



ACCT FOUNDATION &
ACT2ENDRACISM

HUMAN RIGHTS COMMISSIONS AND ANTI-ASIAN RACISM

SEPTEMBER 2021

ACT2
END
RACISM

ACCT
Foundation

EXECUTIVE SUMMARY



Incidents of anti-Asian racism have drastically increased since the outbreak of the COVID-19 pandemic. Though Canada has a federal Human Rights Commission and Tribunal as well as ten provincial commissions/tribunals, official actions against anti-Asian racism, which have been a long-neglected issue first recorded in the late 19th century, are far less than adequate. Human rights commissions should have greater accountability by having frameworks to evaluate its work. More importantly, human rights commissions and tribunals should be given resources to expand their structures and services to increase efficacy and accessibility that are badly needed, and the jurisdiction over hate incidents to make use of their subject expertise.

Diversifying ethnic representation throughout the organization and establishing a community relations and education unit would increase commissions and tribunals' knowledge base, expertise, quality of service, fairness, responsiveness and effectiveness. In addition to providing comprehensive language and legal accommodations and services to eliminate language and cost barriers, human rights commissions and tribunals should also create culturally responsive support services for victims of racial discrimination and attacks.

ISSUES BACKGROUND



As one of the first countries to sign the *Universal Declaration of Human Rights*, Canada has declared its commitment to protecting basic human rights through the *Canadian Human Rights Act*, which prohibits discrimination on the grounds of race, colour, national or ethnic origin, religion, age, sex, gender identity or expression, sexual orientation, disability, marital and family status in the areas of good and services, employment, advertising and broadcasting, accommodation, professional, business and trade organizations. The federal and provincial Human Rights Commissions and/or Tribunals are created to address the issues of racial discrimination in Canada. While the commissions direct their attention towards research, informing policy development, and public education, the tribunals hold public hearings on human rights complaints “pre-screened” by the commissions. The federal and provincial Human Rights Commissions and Tribunals often have different structures, and some provinces do not possess both.

The rise of anti-Asian racism since the outbreak of the COVID-19 pandemic challenges the Human Rights Commissions and Tribunals’ ability to protect the fundamental rights of Canadians of Asian descent. An analysis of data from Twitter and other online image-message boards shows an increase in Sinophobic slurs since late January 2020. Such trend revealed the worrying trend of scapegoating and “personification of COVID-19 as Asian people”, affecting Asian-Canadians, not only those of Chinese descent. Moreover, a recent report by the Chinese Canadian National Council’s Toronto chapter demonstrates that the increase in racial rhetoric has been accompanied by a surge of racially-motivated attacks during the pandemic. Forms of attack include “verbal harassment, physical assault or unwanted physical contact, and being coughed on or spat on.” Though anti-Asian racism has been present before the pandemic, these attacks have been more severe, frequent and pervasive since the beginning of the pandemic.

Acts of anti-Asian racism are clear violations of the *Universal Declaration of Human Rights* and the *Canadian Human Rights Act*. Nevertheless, only the Human Rights Commissioners of Alberta, Canada, Quebec, and Nova Scotia have explicitly acknowledged the anti-Asian nature of the prevalent racist rhetoric and attacks so far.

LITERATURE REVIEW

Recorded anti-Asian racism in Canada dates back to the late 19th and early 20th centuries. Government policies have historically reduced people of Asian descent to second-class citizens with restricted rights to equality and freedom, traumatizing the Asian communities. As anti-Asian racism persisted till today, the COVID-19 pandemic increased the severity, frequency and perverseness of racist attacks against Canadians of Asian descent.

1 While malicious sentiments on online platforms were primarily directed towards people of Chinese descent, real-life attacks have been indiscriminate between different East and Southeast Asian ethnicity groups. A study found that nearly half of Canadians of Asian descent feel “threatened or intimidated as a direct result of COVID-19.” Reporting websites found that among all reported anti-Asian racism attacks, 73% were verbal harassment, 11% were physical assault or unwanted physical contact, and 10% were being coughed or spat on; 44% of reported incidents took place in British Columbia, and 40% were in Ontario. Community organizations from the prairie regions report high levels of fear and mistrust leading to high hesitancy in reporting. Women, elderly people, youth, low-income workers and those who did not speak English are the most vulnerable to racial attacks. Moreover, most of the reported incidents happened in public areas, including parks, streets, restaurants, grocery stores and public transit. Researchers and experts consider anti-Asian racial rhetoric and attacks as acts of scapegoating and “personification of COVID-19 as Asian people.” This trend has been observed throughout history. Anti-Asian racism spikes in countries where white political, cultural, and social identities are dominant.

2 International organizations, such as Human Rights Watch and the Committee on the Elimination of Racial Discrimination, have called for immediate government actions to combat racism with measures tailored to the current circumstance. Policy experts and Asian-Canadian equity seeking groups have also called for concrete steps from all levels of government with a particular focus on Asian-Canadian front-line and essential workers.

