

Canadian Human Rights Tribunal

1999-2000 Estimates

A REPORT ON
PLANS AND PRIORITIES

A handwritten signature in black ink, reading "Anne McLellan". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Anne McLellan
Minister of Justice

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Section I:



A. Chairperson's Message

Changes to our structure, our name and in the way we operate made 1998-99 an exciting and challenging year for the *Canadian Human Rights Tribunal (CHRT)*. Those changes, now fully implemented, promise to make the year ahead one of great opportunity for the Tribunal and its work. It is an opportunity we are confident will be fully realized.

The *Canadian Human Rights Tribunal* came into being on June 30, 1998. For the first time, the *Canadian Human Rights Act* requires that persons appointed to the Tribunal have extensive experience and interest in, and a sensitivity to, human rights. Twelve Members have been appointed to date. We expect that the remaining Members of the Tribunal will be named early in the new year.

Training will, of course, be a priority in the coming year. In response to concerns raised by the Auditor General, we are introducing a three-week intensive training program for all Members. We are committed to ensuring that the *CHRT* is truly an expert Tribunal.

We are addressing the issue of efficiency from all angles. Early in 1999, we will put forward new rules of procedure to formalize the whole process and give our clientele increased guidance in how to prepare for their individual cases.

An exciting and challenging year lies ahead. A year in which we will draw on the experience of our new Members, take advantage of our new mandate and utilize fully the advanced technology available to us. In short, we have been given the tools and the support to accomplish our task – to produce fair and effective public hearings and to render the very best decisions possible.

Anne L. Mactavish



B. Management Representation

Report on Plans and Priorities 1999-2000

I submit, for tabling in Parliament, the 1999-2000 Report on Plans and Priorities (RPP) for the Canadian Human Rights Tribunal.

To the best of my knowledge, the information:

- Accurately portrays the department's mandate, plans, priorities, strategies and expected key results of the organization.
- Is consistent with the disclosure principles contained in the Guidelines for Preparing a Report on Plans and Priorities.
- Is comprehensive and accurate.
- Is based on sound underlying departmental information and management systems.

I am satisfied as to the quality assurance processes and procedures used for the RPP's production.

The planning and reporting structure on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

Name: Michael P. Glynn

Date: February 10, 1999

Section II: Departmental Overview



A. Mandate, Roles and Responsibilities

The Canadian Human Rights Tribunal is a quasi-judicial body created by Parliament to inquire into complaints of discrimination and to decide if particular cases have contravened the *Canadian Human Rights Act (CHRA)*. Only the Tribunal may legally decide if there has been a discriminatory practice.

On January 1, 1997, through Orders-in-Council, Treasury Board made the Tribunal a separate agency under the provisions of the *Financial Administration Act*. It had previously received its funding through Parliamentary appropriations voted to the Canadian Human Rights Commission (CHRC). In fact, except for shared administrative practices, the Tribunal had been operating independently since 1988. In March, 1998, Parliament passed amendments to the *CHRA* that confirmed the independence of the Tribunal.

Separating the Tribunal from the CHRC was necessary to confirm – in the eyes of the Canadian public and its clientele – the Tribunal’s independence and impartiality. Under the *CHRA*, the Tribunal carries out a critical responsibility: to balance the rights of the individual against the requirements of a fair and democratic society. It is a formidable task. Whatever their personal circumstances, all Canadians have the right to equality, equal opportunity, fair treatment, and an environment free of discrimination. The Tribunal ensures that this right is not violated by federally-regulated employers and providers of goods, services, facilities and accommodation—including the government itself.

The Tribunal holds public hearings to inquire into complaints of discrimination. Based on (often conflicting) evidence and the law, it determines whether discrimination has occurred. If it has, the Tribunal decides on the appropriate remedy to prevent future discrimination and to compensate the victim of the discriminatory practice.

The vast majority of discriminatory acts are not malicious. Most problems arise from long-standing systemic practices, legitimate concerns of the employer, or conflicting interpretations of the statute and precedents. As highlighted in the Auditor General’s Report in September 1998, very few cases are clear-cut, and the evidentiary and legal issues are extremely complex. As a result, the Tribunal’s Members frequently put in long hours analyzing evidence and the law before reaching their conclusions.

