

# **RETHINKING WHO WE ARE**

**CRITICAL REFLECTIONS  
ON HUMAN DIVERSITY  
IN CANADA**

**EDITED BY  
JESSICA E. PULIS  
AND PAUL U. ANGELINI**

**FERNWOOD PUBLISHING  
HALIFAX & WINNIPEG**

Copyright © 2019 Jessica E. Pulis and Paul U. Angelini

All rights reserved. No part of this book may be reproduced or transmitted in any form by any means without permission in writing from the publisher, except by a reviewer, who may quote brief passages in a review.

Editing and design: Brenda Conroy

Cover design: JVDW Design

Printed and bound in Canada

Published by Fernwood Publishing

32 Oceanvista Lane, Black Point, Nova Scotia, B0J 1B0

and 748 Broadway Avenue, Winnipeg, Manitoba, R3G 0X3

[www.fernwoodpublishing.ca](http://www.fernwoodpublishing.ca)

Fernwood Publishing Company Limited gratefully acknowledges the financial support of the Government of Canada, the Canada Council for the Arts, the Manitoba Department of Culture, Heritage and Tourism under the Manitoba Publishers Marketing Assistance Program and the Province of Manitoba, through the Book Publishing Tax Credit, for our publishing program. We are pleased to work in partnership with the Province of Nova Scotia to develop and promote our creative industries for the benefit of all Nova Scotians.



Library and Archives Canada Cataloguing in Publication

Title: Rethinking who we are: critical reflections on human diversity in Canada / edited by Jessica E. Pulis and Paul U. Angelini.

Names: Pulis, Jessica E., 1978– editor. | Angelini, Paul U., 1962– editor.

Description: Includes bibliographical references and index.

Identifiers: Canadiana 20190064854 | ISBN 9781773631356 (softcover)

Subjects: LCSH: Multiculturalism—Canada. | LCSH: Equality—Canada. |

LCSH: Canada—Ethnic relations. | LCSH: Canada—Social conditions.

Classification: LCC FC105.M8 R48 2019 | DDC 305.800971—dc23

# CONTENTS

Acknowledgements .....	x
Introduction: Why Study Human Diversity in Canada? <i>Jessica E. Pulis and Paul U. Angelini</i> .....	1
Note .....	3

## Part One / 5

1 Human Rights and the Law: Diversity and Disadvantage <i>Jessica E. Pulis</i> .....	6
Key Objectives.....	6
Defining Human Rights.....	8
The Paradox of Human Rights.....	11
Human Rights and Diversity.....	14
Indigenous Rights.....	23
Gender and Human Rights .....	27
Sexual Diversity and Human Rights .....	27
Disability and Human Rights.....	28
Conclusion.....	28
Critical Review Questions .....	29
Recommended Readings .....	29
Key Terms.....	30
Notes.....	30
2 Regionalism: Geography Meets Social-Psychology <i>Paul U. Angelini</i> .....	32
Key Objectives.....	32
What Is Regionalism and Why Is It Important?.....	33
Can Provinces Be Considered Regions?.....	34
The Causes of Regionalism.....	36
Causes of Regionalism: Chicken or Egg? .....	40
Federal Response to Regionalism.....	52
The Socio-Psychological Dimension to Regionalism .....	59
Conclusion.....	61
Critical Review Questions .....	62
Recommended Readings .....	62
Key Terms.....	62
Notes.....	64

3	Concepts of Health, Illness and Disease: A Cross-Cultural Perspective	
	<i>Michelle Broderick</i> .....	67
	Key Objectives.....	67
	Medical Anthropology.....	68
	Natural History of Disease .....	69
	Theories of Disease.....	71
	Biomedicine.....	73
	Ethnomedicine.....	76
	Medicalization of Life Events.....	83
	Intersection of Biomedicine and Ethnomedicine.....	84
	Critical Review Questions.....	85
	Recommended Readings.....	86
	Key Terms.....	86
	Notes.....	88

## Part Two / 91

4	Race and Ethnicity: Difference and Diversity	
	<i>Jessica E. Pulis and Paul U. Angelini</i> .....	93
	Key Objectives.....	93
	Social Construction of Race and Ethnicity .....	94
	Racism.....	97
	Understanding Race and Ethnicity .....	102
	Official Multiculturalism .....	103
	Short History of Immigration to Canada.....	107
	What Will Canada Look Like Tomorrow?.....	113
	Conclusion.....	117
	Critical Review Questions.....	118
	Recommended Readings.....	118
	Key Terms.....	118
	Notes.....	119
5	Indigenous Storytelling: Ethics and Resistance	
	<i>Alexander Hollenberg</i> .....	122
	Key Objectives.....	122
	Creation Stories .....	122
	Truth and Reconciliation: The Necessity of Story.....	129
	Indigenous Literature and Censorship: The Case of Sherman Alexie's <i>The Absolutely True Diary of a Part-Time Indian</i> .....	137
	Conclusion.....	141
	Critical Review Questions.....	142
	Recommended Readings.....	142
	Key Terms.....	143
	Notes.....	144

6	Social Inequality: Diversity and Social Stratification	
	<i>Sara J. Cumming</i> .....	146
	Key Objectives.....	146
	Conflict Theory: Inequality Is Bad and Unnecessary .....	150
	Structural Functionalism: Inequality Is Necessary and Inevitable .....	152
	Symbolic Interactionism: Inequality on Display Through Status Symbols.....	153
	Feminist Explanations for Social Stratification .....	155
	The Class System.....	156
	Understanding Poverty .....	162
	Conclusion.....	165
	Critical Review Questions .....	166
	Recommended Readings .....	167
	Key Terms .....	167
	Notes.....	168
7	Gender Issues in Canada: Evolution and Revolution	
	<i>Leslie Butler</i> .....	171
	Key Objectives.....	171
	Defining Sex and Gender .....	172
	Learning Gender.....	175
	Gender and Social Organization .....	181
	Gender and Power .....	183
	Social Change.....	185
	Worldviews.....	189
	Conclusion.....	194
	Critical Review Questions .....	194
	Recommended Readings .....	195
	Key Terms .....	195
	Notes.....	197
8	Governing Sexualities: Interrogating Settler Sexualities in Canada	
	<i>Lee Easton and Shane Gannon</i> .....	198
	Key Objectives.....	198
	Thinking Through Sexuality .....	200
	Looking at Sexuality Historically .....	205
	Theorizing Sexualities .....	215
	Sexualities in Twenty-First-Century Canada .....	219
	Conclusion: Sexuality Studies Today .....	224
	Critical Review Questions .....	225
	Recommended Readings .....	226
	Key Terms .....	226
	Notes.....	227

9	Impairment and Disability: The Social Perspective	
	<i>Kate Hano</i> .....	230
	Key Objectives.....	230
	Definitions of Impairment and Disability.....	231
	The Social Perspective on Disability .....	232
	Feminist Perspective .....	238
	Universal Design.....	242
	Legislation: The AODA .....	246
	Disability and Employment.....	249
	Conclusion.....	254
	Critical Review Questions .....	254
	Recommended Readings .....	255
	Key Terms.....	255
	References.....	255

### Part Three / 259

10	Diverse Voices: Critical Perspectives in Canadian Contexts	
	<i>Tamara Wasylenky-Stern</i> .....	260
	Key Objectives.....	260
	Human Vocal Anatomy: Voice as Sound .....	262
	Approaches to Vocal Training.....	266
	Voice as Self-Expression .....	269
	Voice in Literary Perspective.....	273
	Voice, Discourse and Power .....	275
	Voice in Dialogue: Silence and Listening .....	279
	Voice as Participation.....	280
	Voice as Performance.....	281
	Conclusion.....	283
	Critical Review Questions .....	283
	Recommended Readings .....	284
	Key Terms.....	284
	Notes.....	284
11	Literature: Voices of Diversity in Canadian Literature	
	<i>Jennifer Chambers</i> .....	287
	Key Objectives.....	287
	Brief History of Literature in Canada .....	289
	The Cultural Mosaic vs. the Melting Pot .....	302
	Indigenous Writers in Canada and Appropriation of Voice .....	304
	Black Like Canadians.....	309
	Gender in Canadian Literature.....	311
	Depictions of Sexuality in Canadian Literature .....	312
	Conclusion.....	314

