

Location: [Home](#) > [Newsletter](#)

your RIGHTS

[Hiring](#)
[Pregnancy & Breastfeeding](#)
[The Commission](#)
[Racial Harassment](#)
[Sexual Harassment](#)
[Sexual Orientation](#)
[Religious Rights](#)
[Other issues](#)

our WORK

[The Code](#)
[About Us](#)
[Case Summaries](#)
[Complaint Process](#)
[Policy & Consultations](#)
[Newsletter](#)
[News Releases](#)
[Publications](#)
[Public Education](#)

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In this issue:

- [Economic and social rights research paper considers future directions for human rights commissions in Canada](#)
- [Summary of Policy Dialogue proceedings now available](#)
- [CASHRA recognizes importance of economic and social rights through adoption of resolutions](#)
- [Commission staff awarded Amethyst Award for outstanding legal and social policy research](#)
- [You Asked ...](#)
*Am I permitted to conduct criminal record checks on present or prospective employees?
What if the nature of their job is such that a past conviction may be relevant to their ability to perform the job safely?*
- [Noteworthy Web sites](#)

Economic and social rights research paper considers future directions for human rights commissions in Canada

In order to better address Ontario's responsibilities under Canada's international human rights obligations, Commission staff have consulted with experts in the field of human rights on ways in which human rights commissions can be more responsive to emerging issues, such as economic and social rights.

Commission staff have prepared a research paper on [Human Rights Commissions and Economic and Social Rights](#) to:

- analyze social trends and international developments in human rights,
- generate strategies for future action with respect to protecting and promoting economic and social rights, and
- explore how international obligations can be incorporated into the work of Canadian human rights commissions.

Two important considerations informed the development of the research paper: first, the growing recognition that all human rights are universal, indivisible, interdependent and interrelated; second, that to address the complex experience of those who are disadvantaged and to help ensure that Canada is meeting its international obligations, commissions must address economic and social rights to the greatest possible extent.

The development of this research paper falls under the Commission's mandate to forward public policy, conduct research and inquire into conditions leading to discrimination, which requires the Commission to monitor and respond appropriately to trends in the evolution of human rights.

Readers should note that the research paper is a reflection of research conducted by Commission staff. The Commissioners of the Ontario Human Rights Commission have not approved the paper as a formal policy statement.

For a copy of *Human Rights Commissions and Economic and Social Rights*, please visit the OHRC Web site (<http://www.ohrc.on.ca/english/consultations/economic-social-rights-paper.shtml>).

FAQs

Can I make the text or font size on this Web site larger or smaller?

Yes. [Follow this link to find out how you can adjust the text or font size using your browser.](#)

The sides of the page are cut-off when I print pages from this Web site. Is there a way to print the whole page?

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[Top](#)

Summary of Policy Dialogue proceedings now available

The Commission, in partnership with the Canadian Human Rights Foundation, held a first-ever one-day Policy Dialogue in February 2000 entitled *Human Rights Commissions: Future Directions*. The session's goal was to bring together a diverse range of Canadian and international stakeholders to analyze the way in which human rights institutions, civil society and government can work together to identify issues, developments and challenges in the field of human rights and to generate strategies for the future.

The [summary of proceedings from the Policy Dialogue](#) represents a review of upcoming human rights challenges as identified by representatives from human rights commissions across Canada, the provincial government, non-governmental organizations and the United Nations Office of the High Commissioner for Human Rights. The session identified some major priorities for follow-up and generated a list of practical strategies for future action.

For further background information on the Policy Dialogue, please see the Commission's *Annual Report: 1999-2000* (http://www.ohrc.on.ca/english/publications/1999-2000-annual-report_2.shtml#9).

To download a copy of the summary of proceedings from the Policy Dialogue, please visit the OHRC Web site (<http://www.ohrc.on.ca/english/consultations/policy-dialogue-summary.shtml>).

[Top](#)

CASHRA recognizes importance of economic and social rights through adoption of resolutions

The Commission has also actively participated in the adoption of [two resolutions concerning social and economic rights](#) by the Canadian Association of Statutory Human Rights Agencies (CASHRA) at its 2001 annual general meeting.

