CANADIAN HUMAN RIGHTS COMMISSION

ANNUAL REPORT

2001

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CANADIAN HUMAN RIGHTS COMMISSION

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- This Annual Report is one of two reports the Commission has submitted to Parliament. Its companion volume, *Employment Equity Report*, fulfills the Commission's legislative requirement to report annually on its work under the *Employment Equity Act*. The latter report describes the audit process that the Commission is required to carry out, and the progress made by employers in complying with the Act.

- The Commission also issues a *Legal Report* that provides information on key court and tribunal decisions in 2001.

- These publications are available on the Commission's web site at http://www.chrc-ccdp.ca.

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CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

Chief Commissioner *Présidente*

March 2002

The Honourable Daniel Hays
Speaker of the Senate
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. Speaker:

Pursuant to section 61 of the *Canadian Human Rights Act*, I have the honour to transmit the *2001 Annual Report* of the Canadian Human Rights Commission to you for tabling in the Senate.

Yours sincerely,

Michelle Falardeau-Ramsay, Q.C.

Ottawa, Canada K1A 1E1

CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

Chief Commissioner *Présidente*

March 2002

The Honourable Peter Milliken, M.P.
Speaker of the House of Commons
House of Commons
Ottawa, Ontario
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Dear Mr. Speaker:

Pursuant to section 61 of the *Canadian Human Rights Act*, I have the honour to transmit the *2001 Annual Report* of the Canadian Human Rights Commission to you for tabling in the House of Commons.

Yours sincerely,

Michelle Falardeau-Ramsay, Q.C.

Ottawa, Canada K1A 1E1

Our Vision

We envision the Canadian Human Rights Commission as a dynamic and progressive leader, contributing to a society where people respect human rights and diversity and treat each other with dignity.

Our Mission

We protect and advance human rights by providing a forceful, independent, and credible voice for promoting equality in Canada.

We work to discourage discrimination and disadvantage, and ensure compliance with the *Canadian Human Rights Act* and the *Employment Equity Act*.

We share our experience and cooperate with human rights institutions in Canada and in other countries.

Our Values

At the Canadian Human Rights Commission we value:

- the integrity, commitment, teamwork, and expertise of our Commissioners and staff;
- a workplace that benefits from the diversity of Canadian society;
- relevant and accessible services delivered using fair, efficient, and transparent processes; and
- the contribution made by those who work to advance human rights and equality.

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Introduction

Human Rights are often among the first victims of war. So it is not surprising that after September 11, governments and citizens around the world focused mainly on security. Indeed, the right to life is the bedrock of human rights — without it, all other rights are meaningless. We must ask ourselves, however, what price we are willing to pay for a greater measure of security. This is the issue Canadians faced in the fall of 2001.

During the debate on the Government's proposed anti-terrorism measures, many Canadians urged Parliament to act cautiously in limiting our human rights. They urged measures to ensure that Canada remains a country that treats all its people, whatever their race or religion, with respect.

But how can we best ensure that this is so? One important step would be to provide front-line human rights institutions like the Commission with the tools they need to carry on the fight.

Successive governments have talked about fundamentally reforming the *Canadian Human Rights Act* but have not followed through. The Commission's mandate and structure — a generation old — need modernizing. The work of human rights protection and promotion has become significantly more difficult and complex in the 23 years since the Commission opened its doors. Handling the complaints load means that very limited resources are available for the equally important task of preventing, through human rights education and policy initiatives, discrimination before it occurs.

The first part of this report outlines what the Commission has done over the year to protect and promote human rights, and to comment on major human rights developments. It looks at the year's important human rights events, and highlights relevant actions of our government and of our courts and tribunals.

Subsequent chapters on case work and human rights promotion provide statistics on human rights complaints dealt with by the Commission, as well as details on some of the promotion and education activities carried out nationally and in specific regions of the country.

Health of Human Rights in Canada

Security and Human Rights

The threat of terrorism dominated the state of human rights in Canada in the latter part of 2001. Parliament approved anti-terrorism legislation and, at the end of the year, was considering a *Public Safety Act* allowing designated security zones controlled by the military. New immigration and refugee legislation was adopted that, in many respects, restricted human rights more than the previous law. Early in 2002, the Supreme Court of Canada decided that security considerations could in certain limited circumstances justify deporting someone to a country where they face torture.

Viewed separately, and in light of September 11, these measures might be seen as relatively benign — a reasonable price to pay for an increased sense of safety. However, with each incremental measure, our cherished human rights are narrowed a little more. The cumulative result may be a Canada where Canadians feel safer in the short term but in the longer term does damage to the human rights foundation on which the country is built.

It was just this concern that the Chief Commissioner stated when she appeared before the House of Commons Standing Committee on Justice and Human Rights examining the *Anti-Terrorism Act* (Bill C-36), which was subsequently passed into law. She recognized that the Government must guard against the threat of terrorism, but stressed that any legislation must be fully consistent with international human rights standards and with the *Charter of Rights and Freedoms*. She indicated to the Committee, "in our haste to introduce new measures to counter terrorism, we must not put in place measures that exceed this aim and jeopardize human rights. Let's fight back against terrorism and bring the guilty to justice but let us not endanger the innocent in our haste or abandon the very rights and freedoms which are the terrorist's target."

The Government assured Canadians that Bill C-36 and other legislation intended to tighten security balanced the need to respond to terrorism with the need to preserve rights and freedoms. But as the Chief Commissioner asked the Committee, "are we getting enough additional security from the additional powers to justify these encroachments on human rights?"

In the Commission's view, in many important respects, the answer was no. Foremost among the difficulties with Bill C-36 was the definition of terrorism. The Commission, along with many other witnesses, expressed concern that the broad and rather vague definition of terrorism proposed by the Government might be misused to quash legitimate dissent. Given the extraordinary police powers granted by the legislation, this was particularly worrisome.

A second major issue from a human rights perspective was provisions dealing with preventive detention. The Commission's fears were heightened because the new powers of preventive arrest under Bill C-36 relied upon an overly broad definition of terrorism, and were combined with amendments to the *Evidence Act* that allowed greater scope to withhold evidence because of national security interests.

The Commission also highlighted the need for a sunset clause. Bill C-36 is strong and untried medicine that one hopes will not always be required. That is why the Commission, along with others, urged the Government to provide a three-year sunset clause on those parts of the Bill that have the highest risk of infringing on human rights.

To its credit, before the Bill became law at the end of 2001, the Government did respond to some of the concerns raised by the Commission and by many others. It tightened the definition of terrorism, added some procedural safeguards, and allowed opportunities for judicial oversight. The requirement for a limited review, while welcome, was not a true sunset clause — it allowed the legislation's most difficult parts to be extended without the level of Parliamentary scrutiny that re-introduced legislation would require. The period was longer than that advocated by the Commission and many others. The Government also amended the legislation to include annual reports to Parliament on the implementation of Bill C-36. The Commission hopes that these annual reports will highlight the instances where preventive detention is used, where persons are detained without criminal charges, or where racial profiling occurs.

The new law includes some positive features. For one, it confirms that the Commission has jurisdiction over hate messages transmitted by the Internet. A lack of clarity on this issue in the past hampered the Commission's efforts to combat hatred on the Net, such as the web site of Ernst Zündel and others of its ilk. Provisions authorizing the courts to shut down Internet sites pending a determination of whether their material constitutes hate under the criminal law will be another important tool to combat hatred. A new offence regarding the desecration of churches, mosques, temples, and synagogues makes clear the deep revulsion that Canadians hold for those who commit such crimes.

Notwithstanding these positive elements, the Act still places significant restraints on civil liberties that prior to September 11 were unknown in Canada.

At the end of the year, the Government introduced additional security legislation — the *Public Safety Act* (Bill C-42) — which raised more anxieties about the need to balance fundamental rights with security interests. Of particular worry was a provision of the Bill that would allow the Minister of Defence to declare certain areas, even in major cities, as security zones, thereby curtailing the right of peaceful assembly and protest.

No doubt some of these restraints will be challenged in the courts, as they should be, in order to determine if they are, in the words of the Charter, "demonstrably justified in a free and democratic society." But much more is needed than ensuring the legislation does not actively violate the Charter. Of equal importance are measures to make citizens aware of their rights and how to protect them.

In this context, the Commission called on the Government to follow the new legislation with additional programs and other measures to better educate the general public and law enforcement officials about human rights.

Fighting Intolerance

Canada has a reputation as a place where people from every corner of the world can live in harmony with mutual respect and tolerance. That reputation is well-deserved. But in the fall of 2001, our respect for each other was put to the test. In some ways, our response was admirable; in other ways, not so.

The invidious accusation of guilt by association raised its head, even on newspaper editorial pages. There were attacks against Canadians of Arab origin, Muslims, and others. Places of worship — Muslim, Jewish, and Hindu — were defaced, and in one instance, burned to the ground. People on the street were subjected to racist taunts because of the way they dressed, looked, or sounded.

On the positive side, there was welcome support from religious leaders, politicians, artists and musicians, and most importantly, everyday citizens for the need to counter intolerance and xenophobia.

The Commission is working with other agencies, including provincial human rights commissions, to educate people on the root causes of intolerance and how to fight racism. But such institutions lack the human and financial resources to do all of this urgent work. Calls for increased resources for security were responded to with alacrity in the fall of 2001. The Commission does not question the need for this. Is it not, however, equally important to ensure that the very intolerance that the terrorists preach is not allowed to take root in Canada? The Commission thinks so and urges the Government to act accordingly.

Immigration and Refugees

The vast majority of immigrants to Canada want nothing more than to make new lives in a new country of freedom and security. Many of us or our forebears fled persecution not very different from that experienced by today's refugees. Indeed our current Governor General came to Canada as a refugee. Although measures intended to control abuse of the immigration system are warranted, we cannot forget that immigration has vastly enriched our land and made us an example to other nations on how people of many faiths and cultures can live together in harmony and peace.

In last year's Annual Report, the Commission stated that the proposed legislation on immigration and refugees, Bill C-11, might represent a retreat from Canada's enviable record as a welcome home for new immigrants and a refuge for those fleeing persecution. Despite concerns put forth by the Commission and others, such as the Canadian Bar Association, the new law — the *Immigration and Refugee Protection Act* — was approved with few changes.

As noted elsewhere in this report, the Commission hopes to examine how Canada's domestic laws live up to international norms. In this respect, the new legislation seems to miss the mark. For example, under the *United Nations Convention Against Torture*, Canada is obliged never to return someone to a country where there are substantial grounds for believing that they would be in danger of being subjected to torture. While the new law recognizes Canada's obligations under the Torture Convention, it also provides that the right not to be returned to face torture can be waived on the grounds of serious criminality or security. The Minister of Immigration justified this provision by referring to the need to prevent Canada from becoming a "haven" for criminals or people who would threaten Canada's security.

Early in January 2002, the Supreme Court of Canada rendered a decision in the *Suresh* case that focused on this issue. Mr. Suresh came to Canada as a refugee and was later granted permanent resident status. According to security officials, while in Canada, he was a fundraiser and organizer for an overseas terrorist organization. The Minister of Immigration sought his deportation under provisions of the previous *Immigration Act*. Mr. Suresh objected, claiming that he would face torture if he was returned to his country of origin.