Critical Review Questions .....	315
Recommended Readings .....	315
Key Terms .....	316
Notes.....	316
 12 Canada's News Media: The Crisis of Diverse Quality	
<i>Peter Steven</i> .....	319
Key Objectives.....	319
Canadian Media Admired Worldwide .....	320
Media and Its Impact on Society .....	321
Four Theoretical Approaches .....	324
Big Issues Facing Canadian Media.....	326
The Media Giants.....	333
The News Media .....	336
Canada's News Forms and Genres: Newspapers, TV, Radio, New Media.....	341
Forms and Styles of TV News.....	344
Conclusion.....	351
Critical Review Questions .....	351
Recommended Readings .....	352
Key Terms .....	352
Notes.....	352
 Contributors.....	355
Index .....	357

## INTRODUCTION

# WHY STUDY HUMAN DIVERSITY IN CANADA?

*Jessica E. Pulis and Paul U. Angelini*

There are two important reasons to study human diversity in Canada. First, Canada's population differs widely. There are profound differences between Canadians living in different provinces and territories, and it comes as no surprise that definitions of what it means to be Canadian and what it means to be diverse also differ. Throughout this text, students are challenged to critically examine definitions of diversity in Canadian society and to reflect on the following questions. How do Canadian law, the Charter of Rights and Freedoms and human rights impact Canadian identity? How do sexual orientation, gender fluidity, social class and disability fit into conceptions of diversity? Why are the horrific abuses suffered by Indigenous Peoples only now being recognized? Why is there ongoing resistance to understanding Canada as a settler colonial country that continues to deny Indigenous Peoples their history and rights? How has Canadian identity been analyzed and treated by writers, storytellers and the mass media? Students are asked to think about Canadian diversity in the future. Who are we and where are we going? What will life in Canada look like for future generations?

The second reason to study human diversity is that it is a fact of life. All countries have unique populations that are diverse. Some countries, like Canada, have populations with a great deal of diversity. But what do you know about the history of colonization and immigration? Are you Indigenous? Are you an immigrant? With the exception of Indigenous Peoples, we are all immigrants. How many generations of your family have lived in Canada? If you are an immigrant, think about why your family came to Canada. Like the United States with the American Dream, Canada has a mythology surrounding opportunities and life for new Canadians. Since the mid-1970s, the dominant source of immigration to Canada has been the "developing countries."<sup>1</sup> These newcomers to Canada share three main characteristics: they are not white, they are not Christian, and they come from places that are economically



underdeveloped. This text explores what changing diversities mean to individuals in Canada and to Canada as a whole.

We hope students will appreciate the differences that characterize Canadian life and develop a fuller understanding of what it means to be Canadian. The more we understand about ourselves and our settler colonial history, the more understanding we become. We hope this increased understanding will lead all generations of Canadians, new and old alike, to be less likely to repeat the sins of the past. Canadian identity is complex and multi-layered. So, who are we? Canada prides itself on being a country that embraces difference. Many years ago, the most anticipated public event in Toronto was the Santa Claus parade. Today, Gay Pride and Caribana are two of the most anticipated celebrations. People arrive from around the world to experience and revel in these proud celebrations of difference, spending millions of dollars on hotels, food, refreshments and entertainment.

This introductory text was conceived and written for students who have had little exposure to the issues surrounding human diversity in Canada. As a student-centred, topical text, it is designed to give readers a kaleidoscopic view of diversity in Canada framed within critical theoretical paradigms. For readers who have already examined diversity, this text provides up-to-date statistics and analyses of recent events. The text addresses diversity in its totality — that is, it includes diversities that are considered non-traditional and/or discusses diversities in a non-traditional manner. Topics range from law and human rights, regionalism, health, Indigenous storytelling and disability, to voice, literature and the mass media.

The first section of this text lays the foundation for the analysis of diversity in Canada, discussing law and human rights, regionalism and concepts of health, illness and disease. We call these national or “macro” diversities. The second section analyzes specific diversities in Canada and includes discussions of race and ethnicity, Indigenous storytelling, social inequality, gender, sexual orientation and disability. We call these specific or “micro” diversities. The final section explores how the idea and reality of diversity are treated by examining the topics of voice, literature and mass media.

The text employs the following pedagogical tools designed to highlight for students the essential components of diversity:

- Diversity in Action boxes contain additional information, case studies, current events reports and biographies.
- Think About boxes ask students to critically think about a selected area/topic/idea.
- Innov8 boxes represent particular areas of study and direct students to investigate documentaries, Ted Talks, flash mobs, art exhibits or other unique contributions to the subject area.

- Call-out text highlights essential policies, definitions, events or people.
- Key Terms are in bold typeface and are defined at the end of each chapter.
- Key Objectives begin each chapter.

Students are invited to examine the paradox of diversity in Canadian society: on the one hand, we see ourselves as champions of diversity and acceptance, yet on the other, we continue to participate in gross violations of Indigenous rights and in acts of hate, racism and prejudice, especially against those who live on the margins of society. Finally, students explore diversity through a critical lens, which both highlights and challenges their own understandings of diversity in Canadian society.

### Note

- 1 In this text we use the term “developing world” or “developing countries” but there are problems and various opinions on what to call the countries that used to be called the Third World. See the NPR website for a discussion of this issue: <[www.npr.org/sections/goatsandsoda/2015/01/04/372684438/if-you-shouldnt-call-it-the-third-world-what-should-you-call-it](http://www.npr.org/sections/goatsandsoda/2015/01/04/372684438/if-you-shouldnt-call-it-the-third-world-what-should-you-call-it)>.

# PART ONE

Part One adopts a macro approach to examining diversity in Canada. Using the analogy of a painting, these first three chapters are the canvass or foundation on which diversity in Canada unfolds in its own unique way. The canvas supports and absorbs the paint to stabilize the painting and hold it in place. Together the first three chapters allow for structured analyses of the specific diversities found in Part Two.

Chapter 1 examines how Canadian law and human rights impact human differentiation. Is there equity and inclusion in human rights and laws regardless of gender, race or ethnicity, sexual orientation, social status, religious beliefs? This chapter highlights the complex relationship Canada has both as enforcer and perpetrator of human rights violations.

Chapter 2 looks at regionalism. It begins with a definition of regionalism and outlines the competing theories that attempt to explain regional differentiation. It concludes by examining how the federal government in Ottawa has paradoxically increased inequality between regions while at the same time taking action to lessen the same inequality.

Chapter 3 lays the foundation or a basic understanding of how different cultures explain the nature of disease and illness. It also explains that one of the main differences between biomedicine and ethnomedicine is that in ethnomedicine mental illness is treated no differently from physical illness.

# HUMAN RIGHTS AND THE LAW

## DIVERSITY AND DISADVANTAGE

*Jessica E. Pulis*

*Diversity is tolerated but only to the extent that everyone is different in the same way. — Roger Maaka and Augie Fleras, “Engaging with Indigeneity”<sup>1</sup>*

### KEY OBJECTIVES

---

Understand human rights as social, civil, political, economic and environmental rights.

Explore how we balance individual rights and the rights of groups of people.

Understand human rights as a social construction.

Assess human rights as a paradox.

Explore rights violations of individuals and groups.

---

**T**his chapter considers human rights within the context of a diverse nation. What are human rights? Do all people have human rights? Are human rights the same as legal rights? Do all people have the same human rights? Is there equity and inclusion in human rights and laws regardless of gender, race or ethnicity, sexual orientation, social status and religious beliefs?

### Box 1.1 Diversity in Action

The Universal Declaration of Human Rights is reflected throughout the Canadian Charter of Rights and Freedoms of 1982, drafted under the tenure of Prime Minister Pierre Elliot Trudeau. The following are examples of similarities:

#### Security Rights

UDHR Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

CCRF Section 12: Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.

#### Due Process Rights

UDHR Article 9: No one shall be subjected to arbitrary arrest, detention or exile.

CCRF Section 9: Everyone has the right not to be arbitrarily detained or imprisoned.

#### Basic Liberties

UDHR Article 20 (1): Everyone has the right to freedom of peaceful assembly and association.

CCRF Section 2 (c): Everyone has the freedom of peaceful assembly.

#### Rights of Democratic Political Participation

UDHR Article 21 (3): The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

CCRF Section 3: Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

#### Equality Rights

UDHR Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

CCRF Section 15 (1): Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

### Economic and Social Rights

UDHR Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

CCRF: The Charter does not protect economic rights, like social assistance. Each province and territory is responsible for its own policies and regulations.

[See Chapter 6 for a more detailed discussion of social assistance and economic rights in Canada.]

