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# OUR LONDON FAMILY ACT



# 2021



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#OURLONDONFAMILY



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## P1. Education Reform

Schools are far too often the site of some of the most scarring lived experiences of Islamophobia in Canada for children who are Muslim and those who are perceived to be Muslim. However, schools are also sites that hold great potential for transformative social change. Studies and reports of the lived experiences of Muslim children in Canadian school systems tell us that Islamophobia takes many forms in educational contexts.

This includes 1) experiences of bullying and alienation by peers, 2) lack of understanding and supports for Muslim students, including those who have been through an Islamophobic experience, 3) Islamophobic content in curriculum, 4) absence of nuanced representations of Islam and Muslims, 5) resistance to or lack of religious accommodations for Muslim students, 6) normalized or unchecked Islamophobic discourse.





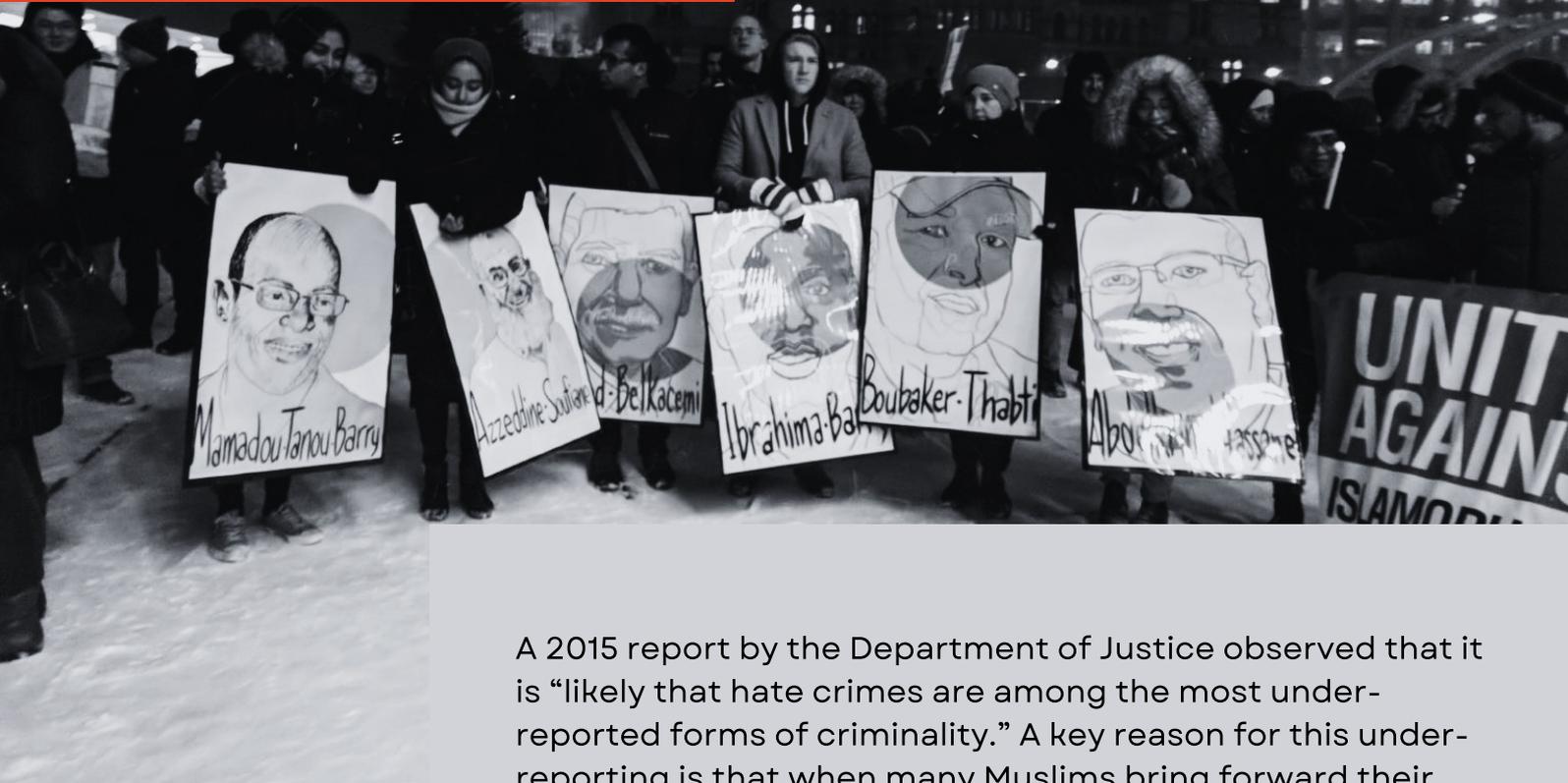
## P2. White Supremacy

We all saw the violence on the Capitol in Washington earlier this year where organizations like the Proud Boys and the Three Percenters attacked and stormed the Capitol. The reality is that hateful white supremacist rallies, often targeted at the Muslim community, have been a consistent part of the Canadian Muslim experience over the last decade. Change is needed to prevent white supremacist rallies that undermine public safety.

The Our London Family Act suggests changes that:

- a) prevent white supremacist groups from incorporating; and
- b) prevent white supremacist groups from engaging in acts of criminal intimidation within 50 metres of any synagogue, masjid, gurdwara, church, temple or other religious institution.

## P3. Ontario Hate Crime Accountability Unit



A 2015 report by the Department of Justice observed that it is “likely that hate crimes are among the most under-reported forms of criminality.” A key reason for this under-reporting is that when many Muslims bring forward their complaints about hate crimes, cases are often dropped or charges are never laid. This discourages Muslims from lodging formal complaints with police in the first place.

The most recent General Social Survey (GSS) by Statistics Canada indicates that out of approximately 223,000 self-reported hate crimes in Canada in 2019, the highest proportion were in Ontario (33%). During the same period, police reported 1,951 hate crimes, amounting to less than 1% of self-reported hate crimes being accounted for by police statistics.

Hate Crime Accountability Units can help change that by investigating breakdowns in the reporting process, advising on penalties for officials acting as barriers to reporting, and promoting third-party reporting.

