



CANADA
Humanist Association of Ottawa
Submission on the
Human Rights Council Universal Periodic Review
44th Session of the UPR Working Group, November 2023

Organization: Humanist Association of Ottawa (HAO)

Website: <https://ottawahumanists.net>

Email: humanism062021@gmail.com

Phone: 1+613-314-1395

Mailing Address: PO Box 8733 STN T Ottawa Ontario Canada K1G 3J1

About the Humanist Association of Ottawa

1. The Humanist Association of Ottawa is a registered not-for-profit organization incorporated in 1968 that seeks to promote the cause of humanism, foster the humanist community in Ottawa, and advocate for a secular public domain. We are committed to ensuring that our guiding principles – including international human rights, critical thinking and rational thought, and environmental stewardship – are upheld in Canadian society. In this regard, we focus on social issues such as women’s reproductive rights, access to medical assistance in dying (MAiD), support and assistance to secular refugees and asylum seekers, freedom of expression, as well as freedom of thought, religion and conscience. We recognize the importance of evidence-based approaches to address human suffering, and of ensuring that all individuals have equal opportunity to maximize their potential.
2. Recent examples of how we implement these principles include:
 - Undertaking national petitions, letter-writing, and advocacy campaigns in support of secularists, atheists, apostates, agnostics, and humanists at risk in foreign countries (November 2021);
 - Collaborating with other Canadian secular organizations in lobbying the federal government to accept secular refugees fleeing religious persecution (January 2022);
 - Organizing counter-protests on Parliament Hill advocating women’s reproductive rights (May 2022); and
 - Celebrating LGBTI rights as human rights, Ottawa Capital Pride (July 2022).
3. We are convinced that by taking these actions, we can help to ensure that Canadian society continues to make progress in the field of international human rights. The Humanist Association of Ottawa is dedicated to creating a world where reason and compassion guide public policy and social values.

Executive Summary

4. The Canadian legislative framework perpetuates systemic religious discrimination by providing state-funded separate school systems for minority circumstance Catholic and Protestant populations, in violation of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Recent legal attempts to address this injustice have proven unfeasible, as evidenced by the Ontario Supreme Court's dismissal of a case in November 2022, further entrenching flagrant religious discrimination in Canada's legislation and raising it to a level that demands urgent attention.
5. Canadian law governing marriage solemnization is also in clear violation of the principles of fairness, equality, and the right to freedom of thought, conscience, and religion. The existing patchwork of provincial and territorial regulations has created a discriminatory environment for humanists and the non-religious; only British Columbia and Ontario recognize humanist officiants for marriage solemnization. This inconsistency directly contradicts the principles enshrined in Canadian law and values, and is in breach of international human rights agreements, such as Articles 18 and 19 of the ICCPR and the UDHR. The persistence of this discriminatory practice tarnishes Canada's reputation as a nation that upholds human rights and equality. Urgent action is required from the Canadian government to rectify this grievance and ensure that all citizens, regardless of their province/territory of residence, have access to the same rights and freedoms.
6. Accordingly, the HAO recommends that:
 - By November 2025, the federal government should establish a publicly accessible legal defense fund for Canadians who have human rights claim against any federal, provincial, territorial government or its agencies in matters of systemic faithism, and freedom of religion or belief.
 - By April 2026, Canada's federal, provincial, and territorial governments establish a task force responsible jointly to the Canadian Human Rights Commission and The Council of the Federation to research and propose solutions to Canada's ongoing funding of faith-based educational institutions and establish an action plan, within three years, which treats all Canadians equally and fairly.
 - By November 2026, Canadian federal, provincial, and territorial governments should hold a referendum vote on the fair treatment of all Canadians in matters of public funding of faith-based educational institutions. The referendum question should solicit the perspective of Canadians as to whether they support the claims of constitutionality of discriminatory funding.
 - By November 2027, Canada's federal, provincial, and territorial governments agree to amend the Canadian Charter of Rights and Freedoms to formally assert neutrality in all matters of religion, whether historically based or not, and reject systemic faithism as a

violation of the human rights of all Canadians. This should be advanced by a cooperative effort of The Council of the Federation and the Prime Minister's Office.

A. State Implementation of Cycle 3 Recommendations regarding Freedom of Religion or Belief

7. Although Canada has accepted many recommendations of the Office of the United Nations High Commissioner for Human Rights (OHCHR)¹ related to freedom of religion, discrimination, and inclusion in education for minorities, none of these recommendations specifically addressed religious discrimination by Canada, which takes the form of preferential treatment and legally entrenched exemptions for certain Christian groups. This type of state-sanctioned discrimination not only affects non-religious individuals but also those who practice religions (especially non-Christian faiths) that are not specified by the Canadian legal framework.
8. Despite the creation of the Office of Human Rights, Freedoms and Inclusion (OHRFI)² to address freedom of religion and expression, Canada has not applied international human rights standards to address its own constitutionally entrenched religious discrimination. Although Canada co-chaired two meetings of the International Contact Group on Freedom of Religion or Belief (ICG-FoRB)³, these meetings did not discuss Canadian state-sanctioned religious discrimination in state-funded education. During the last UPR Review cycle, Canada did not implement any direct or indirect action to address this human rights issue, and Canada received no recommendations and thus did not implement any actions regarding freedom of conscience.

