
Action Plan Against Racism and Discrimination Towards Aboriginal People

Consultation Paper

**Secrétariat
aux affaires
autochtones**

Québec 

Message from the Minister for Aboriginal Affairs



In July of this year, I announced on behalf of the Government of Québec the beginning of our efforts to develop a governmental *Action Plan to Combat Racism and Discrimination Towards Aboriginal People*. I now have the pleasure of inviting stakeholders to discuss the issues involved during two days of consultations scheduled for November 5 and 6 in Québec.

This event will provide an opportunity for sharing concerns and experiences, and for coming up with potential solutions to the problems that deny thousands of Aboriginal citizens in our society the opportunity to develop their potential. In their daily lives and in almost all areas of public life, many Aboriginal people have to contend with prejudice and stereotyping. In the workplace, at school, and in the media, Aboriginal people are sometimes faced with a mindset and behaviour that, regrettably, are tainted with racism, discrimination, and harassment.

In a democracy such as ours, these situations are not acceptable. It is, therefore, imperative that the Government of Québec actively endeavour to cultivate tolerance and to foster harmonious cohabitation within our society. In all areas of social life, the Government must strive to provide a level playing field, which is one of the basic principles of cohabitation in Québec. One of the concrete measures already planned is the inauguration by the Government of an Aboriginal History Month.

It is my hope that these two days of reflection lead to a greater understanding of the problems of racism and discrimination towards Aboriginal people and that together we succeed in identifying measures that will point the way to solutions and enable us to take immediate action to combat ignorance, prejudice, and exclusion.

As someone who respects the identity of Aboriginal people and their different cultures, I will work hand-in-hand with Aboriginal communities and organizations to develop the Government's action plan. The ultimate aim is to ensure that First Nations' aspirations are taken into account, and to succeed in bringing Aboriginal and Québec cultures closer together.

Let's make it a date on November 5 and 6.

A handwritten signature in blue ink, appearing to be 'EL', written over a horizontal line.

Élizabeth Larouche
Minister for Aboriginal Affairs

Québec, October 2013

Introduction

Following the 2008 publication of a governmental policy to combat racism and discrimination in Québec (*Diversity: An Added Value*), the Secrétariat aux affaires autochtones (SAA) was tasked with coordinating specific measures aimed at Aboriginal nations. This led to the announcement by the Minister for Aboriginal Affairs, Élisabeth Larouche, in July of this year, of the beginning of our efforts to develop a *Government Action Plan to Combat Racism and Discrimination Towards Aboriginal People*.

Consulting and listening to stakeholders is one of the essential steps in designing a plan of this nature. To this end the SAA is organizing two days of consultations and discussions during which participants will be able to inform the government of the realities facing Aboriginal people within Québec society. Important players from the Aboriginal community have of course been invited to take part in this crucial exercise along with representatives of human rights organizations. These consultations will take place in Québec on November 5 and 6, 2013.

Consultation Objectives

The goal of these two days of reflection is to develop a common understanding of the issues surrounding discrimination and racism towards Aboriginal people and to identify potential solutions that will inform the action plan the Government is set to launch in spring 2014.

More specifically, consultations with our partners are intended to:

- allow our partners to talk about the context and definitions of racism and discrimination;
- more clearly identify the problems entailed in racism and discrimination towards Aboriginal people;
- come up with potential solutions for combatting racism and discrimination.

This document defines the consultation framework. It includes a brief background summary, the concepts that define the various issues that will be addressed, and the questions that will be used as a starting point for reflection and discussions.

Background

From the time of first contact up until quite recently, First Nations and the Inuit were subject to considerable repression from both church and state with respect to their spiritual practices, their culture, and their languages.

The political situation of Aboriginal people in Canada deteriorated most of all in the 19th century with the end of the colonial wars and the decline of the fur trade. No longer strategic allies, Aboriginal people saw their political weight decrease considerably. As a result, in 1867, Aboriginal people were not invited to take part in discussions surrounding the creation of the Canadian Confederation, the purpose of which was to establish how powers were to be shared between the provinces and the federal government. These discussions gave rise to the *British North America Act*, which stipulated that "Indians and Lands reserved for the Indians" were under exclusive federal jurisdiction. In 1876, the Government of Canada spelled out its responsibilities towards the First Nations in the *Indian Act*, which conferred limited legal capacity upon citizens who were members of the First Nations.

Up until the 1970s, the objective of federal Aboriginal affairs policies was to assimilate Aboriginal people. Although the Inuit were not targeted by the *Indian Act*, federal policies with respect to them had the same objective.