## DEFINING HUMAN RIGHTS

When we think of human rights we might think about the Universal Declaration of Human Rights (UDHR), the Canadian Charter of Rights and Freedoms (CCRF), and the provincial and territorial human rights commissions (for example, the Ontario Human Rights Commission, the New Brunswick Human Rights Commission, the Northwest Territories Human Rights Commission). Canadian John Humphrey helped draft the first version of the Universal Declaration of Human Rights, which was adopted by the United Nations in 1948. The original declaration was not a set of legal obligations, but rather they were goals that United Nations member states were expected to strive for.<sup>2</sup> In other words, countries were not legally obliged by the United Nations or international law to comply with the declaration. It was a set of moral and social expectations that nations, to the best of their ability, would follow to acknowledge, address and uphold human rights. The declaration consists of a preamble and thirty articles aimed at protecting individuals and groups of people from existing and future rights violations.

We tend to think about human rights violations or human rights injustices as

### Box 1.2 Think About...

Since the 9/11 attacks in the United States, due process violations of the rights of terrorist suspects were rampant in countries all over the world, as fear of terrorism and terrorist attacks were used to justify the denial of these rights (see Chapter 4 for a more detailed discussion). In 2017, the Canadian federal government awarded Omar Khadar \$10 million in a controversial settlement after failing to uphold the Khadar's human rights as a Canadian citizen while the teenager was being held and tortured in the US prison at Guantanamo Bay.

things like mass murder, ethnic cleansing, violence, conflict and other harms. Many examples of such atrocities, both nationally and internationally, quickly come to mind: mercury poisoning in Grassy Narrows, genocide in Rwanda and Bosnia (now Bosnia and Herzegovina), ethnic cleansing in Syria, the Flint Michigan water crisis, mass incarceration and overrepresentation of racialized populations, systemic poverty and so on. This list highlights the fact that we often discuss human rights in terms of violations of those rights.

Definitions of **human rights** are complex. Human rights are designed to protect morally relevant and fundamental human interests, like human life, human freedoms, healthcare, access to education and so on. Definitions are often analogous with definitions of legal or civil rights that derive from the laws and customs of particular societies. For example, Article 3 of the UDHR states: “Everyone has the right to life, liberty and security of person.” This is parallel to sections of the Criminal Code, a Canadian statute first enacted in 1892, which define the violation or termination of someone’s life as illegal, an act punishable by the state. Both the UDHR and the Criminal Code place value on human life and emphasize its preservation. There is general consensus that human rights have two characteristics:

1. they are universal (each individual has rights); and
2. everyone has rights equally.

---

*Human rights are the ethical, moral and fundamental characteristics of a society. They are universal and all people have them equally.*

---

It is the social process of understanding human rights that leads us to conclude that human rights and legal rights are not mutually exclusive concepts. We must distinguish human rights from legal rights to other social demands, but they are interrelated concepts. We are exploring complex social phenomena that come through a multifaceted lens. A discussion of human rights is usually dominated by legal decisions that tell the government what they should or should not do. We rely on our legal system to decide which rights are human rights and not simply a social cause. For example, we often look to the justice system and government to define and construct human rights; that is, human rights and legal rights are dominated by discourse and decisions made through national and international law. Law plays an important role in advancing human rights through the ratification of new laws that address inequality and disadvantage (based on gender, race, poverty, sexuality, ability, etc.) and to challenge laws

that reinforce or sustain oppression and inequality. In other words, human rights are often sought and cemented through legal decisions — and their strength, Judith Blau and Mark Frezzo argue, is dependent upon the ethical characteristics of a community or more broadly society.<sup>3</sup>

Blau and Frezzo define human rights as “a set of protections and entitlements held by all members of the human species — irrespective of race, class, gender, sexual orientation, cultural background or national origin.”<sup>4</sup> One’s existence in the human community is the only real eligibility condition for human rights. Therefore, we see and understand human rights as universal. Human rights exist in and of themselves, and they are afforded equally to all human beings. James Nickle argues that human rights are minimal standards by which societies and communities should live.<sup>5</sup> In addition, the human characteristics of gender, sexual orientation, race, etc. are irrelevant to whether a person has human rights — we all have them because we are human.

However, the central narrative appears to lie in the violations of these rights and that some groups of people (who are all **rights-protected people**) appear to be more vulnerable to **rights violations**. For example, marginalized sexualities have been subject to human rights abuses and atrocities (see Chapter 8 for a more detailed discussion of governing sexualities), and it is through human rights laws that those violations are addressed, reduced, mitigated or extinguished. Nickel calls human rights “high priority norms,” not simply goals or aspirations or things we ought to have. Rather, human rights reflect legal and enlightened political moralities, which apply to and protect all people as members of the human community. These realities and rights priorities have developed and changed over time, yet the UDHR remains the most significant document that addresses violations of the rights of the marginalized.

Rights can also be thought of as positive or negative. **Negative rights** are rights that cannot be denied by the state or anyone in it: the right to life, individual safety and security, freedom from undue interference of the state, integrity, free speech, etc. **Positive rights** must be provided by the state: food, clothing, housing, healthcare, education, employment, social assistance, pensions for the elderly. Positive rights centre around several areas: examples are social rights (education, healthcare, social welfare, socioeconomic well-being and citizenship), civil rights (legally based), economic rights, political rights (freedom to participate in political systems, to assemble, to vote, to protest), cultural rights (protection of ancestral land and language, freedom to practice rituals and customs aimed at protecting the world’s cultural diversity) and environmental rights.



---

*Negative rights address our right not to have anyone or anything interfere with our lives. Positive rights address our right to have certain things provided to us as human beings.*

---

Human rights apply to all humans, but they are limited to a legal, political, social and historical context. For example, in Canada we now have maternity leave protections for parents regardless of sexual orientation; adults have some rights that children in Canada do not (e.g., the right to vote); laws around discrimination in the workplace have existed for years but are only recently being widely enforced. We learn from history and witness a paradigm shift in social and political ideology as human rights become a priority of more societies. Canada abides by the UDHR, which requires that governments ensure that all people (not things or places) are treated equally regardless of their social position. For example, a human right of all Canadian children is equal access to education. However, the government spends less per child if the child is Indigenous.<sup>6</sup> This is a direct violation of that fundamental right, and we must ask ourselves how this is possible. This rights violation and inequality have persisted over decades and is reflected in the high school dropout rate for Indigenous Peoples, which is nearly 23 percent compared to roughly 6 percent of non-Indigenous Canadians.<sup>7</sup>

## THE PARADOX OF HUMAN RIGHTS

A discussion of human rights from the perspective of the social sciences challenges the dominant social, legal and political discourse as largely neglecting human rights as a social movement. After the Second World War, when the UDHR was drafted, there

### Box 1.3 Think About ...

The federal government announced that groups seeking funding through the Canada Summer Jobs program need to prove they respect the Charter as well as other rights, like reproductive and sexual rights, but an anti-abortion group in Toronto claims this policy violates their right to freedom of belief and expression. Michael Freeman argues: “Human rights are said to protect fundamental values from standard threats; however, human rights advocacy can itself be perceived as a threat to certain fundamental values.” How does this example apply to Freeman’s argument about competing interests within human rights?

Source: Michael Freeman, *Human Rights* (Boston: Polity Press, 2017).

**Box 1.4 Think About...**

In 2017, a Quebec teen refused a life-saving medical treatment for cancer based on religious beliefs. The teen, a Jehovah's Witness, refused a blood transfusion and argued she should not be forced to endure the procedure because it violated her right to religious freedom. Quebec Superior Court Justice Lukasz Granosik argued that the violation of her religious beliefs was warranted to protect her, a child, when decisions ultimately may be fatal or detrimental. This case sparked a debate about the rights of children and their ability to give consent and make decisions about medical treatment.

were many discussions about human atrocities, in particular the Holocaust. However, it was not until the profound and monumental **rights-oriented movements** of the 1960s that Western societies were exposed as perpetrators of significant rights violations. The civil rights movement, the women's movement, the LGBT2TQ (lesbian, bisexual, gay, trans\*, two-spirited, questioning) and labour movements ignited a paradigm shift in the ways rights violations were perceived, documented and treated in Canada and the United States. These social justice causes became inexorably linked with human rights cases as social movements, which resulted in great social and legal changes.

The discipline of sociology investigates social problems that are likewise explored in consideration of human rights: examples include gender discrimination, racism, poverty, homophobia and transphobia. Sociologists uncover the social structures that reinforce and reproduce inequality, and they note how discourse serves to reinforce unequal treatment of some people (e.g., women, Indigenous Peoples, people who are LGBT2TQ or racialized). For instance, long-held stereotypical beliefs about women's essential caring nature (compared to men's competitive nature) were used to justify keeping women out of the paid labour force and relegated them to the private domestic sphere. Considering human rights as a social construction compels us to explain why human rights may be violated for some and upheld for others. We must acknowledge that human rights are influenced by political interests, by our history and our social structures, and by the socio/legal/historical reality of the time in which human rights as a social good were created.

