



RESPECTFUL ME, RESPECTFUL YOU:

DISCRIMINATION, HARASSMENT & HUMAN RIGHTS
THE ALBERTA CIVIL LIBERTIES RESEARCH CENTRE

Respectful Me, Respectful You: Discrimination, Harassment & Human Rights—Educators’ Manual

by the

Alberta Civil Liberties Research Centre

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Foreword

This guidebook has been updated from its original content in order to reflect new law, cases and understandings about human rights. It focuses in on Canadian and Alberta human rights, with a brief look at international human rights for background information. The content from our guidebook, *Sexual Harassment* has been combined with the *Discrimination, Human Rights and You* guidebook. Together all of the information that is needed to understand these topics is found in this one easy plain-language guidebook.

In 2013, the Alberta Civil Liberties Research Centre conducted a focus group on what resources and formats teachers are looking for in their human rights educational and resource materials. We were told that teachers want brief, simple, easy-to-include resources that are youth-friendly and use current technology. In keeping with this request, we have developed activities that provide simple, easy resources that teachers can easily integrate into their own lesson plans; these can be added to an existing teaching module or be used with a speaker from the ACLRC on human rights. We have focused these activities in Chapter 5 on YouTube videos, websites, and other tools that can easily be accessed from the Internet.

This guidebook discusses the human rights and responsibilities people have in Alberta and Canada. It is intended for use by educators who need background material on human rights so that they can impart these ideals to their students.

Chapter 1 outlines some history about human rights including a general discussion of what human rights are, a list of human rights laws in Canada and who they protect, and a discussion of the Universal Declaration of Human Rights.

Chapter 2 delves into specific rights and discusses discrimination based on grounds that are commonly protected by human rights legislation. It discusses prejudice and stereotyping and outlines the difference between direct discrimination and adverse effect discrimination. Many examples of different types of discrimination are provided.

Chapter 3 focuses in on the *Charter of Rights and Freedoms*. It answers questions such as: what does the *Charter* do, to whom it applies, when has a right been infringed, and what remedies are available. Equality rights are discussed in Chapter 3 for a greater understanding of section 15 of the *Charter*.

Chapter 4 highlights the role of the *Alberta Human Rights Act*. It discusses the five areas and thirteen grounds that are covered under the *Act*. It describes the duty to accommodate, examines remedies available under the *Act*, and outlines the process for making a complaint.

Chapter 5 includes activities, worksheets, and links that will provide students with interesting learning experiences. Each chapter also ends with some key review questions.

As a companion teaching piece, the ACLRC has produced a DVD, entitled *Respectful Me, Respectful You: Discrimination, Harassment and Human Rights*, which includes skits that Alberta students have performed and filmed. Each skit is approximately one minute long and addresses a different aspect of discrimination. The skits cover harassment based on grounds such as: race, sexual orientation, and disability. The video and its accompanying guide can be used to bring teaching about human rights and bullying to the classroom.

Along with the resources in this guidebook and the companion video the ACLRC also offers speakers on a variety of human rights topics. We are available across Alberta to provide sessions made specifically for your students and customized for the specific course being taught.

CHAPTER ONE: BACKGROUND

A. What are human rights?

Human rights are universal, moral rights that belong to each one of us. They include the right to life, liberty and security of the person. Human rights also include all of the political, social, and economic rights necessary for people to live dignified lives.¹ These include rights such as the right to vote, freedom from arbitrary detention or imprisonment, and the right to live free from discrimination based on certain grounds.

The idea that human beings are entitled to certain basic rights is not new.² 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 the same rights with men.

In 1215, a document entitled the *Magna Carta* was drafted in England. It basically said that no one, not even a monarch, was above the law. Some of these rights found their way into legislation that was drafted in the 18th and 19th centuries in the United States and France. During the 18th and 19th centuries, the western notion of liberalism prevailed. Liberalism included the idea that citizens had inherent, fundamental and inalienable rights. In other words, people were entitled to human rights by virtue of being human.

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. They include:

- freedom of speech;
- freedom of movement;
- the right to vote;

¹ Michael Kronenwetter, *Taking a Stand Against Human Rights Abuses* (Toronto: Franklin Watts, 1990) at 18 [“Kronenwetter”].

² Jean Pictet, *Development and Principles of International Humanitarian Law* (Geneva: Henry Dunant Institute, 1985) at 3.

- freedom of religion and conscience; and
- freedom of thought, belief and expression.

These rights are written into Canada's *Charter of Rights and Freedoms*.³

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

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

It is impossible to say that one set of rights is more important than the other. All rights are interrelated and dependent upon one another. The rights that are most important to each person will depend on his/her experience, living conditions, and values.

The following table lists the different kinds of human rights legislation and shows who it applies to and who it protects, what rights are covered and where to go for assistance.

³ *Constitution Act*, 1982, being Schedule B to the *Canada Act* 1982 (UK), 1982, c 11 [*Charter*].

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
Canadian Charter of Rights and Freedoms	federal, provincial and municipal governments (government action)	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	people in the particular province	freedom from discrimination in particular areas (e.g., employment and tenancy) under particular grounds (e.g., race and religion); areas and grounds vary between provinces	various provincial human rights commissions administer the legislation; in Alberta see the Alberta Human Rights Commission.
Canadian 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 areas (e.g., employment and tenancy) under particular grounds (e.g., disability and sexual orientation)	Federal Human Rights Commission
Criminal Code of Canada	individuals in Canada	individuals in Canada	war crimes and hate crimes provisions; harassment and assault laws; sentencing provisions which apply to crimes involving discrimination	Courts/police/RCMP

B. The Universal Declaration of Human Rights

When the Second World War ended, people began thinking about ways to prevent future wars from occurring. People were concerned about the terrible abuses of human rights that had taken place during the Second World War. In response to the terrible human tragedies that had occurred during the Holocaust, forty-five nations created an organization that pledged to promote “universal respect for and observance of human rights and fundamental freedoms.” That organization, the United Nations, was formed in 1945.⁴

The United Nations was based on the principle of voluntary association of independent sovereign states. Initially it was composed of nations victorious in the Second World War. On December 10, 1948, the United Nations passed an extremely important human rights document: the *Universal Declaration of Human Rights* (UDHR). The UDHR was written in response to the atrocities that were committed during World War II. It contains broad provisions dealing with areas of human rights and recognizes the important role that respect for human rights plays in the establishment of peace throughout the world. December 10 continues to be celebrated as International Human Rights Day.

Below is a brief description of some articles 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 the rights in the UDHR regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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 treatment or punishment.

⁴ For more information on the United Nations see *Basic Facts about the United Nations*. This publication is available online. *Basic Facts about the United Nations* (New York: United Nations Department of Public Information, 2011) <http://issuu.com/unpublications/docs/basicfacts>.

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

Article 11: Everyone has the right to be presumed innocent until proven guilty.

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

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

Article 25: Everyone has the right to an adequate standard of living, including food, clothing, housing, medical care and necessary social services. Motherhood and childhood are entitled to special care and assistance.

1. Human rights are not absolute

It is important for people to understand that human rights are not absolute. For example, Article 29(2) of the UDHR states that people have duties toward others. This means that having rights comes with the responsibility of being fair: to each other, to our families, and to the community we live in. In a democratic society, our rights and freedoms may be limited, but only so far as necessary to respect the rights and freedoms of others. However, deciding what kinds of limits can be justifiably imposed on a particular right is not always an easy decision. For example, we may say what we like, but we have a responsibility to respect other people's beliefs.

2. Is International Law legally binding in Canada?

Because it is a declaration and not a convention capable of being ratified,⁵ the UDHR is morally but not legally binding on the nations that voted for it. In other words, the United Nations cannot order a country to obey a law set out in the UDHR. Instead, the UDHR, and international law in general, set a standard for all nations to work toward and are considered, by some people, to be customary law. There are other international documents that set out mechanisms for dealing with human rights complaints when your rights under the UDHR have been violated. These instruments are:

- **the *International Covenant on Economic, Social and Cultural Rights*,**

⁵ For information on ratification, see Alberta Civil Liberties Research Centre, *Volume III—Background to International Law* (1996).

- **the *International Covenant on Civil and Political Rights*, and**
- **the *Optional Protocol to the Covenant on Civil and Political Rights*.**

Together with the UDHR, these documents form what is frequently called "The International Bill of Rights." In addition, children are protected by a special set of rights under the *United Nations Convention on the Rights of the Child*.

International human rights principles can be found in many Canadian laws. Particularly, Canadians can look to the *Charter of Rights and Freedoms* and also provincial and federal human rights legislation to have their rights protected. We will discuss the *Charter* in the next section. The *Alberta Human Rights Act*⁶ will be discussed in detail in Chapter 2 on Discrimination and Chapter 4 on Provincial Human Rights Legislation.

C. Canadian Human Rights Law

In Canada, our human rights are entrenched in the *Canadian Charter of Rights and Freedoms*. The *Charter of Rights and Freedoms* is part of the Constitution of Canada and therefore cannot be changed at the whim of the government. It is a national document that applies to all governments – federal, provincial, territorial, and municipal. The *Charter* applies to virtually all activities in the public sector. It does not apply to the private sector, which includes individuals and groups not associated with the government.

The *Canadian Human Rights Act* only applies to federal government departments and agencies, crown corporations, chartered banks, national airlines, and other industries that are regulated by the government of Canada. Under the *Canadian Human Rights Act* it is illegal to discriminate on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or pardoned conviction. These grounds are covered under the following areas:

- good, service, facility or accommodation;
- denial of commercial premises or residential premises;

⁶ RSA 2000, c A-25.5 s 3 [*Alberta Human Rights Act*].

- employment and employment applications;
- employee organizations; and
- publication of discriminatory notices or hate messages.

