

XII. REVITALIZED HUMAN RIGHTS COMMISSION "HUMAN RIGHTS ONTARIO"

Introduction

The Task Force believes it is important to set the Ontario Human Rights Commission on a new course that will allow it to emerge from the seige it has been under and start to function as a revitalized new agency playing a central role in the new enforcement system. To this end, the Task Force is recommending major structural changes to the Commission's mandate and organization to allow it to act as the public conscience on the side of equality and against discrimination.

The Task Force recommends that the name of the Commission be changed to reflect this new path toward the positive advancement of human rights.

The Task Force believes the name "Human Rights Ontario," like Ombudsman Ontario, appropriately marks this new start and commitment.

Advisory Council

To help rebuild confidence in the Commission, the community at large should be involved in advising it on carrying out its many responsibilities. The Advisory Council should be closely and regularly consulted by Human Rights Ontario and should be provided with sufficient resources and information to enable it to play a valuable role.

The Council will be made up of people with proven and demonstrated leadership in the field of human rights. Council members will come from the different regions of Ontario and from the groups of people traditionally discriminated against as outlined in *Code*, as well as from leaders in providing equality in services, employment, and accommodation. They will be named using an appointment process acceptable to the community.

The Advisory Council will assist Human Rights Ontario in carrying out its mandate in a manner that builds community empowerment and respects the right of equality seeking groups to speak for and represent themselves. Council members will assist it to build links and to provide leadership to employers, to accommodation and service providers and others with responsibilities under the *Code*. By having Council members from around the province, Human Rights Ontario will be attuned to regional issues and concerns. Because Council members will have strong connections with their communities, the new Commission will be strengthened by their direct knowledge and expertise and be better able to respond to major concerns in the different areas of the province and among the different groups covered by the *Code*.

The Advisory Council will make sure Human Rights Ontario works in partnership with the community. It should prepare a report each year to be included in the Human Rights Ontario's Annual Report to the Legislature.

Relationship between Human Rights Ontario and Equality Seeking Groups

The new Commission and its Commissioners must be committed to empowering equality seeking groups to speak for and represent themselves. A number of equality seeking groups told the Task Force that they have experienced problems in the past in this regard. Part of the problem was caused by the procedures set out in the *Code* itself, but part of the problem was also caused by the narrow way the current Commission implemented those procedures. For example, an equality seeking group had to take the Commission to court because the Commission was refusing claim forms filled in by the group.²² The court ruled that the Commission should accept such claims.

The Commission's past approach has left a legacy of anger in many equality seeking groups, who felt their expertise and knowledge was often disregarded by the Commission. Some of these groups are reluctant to support the rebuilding of a new Commission with a strong leadership role; they are suspicious that the new Commission might take advantage of these powers and not adequately empower equality seeking groups. The Task Force listened to these concerns.

An agency that defends human rights must be based on a philosophy of respect toward groups seeking equality. In addition, the evidence is quite clear that a large number major gains in the field of equality rights have been won through the hard work, skills, and expertise of equality seeking groups themselves. Landmark equality rights cases in Canada, both under human rights laws and under the *Charter* have been won by members of disadvantaged groups taking cases to tribunals and courts themselves.

In its brief to the Task Force, the Commission did, however, stress its support for moving away from the old, disempowering approach.

The human rights enforcement system is experienced as disempowering by a significant portion of the equality-seeking community in this province. This is a fact which the Commission believes must be addressed by this review....[The system] is not in keeping with the valid demands of the equality-seeking community today for a process which is more fully respectful of the dignity of disadvantaged persons.²³

The Task Force supports these comments and wishes to emphasize that, in its view, the new revitalized Commission must avoid falling into the old disempowering approach. Since Human Rights Ontario will no longer have carriage of complaints, one of the major structural

reasons for the past, more paternalistic approach will be gone. It must encourage, support, and cooperate with the energy and expertise of equality seeking groups. Such an approach will, in fact, strengthen the new Commission, not weaken it. Where, for example, an equality seeking group has the expertise and desire to take forward important systemic cases, Human Rights Ontario should defer to, respect, and assist the group. It should not seek to compete with or duplicate the equality seeking group's role.

In areas where important initiatives are not being undertaken, Human Rights Ontario should take the lead in developing and pursuing effective strategies. In doing so, it should work with the affected group and be responsive to their views.

The new Commission's relationship with equality seeking groups must be one of openness, respect, and empowerment.