In Canada in 1982, the Charter was enacted into law. Many of you were not born yet, but this was a time in society when the rights of women, Indigenous Peoples, racialized Canadians, LGBT2TQ women and men and girls and boys were clearly emphasized in the Charter. Yet continued and horrific rights violations persisted for decades after the Charter and implementation of section 15 (see Box 1.1). However, as we explore in this chapter, it may be that the lives of some are valued more than the lives of others.

**Box 1.5 Think About...**

How are human rights portrayed in the media? The factors that influence and shape society have a similar effect on human rights and perceptions of human rights — especially in terms of power relations and political interests.

As a social construction, human rights really are a reflection of political, social and legal interests of those with the most *vested* interests. If we consider, then, access to and protection of human rights of a wealthy, white man verses a young, queer Indigenous woman from a remote fly-in reserve community, without question, power and privilege will have a significant effect on the life of the man compared to the young woman.

Social and economic rights are often treated as aspirational and controversial. Anthony Woodiwiss argues that capitalism subverts human rights because it distributes freedoms unequally according to a person's social position in relation to labour. While many capitalist societies have sound human rights records, they often participate in unequal labour and social capital distribution.<sup>8</sup> Recall from Box 1.1 that economic rights are not protected under the Charter but are governed by each province and territory. It is up to each province and territory to decide who gets what, how often and how much. If we consider the lack of protections at the federal level, how might provincial and territorial variation and stereotypical beliefs about *who* accesses social assistance, and *how much* these benefits really provide, influence policy and regulation? Do you know how much a single mother with two children receiving social assistance would receive in your province or territory? Look it up. This number will surprise many of you (see Chapter 6 for a more detailed discussion of social inequality).

However, even a brief exploration of human rights violations in Canada tells an interesting narrative about the paradox of human rights. While human rights are universal and ought to equally apply to all human beings, explicit violations persist. On one hand, Canada condones other nations for their human rights atrocities, yet on the other hand, the Truth and Reconciliation Commission of Canada (TRC) (2015) highlights significant and continued human rights violations of Indigenous Peoples across Canada. Judith Blau argues: “Transformative social and economic processes have fueled human rights movements and increased people’s demands for the realizations of their rights.”<sup>9</sup> Think about current social movements like Idle No More and Black Lives Matter as transformative social movements (see Box 1.6).

### **Box 1.6 Innov8**

Current social movements like Idle No More and Black Lives Matter demonstrate that while the Charter is nearly forty years old, significant rights violations of some of Canada's rights-protected peoples remains a central issue.

Human rights doctrines should reflect current social, economic, political, environmental and cultural innovations, and while there has been some meaningful social change in policy and attitudes and behaviours towards rights violations, many continue to persist. To put it simply, we cannot expect that human rights are universal in that all protected people will be satisfied: there are limitations to how protected diversity really is as we see through this chapter. If we consider the intersections of gender and gender identity, race and ethnicity, class, sexual orientation, disability, culture, religion, political ideology and social history, we begin to understand how complex an understanding of human rights and diversity can be.

## **HUMAN RIGHTS AND DIVERSITY**

Diversity implies understanding and recognizing difference among individuals. As such, diversity reflects the individual but also lived experiences, social histories, belief systems and other ideologies. How do we explore human rights within the context of diversity? Human rights truly are reflective of all aspects of diversity, things like gender and gender expressions, race and ethnicity, social class, sexuality and sexual orientation, physical ability, age and political and religious beliefs. It is not surprising, then, that human rights policies, laws, treaties and discourse are policies, laws, treaties and discourse that also echo diverse ways of being, knowing and negotiating the world. What does it mean to be diverse? What do you think of when you think of Canada? Is Canada a diverse nation? See Box 1.7 for Prime Minister Justin Trudeau's understanding of Canada and diversity.

Blau and Frezzo pose the question: how do equity, diversity and human rights policies and practices respond to social inequality, social difference, unequal power relations?<sup>10</sup> The answer is as complex and multifaceted as the question. Let's explore some examples to help illustrate. The Canadian Human Rights Commission oversees the Employment Equity Act (1995), which is a legal obligation by all organizations or businesses regulated by the federal government to provide equal employment opportunities to four specific groups: women, Indigenous Peoples, persons with disabilities and members of racialized minorities. Employment equity was created to address disadvantage experienced by the four groups, who were significantly underrepresented

### Box 1.7 Diversity in Action

Prime Minister Justin Trudeau spoke in London, UK, shortly after being elected in 2015. Here is an excerpt from his speech, entitled “Diversity Is Canada’s Strength.”

“Why diversity is important? It’s easy, in a country like Canada, to take diversity for granted. In so many ways, it’s the air we breathe. We’ve raised generation after generation of children who think nothing of hearing five or six different languages spoken on the playground. Because it’s 2015, people around the world are noticing the diversity of our Cabinet, and our Parliament. But the diversity of our country is not news. An MP colleague of mine once told me a story that captures it perfectly. He was doing a parliamentary exchange program in Paris. There were elected representatives from around the world present. He was asked what Canada ‘looks like.’ He was accompanied by four other colleagues, none of whom except him were born in Canada. Among them were three women and two men. Two Catholics, an Ismaili Muslim, a Jew whose parents had survived the Holocaust, and a gay protestant minister. One was born in France, one in Portugal. Another was born in Argentina. Another in Tanzania. He pointed to his colleagues and said: ‘Well, this. This is what Canada looks like.’... Just consider the words that people use to describe Canada: we’re open, accepting, progressive and prosperous. There is a direct line between each of those attributes and Canada’s success in building a more diverse and inclusive society. We’re not the only nation that’s tried to do it. But what’s made it work so well in Canada is the understanding that our diversity isn’t a challenge to be overcome or a difficulty to be tolerated. Rather, it’s a tremendous source of strength.”

Source: Government of Canada website <[pm.gc.ca/eng/news/2015/11/26/diversity-canadas-strength](http://pm.gc.ca/eng/news/2015/11/26/diversity-canadas-strength)>.

in varying degrees and at all levels of employment across Canada. Yet, a 2018 study by the Canadian Association of University Teachers reveals that racialized faculty comprise only 21.1 percent of all university faculty and only 15 percent of all college faculty. Indigenous professors make up less than 1.5 percent of all faculty, and Black professors represent 2 percent of all faculty (which has remained constant over the last decade).<sup>11</sup> In other words, equality, diversity and human rights policies tend to be drafted as reactionary measures to something or as a result of someone demonstrating that disadvantage exists within the structure. Equality, diversity and human rights policies are often created *after* inequality and rights violations are entrenched in employment, healthcare, criminal justice, education and other various systems across Canada.

For example, the *R v. Gladue* (1999) Supreme Court decision explicitly mandated Canadian courts to consider the unique circumstances of Indigenous Peoples and the impact of colonialism and the residential school legacy in its sentencing and treatment of Indigenous women and girls and men and boys in 1999. However, while the crime rates in Canada continue to remain at record low levels, the incarceration rate for Indigenous women has increased 112 percent in the last ten years, nearly twenty years after Gladue. More so, while Indigenous youth comprise 8 percent of the total youth population in Canada, they represent nearly 50 percent of all youth in custody in Canada.<sup>12</sup> This dramatic overrepresentation is not explained by factors like the nature of the offence or criminal history. In other words, it is not simply that Indigenous women commit more serious offences or have more extensive criminal histories. In fact, they are less likely to commit a violent offence compared to non-Indigenous women. While policies and laws are created, even as reactionary measures, to address the unequal treatment of Indigenous Peoples, discrimination and racism persist (see Chapters 4 and 5 for more detailed discussions).

Yet as with human rights, expressions of diversity remain expressions of social privilege and oppression, of marginalization, exploitation, violence, ethnocentrism, cultural hegemony and powerlessness. Multiculturalism (see Chapter 4 for a more detailed discussion) is presented as a concept to support and promote human rights and social inclusion. Think about the concept of multiculturalism. This concept is influenced by our socio/legal/political/historical realities; however, in reality the outcome of multiculturalism as an ideology infers sameness. As Roger Maaka and Augie

### Box 1.8 Think About...

The following is an excerpt from a *Maclean's* magazine article exploring Canada's prisons as modern-day residential schools:

"In the U.S., the go-to example for the asymmetric jailing of minority populations, black men are six times more likely to be imprisoned than white men. In Canada, the Indigenous incarceration rate is 10 times higher than the non-Indigenous population—higher even than South Africa at the height of apartheid. In Saskatchewan, if you're Indigenous, you're 33 times more likely to be incarcerated, according to a 1999 report, the most recent available. This helps explain why prison guard is among the fastest-growing public sector occupations on the Prairies. And why criminologists have begun quietly referring to Canada's prisons and jails as the country's "new residential schools."