Each province has similar laws designed to protect and promote human rights. In Alberta, the *Human Rights Act* covers similar areas and some of the same grounds as the *Canadian Human Rights Act*. This will be discussed further in Chapter 4. The *Alberta Human Rights Act* applies to both the public and private sectors. Remember that discriminatory actions by the government are covered under the *Charter*.

Chapter 1: OVERVIEW QUESTIONS

1. What are human rights?
2. What is the *Magna Carta*?
3. In what year was the *Universal Declaration of Human Rights* (UDHR) passed and why did it come to be?
4. Name five articles in the UDHR?
5. What documents make up the International Bill of Rights?
6. Is international law legally binding in Canada? Why or why not?
7. Who is protected by the *Canadian Human Rights Act*?

CHAPTER TWO—DISCRIMINATION

Everyone in Canada has the right to be treated equally and live a life free from discrimination. In other words, everyone has the right to be treated equally. This chapter discusses different kinds of discrimination as well as some of the reasons that people discriminate. Harassment and bullying are forms of discrimination. Provincial human rights legislation protects certain listed groups from discrimination. This list may grow over time to protect other groups who are experiencing discrimination.

What is considered to be discrimination today was probably not considered to be discrimination in 1947.⁷ For example, in the early part of this century women were not allowed to vote - it was not until 1918 that women were permitted to vote in federal elections. There were still strings attached for an Aboriginal woman to vote until 1960. Societal values change over time and as we have become more accepting of each individual’s unique characteristics, there has been more recognition and acceptance of diversity. It is helpful to understand some of the roots of discrimination, such as discrimination, prejudice and stereotyping.

A. Discrimination, Prejudice and Stereotyping

In order to better understand the meaning of discrimination it is important to distinguish between the terms “discrimination”, “prejudice”, and “stereotyping.”

Discrimination means that someone is being treated unfairly because of a certain characteristic. Different human rights laws cover different characteristics including grounds such as: race, religion, sexual orientation or disability. Discrimination is based on **prejudice**: an attitude or belief that is formed or held without really considering the facts.⁸

Stereotyping involves making global assumptions without knowing all the facts. A stereotype assumes that all members of a group share some general quality (i.e., they

⁷ Russell Zinn and Patricia Brethour, *The Law of Human Rights in Canada* (St. Aurora: Canada Law Books Inc, 1996) at 1-2 [“Zinn and Brethour”].

⁸ McCardle, Elizabeth, *Human Rights: Respecting our Differences Students Manual* at 6.

are smart, stupid, hard-working, bad drivers, etc.). Stereotyping of people or groups can be derogatory and can lead to prejudice and discrimination. The following scenario illustrates how stereotypes can lead to discrimination.

You are hiring someone to work to protect the security of your company. Two people apply: a Japanese Canadian and a Muslim Canadian. You have never met anyone from either country, but you did hear people blaming Muslims for terrorism. What stereotypes might you have because of what you have heard?⁹

In the above example it would be incorrect to believe the stereotype that “All Muslims are Terrorists” after hearing that some terrorists were Muslim. This is a generalization that assumes because we see one person from a particular culture do something it must be a cultural norm.

1. Examples of Discrimination, Prejudice and Stereotyping

- “I don't like dentists.” Joe has never met a dentist. He is prejudiced against dentists.
- Jeff will not eat shrimp. He has never tasted a shrimp. Jeff is prejudiced against shrimp. This does not mean that Jeff's prejudice against shrimp is a negative one; this prejudiced attitude is not likely to harm anyone. Prejudiced attitudes do not always cause problems.
- Abby fell and hurt her leg. She was approached by a doctor who was in a wheelchair. She refused the doctor's help because she did not trust a doctor in a wheelchair. Abby has never been treated by a doctor in a wheelchair. Abby is prejudiced against doctors in wheelchairs. What stereotypes might Abby believe? What is wrong with these stereotypes?

⁹ Adapted from: Tim McCaskell, *A.R.E. Resources for Anti-Racist Education* (Equity Studies Centre: Toronto Board of Education, 1996) at 26.

- Amina wanted to play on a soccer team. She is a skilled player and can easily outrun most of the other players on the team. She wears a headscarf called a hijab as part of her religion. The coach put her on the sidelines because he said that her hijab could get caught while running. She offers to wear a sports hijab, but the Coach refuses to let her play. The Coach is prejudiced against girls in headscarves who want to play sports. What is the discrimination that is taking place? Can you think of any solutions so that Amina can wear her hijab, but the coach will feel safe with her on the field?
- Erin is a girl who dresses very “butchy”. She doesn’t like makeup or jewelry and she loves sports. Some kids in her grade 9 class say she must be gay because she doesn’t like things that girls are supposed to like. Some people in the class are prejudiced against girls who don’t wear dresses, makeup or jewelry. What are some stereotypes about girls who do not like feminine clothing? What is wrong with these stereotypes?
- Emile is a university student. He has a physical disability and therefore uses a wheelchair. Emile loves basketball and has played in the Junior National Championship for Wheelchair Basketball. One day he asks some young people at a local basketball court to play with him. They refuse because he is in a wheelchair and they think he can’t play at their level. What stereotypes are the local basketball players using to inform their decision? Would they have thought differently if they had known Emile was a Junior Champion?

These examples demonstrate how prejudice and stereotyping can lead to discrimination. There are many times a day when each of us take the time to see a person for who they are, or decide that we know them without asking questions.

2. Direct Discrimination

The law divides discrimination into four categories: direct discrimination, adverse effect discrimination, systemic discrimination and harassment.¹⁰ Direct discrimination occurs when an organization or a person adopts a rule or policy that, on its face, is discriminatory. For example, an employer who has a policy that states that no blacks, women or Catholics can be hired is directly discriminating against these groups. Direct discrimination is easy to identify and is often blatant and obvious. The Supreme Court of Canada has described direct discrimination as follows (with respect to employment):

The essence of direct discrimination in employment is the making of a rule that generalizes about a person's ability to perform a job based on membership in a group sharing a common personal attribute such as age, sex, religion, etc. The ideal of human rights legislation is that each person be accorded equal treatment as an individual taking into account these attributes.¹¹

3. Adverse Effect Discrimination

Adverse effect discrimination means that the discrimination is not intentional. For example, an employer may adopt a policy that appears to be neutral and applies to all people. In a Canadian case, *Chapdelaine v Air Canada*,¹² two female pilots were refused employment because they did not meet the standard height requirement. Although the height requirement applied to everyone, it had the effect of eliminating 82% of women from employment as pilots. There was no evidence that a pilot had to be 5'6" to perform her duties. Even though employers may not intend to discriminate, their behaviour may still be considered to be discrimination because the law looks at the impact of the behaviour, not the intent.

¹⁰ Zinn and Brethour at 1-3.

¹¹ *Ontario (Human Rights Commission) v Simpson-Sears Ltd.* (1985), 23 DLR (4th) 321 at 332, [1985] 2 SCR 536.

¹² *Chapdelaine v Air Canada*, [1987] CHR D No 12. See also *British Columbia (Public Service Employee Relations Commission) v British Columbia Government Service Employees' Union*, [1999] 3 SCR 3 ["Meiorin"].

4. Systemic Discrimination

Systemic discrimination arises out of long-term stereotypes and assumptions.¹³ It involves subtle forms of discrimination that can occur over a long period of time. These patterns of behaviour or policies are part of the structure of an organization. For example, a practice of not promoting immigrants or women would be systemic discrimination. Systemic discrimination is often not one specific action, and the results may be more difficult to spot.

B. Harassment

The law considers harassment to be a form of discrimination. Harassment can range from physical contact to relentless jokes, and includes bullying. Harassment often originates from someone who is in a position of power over the person being harassed, but can be between two people of equal power as well. In Alberta, it is illegal to discriminate against or harass someone because of his or her race, religious beliefs, colour, gender, physical disability, mental disability, ancestry, age, place of origin, marital status, source of income, family status or sexual orientation.¹⁴

Harassment may include:

- verbal abuse
- insulting remarks
- bullying
- punching, hitting, pinching, pushing
- names written on walls or desks
- graffiti
- derogatory rumours and notes
- excluding a person from a group or activity

Harassment generally falls into one of three categories: direct harassment, *quid pro quo* harassment or a poisoned work environment.

Quid Pro Quo is a Latin term meaning "something for something." This type of harassment occurs when a person is in a position of power over the person who is being harassed and demands something in exchange for something else. *Quid pro quo*

¹³ Zinn and Brethour at 1-6.

¹⁴ There are 5 areas covered by the Alberta *Human Rights Act*. These will be discussed further in Chapter 4.

harassment is usually sexual harassment; for example, if a teacher demanded a date in exchange for a good mark. In a workplace setting, sexual demands may be made of an employee in exchange for a promotion. The result is that an employee or a student is forced to make a choice between giving in to sexual demands or losing a benefit of some kind.

Example:

Jenny is pleased when her boss hints that she may be in line for a job promotion and a raise. She feels she deserves the promotion, as she has been with the company for two years and has worked very hard. Her boss invites her for dinner. When she refuses, he makes it clear that if she does not come to dinner there will be no promotion or raise.

In a **poisoned environment**, people who are seen as different because of their gender, race, religion or some other characteristic are subjected to hostility. This type of harassment is less obvious and occurs over a longer period of time. In this case it does not matter if the harasser is in a position of power. The harassment can take place at a school or at work and the harasser can be a student, teacher, co-worker or supervisor.

Example:

A student draws rude, sexual cartoons in the washrooms. The cartoons have your name written underneath them. You feel humiliated and embarrassed. Although you have complained to the principal, the graffiti remains on the walls. The presence of these cartoons creates a poisoned environment for you and others using the washroom.

School boards and schools almost always have policies that establish penalties and procedures against harassment. Schools in Alberta are under a legal obligation to

provide "...a safe and caring environment that fosters and maintains respectful and responsible behaviours."¹⁵ Therefore, it is the school's responsibility to implement policies and educate teachers, students, and staff about these policies.