In its decision, the Supreme Court of Canada ruled that the need for security, especially in the post-September 11 world, must be carefully balanced with the unacceptability of Canada having any involvement in torture. The Court ruled that while deportation in circumstances such as Mr. Suresh's was not absolutely forbidden under Canadian law, it could happen only in the most extraordinary circumstances.

The decision stated in the strongest of terms how greatly Canadians and the international community abhor the use of torture. It also established useful guidelines on how to determine who is a real risk to Canada's security and whether a deported person faces a substantial risk of torture. The Commission welcomes this part of the Court's ruling.

Unfortunately, the Court left for another day the determination of exactly what circumstances might justify returning someone to possibly face torture. The Commission firmly believes that torture or ill treatment of prisoners is not acceptable under any circumstances. As the Supreme Court of Canada itself noted, "states must find some other way of ensuring national security."

Another issue of concern in the immigration and refugee legislation is the matter of detention. The right to liberty and freedom from arbitrary arrest and detention are fundamental human rights to which Canada has subscribed under the *Universal Declaration of Human Rights,* the *International Covenant on Civil and Political Rights*, and in our *Charter of Rights and Freedoms*. Section 31 of the *United Nations Refugee Convention* prohibits the punishment of asylum seekers who have illegally entered a country to seek asylum.

Under the old *Immigration Act,* detention was used relatively rarely in Canada, especially compared with the United States, Australia, and certain European countries. However, this new legislation significantly broadens grounds for detention to include matters such as lack of identity documents and suspicion of being a security risk. Certainly there are some instances where detention may be warranted, and this is clearly provided for in international law. However, detention should not be used as a shortcut to solve administrative or security screening problems.

Fighting Hate on the Internet

Hate has no place in Canada. That was the conclusion reached in January 2002 by a human rights tribunal in the long-running case of Ernst Zündel. The complainants, the Toronto Mayor's Committee on Race Relations and Sabina Citron, alleged that Mr. Zündel had contravened the *Canadian Human Rights Act* (CHRA) by running an Internet site that exposed Jews to hatred.

In its ruling, which ordered that the hate messages be removed from the site, the Tribunal concluded that the site created conditions that allow hatred to flourish. In its view, the "... tone and expression of these messages is so malevolent in its depiction of Jews, that we find them to be hate messages within the meaning of the Act." As for the Act's effect of limiting freedom of speech, the Tribunal went on to

note that "...the benefit continues to outweigh any deleterious effects on [Mr. Zündel's] freedom of expression."

This decision strengthens the Commission's ability to fight hate propaganda. So do the 1998 amendments enhancing the penalties under section 13 of the Act against those who disseminate hate messages. Admittedly, the nature of the Internet makes it difficult to control. A web site closed down in Canada can spring up the next day in another country. Nevertheless, shutting down sites originating in Canada or controlled by Canadians is warranted because it expresses the repugnance that Canadian society holds for this type of activity.

International Instruments and Domestic Issues

Post-September 11 society has brought into stark relief the close connection between external events and the human rights situation within Canada. International events, standards, and trends — both negative and positive — profoundly impact the health of human rights in Canada, the specific human rights issues we focus on, and the development, interpretation, and implementation of our own human rights law.

In November, the Chief Commissioner appeared before the Standing Senate Committee on Human Rights to recommend additional measures the Government should take to implement Canada's international human rights treaty obligations. One proposal she made was that the Commission should have the resources and mandate to undertake "human rights impact analysis" of any new legislation or programs to ensure consistency with international human rights law.

The Senate Committee took up many of the Commission's suggestions in its recommendations to Government. It agreed on the importance of human rights impact analysis, particularly in the context of the new security and counter-terrorism measures. The Committee also urged the Government to respond to the Canadian Human Rights Act Review Panel's 2000 Report by adding express references to key international human rights instruments to the *Canadian Human Rights Act* and providing the Commission with adequate resources for human rights promotion and education, legislation, and policy review.

In 2002, the Commission will look at better ways to integrate international human rights law into its work. As one example, at a December meeting of the Canadian Association of Statutory Human Rights Agencies, the federal and provincial commissions explored ways in which human rights commissions in Canada, within the terms of their enabling statutes, might be able to address implementation of the *International Covenant on Economic, Social and Cultural Rights*.

International human rights standards are becoming an increasingly important source of interpretation for Canadian human rights law. The Canadian Human Rights Commission, along with its provincial and territorial counterparts, intervened in the fall of 2001 at the Supreme Court of Canada in the *Gosselin* case. The case focused on whether Quebec regulations respecting social aid violated equality rights by reducing the benefits paid to people between 18 and 30 and whether they violated the right to security of the person. On this latter issue, it was argued that the *International Covenant on Economic, Social and Cultural Rights* should serve as a persuasive guide to interpreting the *Canadian Charter of Rights and Freedoms*. This is just one way of ensuring binding international human rights treaty obligations are implemented within Canada.

The World Conference Against Racism

A world conference against racism was convened in South Africa in late August by the United Nations to bring states together to combat racism, racial discrimination, xenophobia, and related intolerance. As history has shown time and again, this is a daunting challenge.

In the end, the conference results were mixed. Discussions of reparations or apologies for historical acts of racism were acrimonious and constrained any real progress on the issue. Some of the same manifestations of intolerance that the conference set out to address were played out in Durban on the conference floor, in the parallel NGO meetings, and in the streets. The Conference failed to recognize that racism, xenophobia and intolerance can take many forms - affecting groups or individuals because of their race, but also because of related grounds such as religion, national or ethnic origin, or language. In the result, certain groups with serious claims of discrimination were left out of the Conference conclusions, while others were the targets of hostility.

It was these difficult issues which garnered the lion's share of media attention. Much less attention was paid to the hard work that took place out of the spotlight to develop practical strategies to fight racism.

One of the conference's most constructive elements from the Commission's perspective was the parallel meeting of national human rights institutions. This resulted in a consensus action plan, with concrete proposals for follow-up. The National Institutions' Declaration, with negotiations chaired by the Canadian Commission, was adopted by consensus. It set out a range of areas for concrete action and cooperation, including on issues such as human rights

education and promotion, racism in the media, conducting public inquiries, and sharing best practices among national human rights institutions in how to investigate, mediate, and adjudicate complaints of racism.

The Commission's participation in the World Conference also allowed it to strengthen its relationships with a great number of Canadian NGOs present in Durban. Commission representatives participated in the parallel events and discussions on human rights issues of importance to the Commission, including HIV/AIDS, hate messages in the media, the rights of indigenous peoples, and the intersection of gender discrimination and racism.

As one small contribution to the World Conference and the fight against racism, the Commission in 2001 published a casebook describing the types of complaints, recourses, and remedies available to deal with discrimination on the grounds of race, colour, and national or ethnic origin.

As follow-up to the Declaration, in 2002 the Commission will be undertaking a comparative study on best practices of human rights commissions in addressing racism. This will contribute to an International Conference of National Human Rights Institutions on the same subject in the spring of 2002. Of particular note, the National Institutions Declaration called on governments to adopt action plans against racism, and the Commission has urged the Canadian Government to move forward quickly with a Canadian national action plan.

The Aboriginal Peoples of Canada

First Nations have made huge progress in the last 25 years in taking control of their own communities and shaping their own futures. Yet all but a handful of First Nations are still constrained by a piece of legislation, the *Indian Act*, which has changed little since the days when an Aboriginal person had to ask a Government official's permission to leave the reserve. To put it simply, the *Indian Act* is an anachronism blocking the path to progress.

The Commission has long called for the Act's abolition and replacement with more effective and modern legislation to enable First Nations to govern their own affairs effectively and responsibly. There is almost unanimous agreement on this point both among Aboriginal leaders and Government decision makers. What has been much more elusive is agreement on how to achieve that desired end.

In the 1980s, the Government recognized Aboriginal self-government as an inherent right and set about to negotiate individual or group self-government agreements with First Nations. The plan was that as communities came under their own self-government regimes, the *Indian Act* would eventually wither away. That, however, has not been the case because although negotiations have been continuous, agreements have been few.

The failure of self-government negotiations is in itself an issue that requires urgent attention. In the meantime, the Government must also decide what to do with the *Indian Act.*

The Minister of Indian Affairs conducted consultations on the *Indian Act* throughout 2001. While not dismissing negotiated self-government agreements, the Minister called for new governance legislation to enable First Nations governments to respond more effectively to their citizens' needs and for these citizens to be better able to hold their leaders to account. The legislation would also address other critical issues, such as the rights of Aboriginal women.

Many Aboriginal leaders viewed the Government's proposals with scepticism, if not outright hostility, and many organizations and communities boycotted the consultation process.

Aboriginal groups did not reject the need to reform governance but believed that Aboriginal policy should be addressed from a broader perspective. Governance issues were important, but so too were the abysmal social and economic conditions still all too common in many communities. What was needed, they said, was a more comprehensive approach rather than piecemeal reform.

The Royal Commission on Aboriginal Peoples had earlier cautioned against a piecemeal approach when it urged the Government to adopt a comprehensive 25-year strategy for the political, social, and economic development of First Nations communities. When the Royal Commission report was issued in 1996, the Canadian Human Rights Commission called on the Government to carefully consider the recommendations and quickly implement the key ones. Some recommendations have been implemented, but many more have been gathering dust for more than five years.

At year's end, with the close of the consultation process, the Government moved toward developing draft legislation that would be further consulted on and subsequently considered by Parliament. The Commission hopes the Government and Aboriginal leaders will use

this new stage of the process as an opportunity to establish a more productive dialogue on matters of governance as well as on broader issues.

The situation of the Innu people of Labrador serves as a troubling microcosm of some of the most pressing problems faced by Canada's Aboriginal peoples. In recent years, the Innu have struggled to maintain their traditional values and close attachment to the land, while seeking to benefit from the commercial development of their territory. While working to resolve their decades-old land claim to a large part of Labrador, they fought, unsuccessfully, over the use of their land as a training area for low-flying supersonic NATO combat aircraft. The Innu, by their own frank assessment, have become a deeply troubled people, confronted with problems that affect both personal health and their communities' well-being.

The Commission first focused on the situation of the Innu in 1993 when it undertook a special study of grievances brought to the Commission's attention regarding their treatment by the federal Government. That study found that the Government had not fulfilled its constitutional and moral responsibilities to the Innu. It recommended a number of measures to correct the situation.

During the past year, a follow-up review was undertaken to assess what progress has been made in addressing the Innu's plight since the original report. The review will be released in 2002. What can be said with certainty at this point is that while progress has been made in addressing the issues of the Innu, it has been too slow, and in some cases inadequate.

Disability

Canadians with disabilities face obstacles wherever they go. Whether it is a door threshold that is too high for a person using a wheelchair, the absence of publications in braille or large print, or inadequate tax and social security measures, people with disabilities are far too often denied full citizenship in Canadian society.

The belief that accommodating the needs of persons with disabilities is to be done out of goodwill, akin to an act of charity, is still prevalent. In fact, accommodation is a basic right, entrenched in law and affirmed by the Supreme Court of Canada. Just as we no longer countenance an employer's refusal to hire women because its workplace is not "suited" to women, neither should we tolerate people with disabilities being denied opportunities because of lack of measures that would enable them to succeed.

