concern with regard to violations of children's human rights is child labour. Although the number of child labourers has declined by 1/3 globally since 2000, the International Labor Organization (ILO) estimates that there are still 168 million child labourers around the world, and over half of them are working in hazardous conditions.<sup>109</sup>

The reasons that children are exploited in this way are quite clear. Children are highly desirable employees because:

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<sup>108</sup> United Nations Office of the High Commissioner for Human Rights, "Fact Sheet No. 10 The Rights of the Child (Rev.1)", online: <<http://www.ohchr.org/Documents/Publications/FactSheet10rev.1en.pdf>>

<sup>109</sup> United Nations, International Labor Office (ILO), "International Programme on the Elimination of Child Labour", online: <<http://www.ilo.org/ipec/areas/lang--en/index.htm>>

- \* they are easily intimidated,
- \* they can be paid a lower wage than adult workers, and
- \* they do not form trade unions.

Some kinds of child labour are especially hazardous and exploitative, such as bonded labour, commercial sexual exploitation, and any work that is so demanding that it hinders a child's physical, social, cognitive, emotional or moral development. People in developing countries often employ child labourers as domestics, agriculture workers, or as manufacturers of products such as rugs, clothing, toys and surgical instruments. Many of these products are destined for world exports, including retail outlets in North America. The ILO says that there are 78 million children working in Asia and the Pacific, 59 million in Africa and 13 million in Latin America and the Caribbean.<sup>110</sup> Although child labour may be more prevalent in other countries throughout the world, it can and does occur in North America, including Canada. Even if child labour were completely eliminated in North America, however, the relationship between child labour and our society would remain intact as many products manufactured by children around the world are destined to be purchased by North American consumers. Often, the low price of these products, which makes them so desirable to consumers, is at least partly attributable to the fact that the child labourers who originally produced them were paid such a small amount for their labour.

## **UNICEF**

There are many organizations that work with youth on a both a local and international level. One of the most well-known organizations that is devoted to bettering the lives of children across the world is UNICEF. UNICEF, or the United Nations Children's Fund, is one of the leading advocates for children across the globe for the last 70 years. UNICEF has a wide reach, as they work with 192 countries. UNICEF promotes the rights and wellbeing of

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<sup>110</sup> United Nations, International Labor Office (ILO), "International Programme on the Elimination of Child Labour", online: <<http://www.ilo.org/ipecc/Regionsandcountries/lang--en/index.htm>>. Statistics to the end of 2004.

vulnerable, disadvantaged children through working with local partners in various countries to create action plans to address issues facing women and children in those areas<sup>111</sup>.

UNICEF was formed in December 1946 by the United Nations to provide food, clothing and health care to the European children who faced famine and disease after World War II. The UN General Assembly decided to make UNICEF a permanent part of the United Nations in 1953<sup>112</sup>.

UNICEF prioritizes child survival and development, basic education and gender equality for all children, preventing HIV/AIDS in children and helping those already affected by AIDS, protecting children from violence, exploitation, and abuse, creating policy changes, and partnering with local organizations to benefit children in those areas<sup>113</sup>.

UNICEF is able to address the concerns, such as child development, through a number of methods. UNICEF compiles data and releases important statistics concerning the state of child welfare across the continents. The information UNICEF provides paints a vivid picture of the lives of women and children in various countries: some of the data released concerns child mortality rates, maternal health, child health, water and sanitation, child nutrition, and childhood disability. As well, UNICEF is responsible for acquiring and providing over five thousand products, including life-saving medications and water and sanitation supplies, which address the needs of children. In 2015 alone, UNICEF compiled approximately 3.5 billion dollars' worth of supplies and services from around the world. UNICEF also provides humanitarian action in times of need. One example of recent humanitarian action implemented by UNICEF is in response to the Zika Virus, which is linked to birth defects. UNICEF has been working with local and national governments in affected regions to control the spread of the virus, eliminate or lessen the effect of the virus on children and their families, and help push for the development of crucial vaccines<sup>114</sup>.

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<sup>111</sup> UNICEF, "FAQ", online: <[http://www.unicef.org/about/who/index\\_faq.html](http://www.unicef.org/about/who/index_faq.html)>

<sup>112</sup> UNICEF, "Our history", online: <[http://www.unicef.org/about/who/index\\_history.html](http://www.unicef.org/about/who/index_history.html)>.