The Edmonton Public School Board ("EPSB") recognizes that biased behaviour can have a negative impact on students and their education:¹⁶

The Board recognizes that individual and systemic biases related to race, colour, ancestry, place of origin, religious beliefs, gender, gender identity, physical or mental disability, marital status, family status, source of income, socioeconomic status and sexual orientation exist in society. Therefore, the Board acknowledges that such biases may exist within our schools. The Board believes that such biases are intolerable. Biases result in behaviours that damage the physical, mental and emotional well-being of students and negatively impact their educational, social and career outcomes. Further, they damage relationships with peers, families and community partners. The Board believes staff play a central role in creating environments which acknowledge and promote understanding, respect and recognition of the diversity of students and families within the school community. As students learn by example, all members of the school community are expected to model respectful conduct, inclusive behaviour and an understanding and appreciation of diversity.

The Calgary Board of Education defines "personal harassment" to include demeaning or humiliating a person based on grounds such as race or gender:¹⁷

1(e) "personal harassment" means any behavior either intentional or unintentional that disparages, humiliates or harms another person, or denies an individual's dignity and respect and is demeaning or humiliating to another person including but not limited to

- (i) references related to age, race, national or ethnic origin, religion, gender, sexual orientation, disability or impairment, sources of income, and family status,
- (ii) behaviour which supports a hostile or poisonous environment, and
- (iii) intimidation, threats, ostracism, offensive gestures, offensive remarks or jokes related to the characteristics listed in section 1(e)(i)

¹⁵ *School Act*, RSA 2000, c S-3, s 45(8).

¹⁶ Edmonton Public School Board, *Safe, Caring and Respectful Learning Environments Policy IF.BP*.

¹⁷ Calgary Board of Education, *Personal and Sexual Harassment 4027.2*.

and bullying,

but not including supervision and performance evaluation actions and processes undertaken in good faith ...

1. Bullying and Harassment

Bullying and harassment are different words for the same actions. Harassment is a legal term that has been used to define behavior that is demeaning, degrading and hurtful to others. Bullying also causes harm but is usually the term used to describe harassment among youth or in schools.¹⁸

2. Types of Discrimination

People can be discriminated against in many ways and on many grounds. Below is a description of some types of discrimination that are protected under the *Alberta Human Rights Act*.

a. Discrimination based on race, colour, ancestry and place of origin

Racial discrimination is the practice of racism and includes limiting an individual’s political, economic, social and cultural life based on skin colour, physical features, country of origin and other factors related to race. Racial discrimination is often thought of as the same as racism and although they are connected they are not the same.¹⁹

Individuals experience racism in a broader context than racial discrimination. Racism is systemic; a system where one group of people has power over another group based on skin colour. Racism includes an individual’s beliefs, attitudes, and behaviors, as well as institutional structures that privilege some while oppressing others. Racism in the larger society can be seen in discriminatory laws, residential segregation, poor health care, inferior education, unequal economic opportunity and the exclusion and

¹⁸ For ideas on combatting bullying see *Implementing a School-Wide Approach to Bullying*, ACLRC, Online: http://www.aclrc.com/aclrc_site/bullying/swa_1.html.

¹⁹ Henry, Frances & Tator, Carol. (2006). *The Colour Of Democracy Racism in Canadian Society Third Edition*. Toronto: Thomson Nelson [“*The Colour of Democracy*”]. See also: Ontario Human Rights Commission: online <http://www.ohrc.on.ca/en/racial-discrimination-brochure>.

distortion of the perspectives of non-dominant Canadians in cultural institutions. Racism plays out culturally, individually and systemically.²⁰

Cultural racism is embedded in the values of a society and involves beliefs that encourage or justify racial discrimination.

Example

An Aboriginal man responds to an advertisement in the newspaper for a rental apartment. When the rental agent sees the man he says that the apartment is rented. Later that day the man's wife, who is white, goes to the same rental agent and successfully rents the apartment. What are the agent's values and beliefs about Aboriginal people? What are the stereotypes about Aboriginal people that may have played out in this scenario?

Individual racism includes behaviors that are based on individual prejudice and result in racial discrimination. These behaviors may be conscious or unconscious.

Example

Janice and Thea are teachers and friends. Janice is white and Thea describes herself as a woman of colour. The women are at their annual teachers convention and not sure how to find their next session room. Thea sees a woman wearing a convention badge and asks for directions to the room. The woman is very helpful and friendly explains in detail how to get to the room but she talks to Janice and she does not make eye contact with Thea. When they leave, the woman Thea remarks to Janice how the woman didn't even look at her when it was her not Janice who had asked for directions. Janice responds that she didn't notice. Why did Thea notice and not Janice? Why did the woman giving directions not look at Thea when she spoke. What assumptions might she have unconsciously been making about Thea?

²⁰ *The Colour Of Democracy.*

Systemic racism involves the policies, practices and procedures in organizations that discriminate against some while privileging others.

Example

Marvin is a young aboriginal university student. He is doing a degree in Communication, with Aboriginal Studies as his minor. So far in his program all of his instructors are white and the textbooks they are using are written by white people. What messages does this send to students? How does the situation described above affect how classes are being taught? What might the University do?

b. Discrimination based on Gender

Gender discrimination means that someone is being discriminated against on the basis of sex. Case law has found that pregnancy, sexual harassment and transgender people are covered under the ground of “gender” in the *Alberta Human Rights Act*. About 20% of human rights claims that are made are based on “gender”.²¹

Discrimination based on pregnancy may be found when a woman is fired because of her pregnancy or if she is not provided the time off that a pregnant woman would need for a medical appointment. Pregnant women who are employed are also protected by the *Employment Standards Act*.²² Under this Act, an employer cannot fire a pregnant woman while she is on maternity leave. Human rights law protects her as well to ensure that she is treated fairly in the workplace while she is pregnant.

Some policies discriminate against men or women because of their gender. For instance, in *Meiorin*²³ a female firefighter was terminated from her job because she could not pass the physical fitness test. She had worked successfully as a firefighter for three years, but a new fitness test had been implemented. Ms. Meiorin was fired because she could not pass the running portion of the test. When the case made it to the Supreme Court of Canada, it was found that, while fitness tests were necessary for safety reasons, the test that the firefighters were using did not have the research behind

²¹ Alberta Human Rights Commission *Annual Report 2011-12*.

²² *Employment Standards Code*, RSA 2000, c E-9.

²³ Meiorin.

it to ensure that it was necessary to do the firefighter's job safely. The test also did not take into account the differences between men and women.

One form of gender harassment is sexual harassment,²⁴ which is defined as unwanted conduct of a sexual nature. Flirting with a friend or co-worker is not harassment unless that person does not want the flirtation (i.e., it is unwanted). Often the conduct leading to a claim of sexual harassment is repetitive. Possibly the person has said no to invitations on a date, or asked that the other person stop touching them or hugging them. Sexual harassment is wrong, and can occur between a boy and a girl, two boys, two girls, a teacher and a student, or between adults.

Another form of gender discrimination is against transgender people.²⁵ Trans' rights are protected under human rights legislation in Canada, although many statutes do not specifically list "gender identity" as being covered. In Alberta there is an information sheet published by the Commission that defines gender as "being male, female or transgender..."²⁶ Trans people face discrimination in many areas,

The human rights issues that arise for trans-identified people include harassment, losing one's job because of gender identity, using the bathroom and change rooms associated with one's gender identity, changing identity documents to match gender, and the delisting of gender-reassignment surgery.²⁷

People do not always understand trans youth and it can be difficult to find an adult who will support a youth in transitioning to the gender he or she identifies with. Both the Calgary Board of Education ("CBE") and the Edmonton Public School Board ("EPSB") have committed to ensuring the rights of trans students are protected. Gender identity and trans-identity is protected in documents such as policies and regulations, or through the support of LGBT ("lesbian, gay, bisexual and trans-identified") events.²⁸ There are many resources on trans-identified human rights that can be found in the

²⁴ *Janzen v Platy Enterprises Ltd.* [1989] 1 SCR 1252.

²⁵ Other terms are "transsexual", "trans" or "trans-identified".

²⁶ *Protected Areas and grounds under the Alberta Human Rights Act*, Feb 2012. Alberta Human Rights Commission: online http://www.albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/bulletins/sheets.asp.

²⁷ *LGBT Rights: Climbing the Judicial Steps to Equality*, ACLRC, 2012.

²⁸ EPSB Policy and Regulations, Sexual Orientation and Gender Identity Policy IFA.AR; Conference helps CBE create safe learning environments, CBE website: <http://www.cbe.ab.ca/new/news2013-14/20131122-conference-helps-cbe.asp> (Accessed Dec 9, 2013)

*LGBT Rights: Climbing the Judicial Steps to Equality*²⁹ publication and also a handout called *Employer’s Guide: Trans-identified people in the workplace*.³⁰

c. Discrimination based on physical or mental disability

Many barriers exist that prevent disabled people from enjoying equal opportunities. Laws and policies are gradually changing, but disabled people can end up on the fringes of society.³¹ In 2011-12, the Alberta Human Rights Commission received more complaints on the ground of physical disability than any other ground.³² The number of complaints based on both physical and mental disability makes up about half of all complaints made to the Commission.³³

The definition of disability under the *Alberta Human Rights Act* is broad and covers many kinds of disabilities that we may not commonly think of as a disability. For instance, under human rights legislation a student would have a “physical disability” for the period of time she was having her appendix removed. The school would have a “duty to accommodate”³⁴ the operation by allowing the student time-off for the operation and recovery, and assistance with catching up with missed work while she was away. Discrimination happens when a school or workplace refuse to accommodate a person’s time-off for disability-related reasons.