Removing Barriers

For those who are discriminated against because of their disability, the human rights complaints system is not necessarily the answer. Complaints generally deal with a limited situation — one office that is not accessible to people using crutches or one employer that has not provided the proper accommodation for a person with a learning disability. Eliminating obstacles one at a time, step by step, or ramp by ramp, so to speak, is not the best way to achieve a barrier-free and inclusive world.

It is this inability of the human rights complaints system to achieve comprehensive barrier removal that causes governments and human rights commissions to look increasingly at alternative ways of dealing with this issue. Establishing basic standards or guidelines on accessibility and barrier removal, such as have been enacted in the United States under the *Americans with Disabilities Act,* is one such approach. In its June 2000 report, the CHRA Review Panel recommended that the federal Government adopt a standards-based approach in dealing with disability issues as well as other human rights matters. So far, however, as is noted elsewhere in this report, the Government has not acted on the recommendation.

New legislation in Ontario, the *Ontarians with Disabilities Act,* gives some idea of how such a new approach to disability rights might work. This Act allows for the establishment of barrier-free standards on accessibility matters such as building access and public transportation. All governmental institutions, including municipalities, school boards, and hospitals, are now required to publish yearly plans on the steps they are taking to remove barriers to access and employment. They are also required to establish accessibility advisory councils. A special agency has been established to advise the Ontario government on accessibility matters. Human rights advocates have criticized the legislation for a lack of clear goals and enforcement procedures, and its reliance on voluntary compliance. Nevertheless, it is the first example in Canada of standards-based barrier removal legislation.

For its part, the Canadian Human Rights Commission is now examining how standards, guidelines, or codes of conduct might be implemented federally. It will continue this work in 2002 and will look at questions such as: What kinds of standards should be developed? Who should oversee the process: the Government, the Commission or, as is the case in the United States, an independent agency? How should compliance with standards be enforced?

The Commission is already involved in standards work, albeit in a limited way. A Commission representative sits on the Canadian Standards Association (CSA) committee responsible for establishing national guidelines on barrier-free access. The Commission was also involved in developing the new CSA standard on automated banking machines (ABMs) that was issued in February 2001. In August, the Chief Commissioner wrote to the Chief Executive Officers of all the major banks, encouraging them to make all their ABMs comply with the standard as soon as possible.

While the new standard will over time lead to higher levels of accessibility for bank-owned machines, the recent proliferation of independently owned ABMs is a matter of concern. Most of these machines do not appear to meet even the most basic requirements for accessibility.

Ready for Duty

In the 1999 *Meiorin* and *Grismer* decisions, the Supreme Court of Canada made it clear that when deciding whether an employee is fit for work, he or she must be tested against a realistic standard that reflects the unique capabilities and inherent dignity of each individual. Accommodation up to the point of undue hardship must be an integral part of such an assessment. Two important Human Rights Tribunal decisions handed down in 2001 helped to further define the duty to accommodate.

In *Irvine v. Canadian Armed Forces*, the complainant, a 29-year veteran of the Canadian Forces, was relieved from duty after he had a heart attack. The Forces argued that all its members must be "war ready" at all times and if they are not, they have no place in its ranks. Applying the legal tests set out in the *Meiorin* and *Grismer* decisions, the Tribunal found that the Forces had discriminated against Mr. Irvine by not accommodating him by, for example, assigning him to Canada-based duties. The Canadian Forces have sought judicial review of the decision.

In a second case, *Stevenson v. Canadian Security Intelligence Service* (CSIS), a CSIS intelligence officer with 25 years of service and an exemplary work history was forced from his job. He had requested that a relocation be deferred or cancelled because he was suffering from depression related to his work situation. The Tribunal found, again using the Supreme Court of Canada test, that once having received a negative medical assessment of Mr. Stevenson, the employer made no attempt to accommodate his situation, such as reassessing whether it was really necessary to transfer him. The Tribunal ordered that Mr. Stevenson be compensated for all lost pay,

be paid $5,000 for loss of respect and dignity, and that CSIS revise its personnel policies in consultation with the Commission. CSIS has sought judicial review of the decision.

Both these cases reinforce the need for employers to have comprehensive policies and procedures to implement workplace accommodation.

Drug Testing Policy Review

The Commission has long been concerned with the human rights implications of workplace drug testing, especially in safety sensitive positions. Public safety is a critical issue, but so is respect for the privacy and human rights of employees who are subjected to what has been irreverently called "urinary surveillance."

Of course, an employer has a legitimate interest, in fact a duty, to determine whether employees can perform their assigned tasks in a safe and efficient manner. Scientific evidence indicates, however, that drug testing does not do this. Available tests can only determine past drug use; they do not measure impairment, how much was used, or when it was used. Therefore a drug test is not a reliable means of determining whether a person is, or is not, capable of performing the essential requirements or duties of their position.

Drug dependency, like alcoholism, is a medical condition that falls within the definition of disability enacted in the *Canadian Human Rights Act.* The courts and human rights tribunals have clearly established that the use of a positive drug test by employers to dismiss or discipline an employee may constitute discrimination on the basis of disability.

The Commission's 1999 policy made provision for drug testing in certain limited circumstances; for example, for safety sensitive positions where other means of monitoring work performance were not possible. However, a 2000 decision of the Ontario Court of Appeal called into question even this limited form of testing. In *Entrop v. Imperial Oil*, the Court concluded that pre-employment and random drug testing was discriminatory and no overriding factors justified their use by an employer. The Court applied the test set out by the Supreme Court of Canada in the *Meiorin* and *Grismer* decisions.

Partly as a result of these judicial developments, the Commission decided to re-examine its own policy and conduct a public consultation on drug testing. More than 22 organizations, employers, unions, government agencies, and professional groups made

submissions. As could be expected, views varied widely. Employers argued that testing was critical to maintaining a safe workplace, while others argued that testing was an unnecessary intrusion into workers' lives. Based on these submissions, the Commission expects to issue a revised policy on drug testing in the first half of 2002.

MANDATORY HIV SCREENING

In its Annual Report for 2000, the Commission commented on Government proposals to require mandatory HIV screening of immigrants and to exclude from immigration all persons who tested positive. The Commission suggested that this measure could not be justified on grounds of health or cost, and would add unnecessarily to the stigmatization of people living with HIV.

After expressions of concern from the Commission and others, the Government announced that while screening would be required for all independent class immigrants, someone testing positive would not necessarily be denied entry to Canada. This was a positive change but it does not resolve all the issues with the proposal.

In the Commission's view, each applicant for immigration should be entitled to an individualized assessment taking into account all relevant factors, including long-term economic, social, and cultural benefit to Canada. This approach is consistent with recent Supreme Court of Canada jurisprudence that has emphasized the need to ensure that the inherent dignity of persons with disabilities is always respected and that government policies, programs, and services accommodate their needs.

The issue of mandatory testing is closely related to the broader issue of medical inadmissibility, a long-standing consideration of the Commission. The new *Immigration and Refugee Act* addressed this issue to some extent by providing that members of the family class and refugees will not be subject to medical inadmissibility criteria. Fears remain, however, that the proposed "excessive demand" criterion may discriminate against other immigrants.

Under the test, a person would generally be excluded if the expected cost of the health and social services they may require exceeds the average cost of such services for all Canadians over a five-year period (currently $2,800 per annum). This would mean, in effect, that persons with disabilities could be excluded from immigration simply because they would cost the health care system more than $14,000 over five years.

The unfairness of excessive demand criteria was highlighted in a case that came before the Federal Court of Canada early in 2002. Angela Chesters is married to a Canadian. She is highly educated, speaks several languages, and has always been employed. She also has multiple sclerosis and uses a wheelchair for mobility.

When Ms. Chesters applied for permanent resident status, her request was denied on the grounds that she would cause an excessive demand on Canadian health care. Ms. Chesters' situation is an example of the still all too common failure to look only at the disability and ignore the person behind the disability.

Sex Discrimination

Since the *Canadian Human Rights Act* was adopted almost 25 years ago, the status of women in Canada has improved markedly. It is striking, however, that more than one in five complaints received by the Commission this past year involved discrimination on the grounds of sex. This signals that we cannot remain complacent about gender equality, nor think that the battle has been won. Perhaps surprisingly, the percentage of sex discrimination cases has not diminished over the past three years, but has in fact slowly increased. The types of complaints received have also become more complex. Discrimination is often subtle — hidden in laws, systems, or actions that, on their face, seem fair and reasonable.

Pregnancy-Related Claims

A Canadian Human Rights Tribunal considered such a matter of subtle discrimination in a case involving the relationship between employment insurance sickness benefits and maternity benefits. The case, *McAllister-Windsor v. Human Resources Development Canada,* focused on subsection 11 (5) of the *Unemployment Insurance Act* (now the *Employment Insurance Act)*, which prohibits the "stacking of benefits." It precludes anyone from receiving more than 30 weeks of special benefits in any benefit period. Special benefits include maternity, parental, and sickness benefits.

The complainant, Ms. McAllister-Windsor, was ordered by her doctor to stay in bed for the duration of her pregnancy and used 15 weeks of sickness benefits to do so. When she applied for maternity and parental benefits after birth, she was told that she was eligible for 15 weeks maternity benefits but not 10 weeks of parental benefits. The effect was that she was deprived of 10 weeks at home with her baby that she would have otherwise been entitled to had she not been sick during the pregnancy. The Tribunal noted that while the legislation "... on its face, [is] a neutral rule, it has not just a disproportionate effect, but an exclusive adverse effect on pregnant women..."

The Tribunal declared that subsection 11 (5) of the *Unemployment Insurance Act* discriminates on the basis of sex and disability. It ordered Human Resources Development Canada to cease applying subsection 11 (5) of the *Unemployment Insurance Act.* The order was suspended for 12 months to allow Human Resources Development Canada to consult with the Commission with respect to appropriate measures to prevent the same or similar problems in the future. This period would also allow Parliament to remedy the problem in the manner it deems appropriate.

Apart from complaints regarding the discriminatory effects of legislation, pregnancy-related complaints over the past year also involved actions such as harassment, terminating, failing to hire, or not renewing qualified women because they were pregnant. All too often, employers fail to accommodate the needs of pregnant employees by not modifying duties, working hours, or the work environment.

No organization can afford to lose the talent of its female staff because of outdated attitudes, the imposition of higher standards for women, or a failure to accommodate. Employers must take a hard look at lingering stereotypes and misconceptions and create work environments free from sex discrimination.

SEXUAL HARASSMENT

Sexual harassment in the workplace is one such area where there is a need for continuing vigilance. Complaints of sexual harassment are still all too frequent.

Many such complaints are settled through mediation by, for example, an apology, compensation for hurt feelings, and/or reinstatement of sick or annual leave credits used for stress-induced illness due to the harassment.

While redressing the harassment victim's situation is an essential remedy, the commitments that organizations make to prevent future harassment are equally important. In one case, an organization agreed to provide harassment training to all current management and supervisory employees as well as all non-supervisory employees who had not received anti-harassment training in the past year. In other cases, organizations agreed to work with the Commission to put an effective harassment policy in place.