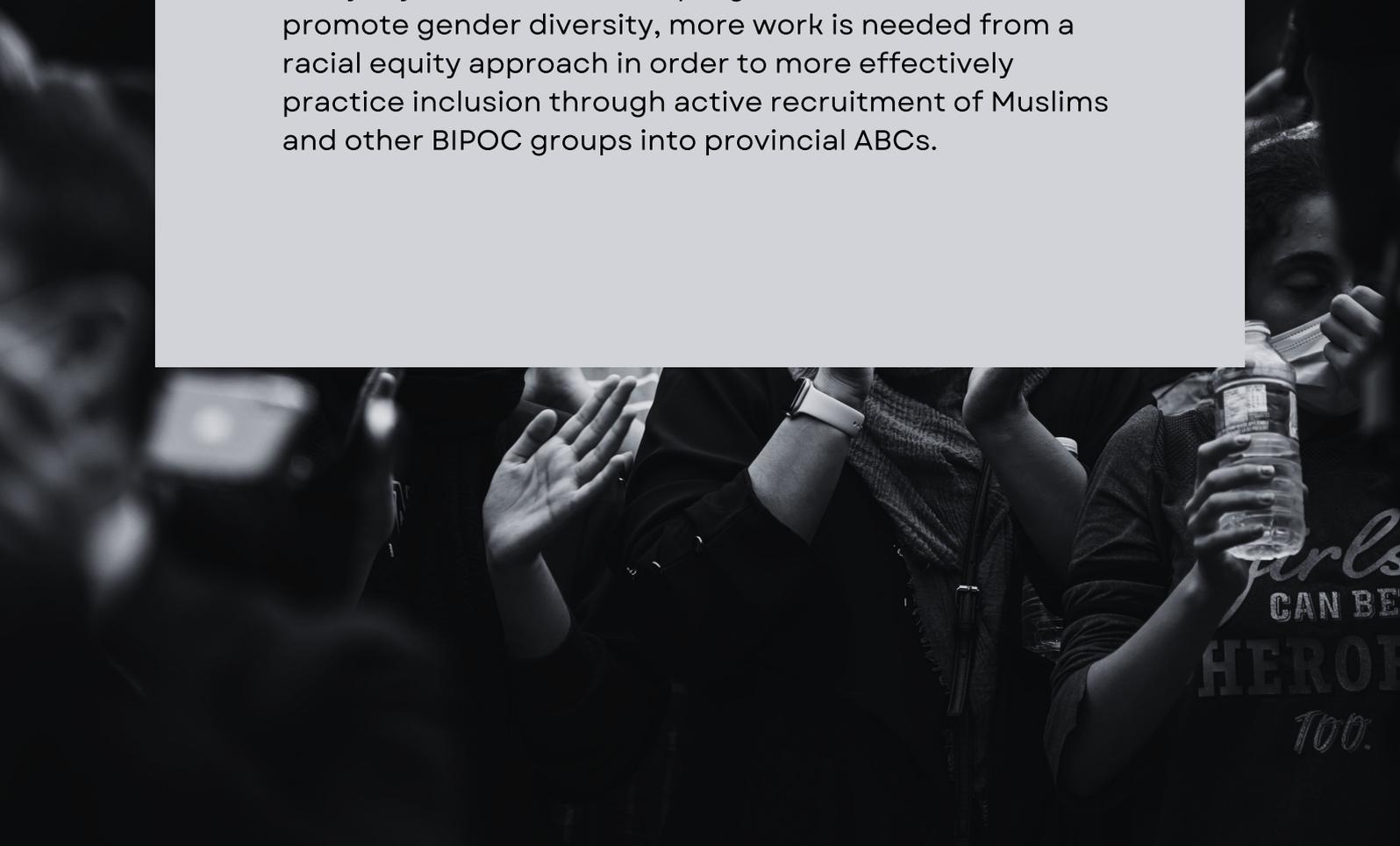
## P4. Anti-Racism

Action against racism and Islamophobia requires consistent stakeholder consultation through anti-racism councils representing diverse community voices, including Muslims. The work of such councils will be more effective if provinces fund and conduct polls regularly to locate trends or changes in attitudes regarding the state of racism and Islamophobia. This will help inform appropriate responses to negative sentiments. Diagnosing these trends requires surveys that focus on different aspects of Islamophobic sentiment, including Islamophobia at multiple intersections, such as gendered and anti-Black Islamophobia. We also need to consider that Muslims who come to Canada for a better life often face unforeseen social challenges, be it in accessing housing, work, or healthcare. Social service agencies will be able to address these challenges more effectively when frontline staff are better equipped to address racism and Islamophobia.



## P5. Recruitment of Minorities

Agencies, boards and commissions (ABCs) across different sectors affect people on a daily basis in very intimate ways. Unfortunately, leadership positions among ABCs do not represent the diversity of Canada. One recent study by Ryerson University's Diversity Institute of different types of boards encompassing almost 10,000 individuals across eight cities revealed that Black and racialized people make up just 10% of board positions despite being over 28% of the population in these cities. This has serious effects on our community, which has long called for more diversity and better representation on entities that define much of our everyday lives. While some progress has been made to promote gender diversity, more work is needed from a racial equity approach in order to more effectively practice inclusion through active recruitment of Muslims and other BIPOC groups into provincial ABCs.