Relationship between Human Rights Ontario and Respondent Community

The new Commission must also be including committed to building a new relationship with the community responsible for ensuring equality - the employers and accommodation and service providers. The Task Force was told by many employers that they find the current Commission to be antagonistic and unsupportive. They are therefore reluctant to seek any compliance assistance from it. As with equality seeking groups, this relationship must be repaired.

Since Human Rights Ontario will no longer be handling individual complaints under the new system proposed by the Task Force, it will, in the view of the Task Force, be better able to relate to the respondent community in a proactive and constructive manner, focusing on working with that community to ensure that the broad patterns of discrimination are addressed. This community consists not only of large business but also of non-profit agencies, unions, and, at times, equality seeking groups themselves, all who may become respondents under the *Code*.

Although much effort must be directed to building links with this community, the Task Force recognizes that a tension will always exist in this relationship because of the Commission's law enforcement responsibility, which may require reporting on or filing claims against respondents. To assist in handling this tension, in the new system, a specific Commissioner for Compliance Services has the role of providing clear and helpful information to the respondent community on how to comply with the *Code*. In cooperation with the community's key organizations, this Commissioner will be able to find strategic ways to assist those responsible for ensuring equality in overcoming systemic discrimination so that individual claims will not arise.

The new Commission's approach should stress openness and partnership so long as there is effective compliance.

Mandate

The *Code* presently puts forward a broad mandate for the Commission to advance human rights by carrying out public education, monitoring government laws and policies, inquiring into major social problems of discrimination, and showing leadership in the community to bring about solutions. However, the Commission also currently has total responsibility under the *Code* for handling every human rights claim filed in the province.

As a result, the Commission, like other Human Rights Commissions across the country, has become little more than a claim processing unit. Energy and resources have gone to the endless task of trying to keep up with the volume of claims, work with a cumbersome enforcement process, and overcome the backlog that developed when the coverage of the *Code* was significantly expanded but not its resources.

Its role has been reactive, not proactive, and geared to individual cases of discrimination, not systemic discrimination.

Placing almost all the resources into pursuing individual claims and leaving out a broad, strategic approach is costly, time-consuming, and unlikely to bring about positive results. Even if an individual claim is successful, it usually changes the circumstances of the individual only and makes little difference in overcoming widespread, systemic discrimination in society.

This approach uses up the time, resources, and energy of claimants and respondents, not to mention the personal and emotional costs it exacts, but without achieving the real goal of the *Code*, which is to ensure that equality rights are respected throughout society.

The absence of a systemic approach to achieving human rights for all has worked to the detriment of everyone concerned. It has led to the need for separate Employment Equity and Pay Equity laws and mechanisms requiring systemic approaches in those particular areas.

The benefits of a strategic, broad-based approach are:

- significant, broad results can be achieved in overcoming widespread discrimination;
- members of disadvantaged groups covered by the *Code* do not have to take on their shoulders the burden of continually bringing forward claims;
- the respondent community does not have to use up resources in dealing with an unending stream of individual claims; and
- a clear, consistent standard is applied across a whole industry or service sector so that the equality seeking and respondent communities know what to expect.

Under the new system proposed by the Task Force, Human Rights Ontario will no longer have responsibility for handling individual claims. It will therefore have the ability to concentrate on its other significant equality responsibilities.

In the view of the Task Force, the new Commission should maintain the powers of investigation it presently has under the *Code* in order to obtain necessary evidence to support claims of systemic discrimination. The information gathered by it could be used in a claim taken forward by the Human Rights Ontario itself, or could be used to assist a community group in pursuing a systemic claim.

If information was denied to the new Commission, it would ask the Tribunal to order that the information be provided.

Regulation or Rule-Making Power

In order for Human Rights Ontario to play a strong, proactive role, the Task Force was told the new Commission should be given the power to make regulations.

At present, the Commission does not have the power to make regulations. The *Code* allows only the government to make regulations, and then only on two matters: prescribing standards for assessing what is undue hardship under the *Code*, and prescribing forms and notices. This regulation making power has never been used.²⁴

The setting of regulations will create clear standards that will bring about systemic change. Pursuing a great many individual cases can take many years and have haphazard effect.²⁵ Regulations can also provide more certainty and predictability for all concerned with human rights. Under the *Canadian Human Rights Act*²⁶, the Canadian Human Rights Commission has the power to make guidelines that are binding on Human Rights Tribunals. The Canadian Commission has passed a number of guidelines, in particular, a guideline to interpret equal pay for work of equal value under the *Act*. The Canadian Commission is proposing that it should have the power to hold public hearings and pass regulations interpreting the *Act*.

