

The Alberta Human Rights and Citizenship Commission:

*A Comparison with Human Rights
Commissions in Canada*





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1.0 Introduction

Alberta's Human Rights Context at a Glance

LEGISLATION: Alberta Human Rights, Citizenship and Multiculturalism Act, 1996

- Alberta Human Rights and Citizenship Commission established under prior legislation in 1972.

HUMAN RIGHTS FUNDING:

2003-04: \$4,771,000 (\$3,419,000 Commission + \$1,352,000 Education Fund)
2006-07: \$6,571,000 Budget

HUMAN RIGHTS RESPONSIBILITY:

- Alberta Tourism, Parks, Recreation & Culture
- Commission reports to the Minister
- The department provides all staff

PROTECTED GROUNDS: (2004-05 Report)

- Race
- Religious beliefs
- Colour
- Gender
- Physical disability
- Mental disability
- Ancestry
- Place of origin
- Marital status
- Family status
- Source of income
- Sexual orientation (*read-in April 2, 1998*)
- Age except re: tenancy, goods & services

HUMAN RIGHTS CLAIMS: 2004-05

(% of 2224 grounds cited in 872 new cases)

- Disability (physical 34%, mental 15%) 49%
- Gender 20%
- Race/colour(9%), ancestry/origin(6%) 15%
- Family status(4%) & marital status(2%) 6%
- Age 3%
- Religious Beliefs 3%
- Sexual orientation 1%
- Source of income 0%
- Other 1%

The Alberta Human Rights and Citizenship Commission was established 35 years ago. It is the primary institution for promoting and protecting human rights in the province.

Why undertake a comparative look at the work of the Alberta Human Rights and Citizenship Commission in this way and at this time?

A review of the Commission is central to a perspective on ethical leadership in human rights in Alberta. Leadership shown, or missing, in the Commission can be expected to have a tremendous impact on the state of human rights.

Secondly, the landscape is changing. British Columbia eliminated its Human Rights Commission three years ago and introduced a new Human Rights Tribunal model, followed recently by Nunavut. Ontario has responded to the debate on the 'gatekeeper' function with a new Tribunal model.

The effectiveness of the Alberta Human Rights and Citizenship Commission was seriously questioned by a panel on *Human Rights in Alberta* at a December 4, 2005 event organised by the Sheldon Chumir Foundation for Ethics in Leadership. This report follows up on the panel discussion.

It is our hope that this review can contribute to the thinking and direction of the Premier and Cabinet.

2.0 Methodology

How do we compare the Alberta Human Rights and Citizenship Commission with its counterparts across the country?

In reviewing literature on human rights in Canada, considerable qualitative information is available. Notably absent is a quantitative comparison on operations, and so that research has been undertaken by the Sheldon Chumir Foundation for Ethics in Leadership. Recommendations for strengthening the Commission and making Alberta a more vibrant province in terms of human rights leadership conclude the report.

Some key questions are:

How does Alberta compare in terms of numbers and types of cases?

Issues explored include: caseloads, use of the human rights commission by citizens, discriminatory grounds and areas of violations. It is useful to see whether or not the data can identify which human rights seem well protected and which do not.

Do Albertans have reasonable access to redress for their human rights complaints?

This includes considerations of waiting time, accessibility and independence of the commission, translation support, answers to questions by complainants and help to guide them through the process, for example. Other related questions include:

Are Albertans more or less likely than others to have their case reviewed?

Can they challenge decisions?

How easily can someone make a false claim in order to cause grief to someone else?

Are there any Albertans left out of the system?

It is important to consider those who may face barriers, such as those: from rural and remote communities, with limited literacy or language skills, with limited financial means, without access to the internet, who may not have heard about the Commission, youth and children, convicted criminals, and newcomers. How does protection for the most disadvantaged in our society compare with other provinces and territories?

Are there interesting aspects of Alberta's human rights system which demonstrate ethical leadership?

Are there aspects of other systems which could be explored for Alberta to enhance human rights protections for its citizens?

3.0 Human Rights Legal Framework

The *Human Rights Citizenship and Multiculturalism Act (HRCMA)* was passed in 1996, replacing prior legislation in human rights: *Individual's Rights Protection Act* (1972), *Bill of Rights* (1972), and *Human Rights Act* (1966). Human rights protections in Alberta are also guaranteed by the Charter of Rights and Freedoms, the Constitution, and various other pieces of legislation. The Supreme Court of Canada 1998 decision on the *Vriend v. Alberta* case has resulted in sexual orientation being “read in” to the Alberta *Human Rights, Citizenship and Multiculturalism Act* as a protected ground.

The Alberta Human Rights Commission was established in 1972, and renamed the Alberta Human Rights and Citizenship Commission under the new act in 1996. Its administrative set up is detailed under the *HRMCA* (s.15).

