



Canadian Centre for Diversity and Inclusion
Centre canadien pour la diversité et l'inclusion

Overview of Human Rights Codes by Province and Territory in Canada

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Introduction



Background

The federal government and all Canadian provinces and territories have human rights laws with specific agencies which allow them to enforce legislation. In most provinces and territories, the principal agency is called a Commission. Most often, there are Tribunals which also work in conjunction with the Commissions under an adjudicated role in order to investigate matters that are unresolved and matters of public interest related to human rights infringements. The role and coordination between Commissions and Tribunals varies at the federal level and amongst provinces and territories.

Not all provinces and territories in Canada offer the same human rights protections. For example, not all provinces protect people because of their political beliefs or social condition. Some provinces or territories have unique or unusual protected grounds, protected areas, and ways of interpreting or administering their human rights codes.

Generally, with a few exceptions, provincial or territorial codes apply to provincial and municipal governments, businesses, non-profit organizations and individuals within that province or territory, whereas the *Canadian Human Rights Act* would apply to businesses that are federally regulated and federal government entities regardless of where they are located. The *Canadian Act* offers protection from discrimination on the following grounds: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and a conviction for which a pardon has been granted or a recorded suspended (Canadian Human Rights Commission, n.d.).

The Canadian Charter of Rights and Freedoms

All human rights legislation must follow the *Canadian Charter of Rights and Freedoms*, passed in 1982. Section 15(1) of the *Charter* (1982) states: “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 or mental or physical disability.”

An individual can only use the *Canadian Charter* to challenge a governmental decision, action or law (such as a provincial or territorial Code) on the grounds that it does not offer the protection to individuals as provided by the *Charter* (Canadian Human Rights Commission, n.d.).

An example of a successful challenge of the Ontario *Code* occurred in 1992 in a case known as *Leshner v. Ontario*. The Ontario *Code* defined “marital status” as limited to persons “of the opposite sex.” This was found to violate Section 15(1) of the *Charter*. A tribunal ruling directed that, in future, the Ontario *Code*’s definition of “marital status” omit the words “of the opposite sex” (Ontario Human Rights Commission, n.d.).



Comparison of codes by province and territory

The specific individual identity characteristics covered in different provincial codes are called “protected grounds,” “prohibited grounds” or “applicable characteristics” depending on the provincial or territorial legislation.

It is important to note that some characteristics are protected under specific protected grounds. For example, in most provinces, individuals are protected from sexual harassment under the protected ground of sex or gender. Similarly, some protections are not explicitly listed under ‘prohibited grounds’ but are mentioned elsewhere in the Act or Code through principles of Interpretation, for example.

It should also be noted that in some provinces and territories, certain characteristics are protected under different Acts (e.g. ‘Pay Equity Act’). This Overview only outlines protections that are specifically mentioned in Human Rights Acts or Codes.

In this overview, you will find a high-level review of the following:

- » Protected areas (i.e. contexts in which discrimination is prohibited)
- » Protected grounds
- » Unique considerations in that respective jurisdiction’s Human Rights Act or Code.

The chart in Appendix One provides an overview of protected grounds by province and territory, in comparison with the protected grounds covered by the *Canadian Human Rights Act*.

Comparison of codes by province and territory



Alberta

The purpose of the *Alberta Human Rights Act* is to provide Albertans with protection of their human rights. The *Alberta Human Rights Commission* administers the *Act* (Alberta Human Rights Commission, 2017).

What does it cover?

Protected areas

The *Act* prohibits discrimination in the following areas:

- » Statements, publications, notices, signs, symbols, emblems or other representations that are published, issued or displayed before the public
- » Goods, services, accommodation or facilities customarily available to the public
- » Tenancy
- » Employment practices
- » Employment applications or advertisements
- » Membership in trade unions, employers' organizations or occupational associations (Alberta Human Rights Commission, 2017)

Prohibited grounds

According to the *Act*, discrimination is prohibited on the following grounds: race, religious beliefs, colour, gender, gender identity, gender expression, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status or sexual orientation (Alberta Human Rights Act, 2015).

Included under the ground of gender, the *Act* (2015) protects individuals on the basis of pregnancy in Article 44: "(2) Whenever this Act protects a person from being adversely dealt with on the basis of gender, the protection includes, without limitation, protection of a female from being adversely dealt with on the basis of pregnancy."

