

Understanding Human Rights Protection in Canada

A White Paper from the Human Dignity Project | Fraser Valley, BC

Executive Summary

Most Canadians believe they are protected against discrimination and rights violations by the *Canadian Charter of Rights and Freedoms*. This belief, while understandable, is incomplete — and the gap between what Canadians assume and what the law actually provides leaves many people vulnerable.

The Charter is a powerful document, but it is designed specifically to govern the relationship between individuals and the state. It constrains what governments and public institutions can do — not what private individuals, businesses, or organizations can do to you.

This white paper explains the full landscape of human rights protection in Canada: what the Charter covers, what it does not, and the constellation of laws — federal and provincial — that together form the real system of rights protection for Canadians.

Part 1: The Charter — What It Actually Does

The *Canadian Charter of Rights and Freedoms*, enshrined in the Constitution Act of 1982, is the supreme law of Canada. It protects fundamental freedoms (expression, religion, assembly), democratic rights, mobility rights, legal rights, and equality rights.

But Section 32 of the Charter is explicit: it applies to Parliament and to the legislature of each province — meaning it governs government action. When a government passes a discriminatory law, or when a police officer violates your rights, or when a public school denies equal treatment, the Charter applies. In those cases, it is a powerful and enforceable protection.

KEY POINT	The Charter protects you from the government. It does not protect you from private individuals, businesses, or organizations — that is handled by other laws.
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Examples of Charter protections in action:

- A police officer cannot search your home without a warrant — that is a Charter violation.
- A provincial law cannot discriminate against people based on religion — that violates the Charter.
- A court must treat you fairly and give you access to legal counsel — guaranteed by the Charter.

Examples of situations the Charter does not cover:

- A private employer fires you because of your race — the Charter does not apply.
- A landlord refuses to rent to you because of your religion — not a Charter issue.
- A business denies you service because of your disability — the Charter does not govern this.

Part 2: When the Charter Doesn't Apply — What Does?

When rights violations occur outside the government context — in workplaces, housing, services, and social life — Canadians are protected by a different set of laws. Understanding these laws is essential.

Human Rights Codes: The Primary Protection

Provincial human rights codes are the main legal tool protecting Canadians from discrimination by private actors. Every province and territory has its own human rights legislation, and the federal government administers the Canadian Human Rights Act for federally regulated industries.

Human rights codes prohibit discrimination in:

- Employment (hiring, firing, promotion, working conditions)
- Housing and tenancy
- Access to services and facilities
- Membership in professional associations and unions
- Education

Protected grounds include race, colour, ancestry, place of origin, religion, marital status, family status, sex, sexual orientation, gender identity or expression, disability, and age — though the specific grounds and scope vary by province.

Criminal Law

The Criminal Code of Canada applies when conduct crosses into criminal territory — threats, assault, hate crimes, and hate propaganda. Criminal law applies to everyone, regardless of whether the offender is a government agent or a private citizen.

Relevant Criminal Code provisions include:

- Section 318: Advocating genocide
- Section 319: Public incitement of hatred and wilful promotion of hatred against identifiable groups
- Section 430(4.1): Mischief motivated by bias, prejudice, or hate
- General assault, uttering threats, and harassment provisions

Civil Law

Civil law — including tort law, defamation law, and contract law — provides another avenue when other laws do not apply. Individuals can sue for defamation, harassment, intentional infliction of mental suffering, or negligence.

While civil remedies are often underutilized, they can be powerful tools, especially when harmful rhetoric targets specific individuals or when institutional conduct causes documented harm.

Part 3: The Patchwork — Why Rights Protection Varies Across Canada

One of the most important — and least understood — features of human rights protection in Canada is that it is not uniform. The Constitution divides power between federal and provincial governments, and most of the contexts where discrimination happens (workplaces, housing, schools, services) fall under provincial jurisdiction.

This means that the strength of your human rights protection depends significantly on where you live.

Province / Territory	Human Rights Law	Notable Features
British Columbia	BC Human Rights Code	Early gender identity protections; direct-access tribunal model
Ontario	Ontario Human Rights Code	"Record of offences" protection; commission screening model
Quebec	Charter of Human Rights and Freedoms	Broader dignity and economic rights; applies widely to public and private life
Alberta	Alberta Human Rights Act	Gender identity/expression added later; historically broader religious exemptions
Federal (regulated industries)	Canadian Human Rights Act	Covers approximately 6–8% of Canadian workers

The *Canadian Human Rights Act* applies only to federally regulated industries — banks, airlines, telecommunications, federal government employment. For the vast majority of Canadians, provincial codes are the relevant law.

Part 4: A Practical Guide — Where to Turn When Your Rights Are Violated

When you experience discrimination, harassment, or rights violations, the right legal avenue depends on who did it and in what context.

