



Black Legal Action Centre

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Submission to the Senate of Canada
Standing Committee on Human Rights (RIDR)

by

Black Legal Action Centre (BLAC)

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A. OVERVIEW OF BLAC

Established in 2017, the Black Legal Action Centre (BLAC) is an independent, not-for-profit, community legal clinic in Ontario that combats individual and systemic anti-Black racism. BLAC accomplishes its mission by providing free legal services, conducting research, developing public legal education materials, and engaging in test case litigation and law reform. BLAC is the successor to the African Canadian Legal Clinic, which was accredited to the 2001 United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

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B. SUMMARY OF RECOMMENDATIONS

- I. BLAC calls for an independent workplace review of the Canadian Human Rights Commission (CHRC) focusing on anti-Black racism and should be led by an investigator with demonstrated expertise in anti-Black racism, to examine CHRC hiring, promotion and retention practices related to Black employees, and make its final report public.
- II. BLAC calls on the federal government to eliminate the CHRC's gatekeeper role by allowing Canadians to file complaints directly to the Canadian Human Rights Tribunal — something that's already occurring with human rights commissions in Ontario and British Columbia.
- III. BLAC recommends that the Senate use its powers to urge the Government of Canada to require that the Commission not be permitted to employ tactics such as requiring non-disclosure agreements that silence Black employees who come forward with race-based complaints.
- IV. BLAC recommends that the Senate Committee explore ways to extend its learning from its study of the Commission to assist the Federal Government to resolve the complaints alleged by Black Federal public servants other than through expensive legal battles at public expense.
- V. BLAC recommends that the Senate use its powers to urge the Government of Canada to initiate a plan of action for reparatory justice for the descendants of enslaved people and all Black people who continue to experience the impact of the resulting anti-Black racism.

C. INTRODUCTION

- 1) BLAC is pleased to make this submission to the Senate Standing Committee on Human Rights. This submission is a brief summary of concerns that BLAC has with regard to Canada's shortcomings in its human rights obligations to its Black communities, focussing on issues that arise from complaints of discrimination by Black staff at the Canadian Human Rights Commission.

- 2) The **Canadian Human Rights Commission** (*CHRC or the Commission*) was established in 1977 by the government of [Canada](#). It is empowered under the [Canadian Human Rights Act](#) to investigate and to try to settle complaints of discrimination in employment and in the provision of services within federal jurisdiction. The CHRC is also empowered under the [Employment Equity Act](#) to ensure that federally-regulated employers provide [equal opportunities](#) for four designated groups: women, [Aboriginal](#) people, the disabled, and visible minorities. The Commission helps enforce those human rights and inform the general public and employers of those rights.¹

D. FINDINGS OF VIOLATIONS OF HUMAN RIGHTS AT THE COMMISSION

- 3) Black employees of the Commission described a hostile and racially charged workplace where Black and racialized employees are/were excluded from career and training opportunities and are/were shut out of formal and informal networks.²

¹ [Canadian Human Rights Commission - Wikipedia](#)

² [Human rights commission says staffers linked to workplace racism have been reassigned | CBC News](#)

- 4) They claim the careers of Black and racialized employees remain stagnant while white colleagues advance and say the ranks of senior management remain predominantly white. The current and former employees who spoke to CBC say their health has suffered as a result of workplace discrimination.³

- 5) Employees also flagged the high dismissal rate for race-based complaints — an assertion the CHRC's own data backs up — and said all-white teams are typically assigned to investigate them.⁴

- 6) On its website, the Commission admitted to the findings by the Chief Human Resources Officer as follows:
 - The Chief Human Resources Officer (OCHRO) rendered decisions in relation to the policy grievances filed against us in 2020. OCHRO found that the Commission breached the 'no-discrimination' clauses of the respective collective agreements. OCHRO did not make any factual findings and found that there was no violation of the other clauses invoked, which included 'managerial responsibilities', 'health and safety', 'career development', 'pay administration' and 'statement of duties'. OCHRO did not order any remedies and acknowledged that the Commission has already taken proactive steps to address these matters and that, by its very nature, this work will take time.
 - We fully accept the OCHRO decisions and believe the lived experiences of those who have experienced discrimination is what matters most. We remain open to working with the unions to address any outstanding issues and we remain deeply committed to our ongoing, evolving work to bringing about meaningful and measurable action to address systemic racism and discrimination.⁵

³ See 2 above

⁴ See 2 above

⁵ [Anti-racism work \(chrc-ccdp.gc.ca\)](https://www.chrc-ccdp.gc.ca/en/anti-racism-work)

- 7) These findings run counter to the purpose of the institution and BLAC submits that public confidence and trust is eroded, when the very institution meant to address systemic racism issues, is found to violate fundamental human rights of its Black employees.
- 8) How can Canadians, who bring forward their own race-based complaints to the Commission, have any assurance that their cases will be fairly reviewed, and they will be treated equitably, if the Commission's internal staff and processes are found to be racist?
- 9) Recent media articles have advised that the CHRC sanctioned employees no longer work for the complaint services branch at the CHRC — although they still have their jobs.⁶
- 10) It is concerning to BLAC that these employees continue to work at the Commission, albeit in a different capacity, and therefore able to continue to inflict their attitudes on other racialized employees. Simply shuffling these employees to other departments does not mitigate the harm suffered by its Black employees.
- 11) BLAC calls for an independent workplace review of the CHRC focusing on anti-Black racism and should be led by an investigator with demonstrated expertise in anti-Black racism, to examine CHRC hiring, promotion and retention practices related to Black employees, and make its final report public.