The Tribunal may inquire only into complaints referred to it by the CHRC, usually after a full investigation by the Commission. The CHRC resolves most cases without the Tribunal’s intervention. Cases referred to the Tribunal generally involve complicated legal issues, new human rights issues, unexplored areas of discrimination, or multifaceted evidentiary complaints that must be heard under oath.

The Canadian Human Rights Tribunal is not an advocate; that is the role of the Canadian Human Rights Commission. The Tribunal has a statutory mandate to apply the *Canadian Human Rights Act*, based on the evidence presented and on current case law. Decisions of the Tribunal may be reviewed by the Federal Court of Canada.

The Tribunal's responsibilities were expanded in 1996 with the proclamation of the *Employment Equity Act*. As well as being the Canadian Human Rights Tribunal, it is also the Employment Equity Review Tribunal. Hearings under this *Act* are expected to begin in 1999. The Tribunal is drafting guidelines and rules of procedure to deal with this new area of responsibility. A group of potential stakeholders will review and comment on the draft rules prior to publication in the *Canada Gazette*.

The Tribunal continues to increase the number of cases sent to Alternative Dispute Resolution (ADR). Introduced in 1996, ADR has proven to be very successful. In the first year, 12 complaints were referred to mediation, six of which were settled. In 1997, 19 complaints went to ADR. Sixteen of those were settled and only one is still pending. Only two complaints proceeded to the hearing stage. Generally, parties involved in the process have been pleased to avoid a solution imposed on them by the Tribunal. ADR has generated significant savings for the Tribunal – \$75,000 in 1996, \$705,000 in 1997 and \$34,000 in 1998.

However, because the terms of ADR settlements remain confidential, ADR may not always serve the public interest on a wider social level. Cases decided by the Tribunal tend to be precedent-setting and decisions can have broad social implications. Therefore, while the complainant may be well served by mediation, others who confront similar conditions cannot benefit because the settlement remains confidential. With this in mind, the Tribunal is reviewing the ADR process to determine its effect on the principles outlined above and its effectiveness in meeting the needs of all parties.

The Canadian Human Rights Tribunal consists of two parts: the Members and the Registry. The Tribunal is made up of up to 15 full- or part-time members appointed by the Governor In Council. By statute, the chair and vice-chair must be full-time Members. This is a change from earlier years when the Panel comprised 50-60 part-time members. The backgrounds of members vary but most do have legal training and all must have experience, expertise and sensitivity in human rights issues. The Tribunal Registry provides full administrative support services to the Members and is responsible for planning and organizing the hearing process.

The Panel deals with matters concerning employment or the provision of goods, services, facilities or accommodation. The *CHRA* makes it illegal for anyone to discriminate against any individual or group on the grounds of:

- race
- national or ethnic origin
- colour
- religion
- age

- sex (including pregnancy)
- family status
- marital status
- disability
- conviction for an offence for which a pardon has been granted
- sexual orientation

In addition, the Tribunal hears cases involving equal pay for work of equal value, or cases concerning the use of telephonic devices to disseminate hate messages against identifiable groups.

The Tribunal's jurisdiction covers matters that come within the legislative authority of the Parliament of Canada. This includes federal government departments, agencies, banks, airlines, and other federally-regulated employers and providers of goods, services, facilities and accommodation. In employment equity matters, the *Act* applies only to employers with more than 100 employees.

The Tribunal's decision-making process must remain (and must be seen as) independent and impartial, offering fair process to all parties. Tribunal Members make decisions solely on the merits of the individual complaints and on the evidence presented at the hearing.

The Registry's activities are entirely separate from the decision-making process. The Registry is accountable for the resources allocated by Parliament. It plans and arranges hearings, acts as liaison between the parties and Members and gives Members the administrative support they need to carry out their duties. It must provide high-quality, effective services to the Canadian public.

