

# **CRIFE has initiated a complaint to the Ontario Human Rights Tribunal.**

Filed early this year, the Application to the Ontario Human Rights Tribunal complains about the treatment one student has received from Roman Catholic school board personnel when she applied for an exemption from religious courses and programs in one of the board’s high schools.

The Application is based on a violation of the student’s human rights with regard to creed. An expectation of results from success of the Application are outlined on page six.

The following text in arial font is taken from the website for the Ontario Human Rights Commission. Underlining is by the CRIFE editor.

## **Policy on preventing discrimination based on creed**

### **Summary**

#### **Introduction**

The rights to be treated equally based on creed, and to freely hold and practice creed beliefs of one's choosing, are fundamental human rights in Ontario, protected by the Ontario *Human Rights Code* (the *Code*) and the *Canadian Charter of Rights and Freedoms*. Also protected is the right to be free from religious or creed-based pressure.

\* \* \*

Under the *Code*, creed rights are protected in five areas (called social areas): housing, services, employment, contracts, unions and professional associations. This policy clarifies the nature and scope of rights and responsibilities based on creed in these five areas, and helps individuals and organizations to better identify, address and prevent discrimination based on creed, so that each person - whatever their creed - can take part in, contribute to and feel included in the community and province.

The Commission's *Policy on preventing discrimination based on creed* also recognizes that there are limits on rights based on creed, as there are on all grounds protected under Ontario's *Human Rights Code*. Limits can for example arise if creed rights interfere with the human rights of others.

### **What is creed?**

The *Code* does not define creed, but the courts and tribunals have often referred to religious beliefs and practices. Creed may also include non-religious belief systems that, like religion, substantially influence a person's identity, world-view and way of life. The following characteristics are relevant when considering if a belief system is a creed under the *Code*.

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A creed:

- Is sincerely, freely and deeply held
- Is integrally linked to a person's identity, self-definition and fulfilment
- Is a particular and comprehensive, overarching system of belief that governs one's conduct and practices
- Addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a Creator and/or a higher or different order of existence
- Has some "nexus" or connection to an organization or community that professes a shared system of belief.

Given the breadth of belief systems that have been found to be a creed under the *Code* - from Raelianism to the "spiritual cultivation practices" of Falun Gong - organizations should generally accept in good faith that a person practices a creed, unless there is significant reason to believe otherwise, considering the above factors.

\* \* \*

## Discrimination based on creed and corresponding protections

To establish *prima facie* discrimination (discrimination on its face) under the *Code*, a person must show:

1. They have a characteristic protected from discrimination under the Code
2. They have experienced negative treatment or an adverse impact within a social area protected by the Code
3. The protected characteristic was a factor in the negative treatment or adverse impact.

Once a *prima facie* case of discrimination has been established, the burden shifts to the respondent to provide a credible, non-discriminatory explanation or to justify the conduct within the framework of the exemptions available under the *Code* (e.g. *bona fide* requirement defence). If it cannot be justified, discrimination will be found to have occurred.

Creed needs to only be a factor in someone's differential treatment for it to be discrimination under the *Code*. The Code has primacy - or takes precedence - over all other provincial laws in Ontario. Where a law conflicts with the Code, the Code will prevail, unless the other law says otherwise.

Discrimination based on creed may take many forms. For example, it can happen when someone is:

- Negatively affected by an organizational requirement, rule or standard that prevents them from practicing their creed (without being accommodated)
- Pressured or compelled to do or believe something based on creed
- Harassed or subjected to a poisoned work environment because of negative comments or conduct relating to creed
- Racially profiled because of their creed
- Treated differentially and unfairly in a social area protected by the Code, due at least in part for reasons relating to creed.

The *Code* also prohibits discrimination because of creed in situations where:

- A person is targeted and treated unequally because of their perceived creed, absence of a creed, or association with an individual or group with a particular creed (or lack thereof)
- There is no intention to discriminate, but rules, requirements or standards negatively affect persons based on their creed
- People are negatively affected based on their creed due to the operation of a system as a whole (this includes rules and regulations and organizational culture and practices as a whole)
- Neither the person discriminated against nor the person discriminating follows a creed.