Employers' failure to develop adequate anti-harassment policies and redress mechanisms is a continuing worry. Many employees turn to the Commission in frustration because their organizations do not have

harassment policies that provide for impartial and timely internal investigations. In other cases, the problem is not the policy but managers who do not understand that they must take harassment seriously and follow the procedures outlined in the policy.

One of the decisions rendered by the Canadian Human Rights Tribunal during the past year involved the alleged harassment by her supervisor of a summer student working for a federal employer. The Tribunal concluded that as a result of this harassment, the student lost her academic year and had to receive counselling. In addition to ordering apologies, legal costs, and human rights training for supervisors, the Tribunal also ordered the supervisor in question to pay compensation for lost wages and the maximum penalty permissible for hardship. This case serves to emphasize that harassment can result not only in disciplinary action, but also a direct financial cost for the harasser.

Sexual Orientation

Recognition of the human rights of gays and lesbians has made remarkable progress in the last decade. Ten years ago most human rights laws, including the CHRA, did not prohibit discrimination on the basis of sexual orientation. Pension and health benefits for same-sex partners were almost unheard of. Federal and provincial laws denied same-sex partners the advantages, such as income tax credits, available to opposite-sex partners. Most of this has changed for the better.

One major issue remains to be resolved: marriage. In October 2001, the British Columbia Supreme Court, in the case of *Egale Canada Inc. v. Canada,* rendered a decision on a constitutional challenge to the prohibition against the marriage of same-sex couples. The Court acknowledged that it is discriminatory to deny same-sex couples the right to marry. However, it went on to say that the discrimination is acceptable because marriage is a "deep-rooted" institution established to provide a structure to raise children. Legislators, not judges, should resolve this matter, the Court said. This case was under appeal at the end of 2001. In the fall of 2001, similar cases were being heard by courts in Ontario and Quebec.

In 2000, Parliament passed legislation treating same-sex partners the same as legally married and common-law couples for all purposes of federal law. But legislators included a provision stating that the legislation did not change the definition of marriage as "the lawful union of one man and one woman to the exclusion of all others."

In Nova Scotia, legislation was recently passed to allow for the registration of "domestic partnerships" of same-sex couples. Similar legislative changes are being considered in other provinces.

The Law Commission of Canada, early in 2002, released a report stating that "there is no justification for maintaining the current distinctions between same-sex and heterosexual conjugal unions... If governments are to continue to maintain an institution called marriage, they cannot do so in a discriminatory fashion."

The Commission agrees. It recognizes and respects that for many, marriage is a sensitive issue bound with deeply felt religious beliefs and cultural practices. It is, nevertheless, also a reality that there are many gay and lesbian Canadians living today in long-term committed relationships, caring for each other, and raising families together. They are entitled to respect and dignity and should be afforded the same recognition in law as opposite-sex couples.

Transgendered People

The Canadian Human Rights Tribunal handed down an important decision in August 2001 that helps to clarify the rights of transsexuals. The complainant, Synthia Kavanagh, an inmate in a federal men's prison, alleged that the Correctional Service of Canada had discriminated against her on the basis of sex and disability by not accommodating her needs.

Ms. Kavanagh felt she was a woman trapped in a man's body. Before her sex reassignment operation, Correction officials refused to move her to a women's prison, for a time stopped her hormone therapy, and denied her a planned surgery.

Before the case came before the Tribunal, the Correctional Service agreed to resolve her situation. She was allowed to undergo surgery at her own expense and is now in a women's correctional facility. Questions still remained as to how the Correctional Service would treat similar situations in the future, and this was the focus of the Tribunal's inquiry.

The Tribunal found that not placing pre-operative transgendered people in prisons for their targeted sex was reasonable given the circumstances of prison life. However, the Tribunal also observed that this did not in any way diminish the need to do everything possible to accommodate transgendered people in prison, such as protecting them from sexual attacks and harassment. Routine denial of sex re-assignment surgery for prisoners was also found to be unacceptable because it discriminated against transgendered people on the basis of sex and disability. The Tribunal ordered that the Correctional Service revise its policy in consultation with the Commission to ensure that such surgery would be permitted when deemed appropriate by medical experts in the field of gender identity. The Correctional Service is seeking judicial review of the Tribunal's decision.

Age

In 20 years, it is expected that nearly 20% of Canadians will be age 65 or older and there will be as many seniors as children in Canada. While increased longevity is certainly a good thing, it also presents new challenges.

Some of these challenges, which are shared by other industrialized nations, will be the focus of a major UN conference to be convened in April 2002 in Spain. The second World Assembly on Ageing will consider a draft International Strategy for Action on Ageing. The draft strategy states that older persons should be enabled to continue income-generating work for as long as they want and are able to do so productively. It calls for action to translate this goal into reality for older workers who wish or need to continue paid employment.

The preparations for the World Assembly provide an opportunity for debate in Canada on current policies and practices affecting seniors. One area that deserves attention is the provision in the *Canadian Human Rights Act* that permits employers under federal jurisdiction to force employees to leave the workforce at a set age. Although the federal Government abolished mandatory retirement for its employees in 1986, the Act still permits it for federally regulated private employers.

In 1990, the Supreme Court of Canada affirmed that mandatory retirement was not contrary to the *Charter of Rights and Freedoms*. Consequently, although it has been abolished in some sectors, this type of age discrimination remains quite permissible in Canada. The Commission must frequently advise Canadians who have been forced from their jobs simply because they have reached a fixed retirement age that it cannot move forward with their discrimination complaint.

The Commission has repeatedly stated its view: in most circumstances the only criterion for refusing to employ someone should be their inability to do the job. Their age is irrelevant. Yes, it is true that as people age their capacity to do certain types of work, or specific parts of a job, may decline. But certainly there is nothing magic about turning 65 that makes employees become incompetent.

Arguments that abolishing mandatory retirement will deprive young people of much-needed jobs are also, in the Commission's view, lacking in substance. Most Canadians work hard all their lives and in the vast majority of cases will be only too pleased to retire as soon as they are able to do so. The point is not that thousands of people want to work into their 70s or 80s, but that those few who are able and wish to continue to work, for whatever reason, should be allowed to do so.

It is hoped that an October 2001 British Columbia court case will open the mandatory retirement issue for a much-needed re-examination. In the case of *Greater Vancouver Regional District Employees' Union v. Greater Vancouver Regional District*, the B.C. Court of Appeal emphasized the important changes that have happened in the 11 years since the Supreme Court of Canada decision affirming mandatory retirement: "The extent to which mandatory retirement policies impact on other equality rights, and on the mobility of the workforce, have become prominent social issues," the Court noted. "The social and legislative facts now available may well cast doubt on the extent to which our courts should defer to legislative decisions made over a decade ago. The issue is certainly one of national importance." The Court noted that in two other industrialized countries, Australia and New Zealand, mandatory retirement has been abolished by legislation.

The relationship between age and the ability to be promoted through the ranks in the Canadian Forces was the subject of an important Tribunal decision in December 2001. George Morris was a veteran member of the Forces with a proven record of exemplary performance. In 1990, at age 46, he qualified for promotion to the rank of Master Chief Warrant Officer. However, the expected promotion never came because, as the Tribunal determined, the Forces felt he was too old for promotion. In finding that the Forces had unjustly discriminated against him based on age, the Tribunal ordered them to promote Mr. Morris to the rank of Master Warrant Officer effective September 1, 1993. The Forces were further ordered to pay him the difference between the salary he received and the one he would have received as a Master Warrant Officer. Finally, the Forces were to compensate him for his lack of promotion and to pay him $3,000 for hurt feelings and loss of dignity. In rendering its decision, the Tribunal found that there was a mind set in the military that older members should not be promoted. This decision reinforces the principle that in most cases the only determinant for promotion in the Canadian Forces, or elsewhere, should be the person's ability to do the job.

Legislative Issues

The *Canadian Human Rights Act* and the *Employment Equity Act* govern everything the Commission does. Outlined below are some of the challenges the Government is facing to bring these two pieces of legislation up to date and make them effective in advancing equality — a vital task.

Reforming the CHRA

Fundamental reform of the *Canadian Human Rights Act* is long past due. This is a point that the Commission has repeated in Annual Reports for well over a decade. Quite simply, the CHRA does not equip the Commission with the powers it needs to combat all manifestations of discrimination effectively, nor does it have effective means to prevent discrimination before it happens.

The Commission was heartened when the Government appointed Mr. Justice Gérard La Forest to head a panel reviewing the Act. The Review Panel's report was issued in June 2000. As noted in its Annual Report 2000, the Commission did not agree with all the panel's recommendations. But there can be little doubt that the exercise provided a thoughtful and much-needed analysis of some of the major problems with the Act and how they might be remedied.

When the panel's report was issued, the Minister of Justice indicated that it would be given careful consideration. Careful consideration is, of course important, but so is change. Over a year and a half later, the Government has yet to indicate how it intends to proceed to bring the Act into line with modern realities.

A Federal Court of Canada decision in December 2001 affirmed that the *Canadian Human Rights Act* applies to employees of the House of Commons. The case involved a racial discrimination complaint by one such employee against the then Speaker of the House, Mr. Gilbert Parent. Before the Tribunal could hear evidence on the case's merits, lawyers for the House of Commons challenged its jurisdiction, arguing that parliamentary privilege shielded the Speaker from scrutiny by the Tribunal. The Federal Court dismissed that argument, holding that the scope of the privilege does not extend to human rights violations. This clarifies the broad scope of the Commission's jurisdiction, which it believes should be reflected in future amendments to the Act. This decision has been appealed to the Federal Court of Appeal.

Review of the Employment Equity Act

Along with the *Canadian Human Rights Act*, the Commission is also responsible for ensuring that employers carry out the requirements of the *Employment Equity Act*. Its purpose is to ensure that women, Aboriginal peoples, visible minorities and persons with disabilities have equal access to employment opportunities. While the *Canadian Human Rights Act* relies mostly on complaints, the *Employment Equity Act* is designed to ensure that employers take proactive steps to identify areas of under-representation, and then remove barriers to employment.

So far, the Commission has conducted or is conducting audits of 215 employers under federal jurisdiction, both in the public and the private sectors. These audits ensure that employers have identified barriers to employment, and have a plan to remove them, including positive measures and goals to ensure equality of access. This process usually spans several years. However, the Commission hopes to see with time a decrease in the under-representation of the four groups, as more and more employers not only comply with the law, but also recognize that employment equity must become a fundamental tenet of good human resources management.

In passing a new *Employment Equity Act* in 1995, Parliament provided for a five-year Parliamentary review of the law. That review will take place during 2002.

To prepare for the Parliamentary review, the Commission plans to consult key partners on possible changes to the Act, and has commissioned an independent evaluation of its audit program. The Commission is of the view that Parliament could usefully clarify some requirements of the *Employment Equity Act*, but does not consider that a major shift in approach is called for, at least for now. Further details can be found in the Commission's companion *2001 Employment Equity Report*.

Reforming Pay Equity

Pay equity is a fundamental human right, reflecting the principle that men and women doing work of equal value should be paid equally. This principle of non-discrimination in wages is well-established in international human rights law and is enshrined in several human rights treaties to which Canada is a party.

The Commission now has more than 20 years of experience with pay equity complaints. The current system has proven ineffective for several reasons, including the fact that complaints tend to lead to litigation and delays, and that employers not targeted by complaints are not required to take any initiatives on pay equity. Pay equity has also tended to favour unionized workforces that have the resources to sustain costly litigation, and non-unionized workers have seldom benefited.