The residential school system is an example of the federal government's policy of assimilation. Children from Canada's First Nations and Inuit communities, including those from Québec, were taken away from their families at an early age in order to be re-educated according to the values of the dominant culture. Indeed, in 2008, the Government of Canada officially apologized for the wrongs done to Aboriginal people. Mention could also be made of a number of other policies such as those aimed at enfranchisement, which is the voluntary or involuntary loss of Indian status, a ban on practising some ceremonies, the creation of elective systems at the expense of traditional forms of chieftainship, the creation of reserves, and forced relocation.

Since the 1970s, there has been significant progress with respect to the protection and recognition of Aboriginal rights. In Québec, the signing of the *James Bay and Northern Québec Agreement* in 1975 and that of the *Northeastern Québec Agreement* in 1978 guaranteed the rights of the Cree, Inuit, and Naskapi nations and granted those peoples greater autonomy in a number of areas, including education, health, and social services.

In 1982, the Canadian Constitution provided a legal guarantee protecting ancestral and treaty rights. With the exception of those covered by the agreements signed in the 1970s, most Aboriginal nations in Québec are not signatories to a treaty. In spite of this, the Government of Québec promised that it would stand alongside the Aboriginal peoples in their negotiations with the federal government. Moreover, in 1985 and in 1989, the Québec National Assembly officially recognized the existence of the 11 Aboriginal nations living within Québec's territory. It acknowledged that these nations are entitled to their own culture, language, traditions, and customs and have the right to determine, by themselves, the development of their own identity within Québec society.

In spite of substantial progress as regards the protection of rights, Aboriginal peoples are still living with the fallout of the colonial past and of policies that systematically discriminated against them.

Within Québec society certain prejudices and behaviours continue to stand in the way of the individual and collective development of Aboriginal people, whose daily lives are often marred by racism, discrimination, and sometimes even harassment. The Government of Québec intends to take concrete measures and actions aimed at putting an end to this problem.

Concepts

For the purposes of this document, which looks specifically at racism and discrimination towards Aboriginal people, some concepts will have to be added to those found in the government's policy entitled *Diversity: An Added Value*. It is necessary to include these concepts in view of the particular nature of the status of Aboriginal people, their reality as peoples, and recent developments in legal and historical thinking.

Racism: in its *Declaration on Race and Racial Prejudice*, adopted in 1978, the United Nations Educational, Scientific, and Cultural Organization (UNESCO), defined racism as follows:

"Racism includes racist ideologies, prejudiced attitudes, discriminatory behaviour, structural arrangements and institutionalized practices resulting in racial inequality as well as the fallacious notion that discriminatory relations between groups are morally and scientifically justifiable; it is reflected in discriminatory provisions in legislation or regulations and discriminatory practices as well as in anti-social beliefs and acts; it hinders the development of its victims, perverts those who practise it, divides nations internally, impedes international co-operation and gives rise to political tensions between peoples; it is contrary to the fundamental principles of international law and, consequently, seriously disturbs international peace and security."
(Article 2.2)

This definition establishes the link between ideologies, prejudices, and behaviours and their concrete expression in "provisions in legislation or regulations," a link that transforms ideas into a

central plank of the political and social structure. Moreover, it goes beyond discrimination against individuals to include discrimination against nations and peoples, which hinders development and creates tensions between peoples.

Discrimination: Article 10 of Québec's *Charter of Human Rights and Freedoms* prohibits discrimination based among other things on race, colour, and ethnic or national origin. What is meant by discrimination is a "distinction, exclusion or preference" based on one of the grounds mentioned in the Charter. It should be noted that what is generally meant by discrimination is the unfavourable treatment of people belonging to particular groups within a society.

A number of other sections of the Québec Charter refer to specific examples of prohibited discrimination in various social activities such as the making of juridical acts, signage, access to housing, public places, publically available services and employment.

Direct discrimination

Discrimination is called **direct** when a confession or an analysis of the evidence shows that it is clearly based on one of the prohibited grounds. Examples of this form of discrimination are refusing to rent to or to hire someone, and denying someone access to a public place or a means of transportation.

Indirect discrimination

Discrimination is called **indirect** when it stems from the application of a rule or policy, or a practice that, in spite of appearing neutral, negatively affects an individual or group.

Systemic discrimination arises when there is a set of directly or indirectly discriminatory laws, rules, policies, or practices that combine to exclude or ensure the continued exclusion of members of a group or a community targeted by the provision forbidding discrimination on the basis of one or more of the grounds for discrimination prohibited under Québec's *Charter of Human Rights and Freedoms*.