Students who have disabilities also experience harassment or exclusion because of their disability. A classmate might exclude a student who is in a wheelchair just because they do not know how to approach the student. People who have disabilities go to school, work and live full and active lives. Prejudices and stereotypes can make daily life more difficult. Taking the time to get to know a person for who they are, regardless of disability, can be enlightening for both people.

²⁹ *LGBT Rights: Climbing the Judicial Steps to Equality*, ACLRC, 2012.

³⁰ *Employer’s Guide: Trans-identified people in the Workplace*, ACLRC, 2012.

³¹ Canadian Human Rights Commission, *Annual Report, 1997* at 26.

³² Alberta Human Rights Commission *Annual Report 2011-12*.

³³ Forty-Eight percent of complaints are based on the grounds of physical disability and mental disability. Alberta Human Rights Commission Annual Report 2011-12.

³⁴ The Duty to Accommodate is discussed further in Chapter 4 on the *Alberta Human Rights Act*.

d. Discrimination based on Sexual Orientation

Gay, lesbian and bisexual people (GLB) may feel afraid to come out to their friends, classmates, teachers or family. They may be taunted or teased for being GLB or just for looking like they are GLB. Some people might assume that dressing or acting a certain way means that a person is gay or lesbian. This is untrue. GLB people look, dress and act in all sorts of unique ways—just like heterosexual people.

Some of the problems that GLB youth experience in school include being teased because of their sexual orientation, staying hidden because they are afraid of coming out to friends and family, being kicked out of their home because their parents disagree with their sexual orientation, and feeling left out.

In 2002, Marc Hall was a gay youth who wanted to bring his same-sex partner to his grade 12 prom at a Catholic high school.³⁵ His school refused and so he filed for an injunction to allow him to bring his boyfriend as a date. Over ten years have passed since Marc Hall fought to bring his boyfriend to the prom, but there are still schools that will not allow this. In 2010, a girl named Constance McMillen, from a Mississippi school, asked to bring her same-sex partner to the prom.³⁶ Her school had a rule against this. It did not want to change the rule and so the school cancelled the prom. Later a secret private prom was planned and Ms. McMillen was not invited. Eventually the school district paid Ms. McMillen damages and adopted a policy against discrimination based on sexual orientation, but it was too late to attend her prom with her date.

GLB youth and adults today can live healthy, happy lives where they are “out” to their peers, family, friends and general society. It all depends on the circumstances of each person and what barriers they have to overcome. If a GLB person is young and dependent on parents who will not allow them to be out, coming out at school could be risky. GLB people in Canada grow up, have

³⁵ *Hall (Litigation guardian of) v Powers* (2002), 59 OR (3d) 423.

³⁶ *2010 Itawamba County School District prom controversy*, Wikipedia: online http://en.wikipedia.org/wiki/2010_Itawamba_County_School_District_prom_controversy.

families, get married, go on holidays, contribute to society through work, and volunteer in the community. Protecting GLB rights is also important because GLB people have families who can experience discrimination. Same-sex couples have children who need to see their lives reflected in schoolbooks and discussions.

e. Discrimination based on Religion

Discrimination based on religious belief makes up about three percent of complaints to the Alberta Human Rights Commission.³⁷ Any deeply held spiritual belief is protected against discrimination under the *Alberta Human Rights Act*. For example, native spirituality is protected. Discrimination based on religious beliefs may include harassing a person because of his/her religion, making fun of a person's religious scarf or symbol, not permitting a person to pray, or not allowing them days off to practice religious holidays.

Some youth feel that it is a religious duty to pray during the day. In this case, the youth would talk to the school about finding a private place to pray. Praying in school for one youth does not mean holding a religious ceremony in the school, but may mean providing a break or a room for the youth to pray. At work, some offices have prayer rooms where employees can go and pray when they feel the need. Whether a school or workplace has to provide a prayer space depends on many factors in each individual case. The best idea is to talk to the principal or teacher about the student's needs and see how the student may be accommodated. If, for instance, a student's parents want him to pray but he is not that vigilant about it, schools are not required to make sure that a student remembers to pray. Being allowed to pray at school is up to the student to request and take the time to complete.

Some students and employees take off school and work for religious holidays and celebrations with their families. The holiday calendar is based on a Christian calendar and so if people who celebrate holidays like Easter, Christmas, and New Years will probably have each of these holidays off to be home with

³⁷ AHRC Annual Report 2011-12.

family. However, people who celebrate Ramadan, Passover or Solstice will likely not have the time-off needed to celebrate religious holidays. Therefore, to make it fair for everyone, schools and workplaces may be asked to give time off for other religious holidays. People who take this time off will still have to catch up on their missed work or assignments, but they will do it on a regular work/school day.

Religion may also be the reason for a person wearing a particular type of dress. For instance, Jews who wear a kippa on their head, Muslim women who wear hijabs (headscarves), Christians who wear crosses, or Sikh men who wear turbans. These are all spiritual items that are tied to one's religion and religious beliefs. Asking people to remove an item that they are required to wear for religion is unfair and could be discriminatory. In order to allow for a person to wear an item that is deeply tied to his/her religion and sense of self it may be necessary to bend the rules at times. For instance, a rule in school that says "No hats" would still permit a person to wear a turban, hijab or kippa. These items of clothing are not ones that people wear just because they think they look nice, or because it matches their outfit; they are items that are tied to religion and often required to be worn by that religion.

Many of us practice some form of religion, however it is not always obvious what religion we observe. For instance, a boy who goes to Church on Sunday with his family may not wear anything at school that indicates his faith commitment. However, if that boy believes in a religion that requires him to wear a particular piece of clothing or jewelry, then this could be visible in school. Both boys are religious and both boys should have the right to be treated with the same respect for who they are and what they believe.

f. Discrimination based on other grounds

Discrimination based on source of income, marital status, family status and age are also covered under the *Alberta Human Rights Act*. These grounds

each make up under five percent of the complaints³⁸ received at the Commission, but are equally important to other grounds. Complaints based on source of income can come from a landlord who refuses to rent to a tenant because they do not like where they get their income. For instance, it could be discriminatory if a landlord does not rent to someone because he/she is receiving employment insurance. Marital status and family status protect people from discrimination based on marriage or family. Age protects people from discrimination based on how old they are. However, age under the *Alberta Human Rights Act* is only protected for those who are 18 years or older. This is because there are many restrictions for youth under 18, such as the age a youth can drink and the driving age, which are reasonable limits.

This chapter has explained the difference between discrimination, prejudice and stereotyping. It has explored the forms of discrimination, namely direct, adverse effect and systemic. And finally it has examined each ground that is found in the *Alberta Human Rights Act*. The activities at the end of the guidebook help students to understand these concepts and terms by using the Internet and real-life examples. The next chapter will discuss federal human rights law, namely the *Charter of Rights and Freedoms* and the *Canada Human Rights Act*.

Chapter 2: OVERVIEW QUESTIONS

1. What is discrimination? Stereotyping? Prejudice?
2. If discrimination arises out of long-term stereotyping it is called _____.
3. What are some actions that could be considered to be harassment?
4. What is a poisoned work environment?
5. How do schools work to combat discrimination and harassment? What does your school do?
6. Give examples for each of the following forms of harassment. Discrimination based on: race, gender, physical disability, sexual orientation, religion.

³⁸ AHRC Annual Report 2011-12.

CHAPTER THREE—THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

For the most part, Canada has respected the rights and freedoms of Canadians; however, these rights and freedoms were not always enshrined in law. In the past fifty-five years Canadians have made an effort to encode civil rights and liberties in law. Civil rights were initially given recognition in the *Canadian Bill of Rights*³⁹ and later entrenched in the *Canadian Charter of Rights and Freedoms*.⁴⁰

A. The Canadian Bill of Rights

The *Canadian Bill of Rights* was introduced by Prime Minister John Diefenbaker. It became law on August 10, 1960.⁴¹ The *Bill of Rights* was not an extremely powerful piece of legislation because it was not entrenched in the Constitution.⁴² It was an Act of Parliament and therefore could be changed quite easily by the government. The *Bill of Rights* still applies today but only to matters falling under federal jurisdiction. Several provinces have also passed their own Bills of Rights.

The *Canadian Bill of Rights* is a relatively simple document. It protects Canadians from discrimination based on race, national origin, religion or sex. It gives Canadians the following human rights and fundamental freedoms:

- the right to life, liberty and security of the person and enjoyment of property;
- the right to equality before the law;
- freedom of religion, speech, assembly, association, and the press;
- the right not to be arbitrarily detained, imprisoned or exiled;
- the right not to receive cruel and unusual punishment;
- the right to be informed promptly of the reason for arrest;

³⁹ SC 1960, c. 44.

⁴⁰ *The Constitution Act, 1982* Schedule B to the Canada Act 1982 (UK), 1982, c11.

⁴¹ Dwight Gibson & Terry Murphy, *All About the Law-Exploring the Canadian Legal System* (Toronto: Nelson Canada, 1996) at 30.

⁴² *Constitution Act, 1867*, 30 & 31 Victoria, c3 (UK).

- the right to retain and instruct counsel without delay;
- the right to go before a court to determine the validity of a detention;
- the right not to give evidence if denied counsel, and the right to protection against self-incrimination;
- the right to a fair hearing;
- the right to be presumed innocent until proven guilty;
- the right to reasonable bail; and
- the right to an interpreter in any legal proceedings.

B. The *Canadian Charter of Rights and Freedoms*

1. When did the *Charter* come into existence?

The *Canadian Charter of Rights and Freedoms* was passed in 1982. It is part of the Constitution of Canada and can only be changed by an amendment to the Constitution. It is very difficult to make formal amendments to the Constitution.⁴³ For this reason, it is a very powerful document.

Section 52 of the Constitution states 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.

2. What does the *Charter* do?

The *Charter* guarantees certain rights and freedoms. A right is a legal claim to something that the state must grant, which can be enforced by a court.⁴⁴ For example, when someone is arrested, they have the right to a lawyer. A freedom is an opportunity

⁴³ Any proposed change to the Charter must receive the approval of the Senate, the House of Commons and at least fifty per cent of the Canadian population.

