

DRAFT

CHAPTER 6: IMPLEMENTATION

A. Introduction

The success of any bill of rights is dependent on community acceptance of it. All community members need to have an understanding of what human rights are and why it is important to protect them. Consequently, in conjunction with the enactment of the Bill of Rights, there should be a programme of work to ensure that it can be implemented and that it is meaningful and accessible to those who need it. A well-structured programme of implementation is required to ensure the promotion of a culture of respect for human rights and to foster positive attitudes towards rights. In the absence of such a programme, the Bill of Rights risks being an instrument with legal effect but with little actual meaning or significance to ordinary people.

Recommendations on how to implement a bill of rights effectively are generally not contained within the instrument itself. Review of international and comparative experience suggests that, broadly speaking, three categories of implementation activity are required to render a bill of rights effective in practice: accessibility action, education and training, and litigation support. To be successful, these implementation activities require good coordination and appropriate funding.

B. Implementation activities(i) Accessibility action

If the Bill of Rights is to have meaning for ordinary people, it must be accessible to all sections of the population. Effective accessibility entails access to the Bill of Rights itself, and access to clear and simple guidance on its meaning.

The Bill of Rights must be made available in different versions, including in large print, in different languages, in child-friendly language, in Braille, and on audio cassette, so that it is accessible to everyone within the jurisdiction. In addition,

guidance documents explaining the Bill of Rights, again available in different versions, are also essential. Guidance information can take many forms. Examples used elsewhere have included a human rights DVD (used in Victoria); promotional posters; and simple pamphlets in question and answer format.

At the very least, these documents should be available from government departments and non-government organisations and on government and NGO websites. The more widespread the distribution of these documents, however, the better.

(ii) Education and training

a. General

The Bill of Rights will have no relevance for ordinary people if they are not aware of it at all, or if they do not understand what it is. Its development will also be stifled if those responsible for its implementation – namely legislators, public officers, civil servants, judges and lawyers – do not fully comprehend it and their obligations under it. Human rights education and training form a fundamental part of good practice in the implementation of human rights.

Education and training must clarify what human rights are and how they can be used, and address misinformation about human rights. They require the examination of the relevant human rights instruments and the promotion of critical reflection and inquiry.¹ They should be directed at both the community at large, and at those charged with the responsibility of safeguarding the Bill of Rights.

If conducted properly, human rights education can contribute to the reduction of human rights violations² and to fostering a sense of community ownership of the Bill of Rights.

b. International experience

¹ See, e.g., Equitas: International Centre for Human Rights Education, <<http://www.equitas.org/english/ed-manuals/vision.php>> (accessed 28 March 2008).

² See UNHCHR *Guidelines for National Plans of Action for Human Rights Education*, para. 12 ('Guidelines') <[http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/de5002e16faf1df980256678005ceaa8/\\$FILE/N9728411.pdf](http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/de5002e16faf1df980256678005ceaa8/$FILE/N9728411.pdf)> (accessed 26 March 2008).

Human rights education has formed an important focus in the international human rights sphere for some time. Indeed, 1995-2004 was the United Nations Decade for Human Rights Education. Article 26(2) of the Universal Declaration of Human Rights 1948 acknowledges the importance of education in 'the strengthening of respect for human rights and fundamental freedoms'. The Vienna Declaration and Programme of Action 1993 sets out the general goals of human rights education.³

The content of human rights education should be threefold and entail:

- knowledge: the provision of information about human rights and the mechanisms for their protection;
- values, beliefs and attitudes: the promotion of a human rights culture through the development of values, beliefs and attitudes which uphold human rights; and
- action: encouragement to take action to defend human rights and to prevent human rights abuses.⁴

Education should be built upon partnership between government, non-governmental organisations, professional associations, individuals and large segments of civil society.⁵ Other key elements of successful human rights education include:

- public awareness and outreach campaigns;⁶
- integration of human rights education into formal education;⁷
- education of socially vulnerable groups;⁸
- a financial strategy;⁹ and
- production of materials and continuing research in, and evaluation of, educational programmes.¹⁰

c. Comparative national experience

In Canada and Australia, educational programmes to promote human rights awareness have been given particular

³ Section D, paras 78-82.

⁴ Guidelines, note 2, para. 13.

⁵ Ibid, Preface, para. 2.

⁶ Ibid, paras. 43, 46(e).

⁷ Ibid, para. 46(c).

⁸ Ibid, para. 46(d).

⁹ Ibid, para. 47.

¹⁰ Ibid, para. 46(g)-(h).

prominence and there are useful lessons to learn from these jurisdictions. In Canada, the Department of Canadian Heritage operates a 'Human Rights Program' to promote the development, understanding, respect for and enjoyment of human rights in Canada.¹¹ Part of the Program entails organising educational and promotional activities involving the public, educators, non-governmental organisations, government departments and others on a continuing basis. The Human Rights Program is also responsible for distributing human rights publications upon request, such as, one of its primary documents, Your Guide to the Canadian Charter of Rights and Freedoms.