Agencies responsible for human rights in the United States, such as the Equal Employment Opportunities Commission, have a long tradition of making regulations to enforce human rights laws, such as the 1990 *Americans With Disabilities Act*.²⁷ Strong representations were made to the Task Force that a standard setting, regulatory approach is essential to bring about systemic change for people with disabilities.²⁸

In a research paper prepared for the Task Force, the Honourable Robert F. Reid states:

In ordinary constitutional and administrative law practice, general initiatives are not accomplished by decisions in individual cases but by regulation. I do not know how

the Commission was expected to carry out its broad mandate without wider powers of regulation than what at present may be accomplished under s. 48, which deal with relatively trivial matters. The Commission was given a sweeping mandate to eradicate discriminatory practices in this province but no apparent power to carry it out.²⁹

Some equality seeking groups told the Task Force they did not favour giving the Commission regulation making power; they felt better results could be achieved by taking cases to a hearing; they also felt that regulation making power might take the control away from equality seeking groups to bring about change in the way they want.

The Task Force believes that regulation making power could be a means to enforce human rights more effectively in certain circumstances.

While usually the Government is responsible for regulations, the Task Force believes it would not be appropriate for the Government to have the power to pass regulations in an area in which the Government is the most frequent respondent under the *Code* and has such wide-ranging and costly *Code* responsibilities.

An example of this potential conflict of interest is the non-binding Guidelines for Accommodation of Persons with Disabilities, issued by the Commission. These guidelines do not have the force of law; to date the Government has not acted on the Chief Commissioner's request to enact the guidelines into law as regulations. Before the Guidelines for Accommodation were finalized, the Commission circulated drafts for comment to all interested groups. These guidelines and the process by which they were made received widespread acceptance from equality seeking groups. They have been adopted by the Workers' Compensation Board and are referred to by many respondents.

There is a provision under Ontario law³⁰ to allow bodies such as the Commission to make regulations. In the view of the Task Force, therefore, Human Rights Ontario should be given the power to make regulations that enable it to play a strategic and proactive role. In deciding how to play this role however, it should listen carefully to the views and wishes of the disadvantaged group whose rights are at stake.

The regulations should be developed through a process of public consultations seeking the input of all interested parties. The Government itself should be required to participate in the public consultations and present its views from the standpoint of the various important roles it plays as the major employer and service provider in the province, as the body representing all the people of Ontario, as the body responsible for setting public policy and as the body responsible for managing the finances of the province.

The regulations developed Human Rights Ontario should be aimed at making the enforcement of the *Code* more effective, productive, and efficient. They should be binding on everyone, including the Tribunal. The new Commission should carry out regular audits to ensure the regulations are being followed and are achieving positive results. The Task

Force believes that Human Rights Ontario should have the same powers of investigation and audit as those proposed by the Employment Equity Commission.³¹

In recommending a rule-making power in Human Rights Ontario, the Task Force is well aware that this represents a change in the existing powers of the Commission. However, the Commission's expertise and new structure makes it particularly suited for this role.

RECOMMENDATION (7):

- **The Task Force recommends that Human Rights Ontario be given the express power to issue legally binding rules and regulations in order to carry out its mandate to advance full and effective achievement of the *Code's* purposes.**
- **Regulations should be passed only if they have been the subject of full public consultations conducted by Human Rights Ontario. Such public consultations would include equality seeking groups and persons responsible for ensuring equality. The Government should participate in its capacity as a major employer, service provider, law and policy maker and body responsible for the public purse. In this way, all of Government's various concerns would be identified in a public way.**

Other Strategic Approaches

Human Rights Ontario could use a number of approaches to overcome society-wide discrimination.

... recommend law reform ...

In its research and monitoring role, Human Rights Ontario could call for law reform where it concluded that current government policies are inadequate to overcome particular ongoing problems of discrimination.

... hold public inquiries and report on compliance ...

It could hold public inquiries, calling witnesses, experts, and interested parties to appear and answer questions. The new Commission should be given the powers required to play this role. It could issue public reports on how well sectors and businesses are doing in eliminating systemic discrimination.

... ensure accessibility standards implemented ...