Who violated your rights?	What law applies?	Where to go
Government or public agency	Canadian Charter of Rights and Freedoms	Courts; constitutional challenge
Police	Charter + Criminal Code	Civilian oversight body; courts
Private employer	Provincial Human Rights Code	Provincial Human Rights Tribunal
Landlord or property manager	Provincial Human Rights Code	Provincial Human Rights Tribunal
Business or service provider	Provincial Human Rights Code	Provincial Human Rights Tribunal
Federally regulated employer	Canadian Human Rights Act	Canadian Human Rights Commission
Individual committing hate acts	Criminal Code (ss. 318–319)	Police; Crown prosecution
Individual causing civil harm	Tort law / Civil law	Civil courts

Part 5: Understanding the Limits — Where Gaps Remain

Canada's human rights system is robust compared to many countries, but important gaps exist — gaps that advocates, policymakers, and community organizations are actively working to address.

Narrative Harm

Canadian law recognizes discrimination, harassment, and hate speech — but does not yet fully recognize what might be called narrative harm: rhetoric that stigmatizes, dehumanizes, or delegitimizes identity in ways that produce measurable psychological, social, and economic harm, even when no single act crosses a legal threshold.

Research documents that persistent harmful messaging about particular groups — especially LGBTQ+ people — is associated with elevated rates of depression, anxiety, family rejection, youth homelessness, and suicide risk. These harms generate real social costs, yet they may occur through channels that do not meet current legal standards for hate speech or discrimination.

Inconsistent Enforcement

The variation across provincial systems means that Canadians in some jurisdictions have meaningfully weaker protections than those in others. Complaint processes, timelines, remedies, and enforcement capacity vary significantly.

Religious Exemptions

All provincial human rights codes include exemptions for religious organizations in certain contexts — typically for clergy and roles directly tied to religious doctrine. These exemptions are a legitimate accommodation of religious freedom. However, they can be interpreted broadly, and the line between protected religious expression and harmful discriminatory conduct remains contested.

Part 6: The Full Framework at a Glance

Canada's human rights protection operates through multiple overlapping systems — not a single law.

Legal Mechanism	Who It Governs	What It Protects Against
Canadian Charter of Rights and Freedoms	Government and public institutions	State violations of fundamental rights
Provincial Human Rights Codes	Private employers, landlords, service providers	Discrimination, harassment, denial of services
Canadian Human Rights Act	Federally regulated industries	Discrimination in federal workplaces and services
Criminal Code (hate provisions)	All persons and organizations	Public incitement of hatred, hate propaganda
Civil / Tort law	All persons and organizations	Defamation, harassment, intentional harm
Education Acts	Schools and educational institutions	Safe learning environments; anti-bullying
Child Protection laws	Individuals and institutions serving minors	Psychological harm, coercive control of youth

Conclusion: Know Your Rights — All of Them

The Charter is not the ceiling of your rights protection — it is one part of a larger system. Understanding that system is the first step to using it effectively.

When your rights are violated by a government or public institution, the Charter is your primary tool. When they are violated by a private person, employer, landlord, or organization, human rights codes, criminal law, and civil remedies come into play.

Canada has built real protections — imperfect, varied, and still evolving — but real. The Human Dignity Project is committed to helping communities understand, use, and strengthen those protections.

HDP PRINCIPLE	Knowing your rights is the foundation of dignity. This document is a starting point, not legal advice. If you believe your rights have been violated, contact your provincial Human Rights Commission or a qualified legal advocate.
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Bibliography

White Paper 1: Understanding Human Rights Protection in Canada

Human Dignity Project | Fraser Valley, BC | humandignityproject.ca

Sources are organized by category. All URLs verified as of July 2026.

I. Constitutional Framework

Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

<https://laws-lois.justice.gc.ca/eng/const/page-15.html>

Section 2 (fundamental freedoms), Section 15 (equality rights), and — critically for this paper — Section 32, which limits Charter application to government actors.

Department of Justice Canada. 'Guide to the Canadian Charter of Rights and Freedoms.' Government of Canada.

<https://www.canada.ca/en/canadian-heritage/services/how-rights-protected/guide-canadian-charter-rights-freedoms.html>

Official plain-language guide confirming that the Charter applies only to governments, not to private individuals, businesses, or organizations.

Department of Justice Canada. 'Charterpedia — Section 32(1): Application of the Charter.' Government of Canada.

<https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd/check/art321.html>

Authoritative analysis of Section 32 scope, including the 'effective control test' from McKinney v University of Guelph and the 'government function test' from Eldridge v British Columbia.

BC Civil Liberties Association. 'The Canadian Charter of Rights and Freedoms.' Privacy Handbook.

<https://bccla.org/privacy-handbook/main-menu/privacy1contents/privacy1-4.html>

Accessible plain-language explanation of the Charter's scope and its inapplicability to private actors, with case citations.

Centre for Constitutional Studies, University of Alberta. 'Charter Application.'

<https://www.constitutionalstudies.ca/2019/08/charter-application/>

Explains how the Supreme Court confirmed the Charter is 'an instrument for checking the powers of government over the individual' (McKinney, 1990).

Wikipedia. 'Section 32 of the Canadian Charter of Rights and Freedoms.'

https://en.wikipedia.org/wiki/Section_32_of_the_Canadian_Charter_of_Rights_and_Freedoms

Overview of key cases interpreting Section 32, including the effective control test and government function test.