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For the complete section "Policy on preventing discrimination based on creed" go to:

<http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-creed>

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Sorgini v. St. Theresa's Catholic High School,  
Simcoe Muskoka Catholic School Board, and  
the Ontario Catholic School Trustees' Association  
Human Rights Tribunal of Ontario File No. 2016-23039-1

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CASE SUMMARY

On January 5, 2016, Claudia Sorgini filed an Application to the Human Rights Tribunal of Ontario, alleging discrimination based on creed within the Ontario Secondary Catholic School system, contrary to the Ontario *Human Rights Code* (the "*Code*"). St. Theresa's Catholic High School, the Simcoe Muskoka Catholic School Board, and the Ontario Catholic School Trustees' Association (OCSTA) are named as Respondents.

Ms. Sorgini, a non-Catholic former secondary student, is seeking remedies for the negative treatment she experienced after requesting an exemption from participating in her high school's religion courses and religious activities. Under section 42 of the Ontario *Education Act*, Catholic schools are required to grant such an exemption upon receiving a request in writing. It is the Applicant's position that the *Code* also guarantees her right to be free from the imposition of Roman Catholic teachings and practices, as a student who does not personally identify as a member of the Roman Catholic faith.

In Ms. Sorgini's case, it was only after she obtained the assistance of legal counsel that St. Theresa's and the Board were prepared to grant the exemption from religious courses. Even then, the Respondents insisted that she still attend religious activities—such as masses and liturgies- and threatened that she would not be allowed to attend activities such as prom, graduation, and the honours list breakfast if she continued to insist on an exemption from religious activities. Ms. Sorgini's parents were also banned from attending the school premises without notice and were advised to direct any future communications with the school through legal counsel (at their own expense).

In her Application, Ms. Sorgini alleges that the OCTSA engaged in a pattern of systemic discrimination against students who seek exemptions from religious courses and activities. She states that Catholic School Boards across the province have been directed by the OCTSA to stall and discourage students who make exemption requests, and in some cases students are simply denied outright. Where students do pursue these requests, they often face reprisal in the form of intimidation and adverse treatment, as in the case of Ms. Sorgini.

Ms. Sorgini seeks systemic remedies including province-wide changes to the policies and practices of Catholic School Boards surrounding requests for religious exemptions.

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News articles regarding the above can be viewed at:

<http://www.theglobeandmail.com/news/toronto/student-files-human-rights-complaint-against-catholic-high-school-board/article28661814/>

<http://edition.pagesuite-professional.co.uk//launch.aspx?eid=f6b3a8c1-3acc-489c-af59-59a5c97787e7>

<http://canadianatheist.com/2016/02/11/good-news/>

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## Corruption in government, federal, provincial, local is responsible for the continued existence of public funding for the Roman Catholic school systems.

**Corruption:** From the Gage Canadian Dictionary: **1** moral deterioration; depravity. **2** dishonesty or a dishonest practice, especially bribery. And from Collins Canadian English Dictionary and Thesaurus: **Corrupt:** crooked, rotten, shady, fraudulent, unscrupulous, unethical

### Corrupt incident #1

#### By Premier W. Davis

#### Background

In 1867, for various political and religious reasons, a bargain was made with Quebec to bring it onside to create Canada. The bargain, essentially, was that Quebec would publicly fund Protestant schools if Ontario would do likewise for Roman Catholic schools.

Public funding of the Roman Catholic separate school system in Ontario only went to the end of grade 8, with partial high-school funding to grade 10.

#### Corruption incident

For some unknown reason, on June 12, 1984, the Premier of Ontario, a Mr. W. Davis, made an announcement to his Progressive Conservative caucus that he had decided, personally, to extend full public funding of the RC separate system to the end of high school.

The MPPs were informed of this decision less than an hour before the official announcement in the Legislature.