To control costs while maintaining services, the Registry regularly monitors and adjusts its procedures and practices. At the same time, it has to deal with varying numbers of cases – some of which are highly complex and require hearings in different locations. The Registry has no control over the number, location, or duration of these hearings. Under these circumstances, providing support to the Tribunal and services to the public while staying within a fixed budget is often a challenge.

B. Objectives

The Members' objective is to interpret, apply and uphold the human rights of Canadians, in accordance with the *Canadian Human Rights Act* and the *Employment Equity Act*, through properly conducted hearings and fair decisions.

The Registry's objective is to support the Tribunal in its operations, to help ensure its independence and impartiality, and to create a positive and workable environment in which Members can fulfil their responsibilities.



C. Operating Environment

The Canadian Human Rights Tribunal operates in the following areas:

- **public expectations and concerns** – The Tribunal recognizes the significance and consequence of its decisions for employers and individuals. Therefore, the Tribunal’s functions are carried out with diligence and open-mindedness to ensure equity and fairness to all.
- **government commitments** – The Tribunal shares the government’s commitment to human resources and fairness in the workplace. The government’s human rights initiatives are reflected in the Tribunal’s decisions.
- **decentralization** – As a small, Ottawa-based, independent body, the Tribunal feels no direct effect as a result of decentralization. Under statute, members are appointed on a regional basis
- **technological advances** – The Tribunal is continuing to modernize its technology systems to allow improved access to the Tribunal’s public documents to the Members and the general public.

D. Financial Spending Plan

(\$ thousands)	Forecast Spending 1998-99	Planned Spending 1999-2000	Planned Spending 2000-01	Planned Spending 2001-02
Gross Program Spending:				
Canadian Human Rights Tribunal	2,551	4,018	3,018	2,818
	2,551	4,018	3,018	2,818
<i>Less:</i> Revenue Credited to the Vote	–	–	–	–
Net Program Spending	2,551	4,018	3,018	2,818
<i>Less:</i> Revenue Credited to the Consolidated Revenue Fund	–	–	–	–
<i>Plus:</i> Non-budgetary	–	–	–	–
<i>Plus:</i> Cost of Services Provided by other Departments	494	482	482	482
Net Cost of the Department	3,045	4,500	3,500	3,300

SECTION III: Plans, Priorities, Strategies and Expected Results



A. Summary of Priorities and Expected Results

Canadian Human Rights Tribunal	
Plan: to provide Canadians with:	Strategies: to be demonstrated by:
<p>a fair, impartial and efficient public inquiry process for enforcement and application of the <i>Canadian Human Rights Act</i> and <i>Employment Equity Act</i>.</p>	<ul style="list-style-type: none"> • ensuring that parties involved receive initial directions within one month of referral from the CHRC. • reducing the time required to render a decision after a hearing concludes to four months in those cases which do not exceed 15 days of hearings. • completing an independent review of ADR to evaluate process and to ensure the <i>Act's</i> principles are met. • continuing to modernize the Tribunal's technology systems to allow improved access to the Tribunal's public documents to the Members and the general public. • evaluating effectiveness of programs under the Tribunal's new structure and making adjustments as needed. • increasing training and professional development of Members to better respond to the interests of all parties in a dispute.
Legislative Acts and/or Regulations	Expected Results
<p>The new rules will be issued, as provided for in the new <i>Act</i>. They are intended to provide improved guidance and direction to the parties on operations of the Tribunal and their responsibilities in presenting their case to the Tribunal. The rules are designed to minimize delays and adjournment requests.</p>	<ul style="list-style-type: none"> • A more clearly defined and efficient hearing system, requiring less time to complete each individual case.



B. Programs and Business Line Plans

Public Hearings

The Tribunal has one business line – to conduct public hearings and render decisions. With a smaller and permanent Tribunal, Members can devote more time to cases and develop greater expertise. We expect cases will be decided more quickly, hearings will be scheduled in a more timely fashion and delays previously encountered by the Tribunal will be minimized. This should result in improved service in meeting the needs of the parties appearing before the Tribunal. Human rights law is taking a new direction in both its complexity and importance to Canadian society. The courts are continually emphasizing the importance of the application of human rights, and to some extent, frustration with the previous process. The current *Act* should allow for improvement to better meet the needs of Canadians.

