

II. THE TASK FORCE

Why the Task Force was Created

The Government of Ontario created the Task Force after hearing from many Ontarians that they no longer have confidence in the way the *Ontario Human Rights Code* is enforced.

The *Code* is the law that protects every Ontarian from discrimination because of her or his race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status, sexual orientation, disability, receipt of public assistance, or record of offences. The *Code* covers key areas in a person's life - employment, housing, access to services, goods and facilities, contracts, and membership in unions and vocational associations.

The Supreme Court of Canada has ruled that, apart from the Constitution, human rights laws values on which our society is founded. Human Rights laws should be respected and enforced with special seriousness, said the Court.

The Constitution is the first and foremost law of Canada and sets out the rules that federal and provincial governments must obey. Because the *Human Rights Code* has close to constitutional status, everyone has a strong legal and moral duty to respect and advance its requirements. In passing and putting into effect other laws, and in all policies and practices, governments have an obligation to respect the standards of the *Code*.

In spite of its importance, the *Ontario Human Rights Code* is not providing effective human rights protection. For a number of years, people experiencing discrimination have pointed out serious problems that prevent the *Code* from achieving its purpose. In 1991 more than 40 community groups formed a Coalition for Human Rights Reform. The Coalition called on the Ontario government to take action by appointing an independent task force with a six-month mandate to recommend changes to the *Code*.

Community groups were not the only ones expressing dissatisfaction with the present system of enforcing human rights. Employers, landlords, and service providers also identified problems they had experienced in the enforcement process from their perspective as bodies required to implement equality rights.

In addition, the Ontario Human Rights Commission itself, which presently has sole authority to handle rights claims, spoke of major problems with the present *Code* and asked the government to take action.

In light of wide criticism from so many quarters, the Ontario government appointed this independent Task Force to review the present enforcement system and recommend changes to make it more effective.

What the Task Force was Asked to Do

The Minister of Citizenship, Elaine Ziemba, announced the creation of the Task Force and named its chair, Mary Cornish, on December 10, 1991. On February 12, 1992, the Minister named the other two Task Force members, Ratna Omidvar and Rick Miles, as well as a 12-member Advisory Committee with a diverse representation of people with an interest in human rights from all around the province. One additional person was subsequently added to the Advisory Committee.

The mandate given to the Task Force was to

- review the current procedures for enforcing human rights in the *Ontario Human Rights Code* and
- make recommendations for a fair and practical system of enforcing human rights in Ontario.

The Task Force was asked to hold public meetings in different parts of the province and to consult widely with a variety of sources, including equality seeking groups, business, labour, government, academic, and legal communities, and interested individuals. In addition, the Task Force was to seek information and assistance from its Advisory Committee, from the Commission itself, and from the Chair of the Board of Inquiry Panel.

A separate consultation process was to take place with members of the First Nations in light of the government's recognition of the First Nations' inherent right to self-government.

The Task Force was to hand in its report to the Minister of Citizenship, together with its analysis, findings, and recommendations, by June 30, 1992.

The time frame was short because people wanted speedy action. This proved a challenge for the Task Force and for the many different groups and individuals who wished to participate. The Task Force was impressed by the wide-ranging, thoughtful presentations it received from a diversity of groups and individuals around the province. This participation was vital to the Task Force in carrying out its work. The many groups and individuals who contributed their ideas are to be commended for meeting the challenge in such a positive and impressive way.

The Ontario government, recognizing the situation as serious and urgent, has indicated its intention to bring in changes to strengthen the *Code* as soon as possible after it receives the Task Force's report and recommendations.

Task Force Dealt only with Enforcement Issues

The mandate of the Task Force was to look only at what changes are needed to better enforce the rights presently protected by the *Code*. It had no mandate to look at whether additional rights should be covered by the *Code*. The Minister informed the public that a review of the substance of the *Code* would be carried out within the Ministry of Citizenship to determine whether changes should be made in order for the *Code* to meet the standards of the *Canadian Charter of Rights and Freedoms*.

Challenges the Task Force Faced

While it is clear that the enforcement of the *Code* is not working well and needs to be fixed, how to make it work more effectively is not so easy to determine.

The way the *Code* is enforced has remained substantially the same since it was first introduced in 1962. Other human rights laws across Canada modelled themselves on the 1962 Act. Many of the problems experienced in Ontario are also problems elsewhere.

The Task Force realized early on in its mandate that the problems are serious and systemic and cannot be resolved simply by tinkering with the system. Significant change is needed. Yet such change must address a number of needs.

First, changes must respond to the needs of all the groups covered by the *Code*. The *Code* covers many different groups and areas of activity. The needs of people with a disability who are denied access to a workplace or people with AIDS denied insurance coverage are very different from the needs of single mothers on welfare denied housing or people of colour systematically denied promotion opportunities.

Second, the circumstances of the respondent community vary greatly as well. Employers, landlords, service providers, unions, and professional associations are all required to meet the standards of the *Code*, and each operates in its own particular context. Even in the same context, great variations exist. For example, an employer may be a large corporation, a small business with one employee, or a community organization. A service provider may be a small business, a non-profit agency, or the Ontario government. These differences all need to be taken into account.

Finally, the needs and rights of those currently working in the enforcement system must be considered. The Task Force was faced with considering fundamental changes to an existing system staffed with dedicated public employees who have been under intense public criticism for many years. Much of the criticism should more fairly have been directed at the system itself rather than at the people who staff it. The Task Force realized that the process of change is a stressful one and took seriously its responsibility to keep staff concerns in mind when proposing reforms.