Also included under the ground of gender, the *Act* (2015) protects individuals on the basis of equal pay in Article 6: "(1) Where employees of both sexes perform the same or substantially similar work for an employer in an establishment the employer shall pay the employees at the same rate of pay. Any pay differentials must be based on factors other than gender. "



What is unique?

Some articles of the *Alberta Human Rights Act* that are unique or different from other provinces include:

- » **Article 3: Discrimination re: publications and notices:** the *Act* (2015) states: “Subsection (1) does not apply to the display of a notice, etc. displayed to identify facilities customarily used by one gender; the display or publication by or on behalf of an organization that is composed exclusively of persons having the same political or religious beliefs, and not operated for private profit; the display or publication of a form of application or an advertisement that may be used, etc.”



British Columbia Human Rights Code

The *British Columbia Human Rights Code* helps to protect British Columbia (“B.C.”) residents from discrimination and harassment. All complaints are managed by the *B.C. Human Rights Tribunal* (Government of British Columbia, n.d.).

What does it cover?

Protected areas

The *Code* applies to all businesses, agencies, and services in B.C., except those regulated by the federal government. It offers protection in the following areas:

- » Employment (including recruiting, hiring, job assignment, termination, pay rents, conditions of work and termination)
- » Membership in trade unions and occupational, or professional associations
- » Services and facilities that are customarily available to the public
- » Purchase of property
- » Tenancy
- » Hate propaganda (British Columbia Human Rights Clinic, 2016)

Prohibited grounds

In B.C. the grounds of protection include: race, colour, ancestry, place of origin, religion, marital status, family status (does not apply to buying property), physical or mental disability, sex (includes being a man, woman, inter-sexed or transgender. It also includes pregnancy, breastfeeding, and sexual harassment), sexual orientation (includes being heterosexual, gay, lesbian or bisexual), gender identity, gender expression, age (19 and older, does not apply to buying property), criminal conviction (only applies to employment), political belief (only applies to employment), lawful source of income (only applies to tenancy) (British Columbia Human Rights Clinic, 2016).



What is unique?

The *Code* has some unique or rare qualities that differentiate it from other provinces. These include:

- » **Criminal Conviction:** less than half of the provinces and territories covers this ground. However, in B.C., the protection against discrimination on the basis of criminal conviction is limited to employment situations where an assessment is made to determine the crime's relatability to the work.
- » **Article 4: Code Prevails:** "if there is a conflict between this Code and any other enactment, this Code prevails" (British Columbia Human Rights Code, 2017).
- » **Article 7: Discriminatory publication:** section (2) states: "subsection (1) does not apply to a private communication, a communication intended to be private or a communication related to an activity otherwise permitted by this Code" (British Columbia Human Rights Code, 2017).



Manitoba Human Rights Code

The provincial human rights law in Manitoba is called the *Manitoba Human Rights Code*. It protects individuals and groups from discrimination and harassment. The *Manitoba Human Rights Commission* is responsible for administering the *Code* (Manitoba Human Rights Commission, 2017).

What does it cover?

Protected areas

The *Code* prohibits unreasonable discrimination in areas such as:

- » Employment
- » Housing
- » Accommodation
- » The provision of services or contracts, and signs and notices (Manitoba Human Rights Commission, 2017)

In this *Code* (2017) "discrimination", according to Article 9, refers to:

- “(a) differential treatment of an individual on the basis of the individual's actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit; or
- (b) differential treatment of an individual or group on the basis of any characteristic referred to in subsection (2); or
- (c) differential treatment of an individual or group on the basis of the individual's or group's actual or presumed association with another individual or group whose identity or membership is determined by any characteristic referred to in subsection (2); or
- (d) failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any characteristic referred to in subsection (2).”



Applicable characteristics:

The *Code* uses the term “applicable characteristics” or “protected characteristics” rather than “prohibited” or “protected grounds.”

The applicable characteristics are: ancestry (including colour and perceived race), nationality or national origin, ethnic background or origin, religion or creed, or religious belief, religious association or religious activity, age, sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy; gender identity, sexual orientation, marital or family status, source of income, political belief, political association or political activity, physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device, social disadvantage (Manitoba Human Rights Code, 2017).

What is unique?