With changes in our procedures and improved time lines, we believe the long term cost of individual human rights inquiries conducted under our *Act* will moderate and provide greater value for Canadian citizens. We do, however, anticipate a one-time expenditure of \$1 million to adjust to the structural changes to the Tribunal. This will cover the cost of providing ongoing training to the Tribunal's new permanent Members and office facilities. Additional staff are required to support the work of Members and will be an ongoing expense. However, these required costs will be somewhat offset by the improved effectiveness of a smaller and permanent Tribunal.

The effects of the new Employment Equity Review Tribunal will be monitored carefully over the next fiscal year to determine its effect on Tribunal resources. The following are also expected to have an impact on Tribunal spending and expenditure of resources:

Increase in Travel Days – With fewer Members, there will be a shortage of Members to hear cases in various regions of the country. Previously, Members from each geographical location would have taken hearings from their own region. Now, Members will frequently have to travel to hear cases in other regions. Consequently, we anticipate being billed additional time for travel days.

Increase in Disability Cases – Amendments under Bill S-5 created a new accommodation standard for employers for disability cases. We expect more complaints will be filed under the new accommodations section and the Tribunal will be called upon to again establish and interpret the new law.

Employment Equity Hearings – We do foresee the need for Employment Equity hearings for the current fiscal year, as the CHRC has commenced its statutory audit process of federally-regulated employers. Hearings conducted by our members should be commencing in the next fiscal year.

Hate Message Cases – Financial penalties may now be imposed against those found to have engaged in the telephonic transmission of hate messages. Previous legislation allowed only for a cease and desist order. With the new authority of the Tribunal to award monies to those affected by hate messages, complainants will be even more vigilant in monitoring the authors of these messages. We anticipate an increase in cases and that these cases will take longer to complete due to the complexity of the issues and the need to interpret the intent and scope of the new law.

Members’ Meetings and Workshops – The Chairperson has required that regular meetings of all Members take place three to four times per year to provide ongoing information sessions, the exchange of ideas, discussions among Members and to deal with specific topics. Meetings will be held in Ottawa or at various locations throughout Canada. The courts and the public have demanded consistency in the Tribunal’s work and in its decisions. To make this happen, regular exchanges, views and discussions among Members is imperative. With the previous Panel of 50-60 members, such meetings were not fiscally or logistically feasible.

Pay Equity cases – Two major Pay Equity cases are expected to begin this year. The first is the *Public Service of Canada (PSAC) vs. the Government of the Northwest Territories*; the other is *CTEA et al vs. Bell Canada*. Both are complex and will require an enormous amount of the Tribunal’s time and resources – some of it for travel to Yellowknife in the Northwest Territories.

Figure 1: Public Hearings Expectations ▼

	97/98 Forecast	97/98 Actual	98/99 Actual (as of Feb/99)	99/2000 Estimated
Total number of appointments	31	22	18	30
Referrals from CHRC	28	26	11	26
Reviews Tribunals/Court Referrals	3	3	3	4
Employment Equity Review Tribunals	0	0	0	2
Cost per case	50K	50K	50K	45K
Number of hearing days				
– Regular	141	163	96	250
– Pay equity	121	97	39	225
– Employment Equity Review	0	0	0	10
Total Number of hearing days	262	260	135	485
Cases expected to be resolved through Mediation	10	20	5	10
Length of time to render a decision from conclusion of hearing	4.5 months	4.5 months	4.0 months	4.0 months
Length of time to process a case from referral by CHRC to rendering of decision	13 months	13 months	12 months	11 months

Decrease in workload in 98/99 was due to amendments to the CHRA and the Federal Court decision of Justice McGillis in CTEA et al. v. Bell Canada.



Planned Spending

The Business Line Spending Plan is the same as for the agency's overall plan. (See details as stated in Section II, Financial Spending Plan, page 6)

Objective

The Tribunal endeavours to ensure the equitable application of the *CHRA* and the *EEA* through the conduct of fair and efficient public hearings.

