

NEW BRUNSWICK NEEDS HUMAN RIGHTS REFORM

A Woman's View GINETTE PETITPAS-TAYLOR

New Brunswick needs its Human Rights Commission to have the authority and clout to execute its mandate. That means it should not be subject to Ministerial control but instead report directly to the Legislature, like the Office of the Ombudsman does.

The Commission's credibility depends on it being seen as independent from government. That is especially important now that new grounds were added recently and people who have been discriminated against because of their political belief or activity may now lay complaints with the Commission. As we know, a law for which there are no adequate means of implementation is a law that authorizes what we want to prevent.

The Commission, which rarely advocates publicly on its behalf, recently reiterated the call for this change.

The Commission should also be able to initiate its own investigations. Many of the rights violations that people experience are situations of systemic or unintentional discrimination. When the problem is generalized or within the system – systemic - a complaint process does not serve as an adequate redress mechanism for the disadvantaged group.

Some of us have known of workplaces where, for example, sexual harassment is rampant, or where women doing the same job as men are not receiving the same pay or cases of unequal pay for work of equal value. No one lays a complaint for fear of retribution or because they are too busy just surviving.

The Commission should have the power to launch an investigation on its own motion where it has reasonable grounds to believe that violations are occurring.

Over 15 years ago, a report commissioned by the provincial government made excellent recommendations for changes to ensure our Human Rights Commission had the means to fulfill its mandate and to conform with the Canadian Charter of Rights and Freedoms and. Only a few of those recommendations have been implemented.

A solution that is badly implemented can become part of the problem: if intervenors, leaders and the public believe victims can get redress but in reality, victims do not get satisfaction, then the solution is part of the problem. That is why there is sometimes little relationship between the number of complaints received by a human rights commission and the actual number of human rights violations.

New Brunswick was among the first provinces to adopt human rights legislation in 1967. Though the law was incomplete - discrimination on the basis of sex was only added a few years later, and sexual harassment many years later, for example – it was admired at the time. We need to dust off the legislation and boost the Commission's powers.

New Brunswick now also needs a broad-based Charter of Rights to replace our Human Rights Act. The Code should recognize the group dimensions of inequality and encourage group complaints, as well as individual complaints. A fund should be established to ensure that rights cases involving important issues for equality seeking groups are heard.

When human rights are not adequately protected, those most affected lose faith in the system. People feel disempowered. Even delays in getting justice can aggravate the original violation: the violator has time to retaliate for the complaint and the financial consequences for the complainant pile up.

The famous experiment by elementary school teacher Jane Elliot in 1968 Iowa showed that. On the day after Martin Luther King Jr. was killed, Ms Elliot separated her class according to the colour of their eyes and said that science has shown that people with brown eyes were smarter, cleaner and more trustworthy. She also gave blue-eyed children stricter rules for behaviour. The results were dramatic: slower kids with brown eyes transformed themselves, becoming outgoing. Smart blue-eyed kids started making mistakes.

Since then Ms Elliott has repeated the experiment in many countries with children and adults. She also administers a “culturally biased” test to adults. The test requires a familiarity with life in the Black or Aboriginal community. White people usually don't pass it. As she says, we give culturally biased intelligence tests in the classrooms every day.

A new book on human rights history released this year makes a case for the idea that human rights and the modern push for their protection came not from philosophers or revolutions or great leaders but from the popular novels of 300 years ago that made people identify with vulnerable characters – often women - fighting against oppression. By identifying with them, the public understood that all humans – servants, slaves and foreigners, even women – have the same feelings and should be treated fairly.

Violations of human rights in New Brunswick are limited compared to what we see in international news, but human rights violations anywhere can be life changing.

In New Brunswick, human rights violations are often against persons with handicaps who are prevented from getting employment, housing or other important services. Violations are also against families with children who are routinely refused housing in this province, against welfare recipients, against recent immigrants, or against workers who are underpaid because they are in a traditionally female job whose salary level is lower because traditionally, salary level for women's work were lower – pay inequity.

As the New Brunswick law says, ignorance, forgetfulness or contempt of the rights of others are the causes of public miseries and social disadvantage.

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