Human Rights Ontario could take action to ensure that clear, accessibility standards are effectively implemented for people with disabilities with regard to buildings, transportation, and services; and that children with disabilities enjoy the right to integrated education along with their peers. The new Commission might call on the Government itself to adopt and enforce such standards. If this did not bring results, the Commission could develop regulations setting such standards.

... ensure compliance with equality rulings ...

A representative of the Ontario Council of Sikhs pointed out to the Task Force the wastefulness and frustration of repeatedly having to pursue human rights claims to hearings and through the courts when a decision has previously been handed down on the question. For example, human rights rulings have upheld that Sikhs should not to be discriminated against for wearing the turban and the kirpan (small, symbolic dagger), as required by their religious belief, but they are continually having to struggle to ensure this right in all areas.

In order to eliminate the need for continual cases on the same issue, Human Rights Ontario could pass a clear guideline spelling out that the *Code* requires all employers, accommodation, and service providers to respect the right of Sikhs to wear the turban and the kirpan.

As another example, a human rights ruling from the courts required a particular movie theatre to be accessible and provide space in the theatre for people using wheelchairs.³² However, movie theatres in general have not complied with this ruling. If a human rights claim, taking years of dedicated effort, results in only one movie theatre making itself accessible, equality rights for people with disabilities are not greatly advanced.

The new Commission could play an important role by taking whatever action would ensure that equality decisions under the *Code* are, in fact, implemented everywhere in the province.

... use statistical and other information to identify discrimination patterns ...

Human Rights Ontario should use statistical and other information on rights claims provided to it by the Equality Rights Centres and the Tribunal to assist it in identifying and targeting major patterns of discrimination.

... use testing to identify systemic discrimination ...

Testing is a way to find out whether discrimination is being practised. Testing can be used for example, to identify race discrimination in accessing accommodation. A person of colour

sent to apply for an apartment advertised as available may be told that the apartment has already been rented. A white person, then sent to apply for the same apartment, may be told the apartment is, in fact, still available and be invited to rent it.

This procedure is called testing. Training and expertise have been developed to ensure testing is carried out in a reliable and objective manner. Courts have accepted the evidence testing provides.

Testing could be used by Human Rights Ontario as a means to identify systemic discrimination. It has, in fact, been used in Canada to help prove complaints of discrimination and has also been used as a research device to help document the extensive discrimination. In the report *Who Gets the Work*, for example, people with the same qualifications and experience were sent to apply for the same jobs. Some of the applicants were people of colour, some were white. The results of the testing showed applicants received significantly different treatment depending on the colour of their skin. People of colour received far fewer job offers and were given a more negative reception.³³

A project to test race discrimination in housing was carried out by the Quebec Human Rights Commission. Again, the results showed widespread race discrimination being practised against people of colour seeking rental accommodation.³⁴

The Quebec Commission has also used testing at times to obtain evidence in human rights complaints, particularly when the situation is transitory and the evidence may disappear, for example, when a person is seeking to rent an apartment. The Commission tested in two rental cases³⁵ that went before the courts - one involving a claim of race discrimination, the other involving discrimination against a blind person using a dog guide. In neither case did the landlord say that race or disability was the reason for denying the accommodation, but simply said the accommodation was not available. Testing supplied the evidence that, in fact, the accommodation was available and that discrimination had occurred. Both cases were won.

Testing is used regularly by human rights commissions in the United States and is considered by many to be an essential means of challenging systemic discrimination. The U.S. government department of Housing and Urban Development has provided extensive funding over the years to develop and validate testing as a reliable technique that can document and help eliminate racial discrimination in housing.

... take proactive approach to systemic housing discrimination ...

The new Commission could take a strong, proactive approach in the area of rental accommodation, where serious problems of discrimination are experienced by people of colour, single mothers on welfare, people with disabilities, Aboriginal people, and other disadvantaged groups. These problems are referred to in more detail in Section XX, Proactive Role for Employers, Accommodation and Service Providers.

The Task Force believes that, similar to the employment area, a systemic approach must be used to overcome housing discrimination.

Human Rights Ontario itself or an advocacy group could, for example carry out regular testing as a way to bring to light systemic discrimination. The new Commission or an advocacy group, funded by the Significant Case Fund, could use the results of the testing to initiate a claim covering a variety of landlords and calling for a broad, strong remedy, which would include ongoing monitoring of the entire rental sector.