## P6. Human Rights Complaints



Current limitation periods on complaints do not take into consideration how many people need encouragement to report a traumatic incident of racism or Islamophobia. This can take years to happen. That's why limitation periods should be extended to 5 years. In 2016, Ontario passed Bill 132, Sexual Violence and Harassment Action Plan Act, which abolished time limits for suing for sexual assault, domestic violence, or child abuse. In 2017, the Alberta legislature likewise amended the limitations period for survivors of sexual misconduct. Such precedents establish that there can be appropriate legislative change to limitation periods given what we have learned about the difficulties victims of hate face in filing complaints.

# P1. EDUCATION REFORM

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## NCCM RECOMMENDATIONS THROUGH AMENDMENTS TO THE EDUCATION ACT

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*Education Act*, R.S.O. 1990, c. E.2

The Education Act sets out a section on bullying prevention and creating safe schools in that respect as well as accommodations and programming for those with special education needs. A new section ought to be included with respect to anti-Islamophobia and anti-racism measures at school, which can mirror much of the anti-bullying/special education language. Some new provisions to include would be:

Amending the purposes of the Act to ensure that the Ministry has the responsibility to:

1. Create schools in Ontario that are safe, inclusive and accepting of all pupils.
2. Encourage a positive school climate and prevent hatred and discrimination based on racism and bigotry including Islamophobic, anti-Semitic, anti-Sikh, anti-Indigenous and anti-Black hatred, taking into consideration the intersectionality of people's identities and how Islamophobia and racism intersect with other forms of oppression to harm people.
3. Promote early intervention and to ensure effective complaints mechanisms exist for students who may feel discriminated against and/or hatred.
4. Provide support to pupils and staff who are impacted by hatred based on the ideology of white supremacy.
5. Provide pupils with a safe learning environment in which to thrive.

