

# Rights activist group issues detailed critique of Nova Scotia human rights regime

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Michael Carvery, right, speaks about his experiences with the The Nova Scotia Human Rights Commission during an August rally in front of the Halifax building that house the commission office.



The Nova Scotia human rights regime is neglectful, slow to act, reactive and under-resourced, a rights activists group says. "The commission has adopted a piecemeal, one-off, reactive and passive approach to the furthering of human rights," Liane Tessier, a founding member of Equity Watch, said of the Nova Scotia Human Rights Commission in an online news conference Wednesday that marked the third anniversary of her historic 2018 settlement with Halifax Regional Municipality.

"Things have to change and change fundamentally," said Tessier, who in 2007 filed a complaint against her employer, the Halifax Fire Service, and Halifax Regional Municipality after being subjected to years of gender discrimination as a firefighter.

"Five years later, the commission dismissed my case on what it called lack of evidence," Tessier said, calling the commission's investigation inadequate and unfair.

The commission's decision to dismiss the complaint led to a protracted legal battle.

"The commission failed to protect my worth as a woman and as a result I needlessly had to, out of frustration, continue my fight by filing for a judicial review and taking them to the Supreme Court of Nova Scotia in 2012."

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**Liane Tessier**

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Tessier said she won the court case two years later and the presiding judge issued a scathing review of the commission's actions, sending the case back to the commission for continued investigation.

"In December 2017, the commission apologized that I had to go through such a lengthy process," Tessier said. "Getting complaints done in a timely manner is a huge issue ... and seems to be a recurring theme."

Equity Watch, formed by activists in the wake of the Tessier settlement to promote workplaces free of bullying, harassment and discrimination, has produced a 52-page critique that lists what it describes as 35 serious, sometimes fatal, flaws in the Nova Scotia system while offering 25 recommendations for reform.

Tessier said she, like many others, was left "disillusioned by the commission's shoddy work ethic and cold-as-ice approach."

Tessier cites a complete lack of professionalism by the commission, including inadequate communication with her and people who could have supported her complaint.



Raymond Shepherd speaks to reporters about his experiences with the Nova Scotia Human Rights Commission during an August rally in Halifax. - Tim Krochak

"There was evidence of bias, lazy investigating," Tessier said. "The commission took the employer's side automatically, at face value.

"There was an apparent lack of knowledge or insight into systemic gender discrimination."

A decade after she first filed a complaint with the commission, the case was referred to a board of inquiry but the municipality instead wanted to settle, agreeing that it had engaged in systemic gender discrimination, to apologize to Tessier and other women affected by such discrimination, to a monetary settlement and six other promises that included education programs and a policy review.

"For the past three years, we have requested information on the progress of those promises but neither the fire service or the human rights commission have responded," Tessier said.

"There are disturbing indications that things have not improved."

Tessier said she gave the employer and the commission a list of male firefighters who had harassed other women within the fire service but none, to her knowledge have been disciplined.

"Indeed, most of them have been promoted," Tessier said. "Ironically, my victory has actually made it harder for complainants. ... The commission's lawyers use the Tessier case against (complainants), arguing, so to speak, that they are not being treated as badly as Tessier was so you have no case, go away."

Connor Smithers-Mapp, a Halifax lawyer and former steering committee member of Equity Watch, said complainants who want to lodge grievances, specifically about racism, say human rights officers are difficult to get in contact with, are dismissive and their reasons for not following up on complaints are all over the map.

"Moreover, if their complaints are not accepted, the provisions for appeal are virtually non-existent," Smithers-Mapp said.

He said the provincial human rights regime and the commission “are dangerously underfunded and under-resourced relative to the actual need.”

Smithers-Mapp said a significant number of people who live in marginalized communities do not file complaints seeking redress from the commission because they have no confidence in the commission.

He said only about five complaints per year reach the board of inquiry level, a “woefully low” number.

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**Connor Smithers-Mapp**

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“Most reasonable people would suggest that those five made it to boards of inquiry because they were pretty close to being slam dunks and that the commission is quite fastidious in choosing cases that they think will be winners,” Smithers-Mapp said.

Smithers-Mapp said vulnerable people experiencing the trauma of racism and discrimination are “revictimized” by a system that drags out complaints over a number of years.

Smithers-Mapp said the commission often focuses on diversity education and bias training “when there is no empirical evidence that bias can be changed or that the changes will be sustained.”

The commission should focus instead on processes, policies and procedures, “tangible, substantive efforts that can actually make a real change in the culture of organizations and in people’s lives.”

Larry Haiven, a founding member of Equity Watch and a retired professor emeritus of management at Saint Mary’s University in Halifax, promoted the Ontario experience as a model for human rights regime change.

Haiven said Ontario has for 16 years used a tripartite package system with a clear division among a human rights commission, a permanent tribunal and a human rights legal support system.

“It was brought in precisely because of the problems similar to those present in Nova Scotia,” Haiven said.

The commission in Ontario is restricted to policy matters, public education and research and it does not handle complaints, Haiven said. The tribunal processes and hears complaints and the Ontario system ensures that no complainant is denied access to their day in court.

The legal support centre offers advice to applicants, assists them in framing their complaints and can act for clients before adjudicators, Haiven said.

Equity Watch intends to share its report with the commission and the provincial government.

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