4.0 General Case Statistics

4.1 Fiscal Year 2004-05 Comparisons

	Year	# new cases rec'd	cases carr'd over	Total cases for FY	# cases per 10,000 pop.	% re-jectd	% cases with-drawn	% reslvd	% referrd	% cases dealt with	Rpt'd cases at year end	Total - closed (calc by SCF)
BC	2004-2005	1566	240	1806	4.30	22%	6%	48%	45%	70%		536
AB	2004-2005	872	789	1661	5.18	11%	6%	33%	2%	44%	926	926
SK	2004-2005	411	283	694	6.98	16%	5%	11%	5%	59%	288	288
MB	2004	260	375	635	5.43	38%	8%	20%	4%	65%	375	225
ON	2004-2005	2399	2549	4948	3.99	20%	6%	30%	4%	45%	2733	2733
QC	2004-2005	817	1476	2293	3.04	48%	5%	10%	3%	32%	1506	1551
NB	2004-2005	237	175	412	5.48	N/A	N/A	10%	2%	47%	258	219
NS	2002-2003	86	107	193	2.06	N/A	25%	21%	N/A	41%	114	114
PEI	2004-2005	69	40	109	7.90	41%	12%	21%	18%	50%	N/A	54
NF	2004-2005	100	N/A	100	1.93	62%	2%	N/A	11%	N/A	N/A	17
YK	2004-2005	48	51	99	32.04	13%	3%	4%	1%	46%		53
NWT	2004-2005	32	0	32	7.46	13%	9%	4%	8%	25%	24	24
NU	N/A											
Average	(not weighted)				7.15	28%	8%	19%	9%	48%		

Source: *Annual Reports, 2004-05*. Manitoba reports data for 2004 calendar year. NWT reports some data for 18 months and some for 12 months, which has been accommodated for in the calculations.

4.2 Analysis of General Case Statistics

Alberta had just over 5 cases per 10,000 population in 2004-05, more or less **on par with the other provinces in new cases**. This comes in below the national average of 7.15, but slightly above the average among provinces of 4.63 cases per 10,000 population, when the territories are excluded. This figure is a proxy indicator of **fair accessibility** of the commission to its citizens on a comparative basis nationally.

The number of cases carried forward from the prior year represents nearly half the total cases in Alberta – **a concerning backlog**. This is confirmed by the total cases dealt with during the fiscal year – 44%, leaving more than half of the cases untouched. The national average is 48%. This amount of backlog appears somewhat **common in Canada**, with Quebec carrying the heaviest load, while Ontario, Nova Scotia and the Yukon all faced similar backlog situations to Alberta in 2004-05. Despite the heavy case load, the average length of time for a case as self-reported was just over 11 months – the same as most other jurisdictions (see section 7.1).

In 2004-05, claimants in Alberta were **less likely to have their case rejected** than in any other human rights commission – 11% in Alberta compared with 28% on average for Canada. This is an **encouraging** figure, though rejection criteria differ from jurisdiction to jurisdiction. One might expect that this could indicate good availability of information on how to prepare a claim and/or strong support for claimants in drafting cases. Comparatively, though, there is no indication that Alberta provides additional claim support in the form of more staff, plain language documents, or free legal advice beyond that of other commissions. A low case rejection rate could indicate open interpretation of cases and grounds of discrimination by the Commission; however, Alberta has a less proactive HRC model than for example Saskatchewan, with its advocacy role for Chief Commissioner, and Nova Scotia, with its own anti-racism unit. Therefore, we have been unable to point to a likely rationale for the low case rejection rates.

Albertans were **more likely** than those in other provinces to have their human rights **case resolved** – 33% to a national average of 19%. This is another **positive statistic**. The only jurisdiction with better resolution rates was British Columbia, which had 48% of cases resolved in 2004-05.

Referrals in Alberta were low, although what counts as a referral varies among the provinces and territories. Despite these variations, it is fair to say that this low figure likely indicates a dependence on the **traditional tribunal model**. This may correlate to the backlog, as a full hearing through tribunal is considerably more time-consuming than some alternative resolution models used by human rights commissions, such as mediation, arbitration, and community sentencing circles.

We have carried out a simple analysis rather than weighting statistics by total case numbers. The unweighted averages give a sufficient comparative picture, though we would welcome an initiative by others to further analyse the data.

4.3 Ethical Leadership Recommendations on Cases

- Explore ways to better address the backlog of cases.
- Consider less dependence on the traditional tribunal model and introduction of referrals for alternative dispute resolution.
- Examine positive statistics in case rejection and resolution and apply the success factors to other aspects of the human rights remedy system.

5.0 Protected Grounds

5.1 Human Rights Commission Protected Grounds

Grounds covered by each HRC vary somewhat, according to the most current human rights legislation in each province and territory. Some provinces have amended their Human Rights Legislation since the release of the 2004-05 Annual Reports.

British Columbia: *Human Rights Code, 1996, Administrative Tribunals Act, 2004*
Grounds covered: Race, Colour, Ancestry, Place of Origin, Political Belief, Religion, Marital Status, Family Status, Physical or Mental Disability, Sex, Sexual Orientation, Age, Criminal Conviction, Lawful Source of Income (NB, Although not listed as a ground, Section 43 of the Code protects complainants and witnesses against retaliation on the basis of their involvement in a human rights complaint.)