There are some unique characteristics to Manitoba’s *Code*:

- » **Systemic discrimination:** in Part II, Section 9 of the *Code* (2017), systemic discrimination is described as follows: “interrelated actions, policies or procedures of a person that do not have a discriminatory effect when considered individually can constitute discrimination under this *Code* if the combined operation of those actions, policies or procedures results in discrimination within the meaning of subsection (1).”
- » **Social disadvantage:** the introduction of the *Code* (2017) includes the definition of social disadvantage: “diminished social standing or social regard due to: (a) homelessness or inadequate housing; (b) low levels of education; (c) chronic low income; or (d) chronic unemployment or underemployment.”
 - It should be noted that “social condition” or “social disadvantage” is covered in less than half of provincial or territorial acts.
- » **Onus of Proof:** part III, Section 52 of the *Code* states that there is an onus of proof on the complainant to prove bias or stereotype in cases of discrimination due to social disadvantage discrimination (Manitoba Human Rights Code, 2017).



New Brunswick Human Rights Act

The *New Brunswick Human Rights Act*, which is often called the Human Rights Code, is a provincial law that prohibits discrimination and harassment. The *Act* applies to private sector businesses and organizations as well as to the provincial and municipal governments. The *Act* is administered by the *New Brunswick Human Rights Commission* (New Brunswick Human Rights Commission, 2017).

What does it cover?

Protected areas

The *Act* is a provincial law that prohibits discrimination and harassment in the following areas:

- » Employment
- » Housing
- » Public service sectors, which can include: schools, stores, motels, hospitals, police and most government services
- » Publicity
- » Certain associations (New Brunswick Human Rights Commission, 2017)

Prohibited grounds

The grounds of protection are: race, colour, national origin, place of origin, ancestry, creed or religion, age, family status, marital status, sex (including pregnancy), sexual orientation, gender identity, gender expression, physical or mental disability, social condition (which includes source of income, level of education and occupation) and political belief or activity. Situated under separate provisions, the *Act* also protects individuals against sexual harassment (New Brunswick Human Rights Commission, 2017).

What is unique?

- » **Social condition:** as underscored in Article 9, the *Act* (2011) provides an exception under the protected ground of social condition: “Despite any provision of this *Act*, a limitation, specification, exclusion, denial or preference on the basis of social condition shall be permitted if it is required or authorized by an Act of the Legislature.”



Newfoundland and Labrador Human Rights Act

The government of Newfoundland and Labrador introduced a *Human Rights Code* into law in 1971. The original *Code* established the Human Rights Commission. This Commission oversaw the regulation and promotion of all human rights concerns that fell within the competence of the province's Legislature. In 2010, a new *Human Rights Act* replaced the *Code* in its entirety. This new *Act*, developed to reflect changing times, offers new protections and aims to increase the efficiency of the complaints process. The *Act* applies to the provincial government (including its departments and agencies) and to private businesses (Newfoundland and Labrador Human Rights Commission, n.d.).

What does it cover?

Protected areas

The *Act* prohibits discrimination and harassment in the following protected areas:

- » Employment
- » Membership in a trade union
- » Provision of goods and services
- » Commercial and residential rentals
- » Publications
- » Contracts (Newfoundland and Labrador Human Rights Commission, n.d.)

The *Act* also:

- » Protects equal pay for the same or similar work.
- » Prohibits discrimination because of a person's association with a person or persons who are identified by one of the prohibited grounds.
- » Prohibits individuals who are in a position to grant or deny a benefit or advancement to another from engaging in unwelcome sexual solicitation with the person who is seeking or receiving the benefit.
- » Protects individuals who have made complaints under the *Act* or who have assisted with the complaint process from retaliation.
- » Provides the commission with the power to approve Special Programs that are designed to prevent, reduce or eliminate disadvantages to specific groups of people.
- » Some exceptions to these rules are allowed when there is a limitation, specification, exclusion, denial, or preference based on a 'good faith' qualification, or for Special Programs. This means some actions that would normally violate the *Act* can sometimes be allowed if there is a 'good faith' reason for the violation (for example, males and females may be denied entry into public restrooms intended for the opposite sex) (Newfoundland and Labrador Human Rights Commission, n.d.).



Prohibited grounds

A human rights violation under *the Act* occurs when an individual is discriminated against because of one of the following prohibited grounds of discrimination: race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability (including perceived disability), disfigurement, sex (including pregnancy), sexual orientation, gender identity, gender expression, marital status, family status, source of income, and political opinion, criminal conviction (unrelated to employment) (Newfoundland and Labrador Human Rights Act, 2017).

What is unique?