⁶ See 2 above

12) BLAC calls on the federal government to eliminate the CHRC's gatekeeper role by allowing Canadians to file complaints directly to the Canadian Human Rights Tribunal — something that's already occurring with human rights commissions in Ontario and British Columbia.

D. ALLEGATIONS OF VIOLATIONS OF HUMAN RIGHTS IN THE FEDERAL PUBLIC SERVICE

13) BLAC notes that the Federal Government has recently launched a challenge to a proposed class action lawsuit — launched in 2020 — that alleges Black public servants have endured decades of systemic racism and discrimination. The lawsuit alleges that since the 1970s, roughly 30,000 Black employees have lost out on opportunities and benefits afforded to others because of their race.⁷ While BLAC is not commenting on whether those allegations are accurate, BLAC is concerned that the complaints of discrimination by Black employees of the Commission echo those in the lawsuit. BLAC commends the Senate Committee for so quickly taking a stand to examine the state of human rights at the Commission.

14) BLAC recommends that the Senate Committee explore ways to extend its learning from its study of the Commission to assist the Federal Government to resolve the complaints alleged by Black Federal public servants other than through expensive legal battles at public expense.

⁷ [Unions call on Ottawa to drop challenge of Black public servants' planned discrimination lawsuit](#) CBC, March 27, 2023

E. COMMISSION'S USE OF NON-DISCLOSURE AGREEMENTS

- 15) BLAC is aware that at least one employee of the CHRC was forced to sign a non-disclosure agreement upon settling of her own discrimination claims. This is a practice common in the private sector. It meets the public's need for transparency when these types of settlements are made public, and to ensure that complainants are not effectively silenced.
- 16) BLAC recommends that the Senate use its powers to urge the Government of Canada to require that the Commission not be permitted to employ tactics such as requiring non-disclosure agreements that silence Black employees who come forward with race-based complaints.

F. TIME FOR PROFOUND SOLUTIONS

- 17) The United Nations International Decade for People of African Descent began on 1 January 2015 and will end on 31 December 2024. The Decade's theme is 'Recognition, Justice, Development'. Dr. Verene Shepherd is a member of the UN Working Group of Experts on People of African Descent; and Co-Chair of the Jamaican National Council on Reparations. She says, "[The decade] will provide an opportunity for all nations to engage in self-reflection on the condition of people of African descent and find strategies to address the issue of [anti-Black racism]."⁸

⁸ [United Nations: Another decade to look into Africa's past](#) New African, January 9, 2015

18) BLAC is making a special claim for attention to addressing the complaints of discrimination by Black employees. Research has shown over several decades that, compared to all other visible minority employees, Black people consistently find themselves at the bottom of the heap, along with Indigenous employees.

19) A United Nations Working Group made a mission to Canada in 2016 in order to write a report on the human rights situation of people of African descent in Canada. Its final report, made to the UN Human Rights Council in September 2017, noted that: *“History informs anti-Black racism and racial stereotypes that are so deeply entrenched in institutions, policies and practices, that its institutional and systemic forms are either functionally normalized or rendered invisible.”*⁹

20) The report continues that: *“It is important to underline that the experience of African Canadians is unique because of the particular history of anti-black racism in Canada.”* Finally, the UN report urged federal lawmakers to legally recognize Black Canadians *“as a distinct group who have made and continue to make profound economic, political, social, cultural and spiritual contributions to Canadian society.”*

21) Senator Wanda Thomas Bernard, Deputy Chair of this Honourable Standing Committee, has noted that: “after slavery was officially abolished, anti-Black racism took root in this country.... One of the things that frustrates me a lot”, the Senator continued, “is the fact that there's really little understanding of multigenerational trauma caused by the violence of individual and systemic racism.”¹⁰

⁹ <https://digitallibrary.un.org/record/1304262> United Nations Digital Library

¹⁰ [It's time for Canada to apologize for slavery, says N.S. senator](#) CBC, July 30, 2022

22) The experiences described by Black employees at the Commission - and those recorded for centuries across the country - require profound solutions. BLAC was a contributor to an April 2023 joint submission to the UN Human Rights Council (Universal Periodic Review of Human Rights in Canada (4th Cycle)). In it, we recommended that Canada “Initiate a plan of action for reparatory justice for the descendants of enslaved people and all Black people who continue to experience the impact of the resulting anti-Black racism.”¹¹

23) BLAC recommends that the Senate use its powers to urge the Government of Canada to initiate a plan of action for reparatory justice for the descendants of enslaved people and all Black people who continue to experience the impact of the resulting anti-Black racism.

¹¹ <https://www.blacklegalactioncentre.ca/wp-content/uploads/2023/05/CSO-Coalition-Submission-COPC-BLAC-CCNCSJ-CSALC-CASSA-OCASI-SALCO-UN-UPR-4th-Cycle-Canada-Review-Apr-5-23-1.pdf>