II. Federal Human Rights Legislation

Canadian Human Rights Act, RSC 1985, c H-6.

<https://laws-lois.justice.gc.ca/eng/acts/H-6/index.html>

Governs federally regulated industries, covering approximately 6–8% of Canadian workers: banks, airlines, telecommunications, and federal government employment.

Criminal Code, RSC 1985, c C-46, ss 318–319.

<https://laws-lois.justice.gc.ca/eng/acts/C-46/>

Section 318: advocating genocide. Section 319(1): public incitement of hatred. Section 319(2): wilful promotion of hatred against an identifiable group. These are the primary federal tools that apply to private actors including religious institutions.

III. Provincial Human Rights Codes

Canada's Constitution assigns jurisdiction over most employment, housing, and service relationships to the provinces. Each province has enacted its own human rights legislation. The following are the primary codes referenced in White Paper 1.

British Columbia

Human Rights Code, RSBC 1996, c 210.

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00_96210_01

Prohibits discrimination in employment (s 13), services and facilities (s 8), tenancy (s 10), and union membership (s 14). Section 41 provides a limited exemption for non-profit and religious organizations.

Human Rights Code Amendment Act, 2016, SBC 2016, c 26.

<https://www.canlii.org/en/bc/laws/astat/sbc-2016-c-26/latest/sbc-2016-c-26.html>

Amended Section 41 to explicitly include sexual orientation and gender identity or expression among the grounds on which non-profit organizations may give preference.

CanLII. 'RSBC 1996, c 210 — Human Rights Code.' Canadian Legal Information Institute.

<https://www.canlii.org/t/843g>

Fully searchable text of the BC Human Rights Code with linked tribunal and court decisions.

Clicklaw Wikibooks. 'BC Human Rights Code (6:III).' Legal Services Society of BC.

https://wiki.clicklaw.bc.ca/index.php?title=BC_Human_Rights_Code_%286%3AIII%29

Plain-language guide to the Code's scope, exemptions, and complaint process, with case law references.

Ontario

Human Rights Code, RSO 1990, c H.19.

<https://www.ontario.ca/laws/statute/90h19>

Includes 'record of offences' protection unique among provincial codes. Commission screening model before tribunal hearing.

Quebec

Charter of Human Rights and Freedoms, CQLR c C-12 (Quebec).

<https://www.legisquebec.gouv.qc.ca/en/document/cs/C-12>

Quebec's Charter is broader than other provincial codes, applying to both public and private life and including economic and social rights.

IV. Key Case Law on Charter Application

McKinney v University of Guelph, [1990] 3 SCR 229.

Established that the Charter is 'an instrument for checking the powers of government over the individual.' Introduced the 'effective control test' for determining whether an entity qualifies as government for Charter purposes.

Eldridge v British Columbia (Attorney General), [1997] 3 SCR 624.

Established the two-branch test for Charter application: (1) whether an entity is part of 'government' by nature or due to extensive control; (2) whether the entity is implementing a specific government policy or program. The second branch prevents government from using private organizations to circumvent Charter obligations.

RWDSU v Dolphin Delivery Ltd, [1986] 2 SCR 573.

First Supreme Court of Canada examination of Section 32 application; confirmed the Charter does not apply to purely private action and that common law is only subject to Charter review when it is the basis of government action.

V. Complaint Processes, Tribunal Structures, and Provincial Variation

Canadian Human Rights Commission. 'Provincial and Territorial Human Rights Agencies.'

<https://chrc-ccdp.gc.ca/en/complaints/provincial-and-territorial-human-rights-agencies>

Directory of all provincial and territorial human rights commissions and tribunals across Canada.

Canadian Centre for Diversity and Inclusion (CCDI). 'Cross-Canada Comparison of Human Rights Codes.'

<https://ccdi.ca>

Overview of variation in protected grounds and complaint processes across Canadian jurisdictions.

Ontario Human Rights Commission. 'About the Ontario Human Rights System.'

<https://www.ohrc.on.ca/en/ontario-human-rights-system>

Explains Ontario's commission-screening model, which differs from BC's direct-access tribunal model.

BC Human Rights Tribunal. Home page and decisions database.

<https://www.bchrt.bc.ca>

Direct-access tribunal model; decisions indexed from 1997 and searchable on CanLII BC.

Legal Services Society, Law Students' Legal Advice Program (LSLAP). 'Chapter Six: Human Rights.' BC Law Student Handbook.

https://www.lslap.bc.ca/uploads/2/9/3/5/29358111/06_-_human_rights.pdf

Practical guide to the BC human rights complaint process, protected grounds, and key cases.

VI. Background and Context

Wikipedia. 'LGBTQ Rights in Canada.'

https://en.wikipedia.org/wiki/LGBT_rights_in_Canada

Comprehensive overview of the legal landscape, including provincial variation, historical milestones, and recent legislative developments.

Legislative Assembly of British Columbia. 'Human Rights Law in BC: Religious Discrimination.' Prepared for the Law Clerk's Office.

<https://www.llbc.leg.bc.ca/public/pubdocs/bcdocs/350450/hrlawreligion.pdf>

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