**A New Anti-Hatred Strategy That Combats Islamophobia Would Include:**

- That the Minister shall ensure that district school boards gather qualitative and/or quantitative data on the experience of racialized students and staff in schools. Every district school board shall establish a special anti-hatred advisory committee consisting of a diversity of perspectives to assist with the collection of this information.
- Based on the data collected and the audit report outlined, the Minister shall develop and maintain an anti-hatred strategy that aims to eliminate systemic racism and advance racial and social equity in schools.
- The strategy shall include culturally-responsive resource developments that address mental health needs and trauma supports for marginalized students and anti-hatred training and educational opportunities for students, educators and staff.
- A Board shall make its anti-hatred strategy available to the public by posting it on the Board's website or, if the Board does not have a website, in another manner that the Board considers accessible to the public.

**Consultation**

When establishing the anti-hatred strategy, a board shall solicit the views of the pupils, teachers and staff of the board, the volunteers working in the schools, the parents and guardians of the pupils, school councils and the public.

**Curriculum Changes Should Include Recommendations That Require That:**

The Minister shall ensure that the curriculum referenced in section 8(1) contains identity affirming resources and programs, including accurate and nuanced representation of minorities in a manner that reflects the province's Anti-Racism Strategy as promulgated under the Anti-Racism Act, 2017, S.O. 2017, c. 15.

Same, anti-Islam

For greater certainty, the Minister shall conduct a reform and review of the curriculum as it relates to Muslims and Islam.

**Audit**

The Minister shall be required appoint an auditor in order to conduct an appraisal of the district school boards on an annual basis in order to assess the adequacy of religious accommodations for students, staff and educators.

The audit report for the appraisal in shall include the auditor's findings as well as recommendations to ensure adequacy of religious accommodations. The auditor may also include a section with respect to the adequacy of the complaints mechanism established as required below.

**Complaints**

- Each school board shall ensure it has a clear and accessible mechanism for students, staff and educators to bring a complaint of racism, bigotry, Islamophobia, anti-Semitism or other hatred which undermines the purposes of this Part.
- The complaint mechanism shall include mitigation strategies for fear of reprisal, as well an escalation policy for complaints.
- If the Minister learns (through an investigation or otherwise) that a member of a school board does not have a proven commitment to opposing racism, bigotry, Islamophobia, anti-Semitism or other hatred in the post-secondary education sector, the Minister shall require that member to take anti-racism training or be subject to disciplinary measures as the case may warrant, e.g., removal from school board position.

**Anti-Islamophobia Strategy**

Purpose: The need to target Islamophobia has become urgent. The Ministry will be required to engage with communities and partner ministries to develop public education and awareness initiatives that aim to mitigate and prevent Islamophobia.

The Anti-Islamophobia Strategy would have the same elements as the Anti-Hatred Strategy with the following additions:

***Develop an anti-Islamophobia impact assessment audit***

1. Create a regular proactive audit every 2 years to help anticipate and remove Islamophobic curricular content, policies and practices.

***Systemic Support & Accountability***

2. Ministries will provide funding for allocated staff in each school district who are responsible for the implementation of the anti-Islamophobia strategy.

Every two years, school districts will report outcomes and data from the anti-Islamophobia strategy to the Ministry. These reports will be publicly accessible.

***Public education for students on Islamophobia***

3. Ministry of Education shall work with school boards through a consultation process developed through the Anti-Racism Directorate to strengthen and promote educational resources for K–12 students, which aim to mitigate and prevent Islamophobic behaviour.

***Training for school board leaders, educators and staff***

4. The ministry will fund resources, including training on anti-Islamophobia to all staff. Students will also be provided with learning opportunities to disrupt bullying and islamophobia.

***Student Wellbeing and Affirmation***

5. The Minister shall direct resources that enable the creation of culturally sensitive spaces for affirmation for racialized students, including but not limited to spaces that affirm students challenging Islamophobia.

***Community Consultation and Collaboration***

6. Engage with community organizations to better understand the causes and impacts of Islamophobic incidents and to inform future development of anti-Islamophobia initiatives.