Alberta: *Human Rights, Citizenship and Multiculturalism Act, 1996*
Grounds covered: Race, Religious Beliefs, Colour, Gender, Physical Disability, Mental Disability, Age, Ancestry/Place of Origin, Marital Status, Source of Income, Family Status, Sexual Orientation (read-in April 2, 1998)

Saskatchewan: *The Saskatchewan Human Rights Code, 1979 (last amended 2000)*
Grounds Covered: Religion, Creed, Marital Status, Family Status, Sex, Sexual Orientation, Disability, Age, Colour, Ancestry, Nationality, Place of Origin, Race or perceived race, Receipt of Public Assistance

Manitoba: *Human Rights Code, 1987*
Grounds covered: 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 pregnancy, the possibility of pregnancy, or circumstances related to pregnancy; Gender-determined characteristics or circumstances other than those included in [previous clause]; 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 dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device.

- Ontario:** *Human Rights Code* 1990 (last amended 2006)
Grounds covered: Race, Ancestry, Place of Origin, Colour, Ethnic Origin, Citizenship, Creed, Sex, Sexual Orientation, Age, Marital Status, Family Status, Disability, Receipt of Public Assistance, Record of Offences
- Québec:** *Quebec Charter of Human Rights and Freedoms*, 1975 (last amended 2005)
Grounds covered: Race, Colour, Sex, Pregnancy, Sexual Orientation, Civil Status, Age, Religion, Political Convictions, Language, Ethnic or National Origin, Social Condition, Handicap or the use of any means to palliate a handicap
- New Brunswick:** *Human Rights Act*, 1985 (last amended 2004)
Grounds covered: Race, Colour, Religion, National Origin, Ancestry, Place of Origin, Age, Physical Disability, Mental Disability, Marital Status, Sexual Orientation, Sex, Social Condition, Political Belief or Activity,
- Nova Scotia:** *Human Rights Act*, 1989 (amended 1991)
Grounds covered: Age, Race, Colour, Religion, Creed, Sex, Sexual Orientation, Physical or Mental Disability, Irrational Fear of contracting an illness or disease, Ethnic, National or Aboriginal Origin, Family status, Marital status, Source of Income or Political Belief, affiliation or activity, Association with groups or individuals deemed to have any of the characteristics protected above
- Prince Edward Island:** *Human Rights Act*, 1988 (last amended 2005)
Grounds covered: Age, Colour, Creed, Ethnic or National Origin, Family Status, Marital Status, Physical or Mental Handicap, Political Belief, Race, Religion, Sex, Sexual Orientation, or Source of Income of any individual or class of individuals
- Newfoundland & Labrador:** *Human Rights Code*, 1971 (last amended 2006)
Grounds covered: Race, Religion, Religious Creed, Political Opinion, Colour, Ethnic, National or Social Origin, Sex, Sexual Orientation, Marital Status, Family Status, Source of Income, Physical or Mental Disability, Age (19-65) - Employment and Services (Note: as of May 2007 the age cap related to employment will be removed.)
- Yukon Territory:** *Human Rights Act*, 1987 (amended 1998)
Grounds covered: Ancestry, including Colour and Race; National origin; Ethnic or Linguistic Background or Origin; Religion or Creed, or Religious

Belief, Religious Association, or Religious Activity; Age; Sex, including Pregnancy, and Pregnancy related conditions; Sexual Orientation; Physical or Mental Disability; Criminal Charges or Criminal record; Political Belief, Political Association, or Political 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 in paragraphs [listed above]

North West Territories:

Grounds covered:

Human Rights Act, 2002 (amended 2004)

Race, Colour, Ancestry, Nationality, Ethnic Origin, Place of Origin, Creed, Religion, Age, Disability, Sex, Sexual Orientation, Gender Identity, Marital Status, Family Status, Family Affiliation, Political Belief, Political Association, Social Condition and a Conviction for which a pardon has been granted.

Nunavut:

Grounds covered:

Human Rights Act, 2003

Race, Colour, Ancestry, Ethnic Origin, Citizenship, Place of Origin, Creed, Religion, Age, Disability, Sex, Sexual Orientation, Marital Status, Family Status, Pregnancy, Lawful Source of Income, and a Conviction for which a pardon has been granted.

