

April 26, 2006

STRENGTHENING ONTARIO'S HUMAN RIGHTS SYSTEM

The current human rights system, consisting of the Ontario Human Rights Commission and the Human Rights Tribunal of Ontario, has been in place since 1962, when the province enacted Canada's first human rights code. The code was established to prohibit discrimination and harassment in the workplace, and in accommodation, goods, services and facilities.

Ontario to Lead in Modernizing the Human Rights System

The McGuinty government has introduced legislation that would, if passed, modernize and strengthen Ontario's 40-year-old human rights system, so that it could resolve complaints faster and more effectively and better respond to modern human rights issues.

Human rights reform has been the subject of discussions and consultations in Ontario for more than a decade. Over the last year, the Ministry of the Attorney General has held consultations with numerous community and human rights groups. The proposed reforms, which are consistent with the recommendations of a number of reports, including the Cornish report, would improve services to the public and advance human rights in the province.

In 1992, the Cornish report, by lawyer and internationally recognized human rights expert Mary Cornish, reviewed human rights enforcement procedures under the Ontario Human Rights Code. The report recommended that complainants be allowed to file claims directly with a human rights tribunal. The primary functions of the commission would be to conduct education and research, as well as to address systemic discrimination.

The proposed new model for the human rights system follows these recommendations and would tackle discrimination by:

- Focusing the work of the Ontario Human Rights Commission on proactive measures, such as education, public advocacy, research, analysis and promotion to prevent discrimination. The commission would work to address systemic issues that have a broad impact on communities and groups, and attempt to resolve them
- Establishing two new secretariats within the OHRC, an anti-racism secretariat and a disability rights secretariat
- Implementing a more open, accessible and faster complaint resolution process, with applications being made directly to the Human Rights Tribunal of Ontario. The tribunal would have enhanced statutory powers to determine its own practices and procedures to manage its caseload efficiently and effectively, and to provide alternative dispute resolution mechanisms
- Creating a new Human Rights Legal Support Centre.

Current Role of the Ontario Human Rights Commission

The McGuinty government appointed Barbara Hall chief commissioner of the Ontario Human Rights Commission in November 2005.

The commission is an independent agency, accountable to the public through the Attorney General. The commission's central role is to receive and process complaints. The average number of cases filed with the commission each year is 2,500. After the parties are interviewed and the commission completes a private fact-finding process, it then decides whether the matter should go forward to a hearing before the Human Rights Tribunal of Ontario. This can take up to five years, and during this time, applicants do not receive any legal support.

The commission has received international recognition for its policy work, research and development of guidelines on significant human rights issues. Recent publications include reports on racial profiling, age discrimination, mandatory retirement and an accessibility audit of restaurant chains.

Current Role of the Human Rights Tribunal of Ontario

The McGuinty government appointed distinguished human rights lawyer Michael Gottheil chair of the Human Rights Tribunal of Ontario in April 2005.

The tribunal is an independent, quasi-judicial body, which hears and decides complaints of discrimination and harassment under the code. It can only hear complaints referred to it by the commission. It is responsible for reviewing and making a decision on complaints. The commission refers an average of 100 cases to the tribunal annually.

It currently takes between four and five years for cases that go through the full process to be resolved. This process includes intake, assignment to investigation, investigation, settlement discussions, decision to dismiss or refer to tribunal, tribunal hearing, and final decision. Many delays are caused by duplication in the system at the commission and the tribunal.

Proposed New Ontario Human Rights Commission

Under the proposed Human Rights Code Amendment Act, 2006, the commission's work would focus on proactive measures, such as public education, promotion and public advocacy, research and analysis, to address systemic discrimination in Ontario.

The commission would also maintain the ability to bring a complaint on its own behalf before the tribunal or to intervene in other complaints where there are systemic issues affecting the public interest.

An anti-racism secretariat and a disability rights secretariat would be established within the commission.

Proposed New Human Rights Tribunal of Ontario

A new complaints process would be implemented, with applications being filed directly with the tribunal. The legislation would provide the tribunal with updated statutory powers to determine its own practices and procedures to resolve disputes fairly, efficiently and effectively, and to provide for compensation for human rights violations.

Under the proposed legislation, the tribunal would be able to inquire into issues, engage in fact gathering and conduct mediation. The tribunal would assess evidence in an open and transparent process in which the parties could participate directly. The tribunal would have the capacity to ensure that all relevant evidence is before it, and would be able to compel parties to provide this information within set time limits.

New Human Rights Legal Support Centre

The proposed model would also include a new Human Rights Legal Support Centre that would provide information, support, advice, assistance and legal representation for those seeking a remedy before the tribunal.

Next Steps

The Ministry of the Attorney General would create an implementation advisory committee to provide advice on new processes for the commission, tribunal and legal support services. Members of this committee would include representatives from the commission, the tribunal, community groups and legal, labour and business associations.

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