⁴⁴ Charlotte Coombs and Jerrold Coombs, *Thinking About Law: An Issues Approach* (Toronto: IPI Publishing Ltd., 1989) at 32.

to do something without interference from the state. For example, people have the freedom to practice their religion.

All of the rights and freedoms must be tempered with limits as needed to protect democracy. This means that freedoms and rights are not without limits. For example, the right to freedom of expression under the *Charter* may be limited by hate laws, by obscenity laws, by anti-discrimination laws and by civil limits on our rights such as tort liability for defamation. Some of these limits are discussed below under “D. Is the Infringement Justified?”

The following rights and freedoms are guaranteed by the *Charter*:

a. Fundamental Freedoms (Charter section 2)

- freedom of conscience and religion;
- freedom of thought, belief, expression, 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 might be persecuted for belonging to an unpopular religious group or for speaking out against the government. For example, in 1933, Quebec 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 is a freedom that Canadians have enjoyed for many years. Canadians have the right to speak out on issues without fear of repercussion. This right does not exist in all countries. In some countries, people who criticize the government are jailed, tortured or killed.

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 repercussion.

b. Democratic Rights (Charter sections 3 to 5)

- 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, some groups were denied this right. For example, Canadians of Japanese and Chinese origin were denied the right to vote until after World War II. Women were not permitted to vote in federal elections until 1918 and Aboriginal people were denied the right to vote until 1960. Before 1960, Aboriginal people had to give up their treaty rights and Indian status in order to vote.

There are still some restrictions on this section of the *Charter*. People under the age of eighteen are not permitted to vote and only Canadian citizens can vote.

c. Mobility Rights (Charter section 6)

- 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 gaining 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, certain professionals have to pass a test based on a province's professional standards before they can practice. Mobility rights are guaranteed only to citizens of Canada. Citizens are covered by mobility rights in relation to their rights to come into or leave Canada and also to take up residence in any province.

d. Legal Rights (Charter sections 7 to 14)

- the right to life, liberty and security of the person;
- freedom from unreasonable search and seizure;
- the right not to be arbitrarily detained or imprisoned;
- the right to be informed of the reasons for arrest and to retain counsel;
- rights when charged in a criminal matter, such as presumed innocence until proven guilty;
- the right not to be subjected to cruel and unusual treatment;
- the right not to give self-incriminating evidence; and
- the right to an interpreter in a court proceeding.

These are extremely important sections of the *Charter*. Without these sections, the authorities could put a person in jail without a reason, deny them a lawyer or deny the right to a fair trial.

e. Equality Rights

- the right to the equality before the law, and the right to the equal protection and benefit of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age, mental or physical disability and sexual orientation.⁴⁵

More discussion on this section can be found under the heading “Equality Rights” below.

3. 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. The *Charter* covers situations where some official or law operating within government authority has violated a right held under the *Charter*.⁴⁶ The *Charter* applies to actions of the government at all levels. Section 32 states that the *Charter* applies to Parliament and to federal and provincial legislatures and governments. The *Charter* does not cover private relations between individuals. Provincial human rights codes are intended to cover these types of situations. Provincial human rights are discussed in detail in Chapter 4.

4. Has a Right been Infringed?

Once it has been established that a situation falls within the domain of the *Charter*, the next step is to determine if the government action or body has infringed a right specified in the *Charter*. This is done in two steps: has a right been infringed and is the infringement justified. The first 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

⁴⁵ Sexual Orientation was read into the Charter: *Egan v Canada* (1995), 124 DLR (4th) 609 (SCC) [“*Egan*”].

⁴⁶ Charlotte Coombs, & Jerrold Coombs, *Law: Fundamental Rights and Freedoms* (Toronto: IPI Publishing Ltd.) at 28.

this manner, the Court is able to determine if the impugned law (the law in question) has infringed a *Charter* right or freedom.

5. 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 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*.

More specifically, the balancing test done in section 1 of the *Charter* is referred to as the “proportionality test”. The *Charter* gives Parliament and the legislatures the right to restrict our rights in certain cases. Section 1 declares that the *Charter* “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.” In other words, with rights come responsibilities. For example, although we have freedom of expression, Parliament has specified certain limits on this such as censorship of certain movies.

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*.⁴⁷ Before applying the test the Court must examine the government’s objective in the legislation (i.e., the problem the government wants to solve; the reason the government has the particular piece of legislation). The objective served by limiting the right must be of sufficient importance (i.e., pressing and substantial) to warrant overriding a constitutionally protected right. The more serious the infringement the more important the objective has to be to justify the infringement.

Secondly, the court will examine whether the means by which the right was

⁴⁷ (1986), 24 CCC (3d) 321, 26 DLR (4th) 200, [1986] 1 SCR 103, 50 CR (3d) 1.

infringed are reasonable and demonstrably justified. This is called the proportionality test. The proportionality test involves three components:

1. Is there 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).
2. The means must impair the *Charter* rights as little as possible.
3. There must be proportionality between the effects of the limiting measure and the objective.

Example

Suppose that an artist created a picture that is considered to be obscene. The artist is charged under the appropriate *Criminal Code* section. In defence of her case, the artist could then challenge the *Criminal Code* section that she had been charged under. The artist would probably argue that her freedom of expression was being unreasonably limited. If the court finds that the *Criminal Code* section unreasonably contravened the right to freedom of expression then that section would be of no “force or effect.”

The court will examine two things: whether the artist’s piece of work is obscene and whether the law that applies is an unreasonable limitation on her work. 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 limitation is reasonable and justifiable.

6. What is an Appropriate Remedy?

The next step in examining a *Charter* case is to determine what the appropriate and just remedy would be in the case. Some of the ways that a court can remedy an infringement of the *Charter* are as follows:

- Declaring the law of “no force or effect.” The courts can strike down the law if it is found to be inconsistent with the *Charter*.
- Severing the law. Severance is the appropriate remedy when part of the law is held to be unconstitutional. A court will hold that only the part that violates the *Charter* should be struck down or severed from the rest of the statute.
- Read in new language to a law. For example, in the *Vriend*⁴⁸ decision, the court held that the words “sexual orientation” should be read into the *Alberta Human Rights Act*.
- Read down the law. Reading down should not be confused with reading in (mentioned above). “Reading down” legislation means that the court gives an interpretation to certain words in the legislation that makes it comply with the Charter. This interpretation is ordered by the court even though the words may be capable of other meanings.

Below is an example of a case where a *Charter* remedy was used.

The Morgentaler Case⁴⁹

In the Morgentaler case, the Supreme Court of Canada declared that the abortion law in the *Criminal Code of Canada* was unconstitutional. 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 was 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 *Criminal Code* section 251. He argued that this section violated a woman’s right to liberty and security of the person under *Charter* section 7. The Supreme Court of Canada agreed with Dr. Morgentaler and struck down Section 251.

One way of enforcing *Charter* provisions is to provide the complainant with a remedy as set out in section 24. There is no limit to the remedy that may be ordered

⁴⁸ *Vriend v Alberta* [1998] 1 SCR 493.

⁴⁹ *R v Morgentaler*, [1988] 1 SCR 30, [1988] SCJ No 1.

under Section 24 so long as it is appropriate and just in the circumstances. Section 24 provides that:

24(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.

(2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by the Charter, the evidence shall be excluded if it is established that, having regard to all circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

Example:

If a person was arrested and denied the right to a lawyer, a judge may order the evidence that was obtained (i.e., a confession) to be excluded; or if the police obtained evidence illegally (i.e., without a search warrant) a judge may also order that the evidence be excluded.

7. Section 33

This section is one of the most controversial sections in the *Charter*. It is commonly referred to as the “notwithstanding clause”. It allows provinces 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 Quebec used the clause to override a decision of the Supreme Court of Canada which disallowed a law requiring that signs displayed on the outside of public buildings be in French only.⁵⁰ Section 33 has only been used a handful of times since the Charter came into force. Even when it is implemented, it lapses after 5 years at which time it must be re-enacted in order to continue being law.

⁵⁰ *Ford v Attorney General Quebec*, [1988] 2 SCR 712.

C. Equality Rights

Section 15 is referred to as the equality rights section. It prohibits the government from discriminating against individuals:

15(1) **Every individual** is equal **before and under the law** and has the right to the equal protection and equal benefit of the law without discrimination and, **in particular, without discrimination** based on race, national or ethnic origin, colour, religion, sex, age, mental or physical disability.

1. **"Every individual"**— Section 15 only applies to individuals and does not apply to corporations.⁵¹
2. **"before and under the law"**— indicates that the law applies equally to everyone. "Before the law" means that everyone has equal access to the courts. "Under the law" means that legislation applies equally to everyone.
3. **"in particular"**—this means that the areas of discrimination identified are merely examples. For example, although sexual orientation is not listed, it has been held to be a protected ground.⁵² New grounds, such as sexual orientation, that a court finds are also included, are called "analogous grounds". In order to determine whether a group falls under an analogous ground the court will see if the group is "discrete and insular." The court will examine:
 - whether the group is lacking in political power;
 - whether the group suffered because of stereotyping, historical disadvantage or vulnerability to social and political prejudice.
4. **"without discrimination"**— has the group suffered a distinction (either unintentional or intentional) either by withholding of a benefit or the imposition of a burden?

Section 15 does not guarantee that equality rights are absolute. Some rights may be limited in certain circumstances. For example, rights may be limited in order to protect the interests of others.

⁵¹ *Re Surrey Credit Union and Mendonca et al.* (1985), 67 BCLR 310 (BCSC). Corporations are not entitled to the rights conferred by this subsection: *Mund v Medicine Hat* (1985), 67 AR 11 (QB). The word "individual" in this subsection relates only to human beings and does not include corporations.