C. Consolidated Reporting

Not applicable.

Section IV: Supplementary Information



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Table 1: Spending Authorities – Ministry Summary Part II of the Estimates ▼

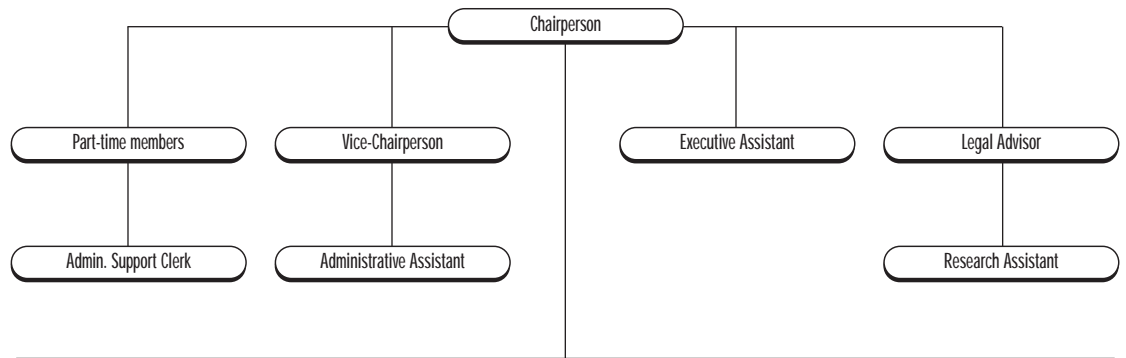
Vote	(\$ thousands)	1999-2000 Main Estimates	1998-99 Main Estimates
Canadian Human Rights Tribunal			
15	Program expenditures	3,946	2,076
(S)	Contributions to employee benefit plans	72	115
Total Agency		4,018	2,191

The increase in funding is a direct result of the implementation of the new CHRT as created by Bill S-5.

Personnel Information

Table 2.1: Organization Structure ▼

Tribunal Members



Registry Operations

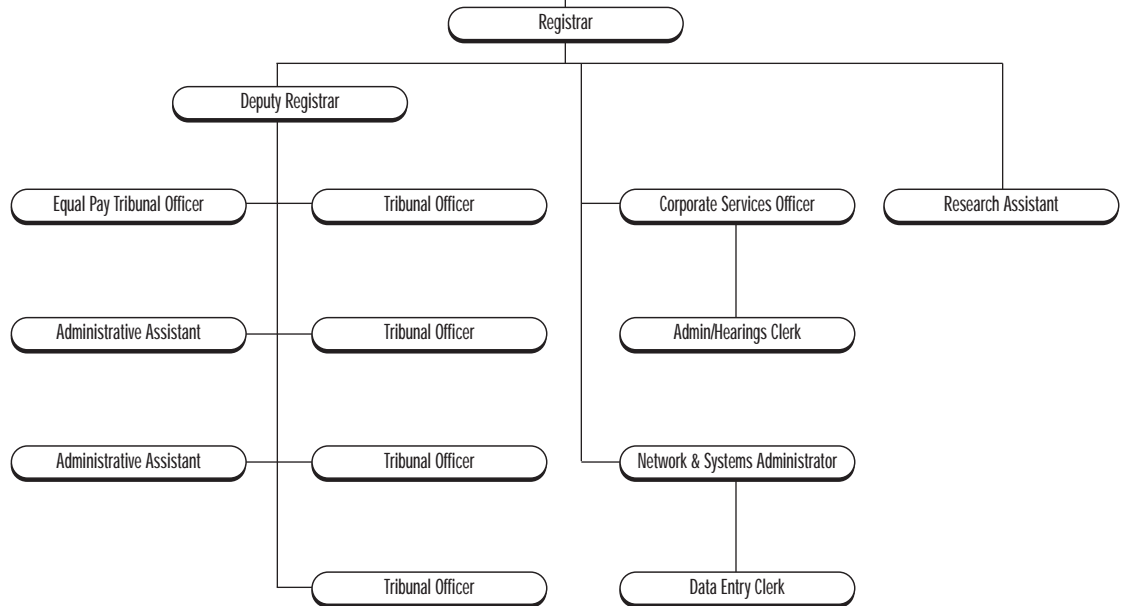


Table 2.2: Planned Full Time Equivalents (FTEs) by Program and Business Line ▼



	Forecast 1998-99	Planned 1999-2000	Planned 2000-01	Planned 2001-02
Canadian Human Rights Tribunal	12	17	17	17
Departmental Total	12	17	17	17

The increases in FTEs in 1999-2000 is a result of the implementation of Bill S-5.

