

MHR *Connections*

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The 2009 Human Rights Award Recipients Honoured

“There is no better way to celebrate the anniversary of the Universal Declaration of Human Rights than to continue the long struggle to ensure human rights. And that is what you are doing today in bestowing the Human Rights Commitment Award and the Sybil Shack Human Rights



Courtesy of Ken Gigliotti and the Winnipeg Free Press

Ali Saeed (left) was presented the 2009 Human Rights Commitment Award of Manitoba by Jerry Woods, Chairperson of the Manitoba Human Rights Commission.



Anna-Celestrya Carr receives the 2009 Sybil Shack Human Rights Youth Award.

Youth Award to Ali Saeed and Anna Celestrya Carr,” said Lieutenant Governor Philip Lee addressing the many people who came to celebrate the accomplishments of the 2009 Human Rights Award recipients.

Ali Saeed, a former political prisoner in Somalia said he was honoured to accept the Commitment Award of Manitoba

Mr. Saeed’s accomplishments are many, including

sponsoring over 100 refugees through the Ethiopian Society of Winnipeg, finding employment for refugees and producing and financing the award winning feature length documentary on human rights “Memories of a Generation”. He has shared his personal accounts as a survivor of torture with numerous organizations and travelled to Parliament Hill with one of his daughters to present a petition regarding concerns for women who had disappeared or held as political prisoners in Ethiopia.

In his acceptance speech, Mr. Saeed said that he hopes to continue to draw attention to the struggles of refugees and political prisoners. He did, however, refer to his wife Ayni as the pillar of the family and the backbone of the struggle.

“To be honest with you,” he said, “the award should go to her.” Ali concluded by thanking Canada for the opportunities it gave both him and his family.

This year’s Human Rights Commitment Award of Manitoba was given to Ali Saeed in recognition for advancing the human rights of new immigrants to Manitoba.

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The Rights Connection by Jerry Woods - Chairperson

I was recently asked to speak on the ramifications, if any, of the repeal of Section 67 of the Canadian Human Rights Act on the Manitoba Commission. Section 67 restricted the ability of First Nations people living on reserve to file a complaint against band councils or the federal government.

When it comes to the repeal of Section 67 there may not be a direct impact on the services and protections already provided by the Code or the Manitoba Commission.

There may be however, indirect effects. More people will become aware of human rights protections and so a higher number may approach both commissions for information and advice. There may be an increase in the number of situations where it is unclear whether the complaint is filed in the proper jurisdiction.

The law is unclear in some areas right now on when Aboriginal organizations and providers of services targeting Aboriginal people come under federal versus provincial human rights jurisdiction.

For example, the Supreme Court of Canada just heard a case on December 8th about whether federal or provincial labour legislation should apply to a First Nations Child and Family Services agency. The governments, both provincial and federal, say it should be under provincial jurisdiction while the Aboriginal groups and the Canadian Human Rights Commission believe it should be federal. The outcome of this case will have an impact on human rights agencies and we are eagerly awaiting the decision. Hopefully it will also clarify situations where jurisdiction has been unclear.

I have to admit that the phrase “that’s not our jurisdiction,” is very frustrating to me as the Chairperson of the Manitoba Human Rights Commission. That single phrase turns away many Aboriginal people from seeking help when discrimination takes place.

So until the courts clear up the law, all commissions, including the Manitoba and Canadian Human Rights Commissions have agreed to set up a preliminary consultation process when a complaint is filed with the goal of making sure that no-one loses the opportunity to file a human rights complaint because they don’t know which commission to approach.

We do not want anyone to walk away.

Human Rights Adjudicator rules on criminal record complaint

For the first time in Manitoba, a case of discrimination based on a person's criminal record has been heard at a human rights hearing. The case revolved around the requirement that a new caretaker for a seniors housing complex in Winnipeg to go through a criminal record check. The Commission accepted in this case that it was appropriate to check the criminal record of the new employee to ensure that there was no risk to tenants' safety.

