

Dear RIDR Senate Committee,

I am writing to you today over concerns I have with the testimony of CHRC and Treasury dept. executives for the hearings on anti-Black Racism and discrimination at the CHRC.

I have seen timeliness used abusively by several complaints processes. While justice delayed may be justice denied when a complainant is asking for the process to move forward quickly, justice is often denied when a process is forced forward at a speed that further traumatizes the complainant, or is scheduled in a way which makes it difficult for a complainant to participate. These processes are already very hostile to marginalized people; forcing people to participate when they are not ready due to health concerns, or cannot due to scheduling, causes more harm than good. To be trauma informed, complaints processes should go at a pace that is largely set by a complainant. To do otherwise risks inflicting serious health harms and that is not any sort of justice. From what I have seen of the CHRC, and many other organizations, they have abusively interpreted policies whenever it suited them, and were able to speed up or continue proceedings ad infinitum. Complainants should be given at least equal consideration with regards to scheduling, and to be allowed to continue proceedings to another date when they are better able to participate if that is what they want.

Retaliation against complainants is something very real and, like covert racism, often goes unrecognized. Complaints processes themselves are often used abusively. Anything that could cause distress or harm to a complainant, or could be used to discredit a complainant, will be used. Unreasonable scheduling is only one way, but there are a many others such as demanding excessive amounts of documentation, disputing the accreditation of experts that testify on behalf of the witness, threats of discipline for 'unprofessional' behavior, constant intrusive monitoring and supervision, tone policing, forcing people to have further, and sometimes increased, contact with the offender, placing the offender in a supervisory position over the complainant, etc. Standards of what constitutes unprofessional behavior is interpreted or even invented by management, and it blatantly does not apply to themselves or their allies. Black and Indigenous people are commonly labelled as excessively angry, out-of-control, mentally ill, dangerous, manipulative, deceitful, etc., and then must provide documentation or other things to prove they are not. This type of documentation is time consuming, and often punitively expensive, if available at all. I have never seen anything like it imposed on white people or their allies. If a complainant disputes the necessity of this behavior, or asks for equal or even reasonable treatment, this will be treated as confirmation of the negative labelling.

Something that was hardly mentioned was retaliation against witnesses; they face the same retaliatory behavior as complainants do. Witnesses are very hesitant to come forward and will even lie if forced to testify because of legitimate fear. They gain nothing by testifying truthfully and often face severe consequences for doing so. Complainants are hesitant to name witnesses, if there are any, because they don't want others to be subjected to the same harms they have, and because they know unwilling witnesses are unlikely to tell the truth. Even if witnesses are able to go unnamed, due to the usually very small number of Black and Indigenous people in the workplace, it is easy to figure out who witnesses are.

Abuse and retaliation against both complainants and witnesses is so prevalent as to be the norm, not the exception. Abuse and retaliation are often justified and disguised as management or process prerogatives, but are only applied in that manner to complainants and witnesses whose testimony supports the complaint. I think the only way to avoid most retaliation is to move both complainants and witnesses to a completely unrelated work unit or give them paid leave until such time as the complaints are resolved. Both complainants and witnesses also need to be protected after a

complaints process is completed as retaliation for making a complaint rarely ends there. Follow-up needs to happen for at least two years.

What did not come up but should have is how the credibility of different participants in the complaints process is determined. There are widespread negative stereotypes and beliefs about the believability of Black and Indigenous people that no one can avoid because they are so pervasive. Also there are widespread positive stereotypes and beliefs about the believability of white people, culturally white people, and people in positions of power. How credibility is perceived depends very much on the color of people's skin, their general appearance, the culture they are thought to come from, and their social position.

Complaints processes often rely on examinations conducted by doctors, psychologists, psychiatrists, etc. who are simply not qualified to assess racialized trauma and injury and very often hold significant biases. As someone with a degree in psychology I can unequivocally say that university training around issues of discrimination, and particularly racism, is completely inadequate to have an even basic understanding of the physical and psychological health harms caused by discrimination. There have been many studies that show that Black and Indigenous people receive lower standards of care in healthcare settings and often do not receive care at all for their concerns. Healthcare services and settings are frequently sites of racialized neglect and abuse for Black and Indigenous people. While police killings of Black and Indigenous receive more attention, poor service in healthcare kills far more people. In my opinion the vast majority of healthcare professionals are unable, and unwilling, to recognize and understand when racism has occurred, are unlikely to believe Black and Indigenous people referred to them by complaints processes, and Black and Indigenous people are very likely to be subjected to bias by healthcare professionals; all of this results in further harm and a high likelihood of claims being dismissed and undervalued.

