

Canada's multicultural heritage (section 27) and the general extension of the rights and freedoms of the *Charter* to both male and female persons "notwithstanding anything in [the] Charter" (section 28). These various provisions complement the guarantee of section 15 in some of its particular elements.

The only provision of the *Charter* that limits section 15 is the general qualification of section 1. That section reads as follows:

The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

If a law is *prima facie* in violation of section 15, the onus will be on the government to justify that law in terms of this provision. We do not think that there are any other justifications that could restrict the application of section 15 unless it be the competing claims, in a particular case, of another *Charter* guarantee. We have treated section 15 itself as being without implicit qualifications.

We also considered section 15 in the broader context of Canada's international commitments. Some of the agreements and conventions that Canada has entered into are instructive in determining the proper scope of section 15 — for example, the International Covenant on Civil and Political Rights and the United Nations Convention on the Elimination of All Forms of Discrimination against Women. When that is the case we make specific reference in this report to the relevant international undertaking.

Who is Affected by Section 15?

Finally, we have had to consider what kinds of entities are entitled to the benefit and subject to the burdens of section 15. We take the beneficiaries to be natural persons, since the section refers to "individuals" and the prohibited grounds of discrimination relate to peculiarly human attributes.

We think that it is governments and legislatures, and those agencies they control or support, that are bound by section 15, for it is governments and legislatures that are responsible for the "law" to which section 15 relates. (See also section 32 of the *Charter*.) However, the *Charter* can have an indirect effect on private sector conduct because of the equal protection and equal benefit aspects of section 15. If Parliament enacts protective provisions, such as it has done, for example, in the *Canadian Human Rights Act*, it cannot deny or limit the full benefit of those provisions on a basis that offends section 15. Section 15 will therefore influence the scope of legislative protection to be afforded to individuals through limitations on the activities of others. Those others may include individuals and entities with absolutely no connection to government. Such persons will therefore be ultimately affected by section 15. In this sense, private persons can be subject to the constraints of section 15.

Human Rights Principles

Although section 15 contains some strong anti-discrimination provisions, there will still be a need for effective human rights legislation. That legislation covers discrimination in the private sector. Thus it affects situations such as the rental of accommodation and private employment, which are not directly affected by section 15. Human rights legislation also provides an expeditious procedure for dealing with