A few grounds and interpretations are unique to Newfoundland and Labrador's *Act*:

- » **Criminal conviction:** only half of Canada's provinces and territories provide protections for those with criminal convictions. In Newfoundland and Labrador's *Act*, it is limited to employment situations where the conviction is unrelated to the employment.
- » **Disfigurement:** this is a protected ground in addition to disability. This is unique to Newfoundland and Labrador.
- » **Labrador Inuit Rights:** according to Article 7 of the *Act* (2017), this article decrees that where there is a provision of the *Human Rights Act* that is inconsistent with or conflicts with a provision of the *Labrador Inuit Land Claims Agreement*, the *Labrador Inuit Land Claims Agreement* shall have precedence.



Nova Scotia Human Rights Act

The *Nova Scotia Human Rights Act* is a law that makes it illegal to discriminate in Nova Scotia. The *Act* is administered by the *Nova Scotia Human Rights Commission* (Nova Scotia Human Rights Commission, n.d.).

What does it cover?

Protected areas

The *Act* prohibits discrimination and harassment in the following areas:

- » Employment
- » Housing or accommodation
- » Services and facilities (such as stores, restaurants or provincially funded programs)
- » Purchase or sale of property
- » Volunteer public service
- » Publication, broadcasting or advertisement
- » Membership in a professional, business or trade association, or employers' or employees' organization (Nova Scotia Human Rights Commission, n.d.)

Protected characteristics

The *Act* prohibits harassment and discrimination based on any of these characteristics, in all areas of public life: age, race, colour, religion, creed, ethnic, national or aboriginal origin, sex (including pregnancy and pay equity), sexual orientation, physical disability, mental disability, family status, marital status, source of income, irrational fear of contracting an illness or disease, association with protected groups or individuals, political belief, affiliation or activity, gender identity and gender expression (Nova Scotia Human Rights Act, 2013).

What is unique?

The *Act* contains a number of specific protected grounds which are rare among other provinces or completely unique to Nova Scotia, including:

- » **Aboriginal origin:** while many codes mention ethnic or national origin, the Nova Scotia *Act* specifically mentions Aboriginal origin in addition to nationality, ethnicity and race..
- » **Irrational fear of contracting an illness or disease:** this is a protected ground only covered in Nova Scotia.
- » **Association with protected groups or individuals:** this is a protected ground only covered in other 2 other Codes: PEI and Yukon. In most other codes it is assumed or covered under interpretation sections.



Also unique to Nova Scotia is Article 43 which discusses undersea coal mines. The *Nova Scotia Act* (2013) specifically outlines the process for determining the applicability of human rights acts for a “coal mine wholly or partly located below the low-water mark in an area of the Province covered by seawater”. An order of the Governor in Council may deem the *Nova Scotia Act* in effect or may designate that the *Canadian Human Rights Act* applies to those areas (*Nova Scotia Human Rights Act, 2013*).



Ontario Human Rights Code

The *Ontario Human Rights Code*, enacted in 1962, prohibits actions that discriminate against people based on a “protected ground” in a “protected social area.” The Code is administered by the *Ontario Human Rights Commission*, Canada’s oldest commission (Ontario Human Rights Commission, n.d.).

What does it cover?

Protected areas

The Code (2016) prohibits discrimination and harassment in the following protected areas:

- » Accommodation (housing)
- » Contracts
- » Employment
- » Goods, services and facilities
- » Membership in unions, trade or professional associations

Protected grounds

The Code protects against discrimination on the following grounds: age, ancestry, colour, race, citizenship, ethnic origin, place of origin, creed, disability, family status, marital status (including single status), gender identity, gender expression, receipt of public assistance (in housing only), record of offences (in employment only); sex (including pregnancy and breast feeding), and sexual orientation (Ontario Human Rights Commission, n.d.).

What is unique?

There are some protected grounds in the *Ontario Human Rights Code* (2016) that are rare or different from other provinces. These include:

- » **Record of offences:** this protection means one cannot discriminate against someone because they have had a criminal conviction. Only half of the provinces and territories covers this ground.
- » **Citizenship:** this is covered only in Ontario and Nunavut.
- » **Creed:** although generally interpreted as religious practice, Ontario is the only code in Canada that does not specifically list religion as a protected ground. Many list religion or creed, or “religious creed” but Ontario only has “creed.”
- » **Part I, Article 4:** stipulates accommodation of persons under eighteen. In several of the codes the provision for accommodation applies to those over the age of 18 or in employment only.