The first resolution confirms CASHRA's support for the inclusion of social condition as a ground of discrimination in human rights legislation. CASHRA has written to all governments in Canada to request that legislative amendments be made to their respective human rights laws. The second resolution affirms CASHRA's commitment to giving full attention to economic and social rights within existing commission mandates.

Please see the Ontario Human Rights Commission Web site for a copy of the CASHRA resolutions (<http://www.ohrc.on.ca/english/consultations/cashra-resolutions-2001.shtml>)

For more information on Canada's commitment to economic, social and cultural rights, please visit the Canadian Heritage's Web site concerning the *International Covenant On Economic, Social And Cultural Rights* (http://www.pch.gc.ca/ddp-hrd/docs/cesc_e.shtml).

[Top](#)

Commission staff awarded Amethyst Award for outstanding legal and social policy research



From left to right: Dawn Madassa, Maria Williams, Annette Sang, Kevin Carr, Steven Drawbell, Reema Khawja, Ted Shaw, François Larsen, Lauren Bates, Shaheen Azmi.

On January 9th, 2002, Lauren Bates, Afroze Edwards, Reema Khawja, Francois Larsen, Annette Sang, Jeff Poirier, and Maria Williams of the Commission's Policy and Education Branch were awarded the Government of Ontario's Amethyst award for developing the Commission's [Policy and Guidelines on Disability and the Duty to Accommodate](#).

The award recognizes the extensive research, public consultations and highly successful public relations strategy used to create and promote the new disability policy, which has set a national standard for persons with disabilities.

Amethyst Awards were established in 1993 and designed to recognize outstanding achievements by Ontario's Public Servants. The award is given to people or teams who have extended themselves, whether in creating a whole new way of delivering a service, developing time and money-saving technology, or showing extraordinary professionalism and care in performing their daily tasks.

For more information on the Amethyst Awards, please visit the Government of Ontario Web site:

<http://www.gov.on.ca/MCZCR/english/citdiv/honours/amethyst.htm>.

To view the *Policy and Guidelines on Disability and the Duty to Accommodate*, please visit the OHRC Web site:

<http://www.ohrc.on.ca/english/publications/disability-policy.shtml>.

[Top](#)

You Asked ...

Am I permitted to conduct criminal record checks on present or prospective employees?

The Ontario [Human Rights Code](#) (the "Code") prohibits discrimination in employment on the basis of "record of offences". "Record of offences" means a conviction for an offence for which a pardon has been granted under the [Criminal Records Act](#) (Canada) and has not been revoked, or an offence under a provincial law such as the [Highway Traffic Act](#) (s. 10(1)).

This means that a person cannot be discriminated in their job because of **pardoned** offences under federal law such as the [Criminal Code](#) (subject to the exception discussed below) or for violations of provincial laws such as the *Highway Traffic Act*. On the other hand, the *Code* does not protect against discrimination because of **unpardoned** convictions under federal law.

Because of this, employers should not ask if a job applicant or current employee has a criminal record because such a question might reveal information about pardoned offences or provincial offences. However, an employer can ask if

the applicant or employee has been convicted of a federal offence for which a pardon was not received.

[Top](#)

What if the nature of their job is such that a past conviction may be relevant to their ability to perform the job safely?

In certain situations, an employer can ask if an applicant or employee has been convicted of pardoned federal offences or provincial offences, and can make decisions based on that information. There are special employment situations where the *Code* makes an exception and allows discrimination on the basis of a "record of offence" provided that the employer can show that the requirement is reasonable, genuine and based on the nature of the job (s. 24(1)(b)). However to benefit from this exception, the employer must demonstrate that the nature of the job is such that the essential qualification or requirements of the job cannot be changed or accommodated without creating excessive costs or health or safety risks. The specific elements that the employer must be able to satisfy in order to implement a requirement based on "record of offences" are:

- (1) Was the requirement adopted for a purpose that is rationally connected to the function being performed?
- (2) Was it adopted in good faith, in the belief that it is necessary for the fulfillment of the purpose? And
- (3) Is it reasonably necessary to accomplish its purpose or goal, in the sense that it is impossible to accommodate the individual without undue hardship?