5.2 Ground of Discrimination Cited* (in cases where available or inquiries) 2004-05

	Mental/ Phys disability	Gender/ Pregna ncy	Sexual harass- ment	Marital status	Family status	Sexual orienta tion	Age	Religion /Creed	Asstn / Pol belief	Race/ Ethnicity	Place of origin	Ancestry	Ethnicity	Social condtn/ Income source
BC	34%	12%	11%	2%	5%	2%	6%	4%	1%	9%	7%	4%	N/A	
AB	49%	20%	incl in gender	2%	4%	1%	3%	3%	0%	9%	incl in ancestry	6%	incl in race	0%
SK	43%	12%	5%	3%	5% incl in marital	3%	5%	6%	N/A	incl in ancestry	incl in ancestry	14%	incl in race	N/A
MB	35%	18%	N/A	6%		1%	9%	3%	1%	0%	3%	22%	1%	1%
ON	29%	15%	5%	1%	2%	2%	4%	2%	1%	16%	6% incl race, clr,ethn ic, natl	3%	7%	N/A
QC	23%	8%	N/A	5%	N/A	3%	15%	3%	1%	25%	incl in race	incl in race	incl in race	4%
NB	39%	7%	4%	2%	N/A	1%	25%	1%	0%	10%	6%	4%	N/A	0%
NS	34%	19%	6%	3%	1%	3%	5%	1%	1%	22%	incl in ethncty incl in race	1%	2%	1%
PEI	32%	21%	0%	5%	6%	4%	10%	1%	8%	1%	incl in race	incl in race	incl in race	6%
NF*	67%	12%	4%	3%	N/A incl in marital	N/A	7%	1%	N/A	2%	N/A	N/A	4%	N/A
YK	36%	16%	N/A	9%		0%	13%	4%	2%	13%	2%	incl in race	0%	0%
NWT	20%	15%	N/A	0%	13%	3%	5%	3%	0%	30%	5%	incl in race	3%	3%
NU														
Avg	42%	17%	7%	4%	3%	2%	10%	3%	2%	14%	7%	9%	3%	2%

Source: Annual Reports, 2004-05. Manitoba reports data for 2004 calendar year. NWT reports some data for 18 months and some for 12 months, which has been accommodated for in the calculations. Note: Some categories have been combined for ease of comparison (eg. gender/pregnancy), which are not always combined in the legislation. For exact wording of each ground, please refer to Section 4.1 Ground Cited in legislation. All averages are unweighted. * NOTE: Newfoundland has added "family status", "sexual orientation" and "source of income" as protected grounds since the release of their 2004-05 report.

5.3 Analysis of Protected Grounds

The **most common grounds** cited in human rights complaints in Canada are **mental and physical disability**, except in Quebec and the North West Territories. Mental and physical disability is cited as a protected ground on average in 42% of cases nationally. This category is cited in a peak number of cases in Newfoundland (67%) and lows of 20% in NWT and 23% in Quebec. In the latter two provinces, “race/ethnicity” is the most frequently cited ground of discrimination. **Alberta** receives the second-highest percentage of claims related to mental and physical disability at **49%**.

After mental and physical disability, the second most frequently cited ground of discrimination is gender, including pregnancy, at 17% nationally. Alberta receives the **second-highest number of claims related to gender/pregnancy** at 20%, compared to a low of 7% in New Brunswick. This may be because Alberta **implicitly includes “sexual harassment” and “pregnancy” in “gender,”** one of the few provinces to do so. There are five Canadian jurisdictions that do not explicitly include “sexual harassment” as a protected ground. As well, lack of explicit protection for “pregnancy” in legislation is a common practice in Canada. Only Manitoba, Quebec, Yukon and North West Territories list “pregnancy” as a separate ground. In practice both “pregnancy” and “sexual harassment” are protected across the country.

It should be noted that Alberta provides a pamphlet entitled *Becoming a Parent in Alberta: What You Need to Know About Human Rights, Maternity, and Parental Leave and Benefits*, which explains that discrimination on the basis of pregnancy is prohibited under the protected ground “gender.”

Although each province and territory has enshrined its own set of potential grounds of discrimination in its provincial human rights legislation, there is nonetheless significant overlap across categories amongst the jurisdictions. Taken as a whole, the cluster including gender/pregnancy, sexual harassment, and marital and family status in fact form the second most frequently cited ground of discrimination nationally at 24%. Alberta receives in the top tier of complaints related to these grounds at 26%.

The third most frequently cited thematic cluster of grounds relates to race, ethnicity, place of origin, and ancestry at 20% nationally. In Alberta, **15% of cases relate to race/ancestry**, which is in the **lower tier of national averages**. Note that Alberta includes “ethnicity” in “race” and “place of origin” in “ancestry.” This is in keeping with 8 of the 12 provinces/territories which collapse at least one of these categories into one of the main categories, usually “race.” Nova Scotia has shown ethical leadership in this regard, however, by expanding their list of protected grounds to include “National or Aboriginal Origin” as an explicit category, highlighting aboriginal protection. Saskatchewan tracks complaints related to Aboriginal ancestry in their statistics, though this is not a separate protected ground.

Alberta receives less than the national average of complaints related to **sexual orientation at 1%** compared to a national average of 2%. In Alberta sexual orientation is “read-in” as a protected ground rather than fully enshrined in legislation. This may lead to uncertainty about the protection, thereby potentially deterring claims related to

this ground. This is difficult to determine, particularly since the distribution is only 4% from highest to lowest citation nationally.

Alberta provides an **average range of protected grounds** when compared nationally. The province falls short of some others in not explicitly protecting “sexual harassment.” All jurisdictions except Alberta have added “sexual orientation” to their human rights legislation. Leaders in broadening the range and number of protected grounds are Manitoba, Nova Scotia, Yukon, Quebec, and NWT. Manitoba has expansive protection around pregnancy and “gender-determined characteristics or circumstances other than pregnancy”. Nova Scotia has added Aboriginal heritage as a protected ground. Nova Scotia also protects “irrational fear of contracting an illness or disease” and Yukon protects “linguistic background or origin.” Quebec is the only other province to protect “language,” for obvious reasons, and adds “social condition” as well as a strong youth and child orientation, but lags in some other grounds. NWT includes “gender identity” – a first in Canada, providing a broader level of protection for trans-gendered, bisexual and other citizens who suffer discrimination because of their gender identity.