B. Constitutional and legislative framework: Denominational Schools

9. In defiance of the Universal Declaration of Human Rights, specifically Articles 18 and 19, the Canadian Constitution Act of 1867⁴, the Alberta⁵ and Saskatchewan Acts⁶, 1905,

¹ In UPR Cycle 3, Canada received 11 recommendations citing discrimination in any form.

² Office of Human Rights, Freedoms and Inclusion

https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/freedom_religion-liberte_religion.aspx?lang=eng

³ International Contact Group on Freedom of Religion or Belief https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/freedom-religion-liberte-group_groupe.aspx?lang=eng

⁴ Constitution Act, 1867, 30 & 31 Victoria, c 3 <https://laws-lois.justice.gc.ca/eng/const/page-1.html>

⁵ The Alberta Act, 1905, 4-5 Edw. VII, c. 3 (Can.) <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/constitution/lawreg-loireg/p1t121.html>

⁶ The Saskatchewan Act, 1905, 4-5 Edw. VII, c. 42 (Can.) <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/constitution/lawreg-loireg/p1t131.html>

and the Nunavut Act⁷, 1993 blatantly enshrine systemic religious discrimination by providing for state-funded separate school systems for minority Catholic and Protestant populations. As a result, Ontario, Alberta, Saskatchewan, Yukon, and the Northwest Territories continue to maintain fully funded separate Catholic school boards which, distressingly, are legally allowed to engage in religious discrimination in staff hiring and student admissions. For instance, applicants for most jobs are normally required to provide baptismal certificates⁸, and teachers must be “practicing Catholics”⁹ As well as the discriminatory practice of faith-based eligibility for election of Roman Catholic School Board Trustees¹⁰. This unacceptable discrimination is further evidenced in biased curriculum, hiring practices, and school construction designs¹¹ that incorporate chapels at public expense. Although students in some jurisdictions may theoretically opt out of mandatory religious instruction, the little used process is made onerous through complex and demanding administrative requirements¹².

10. Blatantly disregarding the Universal Declaration of Human Rights¹³, particularly Article 2 and Article 7, the Canadian constitutional and legislative framework legitimizes discriminatory practices known as “systemic faithism”¹⁴ by granting preferential exemption and funding to denominational schools on an exclusionary basis. These articles maintain that all people are entitled to equal rights and protection under the law, regardless of their religion. Additionally, the school systems violate Article 26 of the International Covenant on Civil and Political Rights¹⁵, which prohibits discrimination based on religion, as well as Article 27, which mandates that minority groups should not be denied the right to enjoy their own culture, practice their own religion, or use their own language. The entrenched discriminatory practices of Catholic schools are in direct violation of these articles, as they extend special privileges to members of certain religions, while discriminating against others, including the non-religious.

⁷ Nunavut Act (S.C. 1993, c. 28) <https://laws-lois.justice.gc.ca/eng/acts/n-28.6/>

⁸ Ottawa Catholic School Board, Hiring Practices (Teachers), March 2021.

https://docs.google.com/document/d/1D-gRvxYPxO83_scX2HJbNNxEGkRtWpJ_w4ysO5dh528/edit

⁹ Ottawa Catholic School Board, Catholicity of Teaching Personnel, March 2000.

https://docs.google.com/document/d/15pIL9_YMVf8tsn1Xq0Rk4Ich-r2k78MrmDTgvqamrK4/edit

¹⁰ Ontario Education Act R.S.O. 1990, c. E.2, s. 80 (7). <https://www.ontario.ca/laws/statute/90e02#BK108>

¹¹ Ottawa Catholic School Board, Chapels in Catholic Schools, January 2005.