3 Canada’s human rights commissions and tribunals do not share a consistent system and structure. The public has exhibited diminishing trust towards the commissions and tribunals, perceiving them as ineffective and incompetent. These flaws were partially caused by the commissions and tribunals’ lack of sufficient and stable funding and resources.



COMMUNITY & EXPERT CONSULTATION

The focus of human rights commissions should be to understand how systems, institutions and cultures create and perpetuate racism and then alter it. There must be changes in system, policy and culture to make a more racially equitable Canada.

- Vincent Wong, researcher, lawyer, and secretary for the Chinese Canadian National Council, Toronto Chapter

Listening and learning are as important as action. They must be grounded in community engagement which leads to meaningful actions.

- Marie-Claude Landry, Chief Commissioner of the Canadian Human Rights Commission

We should examine racism intersectionally and multi-dimensionally, and bear in mind the complexity of the social, legal and economical system. There exist cultural and linguistic barriers in human rights commissions particular to Asian Canadian population.

- Fo Niemi, Co-founder and Executive Director of the Center for Research Action on Race Relations

Throughout 2020, ACT2endracism conducted community consultations focused on five key areas: race-based data (July 28, 2020), racism in public education (Aug 5, 2020), systemic racism and policing (Aug 13, 2020), hate crimes and incidents (Aug 20, 2020), and human rights commissions and systemic change (Aug 27, 2020). Speakers with expertise in these topics gave presentations, and public feedback was recorded into a series of consultation reports.

A total of 50 participants from British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, and the Yukon attended the consultation on Human rights Commissions and Tribunals. The survey to participants showed that only half of the participants have read the Canadian/provincial *Human Rights Act*, but 92% of them were aware that human rights complaints could be filed to the Human Rights Commissions. Among other findings, 70% of the participants believed that the Human Rights Commissions and Tribunals' top responsibility should be to create systemic change through policy development, 80% of them were aware that Human Rights Commissions and Tribunals differ between provinces and that some provinces may lack a commission or tribunal.



POLICY RECOMMENDATIONS

BASED ON OUR CONSULTATIONS, WE RECOMMEND:

- That the federal and provincial governments strengthen human rights commissions and tribunal through systemic change and increase in resources and budget, so that they can increase their capacities and services, thereby increasing the commissions' ability to deal with systemic racism and responsiveness to community concerns.
- That the Criminal Code and human rights legislation be amended to give human rights commissions and tribunals the legal jurisdiction to adjudicate on hate incidents that do not meet the test of hate crime, given that human rights commissions and tribunals are best equipped to deal with issues of this nature.
- That representation from racialized communities, especially East Asian communities whose suffering from racism and racial discrimination has been ignored for so long, be increased immediately throughout the organizational ranks of the every commission.



POLICY RECOMMENDATIONS

BASED ON OUR CONSULTATIONS, WE RECOMMEND:

- That a community relations and education unit be established at each commission, with a mandate and capacity to do the following:
 - Conducting community outreach, research and consultations, and provide mandatory, publicly accessible reports thereof, with recommendations on service provision and concrete solutions to current and systemic issues of racism;
 - Developing comprehensive, culturally sensitive, plain language education material in multiple languages and forms that are easily accessible by racialized communities, on basic rights, the law, the commission, the tribunal, the services, the ways to access services, the procedures to file a complaint, and the process and results one can expect, and
 - Providing year-round human rights and anti-racism education on current and systemic issues, including basic rights, racial equity, awareness and respect for different cultures, and protected grounds to the general public, institutions, organizations, and equity-seeking groups and communities.



POLICY RECOMMENDATIONS

BASED ON OUR CONSULTATIONS, WE RECOMMEND:

- That Canada's human rights institutions be accessible to residents who face language barriers by providing complimentary interpretation services.
- That complimentary legal support centers and legal services be offered to address cost barriers.
- That culturally responsive support services be created for victims of racial discrimination and attacks.
- That an accountability framework be built, with participation of credible community representatives, that includes routine data collection, after-service client evaluation, annual report of statistics, service quality assessment, program evaluation, and that the results be made public.

ACCT FOUNDATION & ACT2ENDRACISM



The **Action, Chinese Canadians Together (ACCT) Foundation** builds the capacity of Chinese Canadian leaders committed to creating a more equitable society in Canada. We facilitate capacity building programs across the country, host leadership conferences, and provide a platform where work in academia can inform work in the community. We bring together established and emerging Chinese Canadian leaders to collaborate on identifying and breaking down systemic barriers to the full and equal participation of ethno-cultural leaders in Canadian society.

The **ACT2endracism** initiative is a coalition of concerned citizens and community groups of Asian descent. We aim to focus on Canadians affected by COVID-19 triggered related racism. We work on activities and campaigns targeted at anti-racism. ACT2endracism provides anti-racism resources and tools for the general public, community organizations and survivors of racism.