Source: Nancy Macdonald, "Canada's Prisons Are the New 'Residential Schools,'" *Maclean's* 2016. [macleans.ca/news/canada/canadas-prisons-are-the-new-residential-schools/](http://macleans.ca/news/canada/canadas-prisons-are-the-new-residential-schools/).

### Box 1.9 Diversity in Action

#### What Are Canadian Values?

In 2017, Kellie Leitch began a sensational and contentious campaign in her bid for leadership of the federal Conservative Party. Leitch's controversial plan to screen immigrants for "anti-Canadian values" ignited national debate about immigration policy and what it means to be Canadian. Leitch drafted a list of questions potential immigrants would be asked in their initial screening, including:

Are men and women equal, and entitled to equal protection under the law? Is it ever ok to coerce or use violence against an individual or a group who disagrees with your views?

Do you recognize that to have a good life in Canada you will need to work hard for yourself and your family, and that you can't expect to have things you want given to you?

The questions and Leitch's campaign in general were largely touted as thinly veiled bigotry and left the now disgraced MP repeatedly having to defend what she meant by Canadian values and to defend herself against charges of being racist.

Fleras argue, diversity is an acceptable social outcome of multiculturalism as long as we are different in the same way.<sup>13</sup> Boxes 1.7–1.9 exemplify the inference of cultural sovereignty in narratives surrounding diversity: as Canadians *we* are all different but *we* have the same values, morals or beliefs. If multiculturalism "normalizes" our differences as similarities, it is easy to understand how and why many of our current rights violations go undetected or remain out of the dominant discourse.

### Social Rights and Diversity

Social rights centre around rights that apply to things like education, healthcare, social assistance, socioeconomic well-being and citizenship. More specifically, they make the right to things like adequate housing, food security and clothing fundamental rights of all citizens. However, understanding diversity through the lens of human rights suggests that access to social rights is inconsistent and inadequate at best. Studies from across Canada indicate there is a significant gap in access to healthcare for those Canadians living in poverty or on the street, or for those who are Indigenous or elderly.<sup>14</sup> Sara Cumming discusses in detail the limitations and inadequacies of social assistance in Canada and how perceptions of need are affected by stereotypes of who accesses assistance and what social assistance benefits really are in Chapter 6 of this

text. Social rights to housing, which physically translates into subsidized housing units, are usually underfunded, have extensive waitlists (some as long as ten years or have nearly 100,00 people in need of housing), and many are unsafe and require millions of dollars in repair.<sup>15</sup> Furthermore, food banks, year-after-year, indicate a growing need for support as more people access food banks across the country, yet they also report significant shortfalls in meeting the food security needs of their communities.<sup>16</sup>

As previously discussed, basic fundamental rights to education of Indigenous children varies greatly compared to non-Indigenous children. While the 2018 federal budget earmarks over \$5 billion for “Indigenous and Northern Investments,” only \$10 million is dedicated to Métis postsecondary education. Elementary schools remain underfunded, understaffed and largely ignored. What monies have been dedicated to education do little to strengthen pathways for children from elementary school to high school to postsecondary school, regardless of where they live. As discussed in more detail below, perceptions of Indigenous communities as others or as a minority group within Canada reinforces the structure that limits opportunities for Indigenous children and justifies continued rights violations of Indigenous children.

## Civil Rights

Rights violations and challenges of people’s civil rights (or rights that are based on laws or legal decisions) have been well-documented in Canada over the last several years. Civil rights violations of those living on the margins and in marginalized communities persist and are further evidence that diversity often means disadvantage for many Canadians. Consider the following:

- Indigenous women, men, girls and boys are more likely to be questioned and documented by police, are more likely to be charged by police, are less likely to obtain counsel, are more likely to be denied bail, are more likely to be held in remand, are more likely to be sentenced to custody and are more likely to receive longer sentences of incarceration;
- the failure of police services across Canada to adequately investigate cases of missing and murdered Indigenous women and girls<sup>17</sup>;
- the failure of police services to adequately investigate the disappearance of several marginalized men in Toronto, allowing alleged serial killer Bruce McArthur to prey on gay men for over a decade without detection<sup>18</sup>;
- offenders in prison spending egregiously long periods of time in segregation, well-documented for mentally ill inmates and federally sentenced Indigenous women<sup>19</sup>;
- racial profiling of racialized Canadians by judicial agents (see Chapter 4 for more discussion);



- continued violations of the “Mandela Rule” in prisons across Canada (United Nations Standard Minimum Rules for the Treatment of Prisoners).<sup>20</sup>

This list comprises only a few selected examples of continued civil rights violations to demonstrate how precarious lived experience and rights protections are for diverse Canadians.

## Political Rights

When we consider political rights we often think about the right to vote or assemble or protest but when we once again consider diversity and human rights, we understand how navigating political rights and public spaces to assemble, protest or vote are often mitigated by one’s social location. Analysis of social protests and social movements like Idle No More (which began in December of 2012) and Black Lives Matter (founded in July 2013) suggests a perpetuation of colonial and racist ideation and sometimes severely biased coverage. Christie Blatchford’s racist column in the *National Post* in 2012 used words like “inevitable puffery and horse manure” in her column headline to describe the Idle No More movement and Chief Theresa Spence’s hunger strike. An op-ed piece written by Jeffrey Simpson, which appeared in the *Globe and Mail* in 2013 entitled “Too many first nations people live in a dream palace” questions the lived “reality” of Indigenous Peoples and allies. In 2013, the Calgary *Sun* was accused of fuelling racism after publishing comments and polls from readers that perpetuated stereotypes, racism, hate and colonial mistruths about Idle No More.

The coverage of Black Lives Matter movements across the world were inundated with racism both implicitly and explicitly. Black Lives Matter Toronto co-founder Janaya Kahn discusses media coverage of Black Canadians:

When language is being used like “hijacked,” when language is being used like “bullied,” when language is being used like “hostage,” these are really problematic and very dangerous, particularly when we hosted a sit-in in a public place. So the question that always comes up is: would this have been different if we were six white men? Would they be using that language then? I don’t think so. I’ve never seen that language used when white people have demonstrations. We didn’t see the media cover Occupy the way that they covered BLMTO Tent City. We saw the police treat Occupy in a certain way. They were allowed to have tents and fire. We were not allowed to have those in the middle of winter at Tent City for all 15 days that we were there. So I think the media has been deeply irresponsible. I think the media has been anti-black in its practice.<sup>21</sup>

In their content analysis of American media coverage of Black Lives Matter, Mohamad Hamas Elmasry and Mohammed el-Nawawy conclude:

African Americans, as well as other minorities, are more likely portrayed as violent and dangerous, while the white majority is portrayed as victim, and capitalized on investment of concepts like victimization and humanization in perpetuating negative stereotypes about African Americans, enforcing white privilege and downplaying white crime.<sup>22</sup>

It is clear that navigating public space and engaging in the right to assemble and protest is not always perceived as a universal right. The implications of racist, biased and stereotypical media coverage may negatively influence perceptions of political rights, and the “disrupters’ validity” is questioned by the dominant discourse. For those Canadians living on the margins, accessing these political rights are presented in a way that ultimately distorts the cause of the movement or social protest.

## Cultural Rights

Cultural rights expressly reinforce the protection of ancestral language, the freedom to practise rituals and customs and the protection of ancestral land. The United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) was first adopted by the General Assembly in 2007 and is a set of individual and collective cultural, economic and political rights. However, Canada remained one of four member nations who opposed the declaration, citing a conflict of interest with the Charter, mainly with Article 26 of the UNDRIP: “Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.” Canada’s ambassador to the UN, John McNee, argued that the declaration is “overly broad, unclear and capable of a wide variety of interpretations,” which could lead to the resurrecting of settled land claims and existing treaties.<sup>23</sup> It took nearly ten years for Canada to support the declaration, which appears to be an intentional delay to address sovereignty, self-governance and land claims, rather than that the UNDRIP overlooks cultural rights to food, culturally specific healthcare and housing and self-determination. Cultural diversity and the discourse of cultural rights of Indigenous Peoples often suffers from **ethnocentrism**, whereby Indigenous cultural rights are evaluated against the dominate hegemonic cultural discourse.

