

## Face Equality International (FEI) Research Project

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### Canada

No.	Question		Answer
1.	<p>a. Do people with facial disfigurements (marks, scars, etc.) have any legal protection against discrimination?</p> <p>b. Which law relates or mentions the legal protections?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>a. Yes</p> <ol style="list-style-type: none"> <li>1. There appears to be legal protection given the broad definition of “disability” under the Canadian Human Rights Act which seeks to prevent discrimination and improve access to employment, services and facilities in all areas of federal jurisdiction. The definition of “disability” specifically covers any previous or existing physical disability” and “disfigurement”. Protection can come in the form of the right to apply for plans to meet the needs of disabled persons which can include adapting any services, facilities, premises, equipment or operations to meet the needs of persons arising from a disability.</li> <li>2. The 1982 Charter of Rights and Freedoms which governs relationships between a private individual and government entities, also prohibits discrimination on the grounds of mental or physical disability.</li> <li>3. The Ontario Human Rights Code is a provincial law (all other Ontario laws must agree with the Code), which prevents discrimination against people based on a protected ground in a protected social area. “Disability” is a protected ground and its definition covers “disfigurement”. As such, people affected by disability are protected in the various social areas such as accommodation, contracts, employment.</li> <li>4. The Accessibility for Ontarians with Disabilities Act specifically deals with accessibility and its purpose is to improve accessibility standards for Ontarians with physical and mental disabilities to all public establishments by 2025. The definition of “disability” is the same as that under the Ontario Human Rights Code.</li> </ol> <p>b. The relevant laws that mention the legal protections against such discrimination are as follows:</p>

			<ol style="list-style-type: none"> <li>1. Canadian Human Rights Act 1985</li> <li>2. Ontario Human Rights Code, 1990,</li> <li>3. Accessibility for Ontarians with Disabilities Act, 2005</li> <li>4. 1982 Charter of Rights and Freedoms</li> </ol> <p>Canada ratified the United Nations Convention on the Rights of Persons with Disabilities on 11 March 2010.</p>
2.	<p>a. What is this country's legal definition of disability?</p> <p>b. When do people with a facial disfigurement fit within that definition?</p> <p>c. How does being excluded from that definition affect the protection of their rights?</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p>a. Guidance on the legal definition of disability can be determined from the following laws:</p> <ol style="list-style-type: none"> <li>i. The Canadian Human Rights Act (R.S.C., 1985, c. H-6) provides that "disability" means "any previous or existing mental or physical disability and includes <u>disfigurement</u> and previous or existing dependence on alcohol or a drug;"</li> <li>ii. The Ontario Human Rights Code provides that "disability" means, "(a) any degree of physical disability, infirmity, malformation or <u>disfigurement</u> that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,"</li> </ol> <p><u>Extracts</u></p> <p>A. The Canadian Human Rights Act 1985</p> <p>Section 25: "disability" means any previous or existing mental or physical disability and includes disfigurement and previous or existing dependence on alcohol or a drug; (déficience)</p> <p>Discriminatory Practices include:</p> <p><b>Denial of good, service, facility or accommodation</b></p> <p>Section 5: It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public</p>