ACKNOWLEDGEMENTS



We would like to acknowledge the contributions and support from the following people and organizations:

Working Group Members: Fo Neimi, Andi Shi, Teresa Woo-Paw, Charles Xu and ACCT Canada summer job placements

Expert Panel Members: Michael Gottheil, Marie-Claude Landry, Fo Niemi and Vincent Wong

Writers: Asian Policy Professionals Network (APPN)

Proofreader: Dr. Gina Ko

Coordinators: Rosalind Kang and Shirlie Wu

Funders: DCIPCH, Government of Canada

REFERENCES

- About the Tribunal. (n.d.). Canadian Human Rights Tribunal. Retrieved March 23, 2021, from <https://www.chrt-tcdp.gc.ca/about/about-the-tribunal-en.html>
- Appendix 2 – Human rights: The historical context. (n.d.). Ontario Human Rights Commission. Retrieved March 26, 2021, from <http://www.ohrc.on.ca/en/teaching-human-rights-ontario-guide-ontario-schools/appendix-2-%E2%80%93-human-rights-historical-context>
- Brodsky, G., Day, S., & Kelly, F. (2017). The Authority of Human Rights Tribunals to Grant Systemic Remedies. *Canadian Journal of Human Rights*, 6(1).
- Canadian Human Rights Commission. (2010). Your guide to understanding the Canadian Human Rights Act: Rights - responsibility - respect. Government of Canada. http://epe.lac-bac.gc.ca/100/200/301/chrc-ccdp/your_guide-ef/HR21-18-2010-eng.pdf
- Chen, H. A., Trinh, J., & Yang, G. P. (2020). Anti-Asian sentiment in the United States: COVID-19 and history. *The American Journal of Surgery*, 220(3), 556-557.
- Covid-19 Fueling Anti-Asian Racism and Xenophobia Worldwide. (2020, May 12). Human Rights Watch. <https://www.hrw.org/news/2020/05/12/covid-19-fueling-anti-asian-racism-and-xenophobia-worldwide>
- Eliadis, F. P. (2014). *Speaking out on human rights: Debating Canada's human rights system*. McGill-Queen's University Press.
- Frequently Asked Questions. (n.d.). Canadian Human Rights Tribunal. Retrieved March 26, 2021, from <https://www.chrt-tcdp.gc.ca/about/faqs-en.html>
- Glossary of Funding Types. (n.d.). Crunchbase | Knowledge Center. Retrieved March 27, 2021, from <https://support.crunchbase.com/hc/en-us/articles/115010458467-Glossary-of-Funding-Types>
- Ho, J. (2021). Anti-Asian racism, Black Lives Matter, and COVID-19. *Japan Forum* (Oxford, England), 33(1), 148-159. <https://doi.org/10.1080/09555803.2020.1821749>
- Karamali, K. (2021, March 23). Anti-Asian racism in Canada more 'frequent' as report tallies hundreds of attacks during pandemic. *Global News*. <https://globalnews.ca/news/7715260/anti-asian-racism-report-pandemic/>
- Kestler-D'Amours, J. (2021, March 23). Anti-Asian racism reaches 'crisis point' in Canada, advocates say. *Al Jazeera*. <https://www.aljazeera.com/news/2021/3/23/anti-asian-racism-reaches-crisis-point-in-canada-advocates-say>
- Landry, M.-C. (2021, March 23). Anti-Asian hate has no place in Canada [Press Release]. Canadian Human Rights Commission. <https://www.chrc-ccdp.gc.ca/eng/content/anti-asian-hate-has-no-place-canada>
- Li, P. (2008). Reconciling with History: The Chinese-Canadian Head Tax Redress. *Journal of Chinese Overseas*, 4(1), 127-140. <https://doi.org/10.1163/179325408788691507>
- Nicholson, K. (2021, March 23). Racism against Asians in Canada ranges from assault to insults since start of pandemic. *CBC News*. <https://www.cbc.ca/news/canada/asian-racism-hate-canada-pandemic-1.5959788>
- Payne, J. B., & Rootham, C. C. (n.d.). Are Human Rights Commissions still relevant? The First Annual Catherine Helen MacLean Memorial Lecture.
- Ross Lambertson. (2001). "The Dresden Story": Racism, Human Rights, and the Jewish Labour Committee of Canada. *Labour* (Halifax), 47(47), 43-82.
- Seucharan, C. (2019, September 5). B.C.'s first human rights commissioner in 17 years pledges to 'hold government's feet to the fire.' *Toronto Star*. <https://www.thestar.com/vancouver/2019/09/05/bcs-first-human-rights-commissioner-in-17-years-pledges-to-hold-governments-feet-to-the-fire.html>
- Sian, K., Law, I., & Sayyid, S. (2013). *Racism, Governance, and Public Policy: Beyond Human Rights* (Vol. 112). Routledge, Taylor & Francis Group. <https://doi.org/10.4324/9780203068687>