The Commission believed the matter of reforming pay equity so important that in February 2001 it used its rarely exercised power under the CHRA to table a Special Report to Parliament. The report, entitled *Pay Equity: A Time for Action,* calls for fundamental reforms and proposes several guiding principles for updating the current system. Paramount among these is that pay equity should continue to be upheld as a human right through legislation administered by an independent oversight agency.

Pay Equity: A Time for Action concludes that the present complaints-based approach is not well-suited to addressing inequities in pay. It proposes a different approach — one that encourages the parties to work together, achieves pay equity in a comprehensive and timely fashion, minimizes administrative costs, and maintains pay equity once it is achieved.

The Commission welcomed the establishment, in June 2001, of the Pay Equity Task Force with a mandate to review the pay equity provisions of the *Canadian Human Rights Act*. The Commission has been in contact with the Task Force and is looking forward to a resolution of this issue.

Getting Our Own House in Order

For any institution, public criticism is difficult. Perhaps even more difficult is self-criticism. In 2001, the Commission received both. As a result of this criticism, the Commission is now on the road to becoming stronger and better able to serve Canadians, and forming a workplace of choice for all its employees.

The collective soul searching that the Commission underwent in 2001 resulted from an independent workplace assessment, including an employee survey, initiated by the Chief Commissioner. High turnover rates and other indications that Commission employees had concerns about their workplace called for a careful look at exactly what was troubling people and how the Commission might go about improving it.

Since that time, the Commission has undertaken a number of initiatives to address employees' needs. They include restructuring the reporting relationships within the Commission, revising workplace policies, and creating an advisory council to involve employees in implementing solutions. These changes have been well received and the Commission is confident that they will go a long way in making it a workplace of choice.

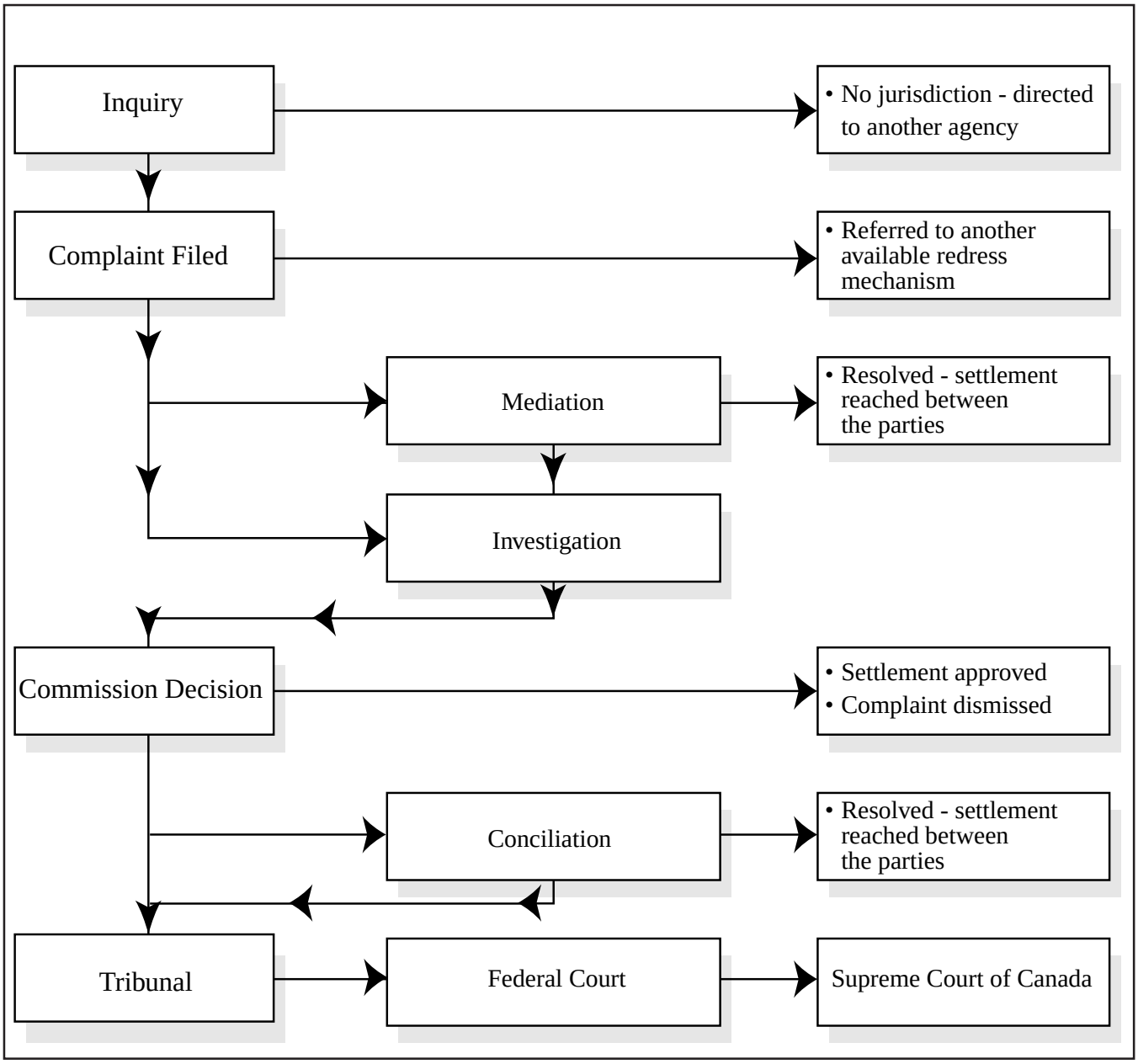
Case Work

The Commission deals with complaints alleging discrimination in relation to the 11 prohibited grounds in the *Canadian Human Rights Act*: race, colour, national or ethnic origin, religion, age, sex, sexual orientation, marital status, family status, disability, or a conviction for which a pardon has been granted. Most of the complaints filed with the Commission raise allegations of discrimination relating to the complainant's own situation. Other complaints raise allegations relating to discriminatory policies or practices affecting broad groups of people, including allegations of wage discrimination.

As set out in the Act, a complaint can move through a number of different steps or stages, depending on the circumstances of the case. The process a complaint can follow is illustrated on the next page.

Some complaints can be dealt with fairly quickly, depending on the nature of the allegations and the willingness of the parties to settle the matter. Other complaints can take more time, especially if a full investigation must be carried out, or if the Commission decides, at the end of the investigation, to appoint a conciliator or refer the matter to the Canadian Human Rights Tribunal for further inquiry. The Tribunal is a separate and independent agency that hears cases referred to it by the Commission.

The Complaint Process



New Complaints

In 2001, the Commission received 1,485 complaints alleging discrimination based on a ground in the CHRA against a federally regulated employer or service provider. Of these, 574 resulted in signed complaints requiring investigation and/or efforts to help the parties resolve the matter. The remaining cases were discontinued when the complainant decided not to proceed with the matter or the situation was settled through other means. The number of signed complaints has remained relatively constant over the past five years: 562 in 2000, 566 in 1999, 622 in 1998, and 643 in 1997.

Table 1 lists the complainants' province of residence for new complaints received over the last three years. The statistics in all tables are for the calendar year.

Table 1
New Complaints received by Province or Territory
1999 to 2001

	1999		2000		2001	
	No.	%	No.	%	No.	%
Ontario	533	37	496	40	633	43
Quebec	255	18	204	16	283	19
British Columbia and Yukon	196	14	123	10	164	11
Alberta, Northwest Territories and Nunavut	91	6	127	10	118	8
Manitoba	95	7	78	6	97	7
Nova Scotia	85	6	80	7	85	6
New Brunswick	61	4	45	4	42	3
Saskatchewan	69	5	54	4	41	3
Prince Edward Island	15	1	8	1	11	-
Newfoundland	30	2	16	1	2*	-
Outside of Canada	-	-	7	1	9	-
Total	**1,430**	**100**	**1,238**	**100**	**1,485**	**100**

* ***This figure includes the lead case in a group of 998 complaints filed in relation to the Atlantic Groundfish Strategy. This government program was established to provide alternatives to work in the Newfoundland fisheries. The complaints allege age discrimination in relation to the program's eligibility requirements for early retirement.***

Table 2 shows how often each of the 11 prohibited grounds of discrimination was cited by complainants in new complaints over the past three years. The total number of grounds cited (1,829 in 2001) exceeds the total number of complaints received (1,485) because some complaints cited more than one ground of discrimination.

Table 2
Grounds of Discrimination Cited in New Complaints
1999 to 2001

	1999		2000		2001	
	No.	**%**	**No.**	**%**	**No.**	**%**
Disability	600	34	524	38	673	37
Sex	325	18	291	21	410	23
National or Ethnic Origin	250	14	132	10	218	12
Race	144	8	118	8	156	8
Age	134	8	113	8	101	5
Family Status	82	5	53	4	96	5
Religion	30	2	40	3	50	3
Colour	114	6	40	3	47	3
Sexual Orientation	42	2	39	3	38	2
Marital Status	47	3	23	2	36	2
Pardon	6	-	7	-	4	-
Total	**1,774**	**100**	**1,380**	**100**	**1,829**	**100**

The distribution of complaints by ground of discrimination in 2001 is similar to the pattern established in previous years: disability, sex, and a combination of race, colour, and national or ethnic origin were among the most frequently cited grounds. Disability was cited in 37% of new complaints. Discrimination based on sex was alleged in 23% of all complaints, and race, colour, and national or ethnic origin combined accounted for another 23%.

Table 3 gives some information on the nature of the allegations cited in new complaints. The total number of allegations cited (1,740 in 2001) exceeds the total number of complaints received (1,485) because some complaints cited more than one allegation.

Table 3
Type of Allegations Cited in New Complaints
1999 to 2001

	1999		2000		2001	
	No.	**%**	**No.**	**%**	**No.**	**%**
Employment related (Sections 7, 8, 10)	1,230	62	894	65	1,003	58
Harassment — employment (Section 14)	348	18	252	18	355	20
Service related (Sections 5, 6)	384	19	195	14	309	18
Pay equity (Section 11)	9	1	13	1	30	2
Harassment — services (Section 14)	-	-	18	1	24	1
Retaliation (Section 14.1)	-	-	10	1	10	1
Hate messages (Section 13)	1	-	2	-	6	-
Union membership (Section 9)	7	-	8	-	2	-
Notices, signs, symbols (Section 12)	-	-	1	-	1	-
Total	**1,979**	**100**	**1,393**	**100**	**1,740**	**100**

Most complaints filed with the Commission alleged discrimination relating to employment, including complaints of differential treatment, refusal to accommodate, refusal to hire, or termination of employment. Harassment in employment was cited in 355 complaints in 2001, and harassment in the provision of services was cited in 24 complaints.

Alternate Dispute Resolution

Under section 47 of the *Canadian Human Rights Act*, the Commission can appoint a conciliator to work with the parties to settle the complaint. This can be done at any point after a complaint has been filed.

The Commission has attempted to resolve complaints through conciliation since its inception. But it generally did this after an investigation was completed and it had reviewed the investigator's report on the facts of the case.