- » **Part I, Article 7:** covers Sexual Harassment comprehensively and is broken into 3 categories of protections:
 - A prohibition against harassment because of sex in accommodation,
 - A prohibition against harassment because of sex in workplaces, and
 - A specific section on sexual solicitation by a person in position to confer benefit.
- » **Part IV, Article 45:** the *Ontario Human Rights Code* specifies the creation and maintenance of a Human Rights Legal Support Centre: to establish and administer a cost-effective and efficient system for providing support services, including legal services (Ontario Human Rights Code, 2016).



Prince Edward Island Human Rights Act

The *Prince Edward Island Human Rights Act (2016)* is a law that prohibits discrimination on a number of grounds. The *Act* is administered and enforced by the *Prince Edward Island Human Rights Commission* (Prince Edward Island Human Rights Commission, n.d.).

What does it cover?

Protected situations

Discrimination is prohibited in these situations:

- » All aspects of employment
- » Leasing, purchasing or selling property
- » Offering accommodations, services or facilities to the public
- » Membership in professional, business or trade associations, employer or employee organizations
- » Publishing, broadcasting and advertising
- » Volunteering (Prince Edward Island Human Rights Commission, n.d.).

Protected grounds

Discrimination on the basis of any of the following grounds is prohibited: age, association (with an individual or group of individuals who is protected under the Act), colour, race, creed or religion, criminal conviction, ethnic or national origin, family status or marital status, physical or mental disability (including addition and alcohol/drug testing), political belief, sexual orientation, source of income, sex or gender (including pregnancy and sexual harassment), gender identity and gender expression (Prince Edward Island Human Rights Commission, n.d.).

What is unique?

The *Prince Edward Island Human Rights Act (2016)* contains a few protected grounds that are unique or rare amongst other provincial acts and codes, including:

- » **Association:** this means that a person cannot be discriminated against on the basis of a perceived or implied membership or association with one of the protected grounds, e.g., if you are believed to be gay or associate with gay people and are discriminated against on that basis (Prince Edward Island Human Rights Commission, n.d.). Association is only specifically listed as a protected ground in Nova Scotia, P.E.I., and Yukon. In most other codes, it is assumed or covered under interpretation sections.
- » **Criminal Conviction:** only half of the provinces and territories cover this ground.



- » **Sexual Harassment:** sexual harassment is generally covered under the protected ground of Sex in most other provincial and territorial codes, and usually only applies to employment situations or situations where the person committing harassment has the authority to confer a benefit on the individual. However, the *Prince Edward Island Human Rights Act* specifically prohibits sexual harassment in all of these situations:
- Employment
 - Volunteering
 - Offering accommodations, services or facilities to the public
 - Membership in professional, business or trade associations and employee organizations
 - Leasing or selling property
 - Publishing, broadcasting and advertising (Prince Edward Island Human Rights Commission, n.d.)



Quebec Charter of Rights and Freedoms

Quebec is the only province that has a Charter of Rights and Freedoms that is not a simple anti-discriminatory statute, but rather a fundamental law that takes precedence over other laws and is only second to the Constitution of Canada. The Charter is administered by the *Commission des droits de la personne et des droits de la jeunesse* (Ensemble, 2017).

What does it cover?

Protected areas

Discrimination is prohibited in these areas:

- » Employment (includes hiring and pre-hiring, working conditions, professional training, promotion or transfer, lay-off, suspension or dismissal)
- » Housing (includes learning of an apartment, occupancy of rented premises)
- » Public services, public transport and public places (includes businesses, restaurants and hotels, parks, camp sites, caravan sites and schools and churches)
- » Juridical acts (includes contracts, collective agreements, wills, insurance or pensions contracts, social benefit plans, retirement, pension or insurance plans; public pension or public insurance plans) (Canadian Association of Statutory Human Rights Agencies, n.d.).

Protected grounds

According to Chapter I, Article 10 of the *Charter* (2017), “Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity, gender expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.” Sexual harassment is also prohibited under the ground of sex (*Commission des droits de la personne et des droits de la jeunesse*, n.d.)

What is unique?

The *Quebec Charter of Human Rights and Freedoms* is unique among Canadian (and North American) human rights documents in that it covers not only the fundamental (civil and political) human rights, but also a number of important social and economic rights. It is largely inspired by international instruments, such as the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights* (Canadian Association of Statutory Human Rights Agencies, n.d.).

In Quebec, the *Charter* takes precedence over all other laws and holds quasi-constitutional status. Only the *Constitution of Canada*, including the *Canadian Charter of Rights and Freedoms*, takes precedence over the *Quebec Charter* (Canadian Association of Statutory Human Rights Agencies, n.d.).