6.1 Support school districts in creating advisory groups that will inform the anti-Islamophobia strategy (this will include parents, students, staff and community members)

***Establish the Minister's Anti-Racism Consultation Group***

Where policies are developed without the voices of Indigenous and racialized people, systemic barriers may result. This leads to disparity for some, and poor public policy and services for all.

7. Establish a forum to give a diverse set of community voices opportunity to engage with government leaders and influence policies and programs. This group will be chaired by the Minister Responsible for Anti-Racism. As well, three groups will be focused to provide the Minister with ongoing advice on anti-Black racism, anti-Indigenous racism and Islamophobia. Continue to engage with Ontario's Indigenous communities through existing leadership tables.

# P2. WHITE SUPREMACY

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## **NCCM RECOMMENDATIONS THROUGH AMENDMENTS TO THE NOT-FOR-PROFIT CORPORATIONS ACT AND THE PASSAGE OF A NEW ACT**

39. Legislative change to empower relevant registrars to prevent white supremacist groups from registering as a society

40. Pass legislation that prohibits violent white supremacist rallies on provincial property, while paying careful attention to ensure that the legislation is not overbroad and does not limit freedom to dissent.

Designates religious institutions as “safe zones” where white supremacist protests cannot be held.

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## **HOW TO AMEND**

**The Not-for-Profit Corporations Act, 2010, S.O. 2010, c. 15 shall be amended to note:**

### **Restrictions on purposes**

The purposes of a corporation shall not include any purposes that are unlawful. Without restricting the generality of the foregoing, the Registrar shall not issue a certificate of incorporation for any corporation whose purpose or conduct includes inciting hatred in a manner which could constitute an offence under the hate-crime provisions of the *Criminal Code*.

A new section can be also added to provide an appeal route, similar to the administrative penalties section (“A party that has been deregistered under 12(a)(v) may appeal the Chief Electoral Officer’s decision by filing an application with the Superior Court of Justice within 30 days from the date of deregistration...”)

### **A New Act Shall Be Created to Prevent Violent White Supremacist Demonstrations:**

The Act would rely on the definition of white supremacist groups, as adjusted from Zündel, Re, 2005 FC 295:

White Supremacists are defined as racists, neo-Nazis, Islamophobes, and anti-Semites who use violence, the threat of violence, or intimidation to achieve their objectives.

Under the new legislation, acts of intimidations within 50 metres of religious institutions by white supremacist groups would be prohibited.

A “Religious institution” would mean a place of worship such as a temple, mosque, synagogue, gurdwara or church, where a group of people can gather to perform acts of religious praise, meditation, honour or devotion. This includes the parcel or parcels of land on which the facility is located and an area that extends a distance of 50 metres from the boundaries of any parcel of land on which the facility is located.

Intimidation means the creation of a disturbance as per the definition of disturbance under the Criminal Code, the utterance of threats, to engage in hate-propaganda as per the Criminal Code, or to engage in a public protest or demonstration outside of a religious institution for the purposes of furthering white supremacist objectives.

For greater certainty, nothing in this Act would prevent non-intimidating protests or critiques of religion, such as raising concerns about the practices of imams or priests.

Every person who contravenes the above section would be guilty of a monetary penalty.

We further recommend that a judge of the Superior Court may be given legislative authority to grant an injunction to prevent a white supremacist rally being planned outside a masjid, for instance.

# P3. ONTARIO HATE CRIME ACCOUNTABILITY UNIT

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## NCCM RECOMMENDATIONS

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36. Institute a provincial Hate Crimes Accountability Unit in all provinces;
37. Make Hate Crimes Accountability Units responsible for providing guidance on appropriate penalties for police officers or officers who discourage reporting;
38. Through Hate Crimes Accountability Units, develop methodologies for third party reporting.

## HOW TO IMPLEMENT

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The government of Ontario will need to pass new legislation to form the hate crime accountability unit. Some suggestions for provisions to include in this new legislation:

- Nothing in this Act should be interpreted or applied so as to reduce the duties or powers outlined in the Police Services Act or the Anti-Racism Act.
- The mandate of the Hate Crime Accountability Unit would be to
  - (a) review any activity carried out by a hate crime unit in Ontario;
  - (b) review any activity carried out by a police department that relates to a hate crime or a hate-motivated incident;
  - (c) review any matter that a hate-motivated incident that a minister of the Crown refers to the Hate Crime Accountability Unit; and
  - (d) investigate complaints made.