In 1998, the Commission began offering pre-investigation mediation to complainants and respondents. Mediation has many advantages.

- It gives the parties to a complaint the opportunity to resolve the matter quickly.
- It is a voluntary process that can be terminated if it does not meet the parties' needs.
- The parties can tailor an agreement that addresses their specific issues and needs.
- The process can help preserve or redefine relationships. It can help improve communications so that future disputes can be resolved cooperatively.

Nevertheless, the Commission has a responsibility to protect the public interest in its treatment of human rights complaints. Both mediators and conciliators must ensure that settlements address not only the parties' personal objectives, but also issues of systemic discrimination that might be related to the complaints. Settlements must therefore include any policy or procedural changes required to address the larger public interest.

In 2001, 525 new complaints were referred to mediation. Parties participate in this voluntary process in about half the cases. When the parties decline to participate in mediation, the files are referred to an investigator. During the year, the mediation process was completed in 232 cases (see Table 4).

Table 4
Complaints Dealt with at Mediation, 2001

Mediated Cases	Results		Settlement Rate
	Settled	Not Settled	
232	167	65	72%

In the same period, the Commission referred 116 complaints to conciliation after the investigation was completed. As Table 5 shows, the conciliators dealt with 186 cases, including complaints referred to conciliation in previous years.

Table 5
Complaints Dealt with at Conciliation, 2001

Conciliated Cases	Results		Settlement Rate
	Settled	Not Settled	
186	96	90	52%

Most settlements achieved in mediation and conciliation included financial remedies, such as general damages, compensation for hurt feelings, reimbursement of legal expenses and lost wages. In addition to these, many settlements also involved remedies that specifically addressed the allegations in the complaint. These included crediting sick leave, holiday leave, or other benefits, reinstating or adjusting seniority rights, or providing counselling and occupational re-training. Other frequent remedies included letters of apology, letters of reference, human rights training programs, changes in policies and procedures, changes to personnel files, and occupational transfers.

For example, in one sexual harassment complaint, the respondent financially compensated the complainant and agreed to develop a harassment policy to prevent similar situations from occurring in the future. In another case, the complainant alleged that he had been denied a promotion because of his race and the respondent gave him a letter of apology and promised to provide workplace diversity and anti-harassment training to all its employees.

Completed Cases

The Commission completed work on 1,561 complaints in 2001. These included complaints that were discontinued before a complaint form was signed, as well as signed complaints that required a decision by Commissioners.

Table 6 shows the number of cases in which the Commission completed its work, from 1999 to 2001. The first part of the table gives the outcomes for signed complaints that were put before the Commission for a decision. The second part shows the number of discontinued cases, that is, cases that required significant analysis by staff, but where the complainants ultimately decided not to pursue the matter further. These cases did not lead to signed complaints, and the files were administratively closed without a decision by the Members of the Commission.

Table 6
Complaint Outcomes
1999 to 2001

	1999		2000		2001	
	No.	**%**	**No.**	**%**	**No.**	**%**
Not dealt with[1]	44	7	39	5	48	7
Settled[2]	213	32	286	35	273	41
Referred to a tribunal	52	8	123	15	85	12
Dismissed[3]	352	53	372	45	266	40
Subtotal	**661**	**100**	**820**	**100**	**672**	**100**
Discontinued	713		585		889	
TOTAL	**1,374**		**1,405**		**1,561**	

1- Cases that the Commission decided not to pursue because they were filed more than one year after the alleged act of discrimination, or because the complainants were asked to first pursue other redress mechanisms.

2- Settled in mediation, in the course of investigation, or through conciliation.

3- Including cases in which the Commission took no further proceedings because the complainants withdrew or abandoned their complaints.

Table 6 shows an increase in the number of settled complaints in 1999, 2000, and 2001, reflecting the Commission's success with mediation. In 2001, more than 40% of all signed complaints put before the Commission were settled through mediation or conciliation or, in a small number of cases, in the course of investigation. In addition, 42 cases that had been referred to a tribunal were settled prior to the hearings. On average, the Commission and the parties are settling 75% of all cases referred to tribunal before the hearings commence.

Decisions from the Courts

In 2001, the Canadian Human Rights Tribunal released a total of 49 decisions: 18 final decisions and 31 interim decisions. The 31 interim decisions often dealt with matters of procedure, jurisdiction, and interpretation as opposed to any substantive issues. Each case required significant time and resources to resolve. For example, in the case of *McAvinn v. Strait Crossing Bridges Ltd.*, several interim applications were made dealing with matters such as jurisdiction, document production, and the Commission's role. This extended what was expected to be a one-week hearing into one which spanned several months.

There were also decisions of higher courts. The Federal Court of Canada issued 10 decisions dealing with judicial reviews of Commission decisions, as well as 10 decisions dealing with judicial reviews of Tribunal decisions.

Many more cases were settled prior to their hearing dates scheduled before the Tribunal. The hearing process before the Human Rights Tribunal is not unlike the litigation process before the courts. Due to the procedure's adversarial nature, litigants often choose to accept a settlement rather than go to trial and risk a negative decision being rendered against them. These settlements often happen on the eve of a hearing, after the preparation required for the hearing is complete. Case preparation involves disclosing all documents, preparing witnesses and the questions that will be asked of them, retaining and preparing expert witnesses, researching the law, and preparing legal arguments and submissions.

All of the decisions rendered in the past year are discussed in detail in the Commission's *Legal Report 2001*. That Report is available on our web site at www.chrc-ccdp.ca.

Improving the Complaint Process

The Commission has been accumulating a backlog of complaints since its inception in 1978. This situation is attributable primarily to insufficient resources to deal with complaints as they are received. It also reflects the increasing complexity of complaints filed with the Commission. In recent years, the Commission has managed to reduce the size of its caseload through a series of innovations and special initiatives. Nevertheless, the number of active cases remains substantial, and exceeds staff capacity to keep up. Because employees have to deal with older cases first, they cannot always handle new complaints as they are received.

Among the innovations introduced in recent years, the Commission established a set of new service standards in 2000. These standards are more comprehensive, and address every stage of the complaint process. They took effect in April 2001, applying to new complaints entering the system.

These standards have not been in effect for a full year. However, the Commission has already achieved some positive results, and the trend is encouraging. For example, respondents are now being notified of the complaints against them within a week, as opposed to the previous average of two months. Complaints remain in mediation, on average, for less than the standard of three months, and the time taken to conciliate complaints has been halved. On the other hand, some of the standards, notably those relating to investigation, remain more difficult to meet.

The Commission believes the steps taken in recent years to improve the complaint process have been effective, and that its service would improve dramatically if the caseload were reduced to a manageable level. Recognizing this situation, the Treasury Board recently approved additional funding to help the Commission clear the backlog over the next four years.

The Commission will continue to review its standards to ensure they represent reasonable service objectives, and will report on them in detail in next year's annual report.

Pay Equity

The Commission receives a relatively small number of complaints of wage discrimination between male and female predominant groups. However, a significant proportion of them involves large groups of employees. Their resolution can significantly impact the workplace, encompassing millions of dollars in retroactive pay and wage adjustments. At the end of 2001, the Commission had 37 open pay equity complaints, including 23 signed complaints at investigation. As indicated in Table 3, the number of pay equity complaints has increased over the past three reporting years.

Pay equity complaints are often particularly complex, requiring extensive analysis and discussion with the employees, the bargaining agents that represent them, and the employers. Moreover, once investigated, these complaints are frequently the subject of prolonged litigation. In this regard, one of the Commission's main activities on the pay equity front in 2001 was continuing litigation in three major complaints (Bell Canada, Government of the Northwest Territories, and Canada Post), each already more than 10 years old.

In 2000, the Federal Court of Canada had ruled in the Bell Canada pay equity case that the Tribunal was not independent of the Commission, in part because it was bound by the *Equal Wages Guidelines* that the Commission had issued. This decision had brought some hearings to a halt, not only in the Bell Canada case, but also in other cases before the Tribunal. In 2001, the Commission was successful in having the decision overturned by the Federal Court of Appeal, and many cases that had been delayed at the Tribunal were able to proceed. As the year was coming to an end, however, the Supreme Court of Canada granted Bell Canada leave to appeal the Federal Court of Appeal decision, a development that is likely to prolong uncertainty about the current law.

Early in the year, the Commission provided advice to Treasury Board on the proposed new job classification system for public service employees (the Universal Classification System, or UCS). Although the UCS initiative has suffered many delays and its future appears uncertain, the Commission continues to provide advice to Treasury Board to ensure that any compensation system that is ultimately adopted is gender neutral.

Human Rights Promotion Activities

The Commission has a legislated mandate to help change people's attitudes about human rights. It accomplishes this by developing and conducting research, and disseminating information to promote public understanding of human rights principles.

Delivering a meaningful public information program requires significant human and financial resources. From the beginning, the Commission's human rights promotion and policy budgets have never matched its complaints budget.

All levels of Commission staff, both at headquarters and regional offices, deliver our human rights message in many ways. Currently, the limited resources allocated to human rights promotion must be apportioned among the Commission's headquarters and six regional offices. To maximize the impact of its information dissemination efforts, the Commission focuses its promotional energies in three core activities: delivering key messages to targeted audiences, conducting training sessions for federally regulated public- and private-sector employers and service providers, and strengthening existing human rights networks and partnerships.

Delivering the Human Rights Message

Throughout 2001, the Chief Commissioner and Commission senior managers met with Members of Parliament and senior business and government officials to discuss significant human rights issues. Arguably the most significant and difficult issue from the Commission's perspective was the passage of the *Anti-Terrorism Act.* As noted earlier in this report, the Chief Commissioner addressed the House of Commons Standing Committee on Justice to express the Commission's position. The Chief Commissioner also wrote to the Minister of Justice and issued a public statement in which she outlined the Commission's concerns.

Early in the year, the Chief Commissioner was invited to appear before the Senate Committee of the Whole to speak about the Commission's important role and mandate. In November, she appeared before the Senate Committee on Human Rights to provide suggestions on how the Government might fill the gap between its international human rights obligations and implementation within Canada. She also discussed the urgent need for the Government to address the Commission's outdated mandate and tools. In December, the Chief Commissioner met with Dr. Sima Samar, who is the 2001 John Humphrey Freedom Award Recipient and had just been appointed minister of women's affairs in the interim government of Afghanistan.

Commissioners continued their efforts to advance the human rights agenda across the country in 2001 by meeting with a wide variety of proponents and partners. Of particular note were the Chief Commissioner's discussions with Mary Robinson, the United Nations High Commissioner for Human Rights, on preparations for the 2001 World Conference Against Racism; with the Canadian Race Relations Foundation regarding possible joint research initiatives; and with the Canadian Association of Superior Court Judges about the impact of sweeping demographic changes in Canada on the judiciary.

Commissioners also met with regional interest groups and stakeholders throughout the year to raise the volume on human rights issues. This included meeting with organizations such as the Learning Disabilities Association of Canada to discuss legal rights of persons with learning disorders; addressing the annual general meeting of Challenge — Community Vocational Alternatives, a group representing the disabled throughout Yukon; addressing race issues with the Association des avocat(e)s et notaires noirs du Québec; speaking to the Society for Disability Studies on the continuing legislative gap to include persons with disabilities in society; and discussing multiculturalism with the organizers of an upcoming conference on a global model for a multiethnic and multicultural Canada.