The TRC provides overwhelming evidence of the role the Canadian government played in the cultural genocide of Indigenous Peoples through the creation of residential schools. Set up and maintained by the government and churches to assimilate Indigenous children into mainstream society, residential schools were essentially

### **Box 1.10 Innov8**

#### **Indigenous Language Rights**

As part of its 2015 election platform to promote and protect Indigenous languages, the Liberal government engaged in a consultation with leaders from the Assembly of First Nations, Inuit Tapiriit Kanatami and Métis National Council to inform legislation to promote and protect ninety languages and dialects identified in Canada by the UN. This includes tabling legislation that will make the recognition of Indigenous languages a fundamental right under the Constitution. Natan Obed, president of the Inuit Tapiriit Kanatami, said legislation will go “beyond the symbolism” but suggests a factor in the success of the legislation is whether the government can ensure Indigenous speakers are able to access federal government services and education in their Indigenous language, saying: “It’s an essential part of our ability to be Inuit within Canada.”

Source: Alex Ballingall, “Ottawa Planning Law to Recognize Indigenous Language Rights,” June 1, 2018 <[thestar.com/news/canada/2018/06/01/ottawa-planning-law-to-recognize-indigenous-language-rights.html](http://thestar.com/news/canada/2018/06/01/ottawa-planning-law-to-recognize-indigenous-language-rights.html)>.

designed to destroy Indigenous culture (for more detailed discussions of the residential school legacy, see Chapters 4 and 5). While some small strides have been made toward reconciliation (see Box 1.10), there are reminders that the recognition of cultural rights is still unjust and inconsistent in Canada. The federal government’s 2018 announcement of intention to purchase of the Trans Mountain pipeline, the plans for which include developing on sacred lands that ought to be protected under cultural rights, is a reminder of how the federal government continues to justify cultural rights violations.

### **Economic Rights**

Economic rights are seen as contentious by some and simply ambitious by others.<sup>24</sup> There is a deeply entrenched stereotype in the dominant discourse about *who* receives assistance or support and *why*: specifically, ideas that social assistance is usually accessed by newcomers or that people who receive assistance do so because they are “lazy” and will not work. While both are false, it is this stereotype that permeates conversations about economic rights and makes these provisions highly controversial. Immigrants, the poor, the homeless, women and low-income earners become easy targets of the stereotype, while facts about access and supports are ignored (see Chapter 6 for a more detailed discussion).

Economic rights are also seen as aspirational, in that our intentions to provide assistance are hindered by inadequate funding, inconsistent models of support (compare

### **Box 1.11 Innov8**

#### **The Living Wage**

“A living wage is the hourly wage a worker needs to earn to cover their family’s basic expenses within their community. It is calculated based on the needs of a two-parent family with young children, but would also support a family throughout the life cycle so that young adults are not discouraged from having children and older workers have some extra income as they age.”

Living wages are not rights guaranteed by the Charter or provincial or territorial social assistance legislation. Advocates argue that the living wage be based on regional calculations of what employers pay their employees that is sufficient to maintaining a dignified standard of living. Living wage rates vary dramatically across Canada:

Victoria, BC - \$20.50	Edmonton, AB - \$16.31
North Central BC - \$16.51	Waterloo, ON - \$16.10
Winnipeg, MB - \$14.54	Simcoe County, ON - \$17.74
Whitehorse, YK - \$18.26	Nipiwán, SK - \$15.17
Calgary, AB - \$18.15	

Source: Living wage rates come from communities across Canada that have calculated the “living wage rate” and publish these rates on <[livingwage.ca](http://livingwage.ca)>.

the platforms of your province’s or territory’s political parties and you will see they vary dramatically in terms of supporting and funding social assistance) and most importantly our current social assistance programs, which fall significantly short in providing comprehensive support. Paying all employees across Canada a living wage is seen as a more innovative solution to both these issues. The rationale is that if we pay people a wage that realistically covers housing, food and clothing expenses there would be less demand on social assistance programs to provide support. See Box 1.11 for a more detailed discussion of the living wage in Canada.

### **Environmental Rights**

Environmental rights are the obligation of the state to protect all persons from environmental harms. These rights and the ability to protect people from environmental harms are also, at times, controversial. There is debate about what constitutes harm, the extent of environmental harm done and questions of how we effectively protect people when individual responses to harm are so varied? Do we all have equal access to the protection of environmental rights? In Canada, socioeconomic well-being hinders equitable access to environmental rights enforcement and protection from negative

**Box 1.12 Think About...****The Story of Grassy Narrows**

For almost a decade during the 1960s Reed Paper dumped over 10 tonnes of mercury into the Wabigoon River, the lifeblood of the Grassy Narrows First Nation community in Ontario. While government officials became aware of the mercury poisoning in the 1990s, it was not until 2017 that residents and scientists exposed the cover-up and confirmed the continued contamination. Over forty years later the long term physical and mental health effects are profound, and Grassy Narrows residents have considerably worse health outcomes compared to any other Indigenous community in Canada. Watch the Toronto *Star* investigation “How mercury exposure has affected Grassy Narrows residents”: <[youtube.com/watch?time\\_continue=9&v=jVNjLPBjhFQ](https://www.youtube.com/watch?time_continue=9&v=jVNjLPBjhFQ)>.

Source: Jayme Poisson and David Bruser, “Landmark Study Reveals ‘Clear Evidence’ of Mercury’s Toll on Health in Grassy Narrows,” May 24, 2018 <[thestar.com/news/investigations/2018/05/24/landmark-study-reveals-clear-evidence-of-mercurys-toll-on-health-in-grassy-narrows.html](https://www.thestar.com/news/investigations/2018/05/24/landmark-study-reveals-clear-evidence-of-mercurys-toll-on-health-in-grassy-narrows.html)>.

environmental outcomes. The narratives of the Grassy Narrows First Nation and the Neskantaga First Nation exemplify how being Indigenous is linked to continued and fractured environmental rights (see Boxes 1.12 and 1.13).

**INDIGENOUS RIGHTS**

The history of Indigenous Peoples and the horrific and enduring impact of colonialism, the residential school legacy (the last of which closed in the 1990s) and the Sixties Scoop on Indigenous communities and lands is well documented by the TRC. The Sixties Scoop refers to the government-designed and approved adoptions of Indigenous children from their families in the 1960s. The literal scooping of children from their homes was a byproduct of colonialism to assimilate Indigenous children into the mainstream.

Our systems of laws and human rights were constructed, developed and have been maintained largely through colonial ideologies and colonial institutions (e.g., government, politics, religion, education, criminal justice).<sup>25</sup> It is difficult to understand how rights designed to protect people are inexorably linked with the social institutions responsible for a cultural genocide and other horrors against Indigenous Peoples. Colonialism exists and persists to subordinate and disadvantage Indigenous Peoples and communities and questions Indigenous identity; as a result, Indigenous often becomes synonymous with minority. James Tully explains: “Indigenous people exist *within* the dominant societies as minorities, domestic, dependent nations, aboriginal

**Box 1.13 Think About...****The Right to Clean Water**

The Neskantaga First Nation, a northern Ontario community, has been without safe tap water since 1995. For over twenty years the Neskantaga have not been able to drink water from their taps or bathe in the water without getting sick. Neskantaga Chief Wayne Moonias contends: “Water is a basic human right, and it should not have taken this long to provide the people of Neskantaga with access to safe drinking water.” Federal funding promised to the Neskantaga to end the boil water advisory in 2018 was still not complete upon publishing of this text. How can Canada violate basic human rights of its people? Would the boil water advisory have gone on this long if it had been a city like Montreal, Toronto or Vancouver instead of a remote First Nations community?

Source: Judy Porter, “Canada’s Longest-Standing First Nations Boil Water Advisory Will End in 2018, Liberals Say,” July 28, 2017 <[cbc.ca/news/canada/thunder-bay/neskantaga-water-plan-1.4225889](http://cbc.ca/news/canada/thunder-bay/neskantaga-water-plan-1.4225889)>.

**Box 1.14 Think About...**

Watch the CBC’s news report about the Adopt an Indian and Métis program from 1968: <[cbc.ca/player/play/1177224259554/](http://cbc.ca/player/play/1177224259554/)>.

The cumulative impact of genocide, colonialism, the residential school legacy and the Sixties Scoop for Indigenous women, men, girls and boys has resulted in:

- intergenerational trauma;
- higher rates of victimization, violence, abuse, addiction and suicide;
- overrepresentation, in varying degrees, at all levels of the criminal justice system — applies to men and boys but is especially true for women and girls;
- exposure to higher rates of violent crime and more likely to suffer from intimate partner violence;
- an unknown number of women and girls missing and murdered;
- reduced access to healthcare;
- poorer health outcomes, including lower life expectancy, lower birth rates, higher rates of diabetes;
- reduced access to education (especially high school and postsecondary);
- the most frequent and longest boil water advisories on record in Canada;
- exposure to substandard living conditions; and
- higher rates of unemployment.

