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Oral Submission to the Standing Committee on Human Rights, Senate of Canada
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Study of Anti-Black Racism, Sexism, and Systemic Discrimination at the Canadian Human Rights Commission

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Thank you for the invitation to appear before the Committee on this important national issue. I join you virtually today from the traditional territories of the Haudenosaunee Confederacy, the Huron-Wendat and Petun Nations and the current treaty holders the Mississaugas of the Credit.

My name is Harini Sivalingam, and I am the Equality Director at the Canadian Civil Liberties Association (CCLA). The CCLA is an independent, non-partisan, non-profit organization that promotes the rights and freedoms of all peoples across Canada.

Addressing Anti-Black Racism within the CHRC

We stand with the Black community and condemn anti-Black racism, sexism, and systemic discrimination at the Canadian Human Rights Commission (the Commission).

The finding of the Treasury Board of Canada Secretariat of anti-Black racism at the Commission amplifies what has been a known and lived reality for members of Black communities: that anti-Black racism, sexism, and systemic discrimination exist pervasively in our public institutions.

We have heard of disproportionate dismissals of race-based claims at the Commission, in particular complaints of anti-Black racism. According to the Commission's own annual reports, in 2021, 31% of complainants self-identified as Black, whereas in 2022, only 8% of complaints self-identified as Black.

Complaints of racism are often the most difficult and challenging claims. These are precisely the types of claims that require more support and resources from the human rights system.

- 1. We strongly urge the Commission to take accountability and implement strong measures to address anti-Black racism, sexism, and systemic discrimination internally within its own practices and externally in how it handles race-based discrimination claims.**

The Important Function of National Human Rights Institutions

We urge Members of the Committee to use this opportunity as a catalyst for driving meaningful and effective changes to enhance the federal human rights system to meet the needs of Black, Indigenous, and racialized communities in Canada.

CCLA was a key player among civil society organizations that advocated for the creation of the Commission, as well as the Ontario Human Rights Commission in the 1970s.

National human rights institutions serve an important function in upholding rights and freedoms in Canada.

They have been described as a cornerstone for the protection of human rights. These bodies serve a unique role of being independent of government and neutral investigators of human rights complaints and offer a less intimidating forum than a court-like setting to those who have had their rights and freedoms violated.

Yet as we have seen and heard, these institutions, are themselves not immune to anti-Black racism, sexism, and systemic discrimination.

The current state of the Canadian Human Rights Commission cannot be left unaddressed.

What is critical to ensuring the protection of rights and freedoms in Canada is a *better* funded *more* accessible, *representative* human rights system for marginalized and vulnerable communities.

Our recommendations for advancing human rights in Canada include the following key principles:

- 2. Ensure that the federal human rights system is adequately funded and well-resourced**

Without adequate resources and funding, even the most theoretically ideal systems are destined to fail. At these current funding levels, the federal human rights system lacks capacity to advance the protection and promotion of human rights.

- 3. Take concrete measures to representatively staff the federal human rights systems with candidates who demonstrate experiences with anti-racism practices**

The composition of decision makers, leadership, and other staff at federal human rights institutions should reflect and represent the lived realities, experiences, and perspectives of Indigenous, Black, and racialized people in Canada. Ensuring meaningful representation requires implementing anti-racist workplace practices regarding who gets in, who are let go, and who rises up, in particular, in decision-making and gatekeeping functions.

4. The federal human rights system must be accessible for the most marginalized and vulnerable members in our communities.

For many marginalized and vulnerable communities, the human rights system remains inaccessible. It is an uphill battle to advance these claims through the federal human rights system, which is often a David and Goliath situation. All the Respondents are large institutional actors, such as the federal government, or federally regulated industries, who are well-resourced to fight these claims tooth and nail. For example, 57% of complainants at the Tribunal in 2022 were **not represented** by counsel, whereas the overwhelming majority of Respondents, 94% were **represented** by counsel

5. Conduct a comprehensive review of the *Canadian Human Rights Act*

The *Canadian Human Rights Act (the Act)*, is in dire need of an overhaul. There have been no significant reforms to the Act for the past 25 years. For example, an element of the Act that desperately requires updating includes the statutory cap on special damages of \$20,000, which is far too low by today's standards.

6. Enhancements to ensure an adequately funded, well-resourced and representatively staffed federal human rights system

7. While continuing to have a mandate for an enhanced **Commission** structure with strong investigative power to pursue test cases, interventions and systemic case, there should also be some room for **direct access to the Tribunal** that removes barriers and obstacles to adjudication, with funded **legal resources, supports, and representation** for marginalized communities to ensure that claimants can advance their claims through the system.

We look forward to the concrete recommendations from this Senate study to strengthen the human rights framework and ensure there are strong, adequately resourced, and representative national human rights mechanisms to promote and protect the human rights of all of us in Canada -- especially the Black community, and other marginalized and vulnerable communities.

Thank you Madame Chair and I look forward to answering any questions the Committee may have.