There are some specific protected grounds that are unique or rare in the Quebec Charter (2017) including:

- » **Civil status:** unique to Quebec, this ground is similar to family or marital status in other provincial codes, as it means you cannot be discriminated against based on the status of being single, married, in a civil union, adopted, divorced, a member of a single-parent family, or any form of family ties or affinity with another person.
 - Note: Quebec's charter is the only provincial or territorial act that does NOT provide explicit protection on the grounds of marital status, and one of only two that does not provide explicit protection on the grounds of family status.
- » **Language:** unique to Quebec, this protected ground means you cannot be discriminated against based on language or accent.
- » **Social condition:** covered in less than half of provincial or territorial codes, this protected ground means that you cannot be discriminated against because of your income level, your occupation or level of education.



Saskatchewan Human Rights Code

The *Saskatchewan Human Rights Code* protects people from discrimination based on a number of grounds. The *Saskatchewan Human Rights Commission* is the agency in charge of enforcing and administering the *Code* in the province (Saskatchewan Human Rights Commission, 2017).

What does it cover?

Protected areas

It's against the law for someone to discriminate against a Saskatchewan resident in the following areas:

- » Employment or occupation
- » Education
- » Housing
- » Publications
- » Public services (restaurants, stores, hotels, government services, etc.)
- » Contracts or purchase of property
- » Professional associations or trade unions (Saskatchewan Human Rights Commission, 2017)

Prohibited grounds

The *Saskatchewan Human Rights Code* (2015) protects Saskatchewan residents from discrimination under the following “prohibited grounds”: religion, creed, marital status, family status (including parent-child relationship and pregnancy), sex, sexual orientation, physical or mental disability, age (18 or more), colour, ancestry, nationality, place of origin, race or perceived race, receipt of public assistance, and gender identity.

What is unique?

Some articles of the *Saskatchewan Human Rights Code* that are unique or different from other provinces include:

- » **Perceived race:** in addition to race, this ground prohibits discrimination on the basis of ‘perceived race’ (i.e. what one assumes or infers another person’s race to be).



- » **Disability:** article 2 of the *Code* (2015) includes a very detailed definition of a disability and a mental disorder:
 - (d.1) “definition of disability: (i) any degree of physical disability, infirmity, malformation or disfigurement and, without limiting the generality of the foregoing, includes: (A) epilepsy; (B) any degree of paralysis; (C) amputation; (D) lack of physical coordination; (E) blindness or visual impediment; (F) deafness or hearing impediment; (G) muteness or speech impediment; or (H) physical reliance on a service animal, wheelchair or other remedial appliance or device; or (ii) any of: (A) an intellectual disability or impairment; (B) a learning disability or a dysfunction in one or more of the processes involved in the comprehension or use of symbols or spoken language; or (C) a mental disorder;”
- » Definition of “mental disorder” includes:
 - (i) judgment; (ii) capacity to recognize reality; (iii) ability to associate with others; or (iv) ability to meet the ordinary demands of life;”
- » **Undue hardship:** article 2 of the *Code* (2015) includes a very detailed definition of undue hardship:
 - (q) reads: “definition of undue hardship: ... intolerable financial cost or disruption to business having regard to the effect on: (i) the financial stability and profitability of the business undertaking; (ii) the value of existing amenities, structures and premises as compared to the cost of providing proper amenities or physical access; (iii) the essence or purpose of the business undertaking; and (iv) the employees, customers or clients of the business undertaking, disregarding personal preferences; but does not include the cost or business inconvenience of providing washroom facilities, living quarters or other facilities for persons with physical disabilities where those facilities must be provided by law for persons of both sexes.”



Northwest Territories Human Rights Act

The *Northwest Territories Human Rights Act* protects the human rights of everyone in the Northwest Territories (“N.W.T.”). The *Northwest Territories Human Rights Commission* oversees administering the *Act* (Northwest Territories Human Rights Commission, 2017).

What does it cover?

Protected areas

It is against the law to discriminate against anyone in the following areas:

- » Employment
- » Membership in a professional organization, workers’ association, or trade union
- » Access to public services such as health care and education, and to facilities such as stores and restaurants
- » Tenancy, which is renting a home or apartment, or leasing a business space
- » Published material such as newspapers, magazines, signs, or advertising (Northwest Territories Human Rights Commission, 2017)

Protected grounds

The following grounds are protected under the *Northwest Territories Human Rights Act*: age, disability, race, colour, ancestry, place of origin, ethnic origin, nationality, sex, sexual orientation, gender identity, family status, family affiliation, marital status, social condition, religion, creed, political belief, political association, pardoned criminal conviction, record suspension (Northwest Territories Human Rights Commission, 2017).