<sup>113</sup> UNICEF, "Our Priorities", online: <<http://www.unicef.org/whatwedo/>>

<sup>114</sup> UNICEF, "Zika response", online: <[http://www.unicef.org/appeals/zika\\_response.html](http://www.unicef.org/appeals/zika_response.html)>

For more information about UNICEF and to learn more about their positive impact on children's lives across the globe, please visit [www.unicef.org](http://www.unicef.org).

### ***Age Discrimination***

In Canada, the *Charter of Rights and Freedoms*, the *Canadian Human Rights Act*, and the various provincial and territorial human rights codes are supposed to prevent a variety of forms of discrimination, including discrimination on the basis of age. However, many provinces' human rights laws define age as being 18 years or older. The result of this is that young people may be subject to certain restrictions simply because of how old they are.

It is not only Canadian youth who are affected by such restrictions. Here are some stories from an American organization called ASFAR, or Americans for a Society Free from Age Restrictions, that is devoted to promoting the plight of young people who are the victims of age discrimination:<sup>115</sup>

*I was apartment hunting with my mother a while back, and we happened upon this place in Queens [New York]. Seemed nice enough (quiet neighborhood and everything.) Well, I stayed in the car while the apartment was being looked at, rent discussed, etc. Then, when everything was pretty much done, my mom decided to introduce me to the landlord. At the time I believe I was 13 or 14. Then, as we walk up the steps and to the door, the landlord says "What?! You have kid? Nonono! We have eh, problems before! No kids! No teens!" While the agent who was helping us try and find apartments tried to convince the landlord that I'm just a nice kid, my mother and I got back in the car, and my mother said to the agent, 'Don't even bother. I don't have to 'sell' my son to anyone. He's a good kid, and if they don't want him here because of his age, that's their loss.' While quite happy with my mother's attitude, I was dismayed at the situation. While landlords have great leeway in deciding their tenants, if the landlord had said "no blacks!" to an African-American man, I guarantee you Al Sharpton and his cadre of protesters would have been outside of that woman's door before the news-cams were. ASFAR needs to grow strong so that we can fight this kind of bias in all its ugly, hideous,*

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<sup>115</sup> Americans for a Society Free from Age Restrictions online:  
<<https://www.facebook.com/FreeFromAge>>

*small-minded forms, and I hope those reading this are ready to help out with the youth-rights movement.*

*[When I was 16] I was in a music store with my 12 year old friend. I think the store was Sam Goody, but anyway they let you listen to any CD or tape that you wanted to. So my friend wanted me to listen to one of his favorite songs, but the lady working there said that you had to be at least 14 to listen to certain CDs. So I asked for it because I was old enough and she said, 'well I need some ID!'*

*Now first of all, what kind of ID is a 14-year-old going to be carrying around!!! I mean really! I didn't have my Driver's Licence yet so I couldn't show her that! I tried to show her my student ID because that at least showed that I was in high school but she said that it needed my birthday on it. And the strange thing is that we both looked way over 14, I mean he will often pass for a 16 year old easy! I think she was just giving us a hard time, which she can do, there's nothing to stop her. I thought you can't refuse service based on your race, well what about your age? I have been turned away from the register so many times because they thought I was too young. And the age changes depending on which store I go into.*

*Our school frequently has 'half days' where teachers attend seminars and classes that give them new teaching ideas. On those days we attend school until 11:30 am. On one of these days, right after school got out, I needed to go to a grocery store to pick something up for my mom. When I walked up to the register to buy perfectly legal products, I was turned away! They claimed I was cutting school and they didn't serve truants. At that point I explained that my school was already let out for the day. They refused to even listen to me and ordered me to leave. Not only was this appalling to me, this employee publicly embarrassed me in front of 50 people, who all were dismayed at the actions of this store. To this day, I never go to this store and have urged all of my friends and family not to go.*

In addition, there are specific laws aimed at the criminal behaviour of people under the age of 18. Generally, these laws take into account a young person's lack of experience and are accompanied by penalties that are less severe than those for adults. However, there are relatively rare occasions, usually for particularly violent crimes, where these young people will be treated as though they are adults for legal purposes. Some people feel that this is necessary in order to ensure that young people who have the maturity to understand the gravity and consequences of their crimes do not escape appropriate punishment. Many feel that young people should face the same penalties as adults, no matter what their situation. However, others still feel that ignoring the more lenient young offender punishments available in the Canadian legal system under the *Youth Criminal Justice Act* should be unconstitutional.

