

THE CANADIAN HUMAN RIGHTS COMMISSION

A Paper submitted by the Department of Justice, Canada (adapted from a publication of the Canadian Human Rights Commission)

INTRODUCTION

1. The Canadian Human Rights Commission, established in 1978 pursuant to the *Canadian Human Rights Act*,¹ is responsible for administering that Act by ensuring that the principles of equal opportunity and non-discrimination are implemented in all areas of federal jurisdiction. Specifically, the Commission deals with complaints of discrimination in employment and in the provision of services based on the grounds enumerated in the Act: race, colour, national or ethnic origin, religion, age, sex, marital status, family status, disability, and conviction for which a pardon has been granted. As a result of a court decision in 1992, sexual orientation is now deemed to be included as a prohibited ground.

2. The Commission also investigates complaints alleging inequities in pay between men and women who are performing work of equal value. In the field of employment equity, the *Employment Equity Act* requires that copies of annual reports filed by federally-regulated employers be made available to the Commission, which monitors their performance and, where appropriate, initiates or pursues actions brought under the Canadian Human Rights Act. It is anticipated that proposed amendments to the *Employment Equity Act* now before Parliament will considerably expand the Commission's responsibilities vis-a-vis the federal government and the federally-regulated private sector.

3. In addition to its duty to investigate complaints of discrimination, the Commission has a statutory responsibility to develop and conduct programs to foster public understanding of the

principles enshrined in the *Canadian Human Rights Act*. The Act also requires that the Commission prepare an annual report on its activities including recommendations and suggestions concerning human rights and freedoms and a review or assessment of any rules, regulations or other instruments made pursuant to an Act of Parliament.

4. The Commission's statutory authority encompasses all areas of federal jurisdiction including federal departments and agencies, Crown corporations, private companies which regularly transport goods or people across provincial or national borders, chartered banks, interprovincial or international pipelines, federally-regulated broadcasting and telephone companies, grain elevator companies and companies which handle radioactive materials.

5. The *Canadian Human Rights Act* complements the *Canadian Charter of Rights and Freedoms*, which provides constitutional protection of human rights. The *Charter* applies only to government activities while the *Canadian Human Rights Act* applies both to the federal Government and to federally-regulated businesses. Beyond the federal arena, similar legislation has been enacted by the provinces to protect human rights. The Canadian Human Rights Commission co-operates with its provincial counterparts so that comparable human rights protection can be provided across the country.

6. The Commission is an independent agency which reports to Parliament through the Minister of Justice.

THE COMMISSION'S PURPOSE

7. The Commission fosters the principle that every individual should have equal opportunity to participate in all spheres of Canadian life consistent with his or her duties and obligations as a member of society.

HOW THE COMMISSION FULFILLS ITS MANDATE: COMPLAINT RESOLUTION, PROMOTION AND EDUCATION

8. The Canadian Human Rights Commission uses both compliance (including early resolution and conciliation) and promotional means to foster equality of opportunity.

¹ The *Canadian Human Rights Act*, S.C. 1976-77, proclaimed March 1, 1978, was amended by S.C. 1980-81-82-83, c. 111 and 143, proclaimed July 1, 1983, and S.C. 1985, c. 26, proclaimed October 15, 1985.

9. Compliance primarily involves dealing with complaints of discrimination filed against individuals and firms within federal jurisdiction.

10. Commission staff have broad powers to investigate such complaints, and the findings of these investigations are submitted to the Commission for decision. The members of the Commission, after reviewing the findings and any submissions made by a complainant or respondent, may:

- decide not to act on a complaint (for example, if it is beyond the Commission's jurisdiction or is beyond the time limits allowed by the *Canadian Human Rights Act*);
- dismiss the complaint;
- refer the complainant to a more appropriate authority;
- appoint a conciliator to attempt to bring about a settlement;
- approve settlements which have been agreed to by the parties; or
- request the President of the Human Rights Tribunal Panel to appoint a tribunal.

11. The Commission also uses the data collected and published under the *Employment Equity Act*, as well as data provided through the Treasury Board's employment equity program, to identify areas of under-representation of aboriginal peoples, persons with disabilities, visible minorities and women in the federal and federally-regulated sectors. It then attempts to work cooperatively with employers to identify any barriers that cause under-representation and to develop appropriate plans to change these situations.

12. The Commission further endeavours to promote equality of opportunity and discourage discriminatory practices by conducting information and public education programs, issuing policy guidelines, conducting research, reviewing regulations and other forms of delegated legislation, and maintaining close liaison with human rights bodies and related interest groups.

ORGANIZATIONAL STRUCTURE

13. The Commission consists of a Chief Commissioner, a Deputy Chief Commissioner, and a maximum of six other members appointed by the

Governor-in-Council. The Chief Commissioner and Deputy Chief Commissioner are full-time members appointed for a term not exceeding seven years; other members are appointed for a term not exceeding three years.

14. The Commission's program is delivered through the offices of the Chief Commissioner, the Secretary-General, the Executive Secretariat, six regional offices and the following headquarters branches: Anti-Discrimination Programs, Employment and Pay Equity, Communications, Policy and Planning, Legal Services, Corporate Services, and Personnel Services.

15. The **Office of the Secretary-General** provides advice to the Commissioners and oversees staff support to the Commission at headquarters and through its six regional offices.

16. The **Executive Secretariat** is responsible for preparing executive correspondence, for co-ordinating briefing materials and for providing support to the executive offices. It also plays a role in the Commission's new complaints processing system, and co-ordinates the Commission's strategic planning activities.

17. The **Regional Offices** investigate discrimination complaints, except those dealing with employment and pay equity. They also work with community representatives, employers and unions to inform the public of their rights. The Regional Offices are located in Halifax, Montreal, Toronto, Winnipeg, Edmonton and Vancouver.

18. The **Anti-Discrimination Programs Branch** provides functional direction to the regional offices with respect to the investigation of complaints. The Branch also provides a quality assurance function for cases presented to the Commission, trains staff involved in antidiscrimination activities, establishes performance standards and operational policies, and provides conciliation services for cases referred to conciliation by the Commission.

19. The **Employment and Pay Equity Branch** provides advice to the Commission on employment and pay equity matters, and offers educational programs to employers and community groups. The Employment Equity Directorate investigates employment equity complaints and conducts joint reviews with employers. The Pay Equity Directorate investigates equal pay complaints.

20. The **Communications Branch** explains the role and activities of the Commission, fosters public understanding of the Act and discourages discriminatory practices by means of information programs and activities in the community.

21. The **Policy and Planning Branch** monitors domestic and international human rights issues of interest to the Commission and develops policy papers and positions for its approval.

22. The **Legal Services Branch** provides advice to the Chief Commissioner, Commission members and staff. Legal officers also represent the Commission in litigation before tribunals, review tribunals and the courts.

23. The **Corporate Services Branch** provides headquarters and regional offices with support services in assets management, finance, access to information and privacy, informatics, information management, library and editorial services.

24. The **Personnel Services Branch** provides headquarters and regional offices with support services in staffing, classification, pay and benefits, staff relations, training and human resource planning, official languages and health and safety.

THE HUMAN RIGHTS TRIBUNAL

25. The **Human Rights Tribunal** is a quasi-judicial body which operates independently of the Commission. Members of the Human Rights Tribunal Panel are appointed by Order-in-Council and serve on a part-time basis. The President of the Human Rights Tribunal Panel selects from the Panel members to serve on each individually appointed tribunal. Tribunals conduct public hearings and make decisions based on the merits of the complaint and on the evidence adduced at the hearing. Support services for the tribunal operations across Canada are provided by a Registry based in Ottawa.