In all provinces and territories, **multiple grounds are cited** in a large number of complaints. This adds complexity to the system which is currently based on categorization by distinct protected grounds, as noted in the overview of legislation. This multiple claim trend reflects the multi-faceted identities of our citizenry, and can be expected to continue and grow.

5.4 Ethical Leadership Recommendations on Protected Grounds

Within the existing Alberta framework:

- Explicitly recognize “sexual harassment” and “pregnancy” as protected grounds, so that all citizens are aware of the full range of gender-related protections.
- Fully enshrine “sexual orientation” as a protected ground in provincial human rights legislation. Failure to do so, in spite of a Supreme Court ruling directing the province to do so, sends the message that the province does not fully uphold the rights of all Alberta citizens, regardless of sexual orientation.
- Consider adding leading edge protection categories, like social condition, Aboriginal heritage, language and gender identity.

Future directions:

- Consider how to best address multiple grounds over the long term, including options such as adjustments to the existing system as well as reconceptualising discrimination. This is a challenging issue that requires ethical leadership.
- Consider emerging human rights protections, like social, economic and cultural rights evidenced by the movement for health as a human right. Explore ways in which Alberta might demonstrate ethical leadership in these areas, beyond Aboriginal heritage and social condition.

6.0 Areas of Discrimination

6.1 Areas of Discrimination by Claim, 2004-05

Commission	Employment	Contracts	Services	Accom/ Tenant/ Vocatnl	Unions and Associa- tions	Retaliation	Publi- cations	Other Areas	Total
BC Tribunal	47%	0%	24%	9%	8%	6%	5%		100%
AB	81%	0%	14%	2%	1%	1%	0%		99%
SK	75%	0%	18%	5%	0%	N/A	0%	1%	100%
MB	73%	0%	22%	4%	0%	0%	0%	2%	100%
ON	79%	0%	15%	4%	2%	0%	0%		100%
QC	57%	0%	22%	16%	0%	5%	0%		100%
NB	82%	0%	15%	2%	1%	N/A	0%		100%
NS	89%	1%	10%	2%	0%	0%	0%		102%
PEI	63%	0%	0%	0%	0%	0%	0%	37%	100%
NF	84%	0%	11%	1%	0%	3%	0%		99%
YK	77%	0%	23%	0%	0%	N/A	N/A		100%
NWT	81%	N/A	16%	3%	0%	N/A	0%		100%
NU Tribunal									
Average (not weighted)	70%	0%	14%	3%	0%	1%	0%	20%	

Source: Annual Reports, 2004-05. Manitoba reports data for 2004 calendar year. NWT reports some data for 18 months and some for 12 months, which has been accommodated for in the calculations. PEI reported 37% of claims under “other areas” and did not specify further.

6.2 Analysis of Areas of Discrimination

In Alberta, **employment-related claims dominate**, at over 80%, above the national average of 70%. The vast majority of public education workshops on human rights are aimed at workplaces, and the word may be getting out about employment related human rights protections. As well, the Commission website provides considerable information on both workplace and service accommodation, particularly for disabilities and pregnancy, so one might expect to see more activity in these areas. These grounds of discrimination top the claims, but the **“services” area of discrimination is relatively low**.

Accommodation, tenancy and vocational areas of discrimination in Alberta are low at 2%. Claims related to discrimination in services received are lower than the national average as well. These findings may indicate one of two things, either:

- there is a high regard for human rights in these areas in Alberta, with fewer actual instances of discrimination than in the workplace
- OR
- Human rights protections are an issue yet claims to the Commission are not forthcoming in these areas.

It is likely that there is a pressing need for the province to make citizens more aware of **human rights protection outside the workplace**. Given on-going allegations of racism at Calgary nightclubs, it is surprising not to see more service related claims. Likewise,

one might expect to see off-reserve discrimination occur against Aboriginal Albertans in tenancy, services, and other areas in addition to employment. This is worth investigating.

6.3 Ethical Leadership Recommendations on Areas of Discrimination

- Continue to strengthen human rights environments among Alberta employers and promote good practices.
- Ensure that adequate information on non-employment areas of discrimination is available to and accessible for all citizens.
- Investigate areas of relatively low claims – services, accommodation and tenancy, unions, retaliation and publications. Determine the reason for low claims, and address them directly.

7.0 Organisation and Procedures

Some key questions posed in this section include:

Are the procedures user-friendly?

How available is human rights claim information to all Albertans, compared with others?

Is there adequate independence of the Commission for claimants? Is the potential for or actual political interference a concern?

While these are perhaps best considered through a qualitative assessment, a look at the statistical data sheds some light on the structure and operating policies of the Alberta Human Rights and Citizenship Commission.