Additional Financial Information

Table 4: Departmental Summary of Standard Objects of Expenditure ▼

(\$ thousands)	Forecast Spending 1998-99	Planned Spending 1990-2000*	Planned Spending 2000-01	Planned Spending 2001-02
Personnel				
Salaries and wages	699	359	359	359
Contributions to employee benefit plans	115	72	72	72
	814	431	431	431
Goods and Services				
Transportation and communications	335	610	610	610
Information	70	45	45	45
Professional and special services	1,043	1,798	1,756	1,556
Rentals	58	81	81	80
Purchased repair and maintenance	151	10	10	10
Utilities, materials and supplies	49	69	69	61
Other subsidies and payments	1	1	1	1
Postal subsidy	-	-	-	-
Minor capital	30	973	15	15
	1,737	3,587	2,587	2,378
Total operating	2,551	4,018	3,018	2,818
Capital				
Controlled capital	-	-	-	-
Revolving Fund	-	-	-	-
	-	-	-	-
Transfer payments				
Voted	-	-	-	-
Statutory	-	-	-	-
	-	-	-	-
Gross budgetary expenditures	2,551	4,018	3,018	2,818
<i>Less: Revenues Credited to the Vote</i>	-	-	-	-
<i>Revenues Credited to the Revolving Fund</i>	-	-	-	-
	-	-	-	-
Net budgetary expenditures	2,551	4,018	3,018	2,818
Non-budgetary (LIAs)	-	-	-	-
	-	-	-	-
Total	2,551	4,018	3,018	2,818

Personnel costs will be re-allocated from the operating budget to respond to the increase in FTEs. The total Tribunal budget will remain the same.

Table 5: Program Resources by Program and Business Line for the Estimates Year ▼

(\$ millions)	Budgetary									
	FTE	Operating	Capital	Grants and Contributions	Gross Voted	Statutory Items *	Non-budgetary Loans Investment and Advances	Gross Planned Spending	Less: Revenue Credited to the Vote	Net Planned Spending
Organization	17	4.0	-	-	-	-	-	4.0	-	4.0
Total	17	4.0	-	-	-	-	-	4.0	-	4.0

*Does not include non-budgetary items or contributions to employee benefit plans that are allocated to operating expenditures



Table 8: Net Cost of Program for 1999-2000 ▼

(\$ thousands)	Human Rights Tribunal	Total
Gross Planned Spending	4,018	4,018
Plus:		
<i>Services Received without Charge</i>		
Accommodation provided by Public Works and Government Services Canada (PWGSC)	458	458
Contributions covering employees' share of insurance premiums and costs paid by TBS	24	24
Workman's compensation coverage provided by Human Resources Canada	-	-
Salary and associated costs of legal services provided by Justice Canada	-	-
	482	482
Total Cost of Program	4,500	4,500
Less:		
Revenue Credited to the Vote	-	-
Revenue Credited to the CRF	-	-
Net Cost of Program	4,500	4,500
1998-99 Estimated Net Program Cost	3,045	3,045

Other Information



Table 12: Listing of Statutes and Regulations ▼

Legislation and Associated Regulations Administered

The Minister has sole responsibility to Parliament for the following Acts:

Canadian Human Rights Act (R.S. 1985, CH-6, amended)

Employment Equity Act (Bill C-64, given assent on December 15, 1995)

Statutory Annual Reports and Other Departmental Reports

Guide to the Operations of the Canadian Human Rights Tribunal

Pamphlet of the Canadian Human Rights Tribunal

Performance Report for Period ending March 31, 1998

Table 13: References ▼

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