- Under a new Act, the Attorney General of Ontario shall establish and maintain an office entitled the Hate Crimes Accountability Unit whose purpose shall be (a) collecting and analyzing data relating to hate-motivated incidents and hate-motivated crimes in Ontario, (b) compiling best practices, and (c) compiling reports on particular incidents of hate-motivated incidents and hate-motivated crimes in Ontario.

The Hate Crimes Accountability Unit could have powers to study hate-related crime or incidents and gather data in accordance with data standards for the collection, use, distribution and management of information established by the Minister.

### **Constitution of the Hate Crimes Accountability Unit**

The Hate Crimes Accountability Unit could be administered by a board, containing equal representation from: (a) those with hate crimes expertise, (b) defense lawyers, and (c) members of the public representing racialized communities that are the target of hate crimes.

### **Complaints and Investigations**

Under the above, any person may make a complaint to the Hate Crimes Accountability Unit with respect to any activity carried out by a hate crime unit and the Hate Crimes Accountability Unit must investigate the complaint if

- (a) the complainant has made the complaint within a one year period of the impugned activity; and
- (b) the Unit is satisfied that the complaint is not trivial, frivolous or vexatious or made in bad faith.

## ONTARIO HATE CRIME ACCOUNTABILITY UNIT

Under the above, the Hate Crimes Accountability Unit shall investigate all such incidents and shall provide a final report of findings and recommendations within three months.

In the course of the investigation of a complaint, the complainant and the director of the hate crime unit concerned must be given an opportunity to make representations to the Hate Crimes Accountability Unit, to present evidence and to be heard personally or by counsel, but no one is entitled as of right to be present during, to have access to or to comment on representations made to the Hate Crimes Accountability Unit by any other person.

The Hate Crimes Accountability Unit would have, in relation to the investigation of any complaint, the power

- (a) to summon and enforce the appearance of persons before the Unit and to compel them to give oral or written evidence on oath and to produce the documents and things that the Unit deems requisite to the full investigation and consideration of the complaint in the same manner and to the same extent as a superior court of record;
- (b) to administer oaths; and
- (c) to receive and accept the evidence and other information, whether on oath or by affidavit or otherwise, that the Unit considers appropriate, whether or not that evidence or information is or would be admissible in a court of law.

The Unit must make the findings of its investigations public at the conclusion of the investigation.

- In the course of its review of activities carried out by hate crime units, the Hate Crimes Accountability Unit must, each calendar year, review at least one aspect of the efficacy of hate-crime units in taking measures to investigate hate crimes in Ontario.
- In the course of its investigations, the Hate Crimes Accountability Unit may make any finding or recommendation that it considers appropriate, including findings and recommendations relating to
  - (a) a police department's compliance with the law and any applicable ministerial directions; and
  - (b) the reasonableness and necessity of a hate crime unit's exercise of its powers.

## **Third Party Reporting**

Under the proposed legislation, the Minister shall designate third party hate reporting centres.

- Third Party Hate Reporting Centres are qualified organisations that can make reports to the police on behalf of victims of hate-motivated incidents or crimes who do not want to report to the police.
- The Minister may, through subsequent regulation and at the discretion of the Minister, ensure that Third-Party Hate Reporting Centres are funded and appropriately supported.
- Third Party Hate Reporting Centres must provide to the Minister publicly available statistical reports of incidents as an index of performance, accountability and transparency.
- Third Party Hate Reporting Centres shall be considered persons for the purposes of complaints under the above legislation.

# P4. ANTI-RACISM

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## **NCCM RECOMMENDATIONS THROUGH AMENDING THE ANTI-RACISM ACT, 2017**

46. Provincial Anti-Racism Councils: Establish anti-racism councils or panels across provinces that represent a diverse intersection of community voices, including Muslims, to tackle some of the most immediate challenges communities are facing in tackling racism locally.

51. Provinces should conduct regular polls to determine the state of racism and Islamophobia in their province and to determine the relevant aspects of Islamophobic sentiment.

53. Ensure that social services agencies are mandated to provide regular training on anti-racism and anti-Islamophobia for frontline staff.

## **HOW TO AMEND**

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*Anti-Racism Act, 2017*, S.O. 2017, c. 15

### **Amendments would require the Minister to conduct regular examinations of the state or racism and hate in the province of Ontario**

#### **Data standards**

Under the amendments, the Minister, with the approval of the Lieutenant Governor in Council, shall establish data standards for the collection, use and management of information, including personal information, to identify and monitor systemic racism and racial disparities for the purpose of eliminating systemic racism and advancing racial equity.