7.1 Operating Statistics, 2004-05

Commission	# of Commissioners	# of staff	Lang used by HRC	# HRC sites	Case Load per Commiss'r	# of Commisr per 10,000	Avg time for case decision (months)	Inquiries per 10,000 pop
BC (Tribunal only)	10	25	English, some Punjabi, Chinese	1	110	0.10	N/A	35.4*
AB	7	46	English	2	237	0.02	11.2	N/A
SK	5	17.8	English	2	139	0.05	N/A	30.2
MB	10	20.5	English French	3	64	0.09	9-11.5	N/A
ON	11	no data	English French	1	450	0.01	11.2	48.9
QC	12	160	French, some English	8	292	0.02	N/A	47.1
NB	7	7	French and English	4	59	0.09	11	N/A
NS	15	22	English	4	13	0.16	18	N/A
PEI	5	9	English	1	22	0.36	7	N/A
NF	5	9	English	1	20	0.10	N/A	N/A
YK	6	12	English	1	17	1.94	13.8	N/A
NWT	5 part-time		English, French, + 9 native	1	6	1.17	N/A	36.8
NU	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Average (not weighted)	8.2				111		11.6– 12.0	39.7

Source: Annual Reports, 2004-05. Manitoba staff and commissioner figures and case length estimates are for 2006, provided verbally by staff. Alberta staff figures for 2004-05 provided via e-mail: 23 HR officer, 8 administrators, 2 managers, 1 Chief Commissioner, 1 Director, 2 legal counsel, 8 education/ policy/ planning, 1 panel coordinator. All averages are unweighted. * NOTE: BC inquiries are for the BC Human Rights Coalition.

7.2 Analysis of Operating Statistics

Given its population, Alberta seems to have a **fair number of Commissioners**, though this is challenging to comment on as there seems to be no discernible pattern in the country. Alberta appears to have a **large number of staff** for its size, but we are unable to draw any conclusions around staffing from the limited information on hand.

Having offices in the two major centres, Alberta is on par with Saskatchewan. Alberta is better than some provinces in terms of **geographic accessibility** (BC, Ontario, PEI, Newfoundland and Labrador, Yukon, and Northwest Territories). It fares worse than

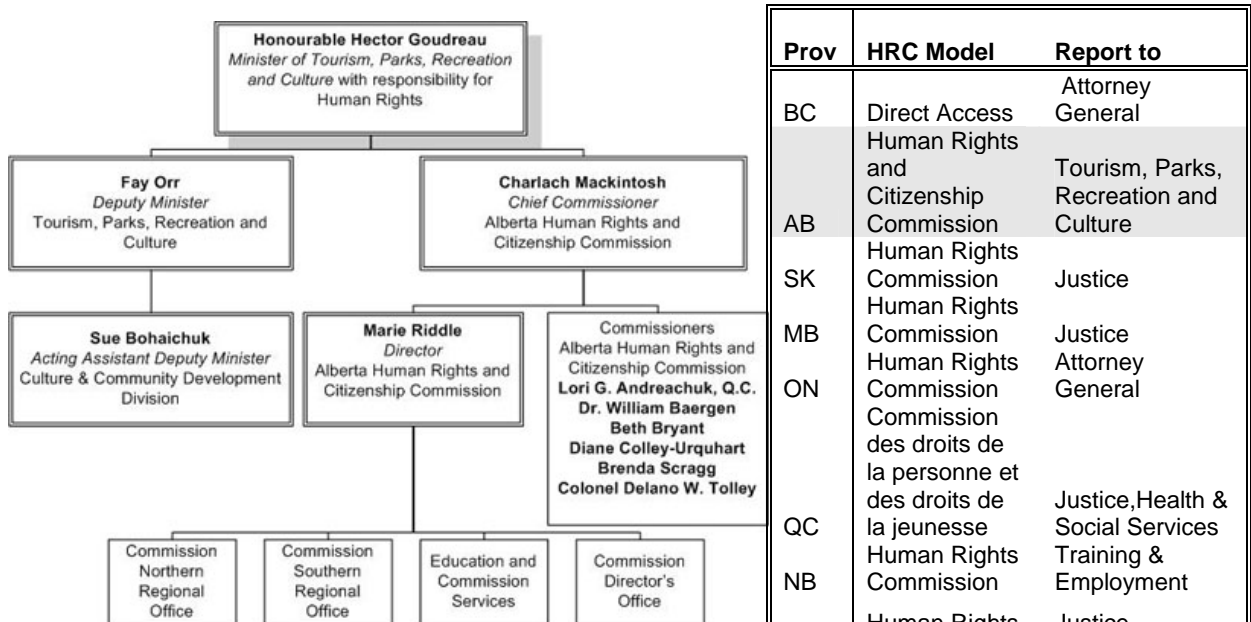
Québec which leads with 8 locations, followed by small New Brunswick and Nova Scotia, and Manitoba.

In terms of languages, Alberta’s human rights information is available **only in English**. This is fairly common, though several commissions have gone the extra mile to have other languages available, notably BC (Punjabi, Chinese) and Northwest Territories (9 local languages, English and French). Four other provinces offer bilingual services. Additional language options would make the Commission more accessible.