### Corrupt incident #2

#### New Democrat Bob Rae

In February of 1986, at a two-day conference on educational issues, New Democratic\* Party Leader Bob Rae found little support among rank and file members for the party's endorsement of ex-

tended public funding of Ontario's Roman Catholic high schools.

During a four-hour discussion organized by the party, **31 of 37** speakers criticized extended funding. Most critics at the meeting said the government should fund only one school system,

\*The word "democratic" in the name of the party is a misnomer, a democracy espouses equality of rights and the rule of the majority.

### Corrupt incident #3

#### Supreme Court of Canada

The Supreme Court decision on the legality of Ontario's infamous Bill 30 was announced on June 25, 1987. The court allowed Bill 30, the legislation to allow the government to publicly fund the Roman Catholic separate school systems. But to get around the equality rights and freedom of religion in the Charter, they had to throw out the whole Charter, which included section 32(1) which says: "This Charter applies (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province."

To throw out the whole Charter requires corruption, big time corruption.

Justices at the time: Wilson, Dickson, McIntyre, La Forest, Estey, Beetz & Lamer.

### Corrupt incident #4

#### Fed. Govt. &/or Gov. Gen.

The federal government, or the Governor General, could have disallowed Bill 30. The veto of provincial statutes by Parliament is in section 90 of the Constitution Act, 1867, - the BNA Act,

Senator Eugene Forsey stated: "There can be no doubt at all that the Fathers of Confederation considered the power of disallowance one of the strongest safeguards against acts of tyranny and usurpation by provincial legislatures."

### Corrupt incident #5

#### Jean Chretien government

Following the decision of the Supremes, Jean Chretien made some comments on the Meech Lake issue on November 6, 1987, as follows: "The wording of the Constitution must be so clear that no court can suggest that the Charter (of Rights and Freedoms) can be overridden...." (We must) "ensure that no government anywhere in Canada can ever look for any constitutional excuse to tamper with the rights of individuals."

### Corrupt incident #6

#### Brian Mulroney government

"A constitution that does not protect the inalienable and imprescriptible individual rights of individual Canadians is not worth the paper it is written on." late 1980s

**Corrupt incident #7****Stephen Lewis**

Following a statement by Stephen Lewis, former ambassador to the United Nations, on December 10, 1988, the 40th anniversary of the United Nations' Universal Declaration of Human Rights, he responded to a letter from us re the public funding of RC separate schools. His reply: "I am thoroughly familiar with the decision of the Ontario government to extend full funding to the separate school system. I fought for that change when I was a member of the Ontario legislature, and I therefore welcome the government's initiative. The new Bill corrects a long-standing injustice, and in no sense does it contravene the UN Declaration of Human Rights."

**Corrupt incident #8****Ontario government**

Two Ontario court cases, one in 1986 and one in 1988 resulted in Ontario public schools being legislated to an absolute religious neutrality. This destroyed the argument previously used by Roman Catholic officials that if the Public schools can teach religion, then so can they. To be consistent with the court ruling the government should have eliminated the separate system entirely.

**Corrupt incident #9****NDP Government**

In 1991, Renton Patterson of Friends of Public Education in Ontario, Inc., was allowed by the NDP government to give a half-hour presentation to the Select Committee on Ontario in Confederation. Patterson was maneuvered so that he was completely eliminated from the hearing. They didn't want to even hear from me.

**Corrupt, but ongoing #10****Ontario government**

Three provinces have abolished their public funding of denominational schools, Manitoba 1890, Quebec 1997, and Newfoundland & Labrador January 1998, there is nothing to prevent Ontario from doing the same.

**Corrupt incident #11****Ontario NDP**

At an ONDP February 1991 convention, several resolutions came forward from ridings which questioned the funding of the RC separate school systems.

Nine resolutions harmful to the RC system were referred, without debate, to the executive committee. The back-room (lobbyist?) persons held sway and the issues failed to come to light.