In summary, general criminal record checks should be avoided as they may reveal both pardoned and unpardoned federal offences or provincial offences. An employer should only ask about criminal convictions for which a pardon has not been received OR pardoned offences involving the types of offences that the employer can demonstrate impact on the ability to perform the job safely or are relevant to the nature of the job and if there is no accommodation that can be provided. Each job situation must be assessed on its own facts but some examples where pardoned offences or provincial offences **may** be relevant might include serious or repeated driving convictions for a bus driver or a conviction for child sexual abuse for a day-care worker who works alone with children.

Please note: This information is staff opinion only. It is not an approved policy statement, although it is based on the Ontario *Human Rights Code* and Commission policies. It should not be viewed as legal advice and does not preclude the Commission from inquiring into any matter brought to its attention under the *Code*.

[Top](#)

Noteworthy Web sites

Two important events coming up in March are March 8th, International Women's Day and March 21st, the International Day for the Elimination of Racism.

[Top](#)

International Women's Day

Since March 1911, March 8 has been celebrated as International Women's Day to commemorate the efforts of working women for dignity and equality. In 1977, the United Nations invited all countries to designate a day as International Women's Day and in most countries it is celebrated on March 8. The day is a commemoration and celebration of the struggles and accomplishments of women in Canada and around the world.

International Web sites

Women at a glance, United Nations
<http://www.un.org/ecosocdev/geninfo/women/women96.htm>

The United Nations, Beijing Declaration and Platform for Action
<http://www.un.org/womenwatch/daw/beijing/platform/index.html>

Forth World Conference on Women, Beijing, 1995
<http://www.undp.org/fwcw/dawinfo.htm>

Division for the advancement of Women, United Nations
<http://www.un.org/womenwatch/daw/>

A History of International Women's Day in words and images
<http://www.isis.aust.com/iwd/stevens/contents.htm>

International Women's Day, United Nations Cyberschoolbus
<http://www0.un.org/cyberschoolbus/days/women/index.asp>

United Nations Educational, Scientific and Cultural Organization (UNESCO) celebrates International Women's Day
<http://www.unesco.org/women8/>

Canadian Web sites

Status of Women Canada
<http://www.swc-cfc.gc.ca/>

National Action Committee on the Status of Women
<http://www.nac-cca.ca/>

Ontario Web sites

Ontario Women's Directorate
English: <http://www.gov.on.ca/mczcr/owd>
French: <http://www.gov.on.ca/mczcr/owd/indexf.html>

Ontario Human Rights Commission
<http://www.ohrc.on.ca>

Disabled Women's Network of Ontario
<http://dawn.thot.net/pub.html>

[Top](#)

International Day for the Elimination of Racism

Since 1966, the United Nations has designated March 21 as the International day for the elimination of racism.

International Web site

International Day for the Elimination of Racial Discrimination,
United Nations Cyberschoolbus
English: <http://www.un.org/cyberschoolbus/iderd/>
French: http://www0.un.org/cyberschoolbus/racism2001/f_index.asp

Canadian Web sites

Racism: Stop It. Canadian Heritage Multiculturalism
<http://www.pch.gc.ca/march-21-mars/>

Human Rights Program & Women's Program, Public Service Alliance of Canada
English: http://www.psa.com/H&S&E/HumanRights/HR_March21-e.htm
French: http://www.psa.com/H&S&E/HumanRights/HR_March21-f.htm

Racial Harassment: Your Rights and Responsibilities,
Ontario Human Rights Commission Web site
English: <http://www.ohrc.on.ca/english/guides/racial-harassment.shtml>
French: <http://www.ohrc.on.ca/french/guides/racial-harassment.shtml>

Please Note: These Web sites are created by or for organizations outside of the Ontario Human Rights Commission, and those organizations are responsible for the information contained within their respective sites. We neither endorse, nor recommend these organisations and are not liable for their content - they are provided as information only. These sites might not be available in French. Any specific comments or inquiries regarding these sites should be directed to the individual organization.

[Top](#)

This information is provided as a public service by the Ontario Human Rights Commission. Although we endeavour to ensure that the information is as current and accurate as possible, errors do occasionally occur. Please verify information before acting on it.

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