Complaints processes should not focus so much on minor details such as the exact times and dates that every instance of discrimination occurred; often there are too many instances to count, they are very similar, occur frequently if not daily, and there are no witnesses. Research also shows that people who have been traumatized often do not pay attention to details such as what someone was wearing, the exact time, etc. People focus on the distress they are feeling, the behavior causing their distress, and avoiding or escaping the distress; they often cannot recall much else. Even non-traumatized people have difficulty recalling details such as these accurately. Inability to do so is not necessarily indicative of deceptive behavior, but BIPOC people are already presumed to be dishonest, so there is a strong confirmation bias effect. Trauma informed processes and accurate education about witness memory and recall, cultural differences regarding how memory is structured, and cultural influences on how things are expressed, are critical to supporting targets of racism.

People who occupy positions of power tend to impose their view of things on those with less power; it is assumed that their view is omniscient, unbiased, and correct and it is not subject to questioning. Willing disbelief in the credibility of Black and Indigenous people is integral to the maintenance of systemic and structural racism. I do not believe these stereotypes and beliefs are something that can be entirely avoided because of their pervasive and largely unconscious, automatic, nature. The only things I can think of that might improve the situation are to have something like blind auditions for testimony, and IATs and other testing for anyone working on a complaint to make sure they are not holding significant biases. Anti-racist training needs to be thorough for anyone working in the human services sector and for all publicly funded positions.

It struck me as well how very evasive the executives' answers were to nearly every question posed to them. In our workplace we actually have a name for that; we call it DoubleSpeak after the type of gov't communication portrayed in the novel 1984 by George Orwell. This type of communication is evasive, deceptive, manipulative, obstructive, and very patronizing when people are expected to swallow it uncritically. I think they were unprepared to be questioned because normally nobody who is in a position to do so does. I find the common use of DoubleSpeak to be a good indicator of toxic management. I have not had a lot of confidence in the ability of Canadian institutions to be unbiased, and the conduct of these executives, particularly the ones from the CHRC, only reinforces my distrust.

While I do not believe that the complete dismantlement of the CHRC and other institutions is necessary, I do believe that replacing the majority of the current mgmt. is, and not with more of the same. We certainly do not need any more people whose main skill seems to be impression management, and that act like bullying, harassment, co-option, coercion, and abuse is a valid management style. Publicly funded institutions have become places of high toxicity and an almost feudal hierarchy. There is little oversight or accountability. This is not a university fraternity or a reality tv 'survivor' game show, this is the gov't of Canada. The way these executives have behaved is disgraceful. Canadians deserve to have people working in the public service that are competent, have high ethical standards, and behave accordingly; trustworthy in other words.

Networks of complicity must be broken and that requires the removal of all parts of the network including the underlying support structure. Another glass of water from the same poison pool of potential replacements will not improve things; filter the water or find another cleaner source. There is an article that explains this much better than I can at <https://academicmatters.ca/banning-non-disclosure-agreements-isnt-enough-to-stop-unethical-workplace-leader-behaviour/> ; it is about sexual harassment but could just as easily apply to racism and other forms of abuse. As one of the other senators stated, tone comes from the top.

People often unconsciously hold similar biases as the dominant group whether they are aware of it or not. Merely bringing in more people from equity seeking groups will not help if they lack awareness and behave in the same manner as biased white people. These people tend to do a lot more damage than good as they uphold systemic discrimination and make it appear that whatever group they are supposed to represent is okay with it. They are about as representative and helpful as a balloon with a smiley face scribbled on it. Unfortunately these are often the only BIPOC people who get hired because they are a good 'fit' with the workplace culture. The common term 'sell-out' I think is a little disingenuous because it isn't always as simple as that; no matter their position now, people may come from backgrounds where they had to do almost anything to survive, and having ethics was disadvantageous. While I view this kind of unethical behavior very negatively, I also realize it is another of the horrible outcomes of racism.

A good portion of the continuing problematic behaviors in the public service are likely attributable to the criteria and processes used for hiring and promotion. They are full of unconscious structural and systemic bias. It is well documented that people tend to choose others they unconsciously see as being most similar to themselves and that are not threatening to their position or goals. Managers want employees who will go along with whatever workplace norms they set, and in theory that is a desirable management practice, but in reality it is problematic because dominant cultural norms have included discriminatory beliefs and behaviors however unconscious these may be. The result is the exclusion of equity seeking Black people and others, and a system that consistently works to replicate itself, or at least its norms.

I think the most important hiring criteria for the CHRC should focus on egalitarianism, altruism, and compassion. Hire people who have demonstrated a commitment to justice and doing the right thing even if it cost them personally. Hire the people who have taken the time to educate themselves about other perspectives and issues that might not affect them, that remain aware, and can accept, that their understanding may be imperfect. Hire people who take responsibility for harms they may have caused or been complicit in, whether intentional or unintentional, by commission or omission, directly or indirectly, and that sincerely believe that apologizing and making amends and reparations is a positive and necessary thing. Don't try to compete with the private sector for wages and benefits; attract applicants by offering them a decent living wage and a chance to correct injustices and make things better for everyone in Canada. You will not get a lot of high flyers or business school graduates, but you will get competent people who care a lot more about people than money or prestige, people who are really dedicated to human rights for everyone.

