



Submission to the Standing Committee on Private Bills on Bill 216, *The Human Rights Code Amendment Act*

I would like to acknowledge that we are gathered this evening on Treaty One territory, the ancestral lands of the Anishinaabeg, Cree and Dakota people and the homeland of the Métis nation.

My name is Isha Khan and I am the Executive Director and senior counsel with the Manitoba Human Rights Commission.

It is a privilege to be able to speak to you this evening about the fundamental importance of human rights law in this province. We are pleased to provide you with input on Bill 216 which, if passed, will ensure that the prohibition against discrimination in this province extends to Manitobans who have been treated adversely on the basis of their physical size weight, where there is no reasonable justification for doing so.

It has long been recognized that The Human Rights Code, along with human rights legislation in every other province and territory, has quasi-constitutional status among all laws. This kind of law - that establishes the right of all citizens to be treated on the basis of their personal merit and to be afforded opportunities without influence of prejudice or negative stereotype, has its roots in the global movement that followed the atrocities of World War II. At that time, our global community recognized that we needed law that would entrench protection from discrimination- and so Manitoba created provincial law – first the *Human Rights Act* and in 1987 it was replaced with *The Human Rights Code*.

Discrimination is defined as treating a person adversely without reasonable cause on the basis of characteristics that go to the root of who they are as a human being – their age, sex, ancestry, disability, sexual orientation or gender identity. That list, in section 9(2) of *The Code* is mirrored in legislation in every other province and territory. That list serves to recognize that the groups of people have historically been disadvantaged or had less access to employment, to services available to the public or to housing – and allows us to ensure that we provide equal opportunities to all Manitobans, regardless of any of those characteristics.

So today we consider Bill 216, which would amend this list to prohibit unreasonable discrimination on the basis of physical size and weight. Given the tremendous importance of the rights and responsibilities enshrined in our 1987 *Code*, there has only once been amendments to the list of characteristics afforded protection under section 9(2). In 2012, gender identity and social disadvantage were added to the list of protected characteristics- and Manitoba led the evolution of law in this country.

The Commission has always utilized its authority to interpret the characteristics listed in *The Code*, and *The Code* generally, in accordance with human rights principles and law. We have given careful consideration to every allegation of discrimination that has

come before us, such as the concerns and complaints you have heard about tonight. We have typically considered these types of concerns or complaints under the ground of disability- which is interpreted broadly for discrimination purposes to include any real, or perceived, condition that impacts a person's ability to take part in life on an equal level with others. We have also considered these types of issues under the general provision of *The Code*, section 9(1)(a), which allows us to assess in each case whether or no the person alleging discrimination is from an insular and identifiable group that has been subjected to historical disadvantage to warrant protection from discrimination. This provision is similar in effect to the 'analogous grounds' section found within the equality provisions of the *Charter of Rights and Freedoms*.

To date, our policy and therefore our approach has ben in keeping with the evolution f human rights law across Canada. While we have long used these sections to ensure individuals who are experiencing negative treatment on the basis of their size and weigh are afforded protection under *The Code*, if Bill 216 is enacted, the Commission will likely see an increase in the number of complaints, or at least enquiries, and will move to develop policy to interpret this characteristic. We know that each of the 13, or perhaps to be 14, characteristics is weighted equally- and that human rights law guides us to find discriminatory treatment on the basis of any one or number of characteristics in the same, principled way that seeks to call out prejudice.

If Bill 216 is passed, we respectfully encourage you to consider ranking this new characteristic, like all others, without any further qualification or definition that might impede the aims that the amendment seeks to achieve.

We also encourage you to consider implications to the Commission. We are an organization comprised of 17 staff. We deal with over 4000 inquiries each year, and resolve almost 45% of the concerns that come to us and register a few hundred complaints each year. We also develop policy and information that guides the public- to ensure that the fundamental objectives of *The Code* are understood by Manitobans. We regularly educate employers, service providers, landlords and citizens on their rights and responsibilities – and they look to us for that guidance.

We recognize the need to eradicate all forms of discrimination, including discrimination based on size and weight, but we need to ensure that we are properly resourced to carry out this mandate.

We recognize that Manitobans are discriminated against on the basis fo their size and weight and the stories we hve heard are absolutely compelling. They highlight the indignity with which many of our fellow Manitobans are treated and the barriers to equality that we, collectively, have not succeeded- just yet- in eliminating.

Thank you for the opportunity to speak and I welcome your questions.