Other issues that sometimes arise include the idea of curfews for young people, and preventing more than a certain number of young people in a convenience store. The legality of curfews is questionable; However, according to the human rights laws that allow discrimination on the basis of age if a person is under 18 years old, a store owner in Canada can legally refuse to provide service for young people or place a limit on the number of young people allowed in a store at a particular time.

It should be remembered that, until recently, many provinces defined age as being from 18 years old to 65 years old. This meant that not only young people faced age discrimination; Individuals who were over the age of 65 were also subject to age-based discrimination. As of today, every province and territory has removed the upper age limit in the definition of age. This means that people over 65 are now protected from age discrimination. A particularly important effect is that older people can continue working at their jobs because mandatory retirement policies are generally no longer allowed.



## **ACTIVITIES**

### **Materials: (for handouts and sheets, see appendix)**

- \* Computers, Phones, Tablets
- \* Handout 21: Junior High Students and the Media
- \* Handout 22: Sample Advertisement
- \* Handout 23: Defending the CRC
- \* Handout 24: Curfews?
- \* Handout 25: Youth Voting Rights
- \* Sheets 5-8: *Convention on the Rights of the Child*
- \* Sheet 9: Child Labour

### **1. Students and the News Media**

- a) Discuss with students whether or not they read about current events from online news sources, and if not, why not. What is their favourite online news source? What is their favourite section of the online news source that they read? Why? What is the section they are the least interested in? Why? Do the students prefer the news on TV or the internet? Why?
- b) Have students examine whether areas of a particular online news source are aimed at them, and discuss why certain sections look as though they are aimed at people their age. Students can discuss whether they actually like these areas of the online news source or not, and why. How would they change them? Please see handout #21.

### **2. The Young People's Online News Source**

After students are familiar with the various sections of an online news source, divide them into groups and assign each student a task (i.e., cartoonist, editorial, classified, editor...). Get them to create an online news source that would appeal to them. They will produce an actual "front page" for this online news source that will contain an index and short descriptions of stories that would be found on the online news source for people of junior high school age. Questions the students will have to answer while doing this activity include: What sections would this news source have? How would it be different from widely available online news sources?

### 3. UN Convention on the Rights of the Child

Students will look at an online news source for examples of the different articles of the *UN Convention on the Rights of the Child* coming into play. Please see overhead numbers 5 through 8 for a summary of some of the important articles, which can also be found in the background information for this chapter. The overheads can be used to discuss what each article means. Sometimes the articles include somewhat complicated language.

### 4. Defending the CRC

Students will respond to an editorial that describes the *Convention on the Rights of the Child* in very negative terms by producing their own letter to the editor. Please see handout #23. Teachers and students should remember that parents' rights are not actually affected by the Convention, which only pertains to the relationship between children and government. Despite this, many editorials like this one have appeared in news sources across Canada.

### 5. Child Labour

Students will write an editorial or a column on child labour: what do they think of child labour? What would they do about it? Do they have any personal knowledge or experience with child labour? Do they know of any companies that might exploit children? Please see overhead #9, which contains some of the facts about child labour that are in the background information for this chapter.

### 6. Age Discrimination

- a) Students will look for examples of age discrimination in an online news source.
- b) Students will write an online news article chronicling any age discrimination they have faced in their lives. Students will use proper reporting techniques, including the inverted pyramid style and a "lead" to start the story (see chapter 2).

### **7. Human Rights Advertisement**

Students will design a display advertisement to promote a youth rights issue, such as age discrimination. They will make it as eye-catching as possible, with striking and evocative images and catchy slogans. The ad will say who is promoting the cause, and what the goal is. Students could even do a series of ads that build upon or play off of one another. Please see handout #22 for a sample advertisement.

### **8. Young Advocates**

Students will write an exposé on how they or other young people they know have stood up for things and made a difference as Craig Kielburger has.

### **9. Curfews?**

Students will respond to a column advocating curfews for people under the age of 16. Please see handout #24.

### **10. Youth Today**

How are youth treated in today's society? What rights of the youth are being discriminated against? Create a comic strip, poem, or song that demonstrates youth human rights issues.

### **11. Youth Voting Rights**

Students will respond to an article that advocates children aged 16 and 17 being able to vote in federal elections. Please see handout #25.

*NOTE:* Activity may be best suited for students in grades 9-12.