In Victoria, Australia, a three-fold strategy was adopted in relation to education on the Victoria Charter of Human Rights and Responsibilities Act 2006.¹² First, the Human Rights Unit of the Department of Justice was charged with primary responsibility for the education of the public sector. This involved training legal and legislative policy officers; 'train-the-trainer' programmes, to enable trainers, in turn, to disseminate information within their own public authority; and training government prosecutors and criminal law practitioners. Second, community education was, and continues to be, conducted by the Victorian Equal Opportunity and Human Rights Commission. Third, the Judicial College of Victoria provided, and continues to provide, specialised training for the judiciary.

In terms of public awareness campaigns, a noteworthy example is a radio advertising campaign conducted by the Victorian Equality Opportunity and Human Rights Commission. The campaign was conducted in 45 languages, and sought to raise awareness of racial and religious rights.¹³

(iii) Litigation Support

¹¹ See generally: <http://www.pch.gc.ca/progs/pdp-hrp/index_e.cfm> (accessed 26 March 2008).

¹² See

<<http://www.justice.vic.gov.au/wps/wcm/connect/DOJ+Internet/Home/Your+Rights/Human+Rights/Human+Rights+Charter/JUSTICE++Human+Rights+Training+and+Communication>> (accessed 26 March 2008).

¹³ See 'New radio campaign promoting awareness of religious and racial rights' 27 November 2007,

<<http://www.humanrightscommission.vic.gov.au/news%20and%20events/media%20releases/20071127.asp>> (accessed 26 March 2008).

Even if individuals are aware of the Bill of Rights and fully understand its implications, they may be impeded from asserting their rights due to lack of finance and lack of legal expertise. Effective litigation requires adequate financial and legal resources.

Financial assistance is the primary way to support human rights litigation. This option, which is already in place throughout the UK, can be achieved through prioritising human rights issues in the legal aid funding criteria. For instance, under the current Legal Aid Funding Criteria (July 2007), where other eligibility criteria are met, a presumption in favour of legal aid funding operates if the case raises 'significant human rights issues'.¹⁴

Litigation support can also be provided through specialist legal centres. Again international experience is instructive. The Canadian Charter of Rights and Freedoms came to life in the broader community only when a small number of specialist legal centres were funded to take test case litigation.¹⁵ In Victoria, part of the implementation programme was the establishment and funding of the Human Rights Law Resource Centre as an independent agency to take test cases, among other things.¹⁶

C. Overarching Structures

(i) Co-ordination

These implementation activities – accessibility action, education training, and litigation support – are more likely to be successful if they are properly coordinated by one responsible authority. In this way, both overlaps and gaps can be avoided and attention can be directed to any particularly vulnerable social groups.

(ii) Funding

Designated human rights funding is essential to achieve effective implementation of human rights. This funding is necessary to ensure that the implementation activities can be undertaken. An example of a successful general funding programme is the Canadian Human Rights Program, already

¹⁴ Funding Code Criteria (July 2007), para. 7.5.2. See also paras. 7.4.5, 8.3.2, and 13.4.

¹⁵ See for example the Women's Legal Education and Action Fund: www.leaf.ca

¹⁶ See www.hrlrc.org.au.

noted, which provides a selected number of grants and contributions to eligible organisations for projects that increase awareness, knowledge, and practical enjoyment of human rights in Canada.¹⁷ In any given year, the Human Rights Program might also focus on projects linked to a particular set of rights; so for instance, for 2007-2008, the Program has been focussing on projects increasing public awareness of the International Covenant on Economic, Social, and Cultural Rights and the Convention on the Rights of the Child.¹⁸

(iii) Monitoring

Implementation of the Bill of Rights needs to be monitored. The Northern Ireland Human Rights Commission can play a role here under its existing statutory mandate which is sufficient to enable it to do so. In addition, Assembly promotion and monitoring of implementation would be advantageous to encourage a thorough approach in relation to consistency of Assembly Bills and draft subordinate legislation with the Bill of Rights and effective implementation in other areas. The establishment of an Assembly committee on human rights, with similar responsibilities to Parliament's Joint Committee on Human Rights, would be an appropriate means to achieve this.

CHAIR'S PROPOSAL

1. A programme of activities should be developed to enable full implementation of the Bill of Rights, including through
 - a. accessibility action to make the Bill of Rights as accessible as possible through the production of the document itself and supplementary material in different formats, including child-friendly, plain English, different languages, Braille, large print formats, with priority given to reaching vulnerable and hard to reach groups;
 - b. education and training for those with responsibilities for implementation of the Bill

¹⁷ See www.pch.gc.ca/progs/pdp-hrp/index_e.cfm.

¹⁸ See n 11.

- of Rights, for community organisations and groups and for the general community; and
 - c. litigation support through specific legal aid funding and through specialised legal services, including for test case litigation.
2. Implementation should be supported by
 - a. designation of a central governmental authority with primary responsibility for coordination of implementation and related activities; and
 - b. establishment of a government human rights fund to support implementation of the Bill of Rights.
 3. The Northern Ireland Assembly should establish a standing committee on human rights to promote and monitor implementation of the Bill of Rights.
 4. As with the Human Rights Act, a period of time should be allowed between passage of the legislation and its commencement to permit public authorities to make necessary preparations and community information and education programmes to be commenced.