The data standards shall provide for,

- (a) the collection of information, including personal information and any circumstances in which personal information may be collected other than directly from the individual to whom the information relates;
- (b) the use, including the analysis, of information, including personal information;
- (c) the de-identification of personal information and the disclosure of de-identified information;
- (d) reporting on the use, including the analysis, of information, including personal information; and
- (e) the retention, security and secure disposal of personal information.

While the Anti-Racism Act does provide authority for data collection related to anti-racism measures, the Data Standards provide that Public Service Organizations should collect information only if there are observed unequal outcomes. This can be problematic because institutional and systemic discrimination at PSO levels can be hard to “spot”.

The Data Standards should provide, in addition to the discretionary data collection outlined above, a mandatory requirement for the Minister responsible for the Anti-Racism Directorate to conduct a regular (i.e., annual or semi-annual) poll for Ontario residents to participate in voluntarily. This would be helpful especially in conjunction (and contrasted) with the data obtained from the PSOs.

6(3) The Minister shall further be required to conduct collect data with a distribution to the percentage of households the Minister considers necessary to ensure an accurate statistical representation of Ontario’s population and its constituent groups that is specifically focused around determining unequal outcomes, and/or public perception for:

- 1) Indigenous, Black, and Muslim persons.

The current anti-racism strategy in place at the Government of Ontario does not mandate regular training on anti-racism and anti-islamophobia for frontline staff -- this is critical.

This could be implemented in the Anti-Racism Strategy which is incorporated by reference in the Anti-Racism Act, 2017. Otherwise, it can be expressly included in the legislation by requiring that the initiatives shall include regular anti-racism training, including but not limited to training on anti-Indigenous racism, anti-Black racism and Islamophobia, for frontline staff of public sector organizations including social services agencies.”

Furthermore, the Public Service of Ontario Act could be amended with the following to expand mandatory anti-racism training to all public sector employees:

All public servants could be required by legislation to participate in anti-racism training, in consultation with the Anti-Racism Directorate.

**Establishment of Ontario Anti-Racism Advisory and Advocacy Council**

The Amendments will lead to the creation of the "Ontario Anti-Racism Advisory and Advocacy Council".

The purpose of the council would be to advocate on behalf of the racialized communities in Ontario and provide information, advice and recommendations to the government, through the minister, on all ethnocultural matters in the province, including anti-racism, anti-Islamophobia, education, human rights, immigration, settlement and cultural and linguistic diversity and heritage.

# P5. RECRUITMENT OF MINORITIES

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## NCCM RECOMMENDATIONS

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48. Ensuring BIPOC and Muslim representation in agencies, boards and commissions. Actively recruit Muslims and other minority groups into provincial ABCs.

## HOW TO AMEND

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These sections can be amended to clearly outline a responsibility on the part of the Government of Ontario to actively recruit more minority groups into provincial ABCs as follows:

### **Employees, Diversity, equity and inclusion**

- The Public Service Commission shall ensure its employees bring a diverse perspective and range of subject matter expertise, and shall ensure that all recruitment practices are bias-free, barrier-free and transparent. The Public Service Commission shall actively recruit minorities including but not limited to racialized minorities in order to bring a diverse perspective and reduce systemic discrimination.
- The Public Service Commission shall further develop a community outreach and communication strategy designed to increase access to information about public service employment opportunities for racialized communities.

# P6. HUMAN RIGHTS COMPLAINTS

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## NCCM RECOMMENDATIONS

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50. Extend limitation periods for human rights complaints to 5 years (to take into account the trauma victims face), while allowing a claimant to seek an extension to the limitation period if the claimant has extenuating circumstances reasonably demonstrating why they were unable to file a formal human rights complaint within the 5-year limitation period.

## HOW TO AMEND

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The limitations period here ought to be amended as follows:

If a person believes that any of his or her rights have been infringed, the person may apply to the Tribunal

- (a) within **five years** after the incident to which the application relates; or
- (b) if there was a series of incidents, within five years after the last incident in the series.

Notwithstanding the five year period, if a claimant has extenuating circumstances reasonably demonstrating why they were unable to apply to the Tribunal for an order within the five-year limitation period, the Tribunal may, in its sole discretion, accept an application beyond the period outlined above.



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