⁵² *Egan*.

D. Affirmative Action section 15(2)

Section 15(2) provides for affirmative action programs. The purpose of these programs is to try and improve the position of historically, disadvantaged minority groups. Employment equity programs attempt to resolve inequality by imposing a rule that gives an advantage to a group that has been discriminated against. Pay equity programs for women are an example of an employment equity program. These programs can also include preferential hiring practices, the removal of hiring and employment barriers and reaching out to recruit new people.

E. Human Rights Legislation

The *Charter* is a very important document to ensure the human rights of all Canadians. It reflects Canadians' beliefs in protecting rights and ensuring that there is no discrimination by government or government actions. The next chapter will discuss provincial human rights legislation, which protects Albertans from discrimination in certain private areas. Provincial human rights laws are equally important but cover different areas and sometimes different grounds than the *Charter*.

Chapter 3: OVERVIEW QUESTIONS

1. How does the *Canadian Charter of Rights and Freedoms* protect Canadians?
2. What is a remedy? Name two kinds of remedies that are available under the *Charter*.
3. Name the fundamental freedoms guaranteed by the *Charter*. Give an example of each fundamental freedom.
4. What are the democratic rights protected by the *Charter*?
5. What are mobility rights?
6. Name three grounds that are protected under the equality rights section of the *Charter*. (i.e., ethnic origin)
7. Who can make a claim under the *Charter*?
8. How is the *Charter* different than human rights legislation?

CHAPTER FOUR—PROVINCIAL HUMAN RIGHTS LEGISLATION

A. The *Alberta Human Rights Act*

Each province has a provincial body that protects individuals against discrimination. The Alberta Human Rights Commission is the provincial body that is responsible for preventing discrimination against Albertans. The *Alberta Human Rights Act* (“Act”) was originally passed in 1972 and prohibits discrimination in five areas:

FIVE AREAS:

- **publications and notices;**
- **goods, services, accommodation, facilities;**
- **tenancy;**
- **employment practices, applications and advertisements;**
- **membership in a trade union;**

The *Act* provides protection from discrimination based on the following grounds:

THIRTEEN GROUNDS:

- * **race;**
- * **religious beliefs;**
- * **colour;**
- * **gender;**
- * **physical disability;**
- * **mental disability;**
- * **age;**
- * **ancestry;**
- * **place of origin;**
- * **marital status;**
- * **source of income;**
- * **family status; or**
- * **sexual orientation**

In order for the *Act* to apply, a complaint must fall within one of the five areas and be based upon one or more of the thirteen grounds listed above.

1. Thirteen Grounds

The *Act* protects Albertans against discrimination based on thirteen grounds. Additional grounds are occasionally added by the courts, just as sexual orientation was

added to the *Act* after the *Vriend*⁵³ decision. The grounds are discussed in more detail in Chapter 2 - Discrimination. The ground of “age” is not covered in every area. It is only included in the areas of publications and notices; employment practices, applications and advertisements; and membership in a trade union. All of the other twelve grounds are included in each of the five areas.

It is important to note that a claim to the Human Rights Commission must fall within one of these grounds in order to be a valid complaint. However, discrimination is still wrong, regardless of what the underlying reasons are. For example, a student in school may be bullied because he is good in math. This would not be a human rights complaint (because “intelligence” is not one of the 13 grounds), but it would be wrong and the school would still punish the bully.

2. Five Areas

a. Publications and Notices⁵⁴

The *Act* prohibits the publication, issue or display of statements, publications, notices, signs, symbols, emblems or other representations that indicate discrimination or that are likely to expose people to hatred or contempt. An individual cannot publish statements (e.g., in a magazine or newspaper) that discriminate against certain groups of people, or that expose certain groups of people to hatred. The *Act* covers the following grounds under publications and notices: race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation. A notice can be in many forms, including a poster, bulletin board notice, advertisement, article in a newsletter or public Internet post.

b. Goods, Services, Accommodation, Facilities⁵⁵

The *Act* protects people from discrimination in goods, services, accommodation and facilities that are “customarily available to the public.” This means programs that

⁵³ *Vriend v Alberta* [1998] 1 SCR 493.

⁵⁴ Alberta Human Rights Commission website: <http://www.albertahumanrights.ab.ca/other/statements.asp>.

⁵⁵ Alberta Human Rights Commission website: <http://www.albertahumanrights.ab.ca/services.asp>.

are offered to private groups may discriminate by not allowing the public to attend. However, if the service is available for the public, then it must be offered in a non-discriminatory manner. When the *Act* notes that it covers “goods, services, accommodation and facilities” this means that there should not be discrimination when a company is offering a service, providing a hotel, renting a room, selling website space, offering a course, or other similar examples. The Supreme Court of Canada has said that, “...‘Service’ refers to such matters as “restaurants, bars, taverns, service stations, public transportation and public utilities. ‘Facility’ refers to such matters as public parks and recreational facilities.”⁵⁶ Services have also been held to include schools.⁵⁷ This means that every person should have equal access to hospitals, shops, restaurants, and other public spaces. The *Act* prohibits discrimination in this area based on race, religious beliefs, colour, gender, physical or mental disability, ancestry, place of origin, marital status, source of income, family status, or sexual orientation.

Example:⁵⁸

Janice Berg was a Masters student at the University of British Columbia (“UBC”). She experienced some depression, and at one point wrote “I am dead” on the school’s bathroom mirror. She was frightened by the RCMP when they tried to talk to her and she tried to jump through a window.

The School of Family and Nutritional Sciences (the “School”) moved buildings and Ms. Berg was denied a key to the building. Other graduate students had received a key. UBC was told by a doctor that Ms. Berg was not a threat, so she later received a key to the building.

Ms. Berg applied for an internship with the Canadian Dietetic Association and was instructed to get a professor to fill out a rating sheet. Dr. Schwartz, from the School refused to arrange for the rating sheet to be completed. She based this decision from her “experience” and “observation” of Ms. Berg.

The B.C. Council of Human Rights had found that Ms. Berg had been discriminated against, based on mental disability, when UBC did not provide the services of a key and a rating sheet. The case was appealed based on the argument that these were not “services customarily available to the public” and therefore the B.C. Human Rights Act did not apply. The Supreme Court of Canada found that the key to the building and the rating sheets were services that were customarily available to the public.

⁵⁶ *Gay Alliance v The Vancouver Sun*, [1979] 2 SCR 435 at 454.

⁵⁷ See for instance: *Re: Schmidt and Calgary Board of Education* [1975] AJ No 500.

⁵⁸ *University of British Columbia v Berg* [1993] 2 SCR 353 (SCC) affirming British Columbia Council of Human Rights, Wilson, Member-designate, December 24, 1987.

c. Tenancy⁵⁹

Tenancy refers to the rental of residential or commercial accommodations. No person can be denied rental space because of race, religious beliefs, colour, gender, physical or mental disability, ancestry, place of origin, marital status, source of income, family status, or sexual orientation. All persons must be treated equally regarding tenancy matters such as: the amount of rent, leases, rules and regulations.

A 2009 and a later 2012 study⁶⁰ examined whether newcomers to Canada were being denied rentals or having additional requirements forced on them. The results showed that those with African, East Asian, Middle Eastern and South Asian accents were 9% more likely to be denied rentals. These groups were also more likely to be asked for additional eligibility requirements (15% more likely to be asked for proof of employment and 21% more likely to need a guarantor).

Landlords have an obligation to ensure that their procedures and policies are fair and equally applied to all potential tenants. The Alberta Human Rights Commission Information Sheet on Residential and Commercial Tenancies⁶¹ discusses a sample case outlined below.

Example:

In the Chauhan case a person complained of the smell of curry from the apartment below her. The Norkam Seniors Housing Cooperative blamed the tenant rather than fixing the venting system. They told the tenant that she would have to stop cooking curry. The court found that this was discrimination based on ancestry.⁶²

⁵⁹ Alberta Human Rights Commission website: <http://www.albertahumanrights.ab.ca/other/tenancy.asp>.

⁶⁰ *Housing Equality for New Canadians: Measuring discrimination in Toronto's housing market*, 2012 Centre for Equality Rights in Accommodation based on 2009 *Sorry it Rented* project http://www.equalityrights.org/cera/wp-content/uploads/2013/12/Housing-Equality-for-New-Canadians_English.pdf.

⁶¹ Information Sheet: A discussion of protected grounds in the area of tenancy, 2010 Alberta Human Rights Commission.

⁶² *Chauhan v Norkam Seniors Housing Cooperative* (2004), 51 CHRR D/127, British Columbia Human Rights Tribunal.

d. Employment⁶³

The Act provides that every person is entitled to equal treatment in employment. The Act prevents employers from refusing to hire an individual because of his or her race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation. For example, an employer cannot refuse to hire an individual because he has a disability or because of the colour of his skin. Employers must ensure that they hire people because of their skills to do the job; not because of assumptions that they make about their abilities, based on how an applicant looks.

Employers are responsible for maintaining a workplace that is free from harassment and discrimination. If they fail to do so, they may be held responsible when an employee files a complaint.

Example:⁶⁴

Dayna McLeod was employed by Bronzart Casting. Dayna worked in the metal shop. She was the only female working in the shop. There were about 30 pictures of “pin-up Sunshine girls” from the Calgary Sun newspaper in the metal shop. There was also a large calendar poster of a female near the time clock, which Dayna saw every morning and afternoon as she punched her timesheet. The poster portrayed a female with long blonde hair, tanned oiled skin, wearing a black bikini with her arms outstretched and her hands in her hair. Dayna asked the supervisor to remove all the posters from the workplace because she found them offensive. The Sunshine posters were removed, but the large one remained. When she asked again for the poster to be removed, her supervisor changed her shifts from 40 hours to 4 hours per week.

The Court found that the hanging of sexually suggestive posters in the workplace constituted sexual harassment.