The **average length of time** for a human rights case to work through the system in Alberta is 11.2 months – almost exactly the national average of 11.6 months, indicating fair case progress on a comparative basis. No information was available for the time range. A review of the slowest cases would be useful, and would give some idea of whether or not the time frame acts as a **disincentive to potential claimants**.

“Inquiries per population” is an indicator of citizen knowledge of and concern for human rights. Unfortunately these statistics were not available for Alberta.

7.3 Organisational Chart and Comparative Structures



7.4 Analysis of Organisational Comparisons

Alberta, like most other provinces, has a **Human Rights Commission structure**. Only BC and Nunavut have a Direct Access Model, with a modified version being phased in to Ontario at present. Manitoba restructured several years ago to eliminate pre-screening (the gate keeper function) within the existing human rights commission model. Commissioners now review all claims directly.

Alberta is the only province to include **Citizenship** – the Alberta Human Rights and Citizenship Commission. It is **unclear** what role, if any, citizenship plays. There is no substantive difference from any other commissions. There do not appear to be any additional grounds protected under citizenship, such as explicit Aboriginal heritage protections found in Saskatchewan and Nova Scotia. We do not see, for example, more race/ethnicity/citizenship type claims in Alberta than elsewhere – fewer, in fact.

Interestingly, the **Québec Commission** name includes human rights and **youth rights**. Unlike Alberta, this name reflects additional youth and age protections in their human rights legislation not covered by other provinces, as well as a strong emphasis on youth-programming in their educational and promotional work.

Alberta is the only jurisdiction where human rights portfolio is under the purview of Minister of Tourism, Parks, Recreation and Culture, a name change in December 2006 from Community Development. There is no apparent relationship between human rights and tourism, parks, recreation and culture. Quite frankly, this is a very unusual reporting arrangement that **signals to the public that human rights are not a priority** for the current government.

There is a strong **community development emphasis** inherent to the *Alberta Human Rights, Citizenship and Multiculturalism Education Fund*. The work of the Commission does not appear to have a stronger community development orientation than other jurisdictions. In fact other Commissions have community partnerships not found in Alberta, such as Aboriginal group partnerships directly with the Saskatchewan Human Rights Commission.

Of the other jurisdictions, eight report to Justice or Attorney General, three to the Legislatures. Only New Brunswick and Alberta have unusual ministries responsible for human rights. Where human rights falls under the Ministry of Training and Employment in New Brunswick, we do see a high proportion of employment-related claims (82%), second highest in the country.

Reporting to Justice has the advantage of demonstrating a link to the legal framework for human rights protection. It has the disadvantage of promoting a legalistic approach to human rights, and perhaps less emphasis on promotion, prevention and education, and more on protection and remedy.

Only northern territories report to their legislative assemblies. **Reporting to a legislature** is the most obvious means of ensuring **objectivity** and avoiding both the perception and reality of any political influence or bias in Human Rights Commissions or Tribunals.

7.5 Ethical Leadership Recommendations on Organisation and Procedures

- Make the system even more accessible to Albertans. Activities such as mobile offices, translation support, guaranteed timelines, and an inquiry hotline are options.
- Attempt to shorten the time frame for case review. While 11.2 months may be average for Canada, this timeline still requires much commitment from and costly legal support for claimants as well as the government. The top end timeline for very slow cases should be investigated.
- Review the structure of the Alberta Human Rights and Citizenship Commission in relation to the two existing Direct Access models, the recent revisions to the NWT and Manitoba, and proposals for Ontario. Ethical leadership necessitates a serious look at the health of our current system and both the positive and negative implications of change.
- Consider eliminating “citizenship” from the Alberta commission, as it seems to have no substantive basis. If the desire is to keep citizenship central to Alberta’s human rights system, then define what it means in terms of additional protections and values.
- For optimal transparency, objectivity and public trust, have the Alberta Human Rights and Citizenship Commission report to the provincial Legislative Assembly. At a minimum, have the Commission report to a Ministry with related responsibilities.

8.0 Resource Considerations

In looking at the work of human rights commissions, a range of criteria were selected as the basis for evaluation: budget, case loads, timelines, protected grounds, staffing, languages, geographic issues, education, and public accessibility. Both qualitative and quantitative analyses were carried out.

8.1 Budget Comparisons

Comparison of Expenditures -- Human Rights Commissions across Canada

Province/Territory	2004 Expenditures	2004 Population	Per Capita	Prov & Terr Rank - All	Provinces Rank
British Columbia	\$ 4,908,433	4,201,900	\$ 1.168	8	5
Alberta	\$ 3,419,000	3,204,800	\$ 1.067	10	7
Saskatchewan	\$ 1,250,000	994,300	\$ 1.257	7	4
Manitoba	\$ 1,647,500	1,170,200	\$ 1.408	6	3
Ontario	\$ 11,982,200	12,407,300	\$ 0.966	11	8
Quebec		7,547,700	\$ -	N/A	N/A
New Brunswick	\$ 868,788	752,100	\$ 1.155	9	6
Nova Scotia	\$ 1,746,000	937,500	\$ 1.862	5	2
Prince Edward Island	\$ 320,634	137,900	\$ 2.325	4	1
Newfoundland & Labrador	\$ 375,000	517,300	\$ 0.725	12	9
Yukon	\$ 476,842	30,900	\$ 15.432	2	
Northwest Territories	\$ 620,800	42,900	\$ 14.471	3	
Nunavut	\$ 589,000	29,700	\$ 19.832	1	
Alberta (with Education Fund)	\$ 4,771,000	3,204,800	\$ 1.489	6	3

NOTES:

All expenditure figures are for Fiscal Year 2003-04, except for NWT and Nunavut showing FY 2004-05 data. NWT includes an estimate of salary and benefits. All population data are from Statistics Canada.