Source: The cumulative findings are presented in the Truth and Reconciliation Commission, Final Report, 2015 <[trc.ca/websites/trcinstitution/index.php?p=890](http://trc.ca/websites/trcinstitution/index.php?p=890)>.

peoples or First Nations of Canada and so on” and not as first peoples to the land.<sup>26</sup> This is done to maintain the construction of a false ideology where Indigenous Peoples are perceived as a minority group in comparison to the rest of non-Indigenous Canada. Roger Merino Acuña explains further: “These discourses stem from understanding Indigenous rights as ethnic minority rights, to ensure their inclusion within the political and economic framework of the state, ‘tolerating’ their cultural diversity.”<sup>27</sup> The result is a society where intergenerational racism persists, and Indigenous Peoples are forced to interact and exist within systems deeply entrenched in colonialism.

Tully explains that the persistent strategy to extinguish the rights of Indigenous Peoples is undertaken in several ways, which maintains intergenerational racism and a belief system entrenched in explicit and implicit rights-denial. The first centres around the question of rights ownership and whether Indigenous Peoples should have self-governing rights or not. A public opinion survey of non-Indigenous Canadians reveals that Canadians are divided on whether they believe Indigenous Peoples have unique rights as the first inhabitants of Canada or have rights similar to other cultural or ethnic minority groups in society.<sup>28</sup> About half of those who responded supported the statement that Indigenous Peoples have unique rights as the original inhabitants of the land; however, these opinions varied greatly from the East Coast (more likely to support) to the West Coast (less likely to support). While opinions vary, it appears the state continues to wade in muddy waters, while making some decisions to uphold and create new rights (see Box 1.10 about Indigenous language rights) while others perpetuate a denial of rights (e.g., TransCanada Pipeline, centred on land and treaty rights). Rights are then extinguished through laws, decision-making, ideas about sovereignty or through treaties, agreements and partnerships with the state.<sup>29</sup>

Finally, Indigenous Peoples as unique rights-protected people are simply thought of as unnecessary if they are assimilated into the dominate, settler society (continuously achieved through colonialism) and this questions Indigenous status, personhood and subsequently rights. One could conclude that the need for Indigenous rights is superfluous if Indigenous Peoples are considered a minority group, part of a larger collective, sovereign state. The resistance to Indigenous self-governance and treaty claims is further evidence of colonialism and a continued effort to extinguish the rights of Indigenous peoples.<sup>30</sup> Rights-infringement continues to legitimize the settlement of Indigenous land, and resistance to such efforts are presented in a way that

### **Box 1.15 Innov8**

Listen to the CBC podcasts “Missing and Murdered,” which explore actual cases of missing and murdered Indigenous women and girls.

**Box 1.16 Think About...**

In 2017, Lynn Beyak, now-disgraced senator removed from the national caucus, made headlines when she claimed residential schools were “good” for some and went on to post racist and discriminatory letters of “support” on her website. Offering his support, Beyak’s son, a city councillor in Dryden, ON, argued: “Whether anyone wants to admit it or not, the majority of Canadians agree with the comments Sen. Beyak has said.... How can you say that nurses and priests were bad people and did no good at those schools? How can a logical person say that and call a person who says that a racist? The connection is impossible.” How are Beyak’s actions and the words of her son evidence of intergenerational racism? How are these beliefs passed from one generation to the next?

Source: Andray Domise, “Lynn Beyak and the Real Danger of Racist Fabulism,” *Maclean’s*, January 9, 2018 <[macleans.ca/opinion/lynn-beyak-and-the-real-danger-of-racist-fabulism/](http://macleans.ca/opinion/lynn-beyak-and-the-real-danger-of-racist-fabulism/)>.

questions legitimate status (who was here “first”) and authority (proof of who you are — title, blood quantum, status) from legitimate land claims. Examples include Ipperwash, Caledonia, Oka, the Pinery, *R v. Caulder* (1973), *R v. Sparrow* (1990), and many more. As Manuhua Barcham argues, the “problems of ‘indigenous identity’ are, in turn, symptomatic of a more fundamental deficiency in our current theories and praxis of indigenous rights: the recognition of difference in terms of the maintenance of prior identity.”<sup>31</sup> While the current Liberal federal government proposes to work with Indigenous communities they are not obliged to get consent or partner with Indigenous communities (consider the federal government’s purchase of the Trans Mountain pipeline and the ongoing struggle of Indigenous communities to block development that infringes on and destroys Indigenous land).

If we examine protections of individual rights through the Constitution or the Charter, we have to acknowledge that these are part of a larger colonial framework and that, despite explicit protections (e.g., section 35 of the Constitution Act and section 25 of the Charter [see Box 1.17]), violations of these rights persist. Social, political, economic and cultural legal safeguards designed to protect Indigenous individual and group rights are then problematized. In spite of a growing appreciation of Indigenous history and the positive impact of the TRC and its findings, decision-making and questions of self-governance remain heavily entrenched in colonial attitudes and ways of thinking about settler society. The call for cultural self-determination brings to light the difficulty in balancing individual cultural rights and human rights. Indigenous Peoples continue to be victims of gross human rights violations.



**Box 1.17 Diversity in Action****Canadian Charter of Rights and Freedoms:**

- s. 25. The guarantee in this Charter of certain rights and freedoms shall not be construed as to abrogate or derogate from any Aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
  - (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired.

**GENDER AND HUMAN RIGHTS**

Human rights, in theory, are equal for all individuals but we know this is not always the case for some people, especially women. Women and girls are more likely to live in poverty, more likely to be victimized, more likely to be paid a lower wage for equal work, more likely to be the victim of a domestic homicide and more likely to suffer from the stereotypes that limit them from jobs in science, technology, engineering and math. Rights-based feminists argue that equality is achieved through equal participation, equal pay and empowerment in decision-making. However, as we have seen throughout this chapter, the creation of laws, policies and regulations does not necessarily translate into meaningful social change for women and girls, especially marginalized women and girls (see Chapter 7 for a thorough examination of gender and diversity).

**SEXUAL DIVERSITY AND HUMAN RIGHTS**

An examination of human rights and diversity compels one to examine how we balance individual rights over cultural rights. This is no more evident than in a discussion of sexual diversity and human rights. The UN dictates that there ought to be a priority of human rights over cultural rights but similar to the examination of religious rights and sexual reproduction rights (see Box 1.1), it is clear there is disconnect between individual rights like sexual rights and heteronormativity as a cultural right. Michael

***Box 1.18 Innov8***

What is Indigenous activism? Watch the National Film Board documentary “The Road Forward,” a documentary/musical that explores the roots of civil rights and Indigenous Activism in Canada.

**Box 1.19 Think About...**

In 2015, CBC reporter Shauna Hunt was interviewing spectators at a Toronto Football Club match when a man yelled an obscenity live on-air at the reporter. The incident was posted to Twitter by the reporter and was widely covered in the media. Search the incident online, and you will find out the man was originally fired from his job at Hydro One but appealed the decision and remains an employee of the publicly funded company. How does this example demonstrate the complex balance between human rights and gender?

Freeman writes: “How should we define the right to freedom of religion of those whose religion denies that all human beings are equal in rights? How can we make sense of human rights if the implementation of some human rights requires the violation of others?”<sup>32</sup> Freeman calls this quandary “compossible,” whereby the protection of some rights may require the violation of others and vice versa. He uses the example of settler rights that did not include rights protection of Indigenous Peoples or women.

There have been significant social, legal and cultural changes surrounding the protection of sexual rights. However, Chapter 8 explores sexual diversity and how the dominant discourse and the desire to protect cultural rights over individual rights continues to problematize the sexual rights of all Canadians.

**DISABILITY AND HUMAN RIGHTS**

Human rights violations based on disability take many forms: unemployment, under-employment, institutionalization, social and political exclusion, violence and abuse, and a lack of access to social services and social supports. There is prejudice and discrimination embedded in the principal barriers to the participation of persons with disabilities in all rights: social, civil, political, economic and cultural. Section 15 of the Charter prohibits discrimination based on mental or physical disability; however, we see in Chapter 9 that violations of human rights because of disability have not been thoroughly addressed through legislation, policy or regulation.