Racism

The Commission also delivered the human rights message by participating in and co-sponsoring various seminars and conferences addressing racism in Canada. In preparation for the World Conference Against Racism and to mark the United Nations International Day for the Elimination of Racial Discrimination, the Commission sponsored a public education seminar in Ottawa on Racism, Anti-Racism and their Effects. Also as a contribution to the world conference, the Commission published a casebook on race-related complaints, which provides examples of discriminatory behaviour, what employers should do to fulfill their responsibilities under the *Canadian Human Rights Act*, and the types of remedies that are used to address discrimination.

Workplace Accommodation

The place for people with disabilities is everywhere, especially the workplace. Yet, how to ensure employees receive the accommodation they need to do their jobs well is not always clear. To help address this issue, the Commission issued a major new publication in 2001 titled *A Place for All: A Guide to Creating an Inclusive Workplace*. This sets out a model policy on workplace accommodation and procedures for analyzing employer programs and activities, and responding to requests from a specific employee for individual accommodation.

The guide should assist employers to provide an inclusive workplace; respond effectively to individual accommodation needs; fulfill their responsibilities under the CHRA and the *Employment Equity Act*; and minimize the likelihood of discrimination complaints. In December, the Commission hosted a public seminar to launch the guide, which included discussion of accommodating disability, religion, and other relevant grounds of discrimination.

Youth Across Canada

Inasmuch as today's attitudes help shape tomorrow's values, the Commission made concerted efforts throughout the year to involve young Canadians in major human rights events. Among these were an anti-hate conference in Halifax and a keynote presentation at a youth conference in Saskatoon on Building Connections. In Nova Scotia, the Commission partnered with Community Advocates for Rights with Responsibilities (CARR) in an effort to raise awareness among youth about racist, sexist, and homophobic advertising and hate literature. This project included workshops throughout area schools and a presentation at the Canadian Student Leadership Conference in Sackville in September.

Elsewhere, Ontario regional office staff participated in a symposium on Hate Propaganda and Hate Crimes, an event organized by the student council of Trent University in Peterborough.

In Quebec, the Commission became involved in a hip hop festival (Hip Hop 4 Ever) by sponsoring prizes for the best accompanying texts against racism written by young artists.

The British Columbia and Yukon regional office, working with partners such as the British Columbia Human Rights Commission and the provincial Ministry of Education, played an active role in updating and re-launching a program called Visual and Language Arts Project. Under its new name, YOUth Act Now Campaign, material was circulated to schools and community organizations, inviting project proposals for a broad range of human rights activities with funding to be provided by the B.C. Human Rights Commission. In June, Commission staff participated in a joint committee that awarded 16 grants to schools throughout British Columbia, allowing them to undertake local human rights projects.

Training Sessions

Commission staff conducted close to 100 workshops on human rights issues, such as accommodation and harassment, which are of central concern for employers, employees, and various other audiences. These workshops are generally organized in collaboration with employers, training centres, the Public Service Commission, unions,

and schools (to benefit students enrolled in programs such as business, human resource management, and law). In addition, Commission staff have ongoing contacts with managers of federally regulated employers or service providers to help them increase their conformity to human rights principles.

Human Rights Networks and Partnerships

The Commission works with other federal agencies and departments to promote government policies that address human rights issues. The Senate of Canada hosted an information fair on services offered to persons with disabilities in which the Commission was pleased to participate. Staff also collaborated with the Canadian Transportation Agency to develop a Code of Practice that addresses a range of communication barriers for travellers with sensory or cognitive disabilities.

The Commission also works with non-government organizations nationally and internationally to advance human rights. Commission staff participated in international conferences, including the World Conference Against Racism, the Johannesburg meeting of National Institutions, the United Nations Commission on Human Rights, and the Network of the Americas. They served as panel members at follow-up conferences for the World Conference Against Racism, which were held by the Canadian Labour Congress and the Centre for Research-Action on Race Relations. They delivered presentations to the World Congress on Inclusion by Design, an international conference on building a barrier-free world. The Commission also provided guest speakers for a large number of conferences on harassment, disability and the duty to accommodate. They participated in the Canadian Standards Association committee responsible for establishing Canadian standards for barrier-free design. They also participated in meetings with the Canadian Transportation Agency on accessibility issues.

The Commission also cooperated with the John Humphrey Centre for Peace and Human Rights to promote human rights among young Canadians. This involved recreational activities throughout the summer, in which close to 1,000 young people in Alberta gained an increased understanding of human rights and conflict resolution.

Each year the Commission endeavours to play an active role in a number of special partnership projects. Below are a few of those projects that helped to send the human rights message in 2001.

The Manitoba Rights Path Revisited

In cooperation with the Manitoba Association of Friendship Centres and through both public- and private-sector funding, an updated Rights Path Manitoba was launched on Aboriginal Solidarity Day. The Rights Path helps Aboriginal people living in urban centres to understand and be able to exercise their rights in such matters as employment, education, and housing, among others.

Duty to Accommodate

In partnership with the Public Service Commission and various federal departments, the Commission's Prairies office co-hosted a Disability Management Conference presenting a Duty to Accommodate seminar to hundreds of managers, union representatives, and human resources practitioners. Other broader workshops on the duty to accommodate were also held across the country involving several of the Commission's regional offices.

Public Meetings on Human Rights Education

In British Columbia, the Commission played an active role in the Human Rights Education Project — a partnership involving several organizations to plan, organize, and deliver human rights workshops and public meetings in three communities. These events attracted 150 people, representing community groups, employers, unions, and interested citizens.

No Racism Here

In Ontario, the Commission partnered with the Guelph and District Multicultural Centre in the "No Racism Here" poster campaign, culminating in a major event on the International Day for the Elimination of Racial Discrimination.

International Program

The Commission's central goal in engaging in international activities is to establish links of mutual support and understanding among national human rights institutions. Its work occurs at the international level through the United Nations, the Americas, and the Francophonie, and at the bilateral level through assistance to other commissions.

During the year, the Commission revived bilateral cooperation with the Indian Human Rights Commission on the rights of persons with disabilities and with the Human Rights Commission of Nepal on the human rights complaint process, participated in an expert mission to the Human Rights Office in Latvia, continued bilateral cooperation with Komnas Ham of Indonesia, and furthered discussions with the Mexican Human Rights Commission on areas of cooperation. The Commission received a large number of visiting delegations: from Russia, Nigeria, Tunisia, Uganda, Portugal, Rwanda, Bulgaria, Israel, Czech Republic, Japan, Ethiopia, Indonesia, China, and the European Commission. At the request of the Office of the United Nations

High Commissioner for Human Rights, the Commission also hosted a one-month internship for a three-member delegation from the Madagascar Human Rights Commission.

At the multilateral level, the major event of 2001 was the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In late August, Commission representatives were among 18,000 conference participants in Durban, South Africa. The meeting of the national institutions, held just prior to the World Conference, was recognized as one of the event's positive contributions. The negotiations spearheaded by the Commission resulted in the national institutions producing a Declaration to the World Conference that proposed a range of concrete and cooperative actions against racism.

There were other international events of importance to the Commission throughout the year. The Commission helped prepare for the Summit of the Americas in Quebec City to ensure that the role of national human rights institutions in the hemisphere would be recognized and supported by leaders. The final Plan of Action adopted by the Summit called for strengthening the network of national human rights institutions in the hemisphere and, at the end of last year, the Commission hosted the meeting of the Hemispheric Working Group to complete work on the statutes and establish the network's operational plan. The network's establishment is an important and promising initiative. Its main objectives are information exchange, staff training, joint projects, and periodic regional meetings and seminars on human rights issues of importance in the hemisphere. Late in the year, the Commission participated in work to establish a similar network of national human rights institutions in countries of the Francophonie.

Interacting with Canadians

In 2001, the Commission continued to touch Canadians' lives in many different ways, whether through public education seminars addressing various audiences across the country, or investigations conducted by staff.

It was another active year in the ongoing relationship between the Commission and the media. Throughout 2001, staff responded to some 450 calls from journalists and broadcasters. These ranged from fact-finding inquiries and interviews, to requests for information regarding various aspects of human rights both in Canada and abroad. The Commission's tabling of a special report on pay equity calling on major changes in the system sparked considerable media interest.

The Commission's reception staff, both at headquarters and across the regions, received close to 45,000 calls in 2001. Callers hail from across the country and all walks of life, seeking human rights information from the Commission. Many of them make their first contact with the Commission through electronic mail. In 2001, almost 4,000 people e-mailed the Commission through its web site.

Commissioners' Biographies

Michelle Falardeau-Ramsay

Michelle Falardeau-Ramsay, Q.C., was appointed Chief Commissioner in January 1997. After receiving a law degree from the University of Montreal and being called to the Quebec Bar, she pursued a career in labour relations law. She worked as a lawyer with the firm of Massicotte, Levac and Falardeau and later became a senior partner with the firm of Levac and Falardeau. In 1975, she joined the Public Service Staff Relations Board as Deputy Chairman, and in 1982 became Chairman of the Immigration Appeal Board. She was appointed Deputy Chief Commissioner of the Canadian Human Rights Commission in September 1988, and served in that capacity until taking up her present post.

Anne Adams

Anne Adams of Montreal joined the Commission in March 1999. She received her bachelor's degree from the University of Montreal in 1967, and a master's degree in industrial relations from Queen's University in 1987. In the course of her career in the public service, Ms. Adams managed the implementation of the *Employment Equity Act* and programs in the Quebec Region. She has served as Executive Director of the Canadian Human Rights Foundation and on the boards of many community organizations, including the Fédération des femmes du Québec. Since 1998, she has been the President of Femmes regroupées pour l'accessibilité au pouvoir politique et économique, or FRAPPE. In 1992, Ms. Adams received the Commemorative Medal for the 125th Anniversary of Confederation. In 1996, she launched AEA Strategies and Development Inc., specializing in employment equity and international development.

Yude M. Henteleff

Yude Henteleff, C.M., Q.C., of Winnipeg, Manitoba was appointed a Commissioner in November 1998. He had previously served as a Commissioner from 1980 to 1986. He is a senior partner with the law firm of Pitblado Buchwald Asper in Winnipeg and serves on the boards of directors of several community organizations. He is also a Governor of the Hebrew University of Jerusalem. Mr. Henteleff has received a number of awards for his community work, including the Learning Disabilities Association of Canada's Lifetime Achievement Award in 1999 and the Commemorative Medal for the 125th Anniversary of Confederation in 1992. In 1998, he became a member of the Order of Canada.

Robinson Koilpillai

Robinson Koilpillai, C.M., has been a member of the Commission since 1995. An educator, school principal, and community volunteer, Mr. Koilpillai has served as Chairman of the Alberta Cultural Heritage Council, President of the Alberta Council for Global Cooperation, Executive Member of the Canadian Council for International Cooperation, and President of the Canadian Multicultural Education Foundation. In 1980, Mr. Koilpillai received the federal Minister of Multiculturalism's Man of the Year Award, and in 1988, the Canada Council's National Award for Outstanding Educator. In 1998, Mr. Koilpillai was inducted into Edmonton's Hall of Fame and won the Alberta Achievement Award and the Lewis Perinbam Award in International Development. A 1992 Governor General's Commemorative Medal winner, he joined the Order of Canada in 1996.