			<p>(a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or  (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.</p> <p><b>Denial of commercial premises or residential accommodation</b>  Section 6: It is a discriminatory practice in the provision of commercial premises or residential accommodation  (a) to deny occupancy of such premises or accommodation to any individual, or  (b) to differentiate adversely in relation to any individual, on a prohibited ground of discrimination.</p> <p><b>Employment</b>  Section 7: It is a discriminatory practice, directly or indirectly,  (a) to refuse to employ or continue to employ any individual, or  (b) in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination.</p> <p><b>Employment applications, advertisements</b>  Section 8: It is a discriminatory practice  (a) to use or circulate any form of application for employment, or  (b) in connection with employment or prospective employment, to publish any advertisement or to make any written or oral inquiry that expresses or implies any limitation, specification or preference based on a prohibited ground of discrimination.</p> <p>See <a href="https://www.justice.gc.ca/eng/">https://www.justice.gc.ca/eng/</a> for full copies of the legislation, including the 1982 Charter of Rights and Freedoms</p> <p>B. The Ontario Human Rights Code</p> <p>Section 10(1): “disability” means,</p> <p>(a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,</p> <p>(b) a condition of mental impairment or a developmental disability,</p>
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			<p>(c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,</p> <p>(d) a mental disorder, or</p> <p>(e) an injury or disability for which benefits were claimed or received under the insurance plan established under the <i>Workplace Safety and Insurance Act, 1997</i>;</p> <p>See <a href="https://www.ohrc.on.ca/en/ontario-human-rights-code_for_full_copies_of_the_legislation">https://www.ohrc.on.ca/en/ontario-human-rights-code_for_full_copies_of_the_legislation</a>.</p> <p>See <a href="https://www.ontario.ca/laws/statute/05a11">https://www.ontario.ca/laws/statute/05a11</a> for the Accessibility for Ontarians with Disabilities Act</p> <p>b. Given the broad definitions above, it appears that if a person has suffers from a disfigurement, whether on the face or body, whether caused by bodily injury, birth defect or illness, such person will be considered to have a disability.</p> <p>c. If the facial disfigurement in question does not fall within the above definitions, a person does not benefit from any protection of their rights, which are rather broad and far ranging as set out above. For instance, there is even a specific legislation that focuses on public accessibility.</p>
3.	<p>Are there aspects of disability and/or disfigurement law that ensure a legal right to healthcare, education or employment?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>1. Legal right to access healthcare:</p> <p>Although there is no express provision relating to healthcare, the legal right to access healthcare should be captured by the general provisions of:</p> <p>(a) The Canadian Charter of Rights and Freedom which provides that:</p> <p><i>“Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability”</i> (Section 15(1))</p> <p>(b) The Canadian Human Rights Act which provides that:</p> <p><i>“It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public</i></p> <p><i>(a) to deny, or to deny access to, any such good, service, facility or accommodation to any individual, or</i></p> <p><i>(b) to differentiate adversely in relation to any individual,</i></p>

			<p><i>on a prohibited ground of discrimination” (Section 5)</i></p> <p>(c) The Ontario Human Rights Code which provides that:</p> <p><i>“Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability” (Section 1)</i></p> <p>2. Legal right to access education:</p> <p>Although there is no express provision relating to education, the legal right to access education should be captured by the general provisions of the Canadian Charter of Rights and Freedom relating to equality (Section 15(1)), the Canadian Human Rights Act (Section 5), and the Ontario Human Rights Code (Section 1), referred to in §1 above.</p> <p>3. Legal right to access employment:</p> <p>(a) The legal right to access employment should be captured by the general provisions of the Canadian Charter of Rights and Freedom relating to equality (Section 15(1)), referred to in §1(a) above.</p> <p>(b) The legal right to access employment should be captured by the general provisions of the Canadian Human Rights Act (Section 5) referred to in §1(b) above as well as the following provision:</p> <p><i>“It is a discriminatory practice, directly or indirectly,</i></p> <p><i>(a) to refuse to employ or continue to employ any individual, or</i></p> <p><i>(b) in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination” (Section 7).</i></p> <p>(c) The legal right to access employment should be captured by the general provisions of the Ontario Human Rights Code (Section 1) referred to in §1(c) above as well as the following provision:</p> <p><i>“Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability” (Section 5)</i></p>
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4.	<p>a. How effective are the legal protections? Please describe evidence available of the effect of the legal protections.</p> <p>b. What are deficiencies or areas for improvement in these legal protection</p>		<p>a. Effectiveness of the legal protections</p> <p>Based on the records of decisions published by the Canadian Human Rights Tribunal, it held 59 decisions and rulings in 2023 and it has already issued 23 decisions and rulings in 2024 on cases of discrimination, with respectively 25 and 10 cases which are based on disability. Some of these cases succeeded and some of these complaints were dismissed.</p> <p>b. Deficiencies and areas of improvement No identified deficiencies or areas of improvement</p>

	<p>measures as they apply and affect people with facial disfigurement?</p> <p>c. What evidence exists to prove that the information and resources guaranteed by law are actually available to disabled persons?</p>		<p>c. Evidence that the information and resources guaranteed by law are actually available to disabled persons</p> <p>Legal sources (<a href="https://www24.international.gc.ca/eng/disability/eng/disability-rights-people-canada-ca">Rights of people with disabilities - Canada.ca</a>) and other reference guides (<a href="https://www24.international.gc.ca/eng/disability/eng/disability-reference-guide-canada-ca">Federal Disability Reference Guide - Canada.ca</a>) relating to the rights and protection of persons with disabilities are largely available online on the official website of the Federal government of Canada.</p> <p>Information about complaints of discrimination is freely available online on the website of the Canadian Human Rights Tribunal (<a href="https://www.chrt-ctdp.gc.ca/">Human rights forms - Canadian Human Rights Tribunal (chrt-ctdp.gc.ca)</a>)</p>
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