* BC expenditures include: the BC Human Rights Tribunal, BC Human Rights Coalition, and the Community Legal Assistance Fund. The BC Human Rights Commission was eliminated in 2003 and replaced by these three organisations, under a new direct access model.

** Alberta expenditures exclude the Human Rights, Citizenship and Multiculturalism Education Fund and include spending on citizenship programming as well as human rights. When the FUND is included, Alberta ranks 6th among all surveyed and 3rd among provinces in Human Rights Commission spending.

*** Nova Scotia figures are 3rd quarter budget estimates for FY 2003-04. Actual expenditures were not available.

****NWT figures are for 2004-05 and are estimates only, using actual reported expenses plus adding in an estimate of salaries, benefits, rent and honoraria which are not shown separately but included in the global territorial budget. Salaries and related costs are estimated at 3x program costs.

*****Nunavut has a new Human Rights Tribunal (direct access model), and figures are for 2004-05.

8.2 *Recent Funding Changes in Alberta*

Government of Alberta funding to Protect human rights, promote fairness and access

ALBERTA	2004	2004	Per Capita
	Expenditures (including Education Fund)	Population	
2003-04	\$ 4,771,000	3,161,400	\$ 1.50
2004-05	\$ 5,281,000	3,207,000	\$ 1.64
2005-06	\$ 5,640,000	3,277,600	\$ 1.72
2006-07 BUDGET	\$ 6,571,000	3,375,800	\$ 1.94

Source: For 2003-2006, figures are from Annual Reports, Ministry of Community Development (renamed Ministry of Parks, Tourism, Recreation and Culture). See <http://www.finance.gov.ab.ca/publications/budget/budget2006/comdev.html#14> for 2006-07 budget estimate. Population figures from Statistics Canada are estimates as of July 1st each year.

8.3 *Budget Analysis*

The three Territories clearly outstripped the provinces in per capita human rights program expenditures. This seems to indicate a strong commitment, particularly laudable in Nunavut which has the newest Tribunal in the country. This spending also likely reflects the minimum cost of running a Commission regardless of the size of the population served as well as the higher travel and materials translation costs for the North.

As of 2004, among provinces, Prince Edward Island, Nova Scotia and Manitoba ranked in the top three. Alberta, Ontario, and Newfoundland & Labrador round out the bottom end of expenditures. Ontario may have a lower per capita operating cost, due to its large population size. We have excluded Alberta's \$1.352 million "Human Rights, Citizenship and Multiculturalism Education Fund" from our comparison for three reasons: 1) none of the other provinces have a comparable fund; 2) we were unable to separate spending on citizenship from spending on human rights; and 3) the fund provides flow-through financing to NGO initiatives, rather than direct funding for government initiatives. Both Newfoundland & Labrador and Alberta had little change in relative spending on human rights over a ten-year period, despite increasing diversity and Alberta's growing wealth.

The recent picture in Alberta is markedly different. In the past three years, spending on human rights has jumped. While population continues to burgeon, per capita spending is clearly on the rise, now placing Alberta within the top provincial spenders on human rights nationally. The Human Rights, Citizenship and Multiculturalism Education Fund which is funded through lottery money has also benefited. This steady funding increase demonstrates ethical leadership on resourcing the sector which is greatly encouraging.

8.4 *Ethical Leadership Recommendations on Financing*

- Maintain strong per capita funding, and encourage other provinces to do the same.
- Commit to a per capita funding level for human rights and work to maintain that level in economic downturns.

9.0 Big Picture Considerations

While impact analysis is notoriously difficult, it is useful to ask some questions around effectiveness from an ethical leadership angle:

Is the Alberta Human Rights & Citizenship Commission achieving our human rights objectives? More specifically, is it providing citizens with remedies which are just?

Our human rights system must respond to the public perception of justice. How Albertans feel about their system of human rights protections and remedies speaks to institutional legitimacy, public confidence, and common values.

Do those who face discrimination and other human rights violations know about the Commission and the available remedies? Do they access the Commission? Is it perceived as accessible to the general public? To the disadvantaged?

The system needs to work for all citizens – not only for the highly literate, the legally trained, or those with access to the internet.

Does the link between citizenship and human rights work?

Are Albertans at least as likely as those in other provinces to have their human rights protected? How can we demonstrate further ethical leadership on human rights?

Ethical leadership concerning the Alberta Human Rights and Citizenship Commission requires reflection on the goals and vision of human rights protection and remedy in Alberta. It compels attention to the structures, systems and procedures that safeguard our rights. We must consider the impact that change, or lack thereof, may have on future generations and especially on the most vulnerable in our society.