Mary Mac Lennan

Mary Mac Lennan of Halifax, Nova Scotia became a member of the Commission in November 1995. She was called to the Bar of Nova Scotia in 1979 and pursued a career as a sole practitioner until 1990. From 1981 to 1982, Ms. Mac Lennan was the Provincial Coordinator for the Nova Scotia League for Equal Opportunities. She served as the Multicultural and Race Relations Coordinator for the City of Halifax from 1990 to 1992. A recipient of the Nova Scotia Human Rights Award in 1993, Ms. Mac Lennan was appointed Chair of the Nova Scotia Human Rights Commission in 1996, after serving two terms as a member. In 1999, Ms. Mac Lennan accepted the post of Equity Coordinator with St. Francis Xavier University, and is continuing her work on the human rights aspects of new reproductive and genetic technologies. She has also served on the editorial board of *Just Cause*, a law journal for people with disabilities and for legal professionals.

Kelly Russ

Kelly Harvey Russ, a member of the Haida First Nation, was appointed a Commissioner in April 1998. He received the degree of Bachelor of Arts in Political Science and History in 1990, and the degree of Bachelor of Laws in 1993, both from the University of Victoria, where he was also president of the Native Law Student Society. In 1994, he became a member of both the Law Society of British Columbia and the Canadian Bar Association. Now a sole practitioner, Mr. Russ's legal work centres on Aboriginal rights and issues arising from the *Indian Act*, and other federal, provincial, and territorial legislation affecting Aboriginal peoples. In addition, Mr. Russ represents Aboriginal people in the fields of child protection and family law.

Secretary General

John Hucker

John Hucker was educated at the University of Wales, the London School of Economics, and Yale Law School. He is a Barrister and Solicitor (Ontario). He has been Secretary General to the Canadian Human Rights Commission since 1988. Mr. Hucker previously held senior positions in the Public Service of Canada. Before joining government, Mr. Hucker taught law at universities in Canada, the United States, and the West Indies.

Organization of the Commission

The Canadian Human Rights Commission was established in 1977. It is made up of two full-time members and up to six part-time members. The Chief Commissioner and Deputy Chief Commissioner are appointed for terms of up to seven years, and the other Commissioners for terms of up to three years. At the end of the year, the Deputy Chief Commissioner and two part-time Commissioner positions remained unfilled.

The Commission's chief operating officer, the *Secretary General*, is responsible for the Commission's operations at headquarters and in the regions, under the overall direction of the Chief Commissioner.

The *Executive Secretariat* provides administrative services and advice to the executive offices, including coordinating Commission meetings, supporting the Senior Management Committee, managing executive correspondence, and coordinating the preparation of briefing materials. It is also responsible for access to information and privacy.

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

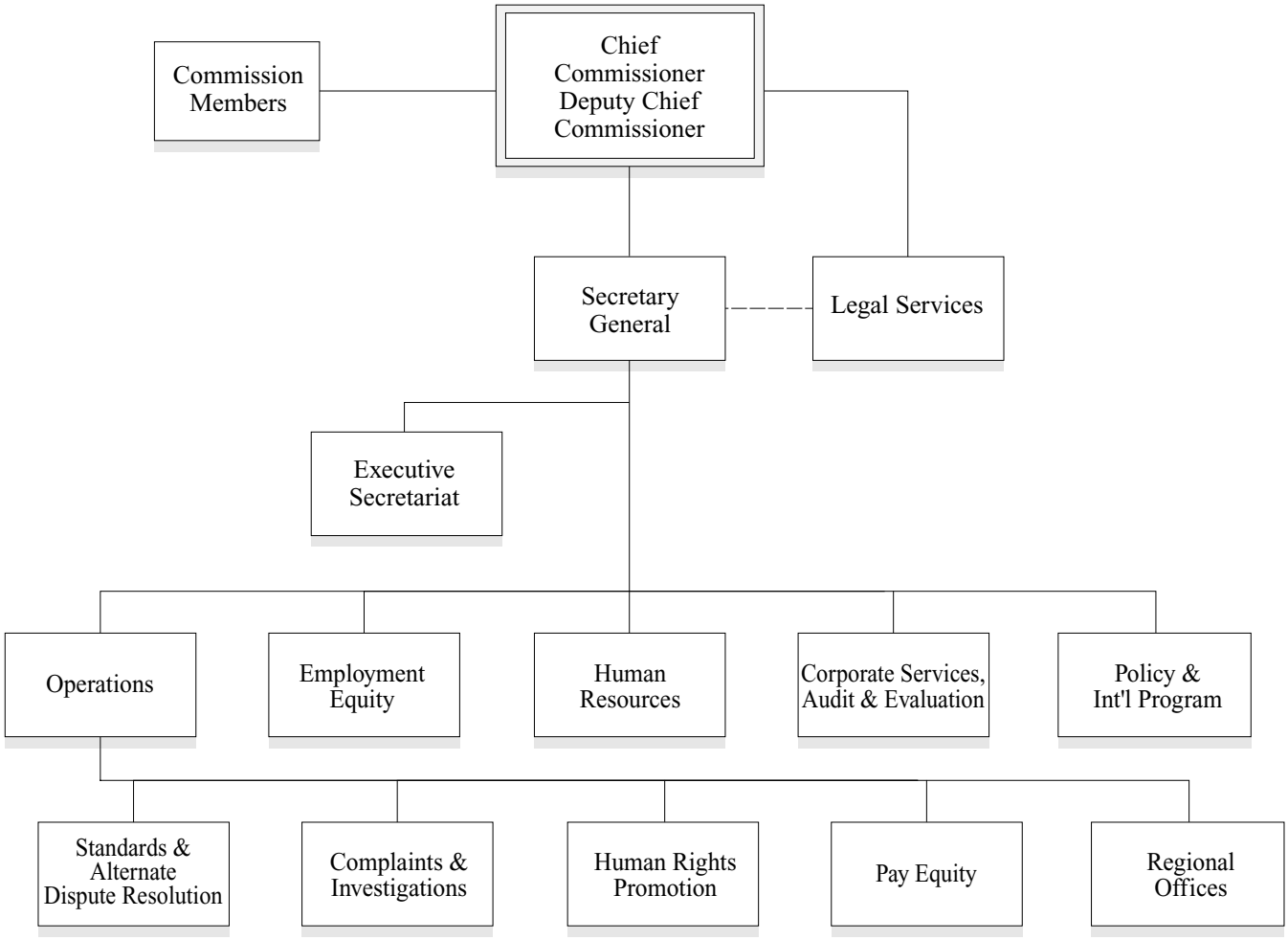
The *Operations Sector* includes the *Standards and Alternate Dispute Resolution Branch*, the *Investigations Branch,* and the *Pay Equity Branch*. This sector is responsible for the mediation, investigation, and conciliation of complaints, including pay equity complaints, as well as the monitoring of complaint settlements. In addition, the Sector provides a quality assurance function for cases presented to the Commission, trains staff involved in the complaint process, and establishes performance standards and operational policies. The *Human Rights Promotion Branch*, which includes staff at headquarters and in the Commission's six Regional Offices, is also part of the *Operations Sector*. It conducts programs to promote the principles of equality, foster public understanding of the *Canadian Human Rights Act*, and inform people of the Commission's work. The Branch is responsible for contacts with the media and for editorial services. The *Regional Offices* carry out education and outreach activities with community groups, employers, service providers, unions, and provincial human rights commissions. They are the first point of contact for people wishing to file complaints of discrimination. Regional staff provides assistance in the processing of complaints and play an active role from intake to investigation.

The *Policy and International Program Branch* is responsible for providing policy, planning, and research assistance. The Branch monitors human rights issues, and develops policy proposals, guidelines, and research reports to help the Commission reach decisions and support the operational branches. It also coordinates the Commission's activities to assist human rights institutions outside Canada.

The *Employment Equity Branch* conducts employment equity audits with employers in the private and public sectors to assess their compliance with the requirements of the *Employment Equity Act*.

The *Human Resources Branch* provides support services in staffing, classification, pay and benefits, staff relations, training and human resources planning, official languages, and health and safety.

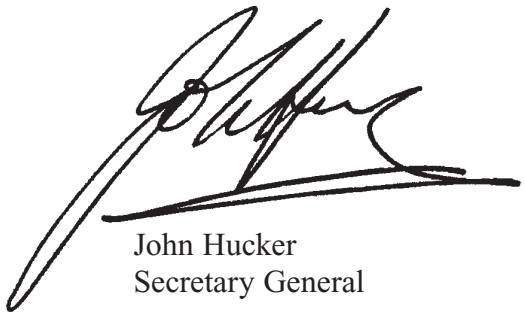
The *Corporate Service Branch* provides headquarters and regional offices with support services in assets management, finance, informatics, information management, and library services. It also carries out the Commission's planning and review activities.



Financial Statement

The financial statement that follows has been prepared in accordance with the reporting requirements and standards of the Receiver General for Canada, and with significant accounting policies.

Financial information included in the ministerial statements, in the Report on Plans and Priorities, and elsewhere in the Public Accounts of Canada is consistent with that contained in this financial statement, unless otherwise indicated. Some of the information included in the financial statement is based on management's best estimates and judgements with due consideration given to materiality.



John Hucker
Secretary General

Stella Deacon
Director, Corporate Services

Canadian Human Rights Commission
Statement of Operations
for the Year Ended March 31
(in thousands of dollars)

Service Line	2001-2002 Forecast	2000-2001 Actual
Complaints	11,522	**9,928**
Corporate Services	4,538	**4,072**
Promotion of Human Rights	3,475	**3,396**
Employment Equity Audits	2,536	**2,211**
Total use of appropriation	**22,071**	**19,607**
Add: Cost of services provided by government departments	2,360	**2,119**
Total Operating Costs	**24,431**	**21,726**

The accompanying notes are an integral part of the Statement of Operations.

Notes on the Statement of Operations

Authority, Mandate and Operations

The Canadian Human Rights Commission was established in 1977 under Schedule II of the *Financial Administration Act* in accordance with the *Canadian Human Rights Act*.

The mandate of the Canadian Human Rights Commission is to discourage and reduce discriminatory practices by dealing with complaints of discrimination on the prohibited grounds in the *Canadian Human Rights Act*; conducting audits of federal departments and agencies and federally regulated private companies to ensure compliance with the *Employment Equity Act*; conducting research and information programs; and working closely with other levels of government, employers, service providers, and community organizations to promote human rights principles.

The Commission's expenditures are funded by an annual appropriation from Parliament.

Significant Accounting Policies

The statement of operations has been prepared in accordance with the requirements and standards for reporting established by the Receiver General for Canada prior to April 1, 2001. The most significant accounting policies are as follows:

a) Expenditures Recognition
All expenditures are recorded for all goods and services received or performed up to March 31, in accordance with the government's payable-at-year-end accounting policies.

b) Capital Purchases
Acquisitions of capital assets are charged to operating expenditures in the year of purchase.

c) Services Provided without Charge by Government Departments
Estimates of amounts for services provided without charge from government departments are included in the operating expenditures. They mainly consist of accommodation costs and payments to employee insurance plans.