⁶³ Alberta Human Rights Commission website: <http://www.albertahumanrights.ab.ca/employment.asp>.

⁶⁴ *McLeod v Bronzart Casting Ltd.* Alberta Human Rights Panel (1997).

e. Unions⁶⁵

Unions have a responsibility not to discriminate against union members based on the following grounds: race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, or sexual orientation. Some examples where a union may be faced with a decision about how to treat a union member are: return-to-work assistance when an employee has been off sick, reviewing work credentials from another country, and discriminatory rules or practices enforced by the employer. If the Union feels that a rule is discriminatory, they have a duty to ensure that they do not assist the employer in upholding an unfair rule.

3. General Exceptions to the Prohibition against Discrimination

a. *Bona Fide Occupational Requirement*

Sometimes discrimination may be permitted because it is reasonable and justifiable⁶⁶ under the circumstances. For instance, human rights legislation in Canada allows discrimination if the actions, rules or procedures are found to be a *bona fide* occupational requirement (“BFOR”). A BFOR is a requirement of the job that is necessary for the safe, efficient, and economical performance of the job. For example, an employer can discriminate against an employee because of the employee’s age, if this discrimination is found to be a BFOR; a necessary requirement of the position. A court will not easily find that every requirement is a BFOR; the employer must try to accommodate the employee.

b. *Reasonable and justifiable*

Discrimination may be allowed where it is considered “reasonable and justifiable in the circumstances” as under section 11. A court of law must determine what is “reasonable and justifiable”, but there have not been many cases that have addressed this issue. One example could be posting a “Female only” sign on a bathroom for

⁶⁵ Alberta Human Rights Commission website:
http://www.albertahumanrights.ab.ca/other/union_membership.asp

⁶⁶ See *British Columbia (Public Service Employee Relations Commission) v British Columbia Government and Service Employees’ Union (BCGSEU)* (1999) 3 S.C.R. 3, 35 CHRR D/257 (SCC).

women. One could argue that it is reasonable and justifiable to permit women only to use the bathroom.⁶⁷

c. Duty to Accommodate⁶⁸

Generally, the phrase “duty to accommodate” refers to the responsibility of one party to adapt or adjust facilities, services or employment requirements to meet the needs of an individual or group protected by human rights legislation. For example, an employer may be required to make their offices wheelchair accessible. Employers and service providers have a duty to accommodate their employees and customers. This may mean giving time-off for sick leave, buying a larger computer screen for someone who is visually impaired, or helping an employee with lighter work after they return from an illness.

However, an individual’s right not to be discriminated against must be balanced against the right of the employer or service provider to conduct business in a safe and cost-effective manner.⁶⁹ If an employer establishes that it would be an “undue hardship” to accommodate the employee, they may not have to adapt their rules to meet the employee’s needs. An example would be a small employer (with one or two employees), who is asked to install an elevator for an employee who uses a wheelchair. The cost to install the elevator would greatly outweigh the amount of money the employer makes each year. It would likely be an undue hardship to install the elevator.

4. Remedies

Unlike the *Criminal Code*, which has punishment as one purpose, the *Act* is not meant to punish people who violate it; the purpose of human rights legislation is to provide relief for victims and to put the person (victim) back in the place she was had there not been discrimination. Since the *Act* is not meant to punish, victims do not

⁶⁷ This is presuming that trans-identified women are permitted to use the female washroom. For more information on this topic see the ACLRC publication *Employer’s Guide: Trans-identified people in the Workplace*, 2012.

⁶⁸ Alberta Human Rights Commission website: Duty to Accommodate Interpretive Bulletin http://www.albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/bulletins/duty_to_accommodate.asp

⁶⁹ Russell Zinn and Patricia Brethour, *The Law of Human Rights in Canada* (St Aurora: Canada Law Books Inc, 1996) at 14-16.

typically get large money awards. For example, in a case of sexual harassment the Board may order the employer to:

- ◆ apologize;
- ◆ establish a sexual harassment policy;
- ◆ post notices which say sexual harassment is illegal;
- ◆ pay an individual for lost wages;
- ◆ pay an individual for pain and suffering; or
- ◆ reinstate an employee to a position.

5. Making a Complaint⁷⁰

Making a complaint to the Human Rights Commission is one option to resolve a case of discrimination. However, it should not be the first attempt to fix the discrimination. Employers should talk to their supervisors or human resources, parents should talk to teachers and school officials, clients should ask for discriminatory conduct to be fixed by the restaurant, hotel or company staff and supervisors. Making a complaint to the person or organization that has allegedly done something discriminatory is the first step to resolving the issue. Going to the source of the discrimination quickly will help in resolving the complaint without legal action being necessary. It will save time, help build and keep relationships, encourage companies to see the effect of their actions, help clear up misunderstandings and help employees and clients understand company policies and procedures.

The Alberta Human Rights Commission may be able to assist with the conflict. Human rights complaints that are based on the five areas and the thirteen grounds, and are within Alberta, can be made to the Alberta Human Rights Commission.⁷¹ Generally the process to make a complaint is as noted below. However, depending on the facts of each case complaints may go through different channels and be dismissed, resolved, or put before a Tribunal. Each complaint will not go through every step noted below; these

⁷⁰ Alberta Human Rights Commission website: <http://www.albertahumanrights.ab.ca/complaints.asp>

⁷¹ See the Alberta Human Rights Commission website for more information, <http://www.albertahumanrights.ab.ca>.

are just some of the stages a complaint follows. Complainants must make a complaint within one year of the last incident of discrimination.

1. Complaints can be made by completing an online form⁷² and submitting it to the Commission. The person making the complaint is called the “complainant”. The company or person against whom the complaint is made is called the “respondent”.
2. The respondent will be notified about the complaint and be given a chance to respond. The respondent may now provide some documents to support its case.
3. A human rights officer will review the complaint to see if it falls under the five areas and thirteen grounds. The parties may be asked for additional information.
4. A human rights officer will call both the complainant and respondent to see if they can find a resolution to the complaint. This process is called conciliation and may assist the parties in finding a resolution to the complaint.
5. If conciliation does not work then the complaint will be sent for investigation by a human rights officer. The investigator may ask for additional information from the parties or to interview the parties. The Director will ultimately decide, based on information from the investigator, whether the complaint should move to the next stage or should be dismissed.
 - a. the parties may be asked to resolve it, it may be sent to the Human Rights Tribunal for a hearing, or it may be discontinued if the respondent offers a reasonable settlement.
 - b. it may be dismissed. The complainant may ask for a review by the Chief Commissioner and argue that there is a reasonable basis to proceed to the next stage of the process.
6. If the complaint is sent to the Human Right Tribunal, the parties will be offered an opportunity to participate in Tribunal Dispute Resolution with a Human Rights Commissioner. The complaint may be settled or resolved through this process.

⁷² Alberta Human Rights Commission website:
http://www.albertahumanrights.ab.ca/complaints/forms/complaint_form_and_guide.asp.

7. If settlement can not be reached through any of these processes, then the complaint will be set before a Human Rights Tribunal to be determined by a one to three-person panel. The decision of the Tribunal is subject to judicial review by the Court of Queen’s Bench.

B. The *Canadian Human Rights Act*⁷³

The *Canadian Human Rights Act*⁷⁴ is similar to provincial legislation, but only applies to federal government departments, agencies, crown corporations, chartered banks, national airlines, and other industries that are regulated by the government of Canada. Under the *Act*, it is illegal for any employer or service provider to discriminate on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and pardoned conviction.

The *Canadian Human Rights Act* once covered the discrimination based on communicating hatred. For a full discussion of hate-motivated discrimination, see our publication *Hate Crimes and Hate Expression in Alberta and Canada*.

Chapter 4: OVERVIEW QUESTIONS

1. What statute covers human rights in Alberta?
2. Name the 5 areas that are covered under this human rights legislation in Alberta. Name the 13 grounds that are covered.
3. What is an example of discrimination in the area of “goods, services, accommodation, facilities”.
4. What does “customarily available to the public” mean?
5. How could a landlord discriminate against a tenant?
6. What are some of the ways that an employer can ensure human rights in the workplace?
7. What is the duty to accommodate? Give an example.
8. What is a remedy? What are some remedies that a human rights tribunal might award a complainant?

⁷³ Canadian Human Rights Commission website: <http://www.chrc-ccdp.gc.ca/eng>

⁷⁴ RSC 1985, c H-6.

CHAPTER FIVE – ACTIVITIES

GENERAL ACTIVITIES

A. HUMAN RIGHTS

1. What are human rights?
 - a. Ask students this question. Have them brainstorm in a group. Discuss their opinions with the whole class.
 - b. Watch the video, “The Story of Human Rights” (see Multi-media Resources) to learn more about the UDHR and the history of human rights.

2. The Universal Declaration of Human Rights
 - a. Distribute a print copy of the UDHR or have students view it online. (“History of the document” online: United Nations <https://www.un.org/en/documents/udhr/index.shtml#a24>.)
 - b. Use the United Nations website (<http://www.un.org>) to explore:
 - the history of the UDHR.
 - International Human Rights issues today.

3. Watch a DVD or online video, look at photos or listen to audio files about human rights and discrimination. See the Multi-media Resources below.

4. Use a class exercise and game on Rights, Wants and Needs called “Journey to a New Planet” on the UNICEF website: Teaching for Children’s Rights: Rights, Wants and Needs (http://www.unicef.ca/sites/default/files/imce_uploads/UTILITY%20NAV/TEACHERS/DOCS/GC/EngRightsKit02.pdf).

SPECIFIC ACTIVITIES

B. SINKING SHIP OF RIGHTS

- ◆ The right to food and water.
- ◆ The right to be different.
- ◆ The right to be loved
- ◆ The right to leisure time.
- ◆ The right to watch television.
- ◆ The right to learn.
- ◆ The right to be listened to.
- ◆ The right to a clean environment.
- ◆ The right to vote.
- ◆ The right to be treated with politeness and respect.