What is unique?

The *Act* contains a number of grounds that are wholly unique to N.W.T., including:

- » **Family affiliation**: while the *Act* does not currently include a definition, it does state that the meaning of this ground will evolve with precedents set by adjudicators and the courts (Northwest Territories Human Rights Commission, 2017).
- » **Record suspension**: this protected ground is in addition to pardoned criminal convictions.
- » **Political belief and political association**: these are separate protected grounds.

Other rare or unusual aspects of the Northwest Territories Act (2016) include:

- » **Criminal conviction**: this is a protected ground, but only when pardoned. Only half of the provinces or territories provide protection for people with past criminal convictions.
- » **Social condition**: this is covered in less than half of provincial or territorial Acts or Codes.



- » **Retaliation:** the *Northwest Territories Human Rights Act* forbids retaliation. Anyone who experiences retaliation for participating in the complaint process, can file a complaint of retaliation with the Commission. Retaliation complaints are taken very seriously and can result in significant fines (Northwest Territories Human Rights Commission, 2017).
- » **Aboriginal rights:** article 2 of the *Act* (2016) states: “Nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act*, 1982.”



Nunavut Human Rights Act

The *Nunavut Human Rights Act* was passed into law by the Legislative Assembly on November 05, 2003. According to the *Act* (2017), “its purposes are to acknowledge within the framework of Inuit Qaujimajatuqangit that the Government, all public agencies, boards and commissions and all persons in Nunavut have the responsibility to guarantee that every individual in Nunavut is afforded an equal opportunity to enjoy a full and productive life and that failure to provide equality of opportunity threatens the development and well-being of all persons in the community.”

The *Act* does not supplement or remove protections provided for in the *Nunavut Land Claims Agreement* (Nunavut Human Rights Tribunal, n.d.).

What does it cover?

Protected circumstances

The *Act* does not allow discrimination when people are:

- » Looking for work or are at work
- » Obtaining or maintaining a membership in an employee’s organization
- » Accessing goods, services, facilities or contracts that are available to the general public
- » Renting or attempting to rent any residential or commercial building; and
- » Publishing or displaying information or written material (Nunavut Human Rights Tribunal, n.d.).

Prohibited grounds

The prohibited grounds are as follows: race, colour, ancestry, ethnic origin, citizenship, place of origin, creed, religion, age, disability, sex, sexual orientation, marital status, family status, pregnancy (including adoption of a child by a man or woman), gender identity, gender expression, lawful source of income and a conviction for which a pardon has been granted. In addition to these grounds, the *Act* also protects individuals on the basis of their association (actual or perceived) with an individual(s) identified by a prohibited ground of discrimination (Nunavut Human Rights Act, 2017).

What is unique?

There are a couple of protected grounds that are unique or rare in the Nunavut *Act* (2017):

- » **Citizenship:** this is only covered in one other provincial Code: Ontario.
- » **Criminal conviction:** only half of the Codes in Canada offer this protection.



Application of the Nunavut Human Rights Act

Application of the *Act* is to be done within an Inuit Qaujimajatuqangit framework, which centers traditional Inuit systems of knowledge into law. The *Act* is applied within the Inuit Qaujimajatuqangit framework. As a holistic framework, the Government of Nunavut and Elders describe Inuit Qaujimajatuqangit as Inuit beliefs, laws, principles and values along with traditional knowledge, skills and attitudes. Inuit Qaujimajatuqangit is considered to embrace all aspects of traditional culture, such as values, worldview, language, social organization, knowledge, life skills, perceptions and expectations. The creation of the *Act* within this framework is unique to Canada (Nunavut Department of Education, 2007).



Yukon Human Rights Act

The *Yukon Human Rights Act* promotes and protects human rights in the Yukon. Established in 1987, the *Yukon Human Rights Commission* is responsible for enforcing and administering the *Act* (Yukon Human Rights Commission, n.d.).

What does it cover?

Protected areas

It is against the law to discriminate against anyone in any of the following areas:

- » Employment, and any aspect of employment
- » Receiving goods and services
- » Housing, leasing or renting
- » Membership in or representation by trade unions or professional associations
- » Public contracts (Yukon Human Rights Commission, n.d.)