If significant positive results are not achieved, Human Rights Ontario could pass regulations requiring broad-based change. Major landlords and rental agencies could be required to report regularly to the new Commission on their rental practices. Such reporting is presently required by some human rights commissions in the United States and has been found to be an effective and practical means of overcoming race discrimination in accommodation.³⁶

... take proactive approach to systemic discrimination in services ...

Human Rights Ontario could play an important proactive role in overcoming systemic discrimination in services, such as health services, education, and transportation.

The new Commission could carry out research of its own, as well as make use of research done by others, in order to target major patterns of discrimination in access to services in Ontario. It could investigate and initiate systemic complaints, hold public meetings or develop regulations in order to achieve broad, positive results.

For example, the new Commission could ask for service equity plans, starting first with the Ontario government itself, which is the largest provider and funder of services.

The Task Force believes it is particularly important that Human Rights Ontario take broad, proactive measures to address systemic discrimination in accommodation and services because a special initiative has not been created for these crucial areas, as it has been for employment.

In this regard, the Task Force notes that the *Code* allows the provincial government to set as a condition of any contract or grant that recipients must meet the *Code's* equality standards in its employment practices.³⁷ The *Code* should also, in the Task Force's view, allow the Government to set the same equality requirement for services provided by contractors.

... proactive role in employment ...

Human Rights Ontario would work with the Employment Equity Commission to coordinate responsibilities in the area of employment, which would depend on the scope of the new *Employment Equity Act*. It would continue to have responsibility to develop proactive

systemic initiatives for those not covered by that *Act* or not covered fully, that is, different ethnic groups and different creeds; and people discriminated against because of their sexual orientation, their family or marital status, or their record of offences.

RECOMMENDATION (8):

The new Commission, "Human Rights Ontario", should

- **maintain its strong, public interest mandate to advance human rights in Ontario; to act on the side of equality and against discrimination as the public conscience;**
- **no longer have a mandate to process, investigate, or settle individual human rights complaints;**
- **where necessary, investigate and then initiate key, systemic cases and seek broad remedies to ensure compliance by those responsible for providing equality;**
- **monitor and report on the overall functioning of human rights enforcement in the province;**
- **research, document, hold public inquiries, report on, and take initiatives to overcome major problems of discrimination;**
- **promote, assist, and encourage public agencies, business, and other organizations to engage in practices that proactively advance the cause of equality rights enforcement;**
- **promote the establishment of partnerships between those persons responsible for ensuring the equality of treatment of Ontarians and those Ontario citizens who require the protection of the *Code* in order to facilitate the establishment of practices and programs that proactively advance the cause of equality rights enforcement;**
- **work with the Employment Equity Commission to coordinate responsibilities in the area of employment;**
- **promote the empowerment of equality seeking groups to speak for themselves and represent themselves;**
- **maintain close liaison with community advocacy and specialized bodies working for the advancement of human rights and recognize their expertise;**
- **provide funding to the Equality Services Board to provide appropriate services to human rights claimants around the province and special funding for**

community groups to bring forward significant cases that will have a major impact on advancing equality rights for disadvantaged groups;

- **have the power, in consultation with the affected group and in coordination with other community initiatives, to investigate, file and pursue systemic discrimination complaints before the Tribunal and intervene as appropriate in the public interest;**
- **have the power to consult broadly and draw up policies, guidelines, and regulations to more effectively overcome problems of discrimination;**
- **monitor and report on the laws, policies, and practices of the provincial and municipal governments and their compliance with Canada's international treaty obligations in the field of human rights;**
- **plan and develop educational material and educational initiatives in partnership with equality seeking groups and those responsible for ensuring equality;**
- **with respect to services, provide assistance and information for the community responsible for ensuring equality through the Compliance Services Unit reporting to the Commissioner of the same name; and**
- **appear before a legislative Committee on Equality Rights each year, as well as on an immediate urgent basis if required, to report on**
 - **the state of human rights in the province,**
 - **its own and others activities in reducing the amount of discrimination in the province,**
 - **its recommendations for necessary changes to increase the rate at which discrimination is being reduced in the province, and**
 - **any necessary funding requirements for the proper functioning of the overall human rights enforcement system.**

Number and Role of Commissioners

At present only the Chief Commissioner is a full-time Commissioner; the other seven are part-time, usually meeting for three days every six weeks. Individual Commissioners do not have a clear role. Approximately one-half of their time is spent in reviewing reports from their staff on individual complaints. They decide whether to refer the case to a hearing or to

dismiss it; whether or not to refuse to deal with