Work in a group of 2 to 6 students. You are on a sinking ship. In order to stop the ship from sinking you have to throw some of the rights (listed above) overboard. Choose the most important right to you and number it #1. Then rank the other rights, in order of importance down to #10 (#1 is most important). Compare your top 5 with the other students in your group.

1. Can you agree on 5 rights to throw overboard?
2. What would your life be like without those rights?
3. Ask your group members why they chose certain rights over others.
4. Are there any rights you would like to have that are not on the above list?

C. CREATING A CLASS CHARTER

1. Assume that you have the necessities of life such as food, water, air, and a place to live.
2. Write down five human rights and five responsibilities that you have, wish you had or think you should have *within this classroom*.
3. Work in a group of 4 – 6 students to decide on the top five human rights that the group values (Remember you already have the necessities of life). List out the top five responsibilities you have to uphold these human rights. The rights and responsibilities must be specific – they can not be general, such as “the right to do whatever I want!”
4. Provide a reason for why the rights and responsibilities are important to having a good learning environment in school.
5. Create a class Charter of Rights and Responsibilities that list the most important ten rights and ten responsibilities for the class.
6. Remind your classmates about the Class Charter while you are learning.
 - a. The Class Charter can be used to remind each other what is important to the class. (i.e., respecting one another)
 - b. Refer back to the Class Charter when discussing events in the news. For instance, if your classmates valued the right to shelter, how does that impact their views on homeless issues in the media.

Examples of Rights:

Right to be free from bullying.

Right to express an opinion.

Right to be unique.

Examples of Responsibilities:

Listening to others.

Being fair to classmates.

Attending school.

D. SEXUAL HARASSMENT: TRUE OR FALSE?

1. Sexual harassment is illegal.
2. Women who are sexually harassed because of the way they are dressed should dress differently.
3. Women are the only victims of sexual harassment.
4. Women in the workplace are only sexually harassed by their supervisors.
5. Girls may be found to sexually harass other girls.
6. Ignoring harassment will make the behaviour stop.
7. Hugging someone is always sexual harassment.
8. Commenting on someone's appearance can be sexual harassment.
9. Women are sexually harassed more frequently than men.
10. Teachers are never harassed by students.

TRUE OR FALSE: ANSWER SHEET

1. **T.** Sexual harassment is discrimination based on gender and it violates the *Alberta Human Rights Act* if it happens in one of the 5 areas covered by the *Act* (i.e., in employment).
2. **F.** Regardless of how someone dresses s/he does not deserve to be sexually harassed. The way someone presents him/herself is not a reason for sexual harassment.
3. **F.** Both women and men may become targets of sexual harassment. However, there are more reported cases of sexual harassment against women.
4. **F.** Women in the workplace may be targets of harassment by co-workers, clients, customers or supervisors.
5. **T.** Sexual harassment can happen between 2 girls, 2 boys, or a boy and a girl. Sexual rumours about other people's crushes or sexual history can also be sexual harassment.
6. **F.** Choosing to ignore the behavior will not make it clear to the harasser that the behavior is inappropriate. Ignoring the behavior may allow the harasser to think that it is acceptable. Ask the person to stop. If that does not work, then report the behavior to a teacher, principal or staff person. If you do not feel comfortable talking to the harasser then ask for help from your teacher, principal, parent or a counselor.
7. **F.** Hugging a friend is not always sexual harassment. If the friend says 'no' or does not welcome the hug, and you continue to insist on hugging, then it could be sexual harassment.
8. **T.** Complimenting someone on his/her appearance is not always sexual harassment. Make sure the other person likes the compliment, and if they do not like your compliments then stop.
9. **T.** Studies indicate that women and girls experience sexual harassment than men or boys.
10. **F.** Teachers can be sexually harassed by students.

E. SEXUAL HARASSMENT, FLIRTING, COMPLIMENTING?

1. A group of boys always grab at the girls as they try to get to their lockers.
2. The boys in English class burst out laughing when Michael holds up a Playboy Centerfold.
3. Sam is twelve and has a babysitter, Mandy, who is sixteen. Lately Mandy is always asking for a lot of hugs, sitting close to Sam on the couch and rubbing his back a lot. Sam feels uncomfortable.
4. Kristy asks a girl called Emma on a date. Emma says no. Kristy does not ask again.
5. Janice is taking Industrial Arts in school. Some of her other classmates keep taking her woodworking tools and hiding them. Janice cannot finish her cabinet without her tools. Janice is made the brunt of many practical jokes and has found nude pictures in her toolbox.
6. Terri is caught peeping through a peephole that looks into the male locker room.
7. Ashif always compliments Tina on her appearance.
8. During lunch break a group of boys stands around and rates girls on a scale of one to ten.
9. Kosta is at the year-end school dance. Kari is very attentive towards Kosta. She asks him to dance and spends the evening talking to him. Kosta is flattered.
10. Bruce does exceptionally well on his math test. Mrs. Jones has told Bruce that he is quiet a bright student.

F. IS IT DISCRIMINATION – ALWAYS, SOMETIMES OR NEVER?

✓	Always	Sometimes	Never
Telling a classmate that you like how they look			
Jokes about race and someone’s cultural background			
Spreading rumours about a girl at school and how many boys she has kissed			
Saying “That’s so gay” about things you do not like			
Insisting a student, who has his right arm in a cast, writes a test without any assistance.			
Asking a classmate on a date			
Asking someone about their religion			
Refusing to let a female student’s girlfriend come to the prom, because they are both girls			
Laughing at a student’s turban			
Talking about your cultural heritage and how it differs from your friend’s cultural background			
One student celebrates Christmas and has holiday time from school every year. However, another student celebrate Passover, but does not get a school holiday.			

F. RIGHTS AND RESPONSIBILITIES

List five rights that a Canadian citizen is entitled to have.

List five responsibilities of citizenship. For example, having the right to vote in an election carries the responsibility of voting.

RIGHTS	RESPONSIBILITIES
1.	
2.	
3.	
4.	
5.	

G. RESPECTFUL ME, RESPECTFUL YOU: DISCRIMINATION, HARASSMENT AND HUMAN RIGHTS ACLRC DVD

1. Watch the Background video for a description on how to use it.
 - Chapter 1 describes the law in Alberta and provides background and definitions.
 - Chapter 2 contains one-minute scenarios created by young people who were asked to perform situations in which they had been involved. Each scenario is followed by a discussion, by an expert, of remedies and laws.
 - The chapters/scenarios in Chapter 2 can be watched in any order and can be used as single videos or to watch as multiple scenarios. Discussion with the class should follow the scenario.
 - Upon request, the Alberta Civil Liberties Research Centre will provide a speaker to view and debrief the video.
2. All of the scenarios were written and performed by students in Alberta who had experiences and stories to share. The videos are each approximately one minute in length. There are 17 scenarios, named below, addressing the topics listed:

Scenario Name	Topic
Locker incident	Race and bullying
Chip slap	Non-verbal harassment
Email	Cyber harassment
Break up	Cyber bullying / criminal behaviour
Religious	Race and harassment
Book toss	Discrimination based on accent
Excluding behavior	Race / ethnic background
Sexual orientation	Homophobia and bullying
Students doing homework	Race (Aboriginal) and bullying
Scary math teacher	Sexual harassment
Person perceived as homeless	Source of income / race / assault
Text	Cyber harassment
Restaurant	Discrimination and talking to the harasser
Butt smack	Sexual harassment
Desk attack	Race, harassment and student intervening
Nude photos	Criminal behaviour / child pornography
New student	Race and harassment

Multi-Media Resources

Alberta Civil Liberties Research Centre

Respectful Me, Respectful You: Discrimination, Harassment and Human Rights
www.aclrc.com - order DVD from the ACLRC library or for purchase

A series of vignettes where students have performed scenarios about discrimination and harassment, based on race, sexual orientation, sexual harassment and source of income. The vignettes are about one minute in length and promote discussion on each topic. Includes a background DVD for teachers to understand human rights laws specific to Alberta.

Canadian Museum For Human Rights

<http://museumforhumanrights.ca/media/video#.UvJkFhbN7ww>

Explore the multi-media gallery here for video, audio and photos of human rights issues. Hear individual people talk about their experiences of human rights issues, see hip advertisements on human rights, and hear speeches about the history and development of human rights

<http://museumforhumanrights.ca/explore#.UvJnABbN7ww>

Explore the virtual expositions of the Canadian Museum for Human Rights. These change regularly so check in often for new work.

Human Rights Action Centre

Universal Declaration of Human Rights
<http://www.humanrightSACTIONcenter.org>

A simple and engaging video that explains the highlights of the Universal Declaration of Human Rights in celebration of its 60th anniversary.

Spring Tide Collective

The Charter of Rights and Freedoms
https://www.youtube.com/watch?v=YAIM1qzO9_w

Hand-drawn animation video explaining the rights under the *Charter* (6:34 min).

TVO

Rights and Responsibilities

<https://www.youtube.com/watch?v=DA6QAdKOmtA>

A short cartoon video by TV Ontario, for younger audiences singing a rhyming song about rights and responsibilities (3:23 min).

United for Human Rights

Humanrights.com

The story of human rights

<http://www.humanrights.com/#/what-are-human-rights>

The history of human rights including various countries. An engaging video on the history and definition of human rights today (9:30 min).

30 Videos – 30 Rights

<http://www.humanrights.com/#/videos>

Thirty second to one minute videos explaining the many rights under the United Declaration of Human Rights.

Youth for Human Rights International

“UNITED” Music Video

<http://www.youthforhumanrights.org/what-are-human-rights.html>

Rap music video on bullying, hatred and human rights. (“You and I (UNI) T-E-D, A better place this world would be, can’t escape, can’t you see. We’re all a part of this family tree.”)