According to the Commission des droits de la personne et des droits de la jeunesse du Québec, **discriminatory harassment** may be defined as conduct involving:

"Repeated words, actions or gestures (or, in some circumstances, a single serious action that creates an ongoing negative effect), designed to annoy or express contempt, targeted at a person or group, based on one of the grounds listed in Section 10 of the Charter.

*Harassment may be sexual or racial, or based on sexual orientation, a handicap, ethnic or national origin or any other ground for discrimination."*¹

Racial harassment generally refers to a poisonous atmosphere in places where people live, work, or receive services.

Racial profiling: According to the Commission des droits de la personne et des droits de la jeunesse du Québec:

"Racial profiling is any action taken by one or more people in authority with respect to a person or group of persons, for reasons of safety, security, or public order, that is based on actual or presumed membership in a group defined by race, colour, ethnic or national origin, or religion, without factual grounds or reasonable suspicion, that results in the person or group being exposed to differential treatment or scrutiny.

*Racial profiling includes any action by a person in a situation of authority who applies a measure in a disproportionate way to certain segments of the population on the basis, in particular, of their racial, ethnic, national, or religious background, whether actual or presumed."*²

Prejudice: Bias, preconceived opinion, or attitude, according to the Commission des droits de la personne et des droits de la jeunesse.

Racial prejudice is described as follows in UNESCO's *Declaration on Race and Racial Prejudice* (op. cit.):

"Racial prejudice, historically linked with inequalities in power, reinforced by economic and social differences between individuals and groups, and still seeking today to justify such inequalities, is totally without justification." (Article 2.3)

¹ *Investigations under the Charter of Human Rights and Freedoms*, Commission des droits de la personne et des droits de la jeunesse, Montréal.

² Turenne, Michèle, *Racial Profiling: Context and Definition*. Commission des droits de la personne et des droits de la jeunesse, Montréal, June 2005, 15 pages, p.15.

Consultation Questions

Question 1: Individually or collectively, in which aspects of your daily life do you encounter what you consider to be racism or discrimination?

Question 2: In your opinion, which actions should the Government of Québec take, develop, or pursue with its partners to achieve the objectives of its action plan?

Question 3: Which of the solutions to be implemented should the Government of Québec prioritize both globally and sectorally?

NOTE: For questions 2 and 3, the various areas of application can be, but are not limited to:

- employment;
- education;
- housing;
- health and social services;
- public security and the justice system;
- economic development;
- access to public places and publicly available services;
- efforts to combat prejudice and hate messages on the Internet and elsewhere;
- giving voice to Aboriginal cultures;
- the way Aboriginal people are depicted in the media;
- access to recourse and legal protection as well aid for victims;
- research into, and documentation and diagnosis of, the situation with respect to racism and discrimination towards Aboriginal people;
- day-to-day relationships with fellow citizens.

How to submit a brief

We invite you to compile your recommendations in a brief that you can submit to us directly during the consultations. We would also like you to send us an electronic version at the following address: contrer.racisme@mce.gouv.qc.ca. The deadline for submitting a brief is **5 p.m. on December 6, 2013**.

Your brief should consist of two parts. The first part should be a short presentation of your organization. The second part should contain your recommendations regarding the consultation questions. Your brief should be no longer than 20 pages.

Consultation Program

Facilitation

Anthropologist **Pierre Lepage**, whose career has been devoted to issues related to Aboriginal rights and freedoms, will facilitate the discussions.

Consultation dates and times

November 5, 2013, from 9 a.m. to 5 p.m.

- Participants start arriving at 8:30 a.m.
- Élisabeth Larouche, Minister for Aboriginal Affairs, gives the opening address at 9 a.m.
- This will be followed by Pierre Lepage's presentation of the specific issues surrounding racism and discrimination towards Aboriginal people. A discussion and question period is scheduled. During the second part of the day, participants will have an opportunity to inform the audience of their realities and their experience of racism and discrimination.

November 6, 2013, from 9 a.m. to 5 p.m.

- The day will focus exclusively on recommendations by participants and the potential solutions they propose. Each representative will be allotted a limited amount of time to ensure that everyone has an opportunity to speak.

Consultation venue

Hôtel Pur
395 Couronne Street
Québec, Québec G1K 7X4

If you have any questions or need information, please call Valérie Boudreault at 418-643-3166 or send an e-mail to: valerie.boudreault@mce.gouv.qc.ca.