Prohibited grounds

The *Act* protects people on the basis of the following grounds: ancestry (including colour and race) national origin, ethnic or linguistic background or origin, religion or creed, age, sex (including pregnancy), sexual orientation, gender identity, gender expression, physical or mental disability, criminal charges or criminal record, political belief, association, or activity, marital or family status, source of income, actual or presumed association with other individuals or groups whose identity or membership is determined by any of the grounds listed (Yukon Human Rights Act, 2017).

What is unique?

There are a couple of protected grounds that are unique or rare in the *Yukon Act*:

- » **Association with protected groups:** while association is an implied protection or is covered in other articles of most codes including those about interpretation or application, only two provinces or territories specifically include Association under the prohibited grounds: Nova Scotia and Yukon Territory.
- » **Criminal record:** only half of Canada's provinces or territories provide protections for criminal convictions and many place restrictions on that protection. Yukon has the most comprehensive protection for those with criminal records (Yukon Human Rights Commission, n.d.).

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Appendix One: Comparison of protected grounds by province and territory



| | CAN | AB | BC | MB | NB | NF | NS | ON | PEI | QC | SK | NWT | NU | YT |
|---|-----|----|----|----|----|----|----|----|-----|----|----|-----|----|----|
| Age | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Race | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Colour | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Physical/mental disability** | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Genetic characteristics | ✓ | | | | | | | | | | | | | |
| Sex/gender* (including pregnancy) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Sexual orientation | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Gender identity | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Place of origin, nationality, national* | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Marital status | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Religion | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Family status | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Gender expression | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ |
| Source of income, receipt of public assistance* | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ | ✓ |
| Ethnic or linguistic background or origin* | ✓ | | | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ |
| Creed | | | | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ |
| Ancestry | | ✓ | ✓ | ✓ | ✓ | | | ✓ | | | ✓ | ✓ | ✓ | ✓ |



| | CAN | AB | BC | MB | NB | NF | NS | ON | PEI | QC | SK | NWT | NU | YT |
|---|-----|----|----|----|----|----|----|----|-----|----|----|-----|----|----|
| Political beliefs, opinion or activity* | | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | | ✓ | | ✓ |
| Criminal conviction, record of offense*** | ✓ | | ✓ | | | ✓ | | ✓ | ✓ | | | ✓ | ✓ | ✓ |
| Social disadvantage, social condition, social origin* | | | | ✓ | ✓ | ✓ | | | | ✓ | | ✓ | | |
| Sexual Harassment | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ |
| Association with protected groups of individuals* | | | | ✓ | | ✓ | ✓ | ✓ | ✓ | | | ✓ | ✓ | ✓ |
| Citizenship | | | | | | | | ✓ | | | | | ✓ | |
| Civil status | | | | | | | | | | ✓ | | | | |
| Language | | | | | | | | | | ✓ | | | | |
| Aboriginal origin | | | | | | | ✓ | | | | | | | |
| Irrational fear of contracting an illness or disease | | | | | | | ✓ | | | | | | | |
| Family affiliation | | | | | | | | | | | | ✓ | | |
| Disfigurement | | | | | | ✓ | | | | | | | | |
| Pay equity or equal pay | ✓ | ✓ | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | ✓ |
| Record suspension | | | | | | | | | | | | ✓ | | |

✓ Indicates that the ground is explicitly mentioned under 'projected grounds' or 'applicable characteristics'

✓ Indicates that the ground is protected under another ground (e.g. sexual harassment is protected under the ground of sex) and/or is protected in the Act/Code through principles of Interpretation

* Wording varies by provincial or territorial code or act.

** Disability has different wording in different codes or acts. Some specify "disability" broadly, some "physical or mental disability," some list "physical disability" and "mental disability" as two separate protected grounds. Quebec uses the word "handicap." For purpose of this table, these have all been grouped under this one column.

*** Some provinces or territories provide protection on the grounds of any criminal conviction, some specify only criminal convictions for which a pardon has been issued, and some limit the application of this protected ground only to the situation of employment.

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For any questions regarding the benefits of becoming a CCDI Employer Partner, please contact:

Susan Rogers
Chief Client Officer
+1 (416) 968-6520 x 103
susan.rogers@ccdi.ca

For any questions regarding other CCDI services, please contact:

Nyla Camille Guerrero
Director, Client Services
+1 (416) 968-6520 x 112
nyla.camille@ccdi.ca

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