<https://docs.google.com/document/d/1V-GGILRCp7LdfjQDThExaSkktcUzKcznJfOKZmRvprE/edit>

¹² Ottawa Catholic School Board, Religious Education: Compulsory for Elementary and Secondary Students, June 2005.

https://docs.google.com/document/d/1qBnNiKxdwu_wUBeN4WvepUXgKWQvkJS8T2PFAHaM3bI/edit

¹³ Universal Declaration of Human Rights. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹⁴ Ontario Human Rights Commission, *Human Rights and Creed Research and Consultation Report*, 2013 <https://www.ohrc.on.ca/en/iii-background-and-context/4-systemic-faithism>

¹⁵ International Covenant on Civil and Political Rights, 1966. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

11. Despite recent attempts to address religious discrimination in Canada, seeking legal remedy within the current legislative framework has proven unfeasible. This was evidenced in November 2022, when the Ontario Supreme Court dismissed a case¹⁶ arguing that public funding of Ontario Catholic schools violated section 15(1) of the Canadian Charter of Rights and Freedoms by granting religious privilege. Justice Meyers ruled that the Supreme Court of Canada had already determined¹⁷ that Ontario's Roman Catholic minority held a historic constitutional right to separate school education for their children through high school, and that their children's Catholic education ought to be fully and proportionately funded. This ruling perpetuates the disturbing reality of systemic religious discrimination embedded in Canada's historic legislative framework, in direct contravention of the Universal Declaration of Human Rights.

C. Fundamental freedoms and participation in public and political life: Marriage Solemnization

12. The Canadian legislative framework surrounding the solemnization of marriage¹⁸ is in violation of the principles of fairness and equality as well as the right to freedom of thought, conscience, and religion. A patchwork of provincial/territorial regulation across the country has led to religious discrimination against humanists and the non-religious. This inconsistency in the recognition of humanist officiants for marriage solemnization is unacceptable because it means that some Canadians are granted the right to have their marriage solemnized by a humanist officiant, while others are not.
13. The fact that only two provinces – British Columbia¹⁹ and Ontario²⁰ — recognize humanist organizations as “religious bodies” in authorizing humanist officiants to solemnize marriages creates a situation where the state is not treating all citizens equally. This is a hypocritical violation of the principles of fairness and equality that are enshrined in Canadian law and values. In addition, this systemic discriminatory practice contravenes Articles 18 and 19 of the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, which guarantee the right to freedom of thought, conscience, and religion. Canada recognized the importance of fairness in these rights when LGBTI marriage rights were legalized at the federal level²¹.

¹⁶ Ontario Superior Court, *Havercroft v Ontario*, 2022 ONSC 6651

<https://www.canlii.org/en/on/onsc/doc/2022/2022onsc6651/2022onsc6651.html>

¹⁷ See clause 22 in *Havercroft v Ontario*, 2022 ONSC 6651

<https://www.canlii.org/en/on/onsc/doc/2022/2022onsc6651/2022onsc6651.html>

¹⁸ See section 92(12) of the Constitution Act, 1867, 30 & 31 Victoria, c. 3

<https://www.canlii.org/en/ca/laws/stat/30---31-vict-c-3/latest/30---31-vict-c-3.html>

¹⁹ British Columbia Marriage Act [RSBC 1996]

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96282_01#section7

²⁰ Ontario Marriage Act, R.S.O. 1990, c. M3 <https://www.ontario.ca/laws/statute/90m03>

²¹ Civil Marriage Act (S.C. 2005, c. 33), July 2005, <https://laws-lois.justice.gc.ca/eng/acts/c-31.5/page-1.html>

14. The existence of this discriminatory practice undermines Canada's credibility as a nation that values human rights and equality. The Canadian government should take immediate action to address this issue and ensure that all citizens have access to the same rights and freedoms, regardless of their province/territory of residence. This could involve recognizing humanist officiants for marriage solemnization in all provinces and territories or providing alternative means for individuals to have their marriages solemnized in a manner that aligns with their beliefs and values. It is time for Canada to eliminate this unacceptable situation and uphold its commitment to human rights and equality.

D. Recommendations

15. In view of the glaring loophole in Canada's Constitutional and legislative framework with regard to human rights, the HAO recommends that Canada:
 - (i) Establish by November 2025 a publicly accessible legal defense fund for Canadians who have human rights claims against any federal/provincial/territorial government or its agencies in matters of systemic faithism, and freedom of religion or belief.
 - (ii) Establish by April 2026 a task force responsible jointly to the Canadian Human Rights Commission and The Council of the Federation to research and propose solutions to Canada's ongoing funding of faith-based educational institutions and establish an action-oriented plan, within three years, which treats all Canadians equally and fairly.
 - (iii) By November 2026, hold a referendum vote on the fair treatment of all Canadians in matters of public funding of faith-based educational institutions. The referendum question should solicit the perspective of Canadians as to whether they support the claims of constitutionality of discriminatory funding.
 - (iv) By November 2027, amend the Canadian Charter of Rights and Freedoms to formally assert neutrality in all matters of religion, whether historically based or not, and reject systemic faithism as a violation of the human rights of all Canadians.

For more details, information, or evidence, contact:

Robert Hamilton
President
Humanist Association of Ottawa
Email: humanism062021@gmail.com
Phone: 1+613-314-1395

HAO on Cycle 4 UPR of Canada

Website: <https://ottawahumanists.net>