**CONCLUSION**

This chapter explores human rights within the context of Canadian diversity and highlights the complex relationship Canada has both as enforcer and perpetrator of human rights violations. The paradox of human rights further problematizes human rights standards and current legislation as simply human rights protection in theory

### **Box 1.20 Innov8**

Read more about government programs that resulted in significant human and sexual rights violations and perpetuated homophobia in Chapter 8. For more, watch the 2018 documentary “The Fruit Machine,” directed by Sarah Fodey: <[tvo.org/video/documentaries/the-fruit-machine](http://tvo.org/video/documentaries/the-fruit-machine)>. Chapter 8 also details the story of Jim Egan, Canada’s first gay rights activist. To learn more watch Canada’s first LGBTQ Heritage Minute: <[youtube.com/watch?v=rac4WiTDQHg](https://www.youtube.com/watch?v=rac4WiTDQHg)>.

but not always in practice, which is especially true for Canadians living on the margins of society. Freeman argues that the backlash against extending rights or revisiting existing ones is a result of “rights inflation,” where human rights as a concept is perceived as being extended to too many different causes, issues, events or circumstances. The remaining chapters in this book provide compelling evidence for human rights extensions, continued meaningful discourse and profound changes to the enforcement of rights protections for all Canadians.

### **CRITICAL REVIEW QUESTIONS**

---

1. If you could create one human rights law, what would it be and why do you think it is needed?
2. How are human rights similar to legal rights? How are they different?
3. Look up examples of current human rights cases in your province or territory. How are they similar or different to historical human rights cases?
4. Despite the Charter and existing human rights laws, does the treatment of human rights vary in practice? Use specific Canadian examples to illustrate your answer.
5. How do you think human rights will change over the next fifty years as society changes?

### **RECOMMENDED READINGS**

---

- Canadian Charter of Rights and Freedoms (1982).  
 Peter Knegt, *About Canada: Queer Rights* (Halifax and Winnipeg: Fernwood Publishing, 2011).  
 Robyn Maynard, *Policing Black Lives: State Violence in Canada from Slavery to the Present* (Halifax and Winnipeg: Fernwood Publishing, 2017).  
 Lisa Monchalin, *The Colonial Problem: An Indigenous Perspective on Crime and Injustice in Canada* (Toronto: University of Toronto Press, 2016).

Senate Committee on Human Rights, *Life on the Inside: Human Rights in Canada's Prisons* (2017).

Truth and Reconciliation Commission Report (2015).

United Nations Declaration on Human Rights (1948, 2015).

## KEY TERMS

**ethnocentrism:** evaluating the world from the perspective of a person's own culture.

**human rights:** the ethical, moral and fundamental characteristics of a society. They are universal, equal and all people have them.

**negative rights:** cannot be denied by the state or anyone in it: the right to life, individual safety and security, freedom from undue interference of the state, integrity, free speech.

**positive rights:** must be provided by the state: food, clothing, housing, healthcare, education, employment, social assistance.

**rights-oriented movements:** social justice movements that emphasize human rights.

**rights-protected people:** all human beings in a society who have human rights.

**rights violations:** abuses of human rights.

## Notes

1. Roger Maaka and Augie Fleras, "Engaging with Indigeneity: Tino Rangatiratanga in Aotearoa," in Duncan Ivison, Paul Patton and Will Sanders (eds.), *Political Theory and the Rights of Indigenous Peoples* (New York: Cambridge, 2000), 107.
2. For a detailed history of human rights development, see Michael Freeman, *Human Rights* (Massachusetts: Polity Press, 2017).
3. For a discussion of human rights as a moral system, see Judith Blau and Mark Frezzo (eds.), *Sociology and Human Rights: A Bill of Rights for the Twenty-First Century* (Los Angeles: Sage, 2012), 3.
4. Blau and Frezzo, *Sociology and Human Rights*, 3.
5. James W. Nickel, *Making Sense of Human Rights*, 2nd ed. (Malden, MA: Blackwell, 2007).
6. The exact difference in spending has been widely debated over the last several years, with some arguing different funding models make it impossible to compare Indigenous and non-Indigenous education. However, the 2013 policy report *The Debate on First Nations Education Funding: Mind the Gap*, by Don Drummond and Ellen Kachuck Rosenbluth, makes the differences clear. Their findings mirror the well-documented disparities that exist for all Indigenous People in funding for healthcare, education and income.
7. Scott Gilmore, "Canada's Race Problem? It's Even Worse than America's," January 22, 2015 <macleans.ca/news/canada/out-of-sight-out-of-mind-2/>; Statistics Canada, *Insights on Canadian Society: Young Men and Women Without a High School Diploma*, 2017 <150.statcan.gc.ca/n1/en/pub/75-006-x/2017001/article/14824-eng.pdf?st=-hOYIGBx>.
8. Anthony Woodiwiss, *Human Rights* (London: Routledge, 2005).
9. Judith Blau, "Going Forward," in Blau and Frezzo, *Sociology and Human Rights*, 273.
10. Blau and Frezzo, *Sociology and Human Rights*.
11. CAUT Online, "The Slow March Toward Equity," April 2018 <caut.ca/bulletin/2018/04/slow-march-toward-equity>.

12. Adult and youth correctional statistics in Canada, 2016/2017, released Tuesday, June 19, 2018 <150.statcan.gc.ca/n1/daily-quotidien/180619/dq180619a-eng.htm>.
13. Maaka and Fleras, "Engaging with Indigeneity."
14. Homeless Hub, "How Can We Improve Healthcare Access for the Homeless," n.d. <homelesshub.ca/resource/how-can-we-improve-healthcare-access-homeless>.
15. Jennifer Pagliaro, "Planned Closure of Hundreds of Social Housing Units Called 'Failure' of Governments as Waiting List Grows." April 25, 2017 <thestar.com/news/city\_hall/2017/04/25/planned-closure-of-hundreds-of-social-housing-units-called-failure-of-governments-as-waiting-list-grows.html>.
16. S.J. Cumming, Michael McNamara, Jessica E. Pulis and Rory Sommers, *Housing Hurdles: Housing for Everyone*, Report for Halton Region (December 2016).
17. National Inquiry into Missing and Murdered Indigenous Women and Girls <http://www.mmiwg-ffada.ca/>.
18. A full investigation of the Toronto Police Service and the Bruce McArthur case will take place after McArthur's trial. At the time this chapter was written, McArthur has been charged with eight counts of murder; however, this number may increase as police continue their forensic investigation.
19. I. Zinger, "Annual Report," Office of the Correctional Investigator 2016–2017, 2017.
20. Zinger, "Annual Report."
21. Zane Schwartz, "How a Black Lives Matter Toronto Co-Founder Sees Canada," July 8, 2016 <macleans.ca/news/canada/how-black-lives-matter-co-founder-janaya-khan-sees-canada>.
22. Mohamad Hamas Elmasry and Mohammed El-Nawawy, "Do Black Lives Matter? A Content Analysis of New York Times and St. Louis Post-Dispatch Coverage of Michael Brown Protests," *Journalism Practice*, 11 (2016), 1–19.
23. CBC Online, "Canada Votes 'No' as UN Rights Declaration Passes," September 13, 2007 <cbc.ca/news/canada/canada-votes-no-as-un-native-rights-declaration-passes-1.632160>.
24. For a detailed discussion see Daniel Béland and Pierre-Marc Daigneault (eds.), *Welfare Reform in Canada: Provincial Social Assistance in Comparative Perspective* (Toronto: University of Toronto Press, 2015).
25. Lisa Monchalin, *The Colonial Problem: An Indigenous Perspective on Crime and Injustice in Canada* (Toronto: University of Toronto Press, 2016).
26. James Tully, "The Struggles of Indigenous Peoples for and of Freedom," in Duncan Ivison, Paul Patton and Will Sanders (eds.), *Political Theory and the Rights of Indigenous Peoples* (New York: Cambridge, 2000), 37–38.
27. Roger Merino Acuña, "Minorities or Nations? Discourses and Policies of Recognition of Indigenous Peoples' Rights," *Alternautas*, 1, 1, (2014): 41–47 <alternautas.net/blog/2014/7/8/minorities-or-nations-discourses-and-policies-of-recognition-of-indigenous-peoples-rights>.
28. Keith Neuman, "Canadian Public Opinion on Aboriginal Peoples," 2016 <nctr.ca/assets/reports/Modern%20Reports/canadian\_public\_opinion.pdf>.
29. For a detailed history of treaties and their continued treatment and impact refer to the Truth and Reconciliation Commission of Canada <trc.ca/websites/trcinstitution/index.php?p=3>.
30. Manuhia Barcham, "(De)Constructing the Politics of Indigeneity," in Duncan Ivison, Paul Patton and Will Sanders (eds.), *Political Theory and the Rights of Indigenous Peoples* (New York: Cambridge, 2000).
31. Barcham, "(De)Constructing the Politics of Indigeneity," 137.
32. Michael Freeman, *Human Rights*, p. 5.