It, took issue, however, with the manner in which this requirement was applied. The employer refused to give the caretaker the time he needed to complete the check and then fired him shortly after.

The employer in this case, Fort Garry Services Inc., agreed with the Commission's position that s 9(1)(a) of *The Code* was intended to protect against discrimination based on criminal record and that the Commission had correctly compared this case to those where courts have recognized new grounds of discrimination under the Charter. The Commission's expert witness, Professor Debra Parkes, supported the Commission's approach, testifying that people with criminal records face similar kinds of stigma, stereotype and disadvantage to other groups who receive *The Code's* protection.

For the purposes of deciding this complaint, Adjudicator Peter Sim also accepted that criminal reference checks or other differential treatment based on a criminal record can be discriminatory if the employer cannot show a reasonable justification. He did not accept however, that the dismissal of Mr. Penner was discriminatory. He found that the evidence revealed that Mr. Penner's job was terminated due to his substandard work performance during his first month of employment.

In a written decision, Adjudicator Sim dismissed the human rights complaint. He did not agree, however, with the employer's claim that the complaint was frivolous. He wrote that he had no concerns about how the Commission conducted the investigation and found that it was necessary to hear the evidence in order to dispose of the complaint.

The Commission has long had a policy directing employers to refrain from using criminal record checks to discriminate against individuals, unless they can show that the criminal history could pose a threat to the employer's ability to carry out its business. Some criminal convictions may be related to the ability to perform a job while others may not. More information can be found on the Commission's website under policies and in the Pre-employment Inquiries Guidelines publication.

Adjudicators in human rights cases are appointed by the Minister of Justice and are independent of the Manitoba Human Rights Commission. It is the adjudicator who makes the ruling as to whether or not discrimination has taken place.



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Ortiz Saeed, daughter of Ali and Ayni, lights a candle, as Deputy Chief Commissioner of the Canadian Human Rights Commission David Langtry explains that lighting a candle on International Human Rights Day has become a world wide symbol

of the struggle for human rights. Mr. Langtry quoted the Chinese proverb "It is better to light a candle than to curse the darkness."

As in the past, The Sybil Shack Human Rights Youth Award acknowledges work that has an impact on the advancement of human rights as guaranteed in the Canadian Charter of Rights and Freedoms and human rights legislation. The 2009 award was given to Anna-Celestrya Carr for her dedicated efforts to draw attention to missing and murdered Aboriginal women.

"I wanted others to say that this should not be happening and to feel the shock and horror that I felt," says Anna-Celestrya. She also wants young men to help raise awareness. At the University of Manitoba, Anna-Celestrya has started a banner project in which young men take a pledge to never hit a woman. They then leave their palm print on the banner.

"My dream and goal, is to take this banner to universities across the country," she said as she accepted her award.

The 2009 sold out Human Rights Awards Luncheon was held on December 9, at the Kum Koon Garden Restaurant, one day before International Human Rights Day. Deputy Chief Commissioner of the Canadian Human Rights Commission David Langtry hosted the event. Celebrating International Human Rights Day by recognizing human rights work by individuals or groups is a joint partnership by the Canadian and Manitoba Commissions and the Manitoba Association for Rights and Liberties.

CHRC Chairs Commonwealth Forum

The Canadian Human Rights Commission (CHRC) was elected Chair of the Commonwealth Forum of National Human Rights Institutions at its recent meeting in Port of Spain, Trinidad.

"The Canadian Human Rights Commission looks forward to working with Forum members to facilitate networking and the sharing of best practices," said CHRC Deputy Chief Commissioner David Langtry. "Our mandate will be to promote greater collaboration among National Human Rights Institutions in order to advance human rights priorities."

The theme of the last meeting, held in November 2009, was climate change and human rights. The Forum brought together institutions from 24 Commonwealth countries, and international partner institutions including the Office of the UN High Commissioner for Human Rights.

The Commonwealth Forum of National Human Rights Institutions was established in February 2007. The CHRC term as chair is for a period of two years.

Happy New Year