**Corrupt incident #12****Federal & Provincial Govts.**

On November 5th, 1999, the U.N. Human Rights Committee ruled that Canada is in violation of Article 26 of the International Covenant on Civil and Political Rights.

The federal government replied to the U.N. to advise the Committee that Canada, and Ontario, would do nothing.

**Corrupt incident #13****Senate of Canada**

The senate report "Promises to Keep, Implementing Canada's Human Rights Obligations" was published in December of 2001. Despite much positive rhetoric, nothing about correcting the problem appeared in the recommendations.

**Corrupt incident #14****NDP Party of Ontario**

Five resolutions at the November 2004 convention would modify or reverse the present ONDP stand on the public funding of the RC separate school systems.

None of the resolutions even made it to the floor for discussion.

**Corrupt incident #15****McGuinty government**

In the spring of 2007 many public school boards passed motions to eliminate the public funding of the RC separate school systems.

In an effort to stifle debate, McGuinty's response was "We're not going there."

**Corrupt incident #16****Ont. Liberal Govt.—2016**

There have been many public opinion polls which have asked about the continuation of public funding for the Roman Catholic separate school systems. In every poll that I am aware of, a majority of responses favoured the end of public funding.

The recent refusal of the Ontario government to abide by the wishes of the majority, i.e. to end funding of RC separate schools and to keep Hydro One, in its on-line budget consultations emphasizes the rebuff of the majority.

**Corrupt incident #17****Ont. Human Rights Comm.**

Time—ongoing. The Ontario Human Rights Code is a sham when it comes to being truthful, or useful in its mandate to "...recognize the inherent dignity and worth of every person, and to provide for equal rights and opportunities without discrimination."

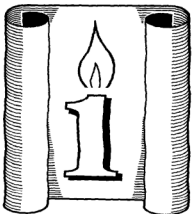
Ran out of room,  
but not run out of incidents

## WHO WE ARE

Civil Rights in Public Education, Inc. is an organization composed of citizens of differing backgrounds, living in more than 155 communities across Ontario, committed to one strong public education system, which offers neither privilege nor prejudice to anyone.

## OUR AIMS ARE

- To serve as advocates for civil rights in public education so that the public is informed about the issue of publicly-funded separate schools.
- To hasten the day when Ontario's education policy recognizes the dignity and worth of all children, their right to equality, and their right to freedom from religious discrimination.



## OUR LOGO

Our logo is composed of a background scroll representing the charters of rights which guarantee fundamental freedoms to all individuals; the numeral "1" signifies equality and social unity in one public education system for each official language; the flame above is the universal symbol for freedom.

## EXPECTATIONS OF OUTCOME

### from our Application to the Human Rights Tribunal

Under the *Code*, the Tribunal can order damages for infringement of dignity, feelings and self-respect, restitution for related out-of-pocket costs, and, most significantly, public interest remedies directing the respondents to take any action to ensure compliance with the *Code*.

It is anticipated that damages for infringement of dignity could be anywhere from \$5,000 to \$20,000, with \$10,000 to \$15,000 being the likely range. We may be able to tap into some of this.

For public interest remedies, the Tribunal could direct the school and school board to adopt new policies to ensure children no longer face unreasonable barriers to claiming exemptions under s. 42 (13) of the *Education Act*.

In the event it is discovered that the Trustees Association has been encouraging other schools and school boards to frustrate those who wish to claim lawful exemptions, a direction could be made to compel the OCSTA to inform other school boards about the errors of their ways.

## A Thought to Consider

**Catholic-school parents mainly (60%) believe that allowing students in Catholic schools to opt out of Catholic modules in the curriculum "eventually" will lead to one school system "and the end of the public Catholic school system."**

From a poll conducted by Vector Research in 2014

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**ABOVE ALL WE MUST MAKE SURE THAT NO CITIZEN OF ONTARIO, NOW, OR EVER IN THE FUTURE, IS PRIVILEGED OR DISADVANTAGED PUBLICLY BECAUSE OF HIS/HER FAITH, OR ABSENCE OF FAITH.**