I do believe that the processes used to deal with complaints need to be replaced; they currently are at best ineffective, often very harmful to complainants, and seem to be largely set up to deter people from making complaints and silence the ones that do. False claims are extremely rare, and discrimination against Black and Indigenous people is hugely underreported. I do not believe the current adversarial complaints systems for discrimination work towards justice. Focusing on finding fault with individuals is ineffective when problems are systemic and ongoing; at best it only changes faces and places, not behavior. It distracts from more effective solutions that focus on eliminating the structural and systemic discrimination that allows and supports racist behavior towards individuals. Increasing awards may help successful individual complainants a bit but doesn't deter further occurrences of abuse when damages are paid from the public purse, especially not when offenders are often just moved to another position or even promoted. Sadly, most often claims are found to be unsubstantiated, not because discrimination hasn't occurred, but because the testimony and evidence failed to convince adjudicators. Complainants who have been injured by discrimination are often injured again, and nothing is done.

A form of structural racism, and a flaw in adjudication and jurisprudence, is a false equivalence that assumes that the harm caused by discrimination is the same or lesser than the harm of being falsely found to have behaved in a discriminatory fashion. In other words being accused of racist behavior is seen as worse than being subjected to racist behavior. I only know of one white offender who lost their job or suffered serious hardship after a complaint was substantiated. The targets of discrimination, whether vindicated or not, frequently suffer hardship through job loss, workplace hostility, health problems, and financial loss, and the suffering is usually of extended duration. The documented harmful effects of being accused of racist behavior are few, the harmful effects of being subjected to racism many. There is no balance of harms: no matter the finding, outcomes clearly favor white people when they are accused of racism.

As I don't think it is possible to escape the effects of systemic racism, I would prefer to see complaints systems based on restorative justice that focuses on healing the complainant, preventing further harms from occurring, and re-educating everyone and rooting out bias in the workplace. Offenders should face serious consequences such as demotion or even firing, but caring for the injured should come first. It is basic triage. This may include temporary reassignments or time off for the complainant and offender until things are resolved. There should be provisions made for making anonymous complaints as well.

Because of the pervasiveness and severity of anti-Black racism, and the difficulty of proving discrimination, I think that the defendant should also have to prove that they are not biased, and have

not acted in a discriminatory fashion even unconsciously. There are many validated testing instruments that are available online that are scored automatically, and are inexpensive or free; the IATs are an example. This is a very small ask, and one that no one should have any fear of if they are indeed unbiased. If results are inconclusive discrimination should be assumed to have occurred.

People most often want the discrimination and abuse to stop for themselves and for everyone else, they want safety and time to heal; receiving compensation for damages is not their primary concern in most cases. Anti-bias re-education should never be viewed or used as a punitive measure but rather as an opportunity to heal and for personal growth and improvement. I am not saying it shouldn't be challenging or that tears won't be involved, growth can be hard and healing hardened hearts painful, but the suffering caused by racism greatly outweighs any discomfort caused by cognitive dissonance or offending a person's sense of entitlement.

Demographic factors for all participants and complaints process staff need to be recorded, as well as the impacts of participating in the complaints process, and outcomes and changes. There should be a 2-4 year follow-up. As far as anti-Black racism at the CHRC is concerned do the Black people most affected feel that things are better for them? Do they have a real say about the things they would like to support them or are non-Black people still thinking they know what's best? Or more insidiously, are the executives waiting for Black people to shout out the ideas they already planned to go with so they can say it came from the community, while ignoring other ideas?

I have to say that, based on what the executives said, I have no confidence that what they are currently doing is anything more than performative. They can't even admit that they have their own biases, never mind dealing with them. They still stubbornly refused to take personal responsibility for the disaster at the CHRC, or to apologize or make amends that are meaningful to the people most affected. I heard nothing about what they planned to do for past complainants where they declined to hear a complaint, or failed to recognize that racism had occurred. What happened to those people? I question whether the executives that appeared for the CHRC are capable of eliminating, or even want to truly eliminate, anti-Black racism or other discrimination at their institution. As Audre Lorde said, "The master's tools will never dismantle the master's house" and these people left the impression that they didn't know what the tools were, who had them, or that they were sitting indoors. Unfortunately their responses were all too typical.

I am not a Black person myself, but I am sick of seeing Black people being treated like they aren't human everywhere they go. I work partly in the publicly funded education sector and see Black and Indigenous people being mistreated and abused there and everywhere every day. I see the harms and the hurt, people's pain. People are being punished just for continuing to exist where people don't want to see them, and Black people don't even have a reserve they can run to. There is no safe place, no protection, and just stepping out your door to go to work or school every day becomes an act of courage and endurance. While I do believe all lives matter, I know that only some are valued, that only some are considered human and have human rights. Thus far there has only been justice for certain people in Canada and I want that to change.

Best of luck getting change done; I appreciate your attention and efforts in this matter.

Sincerely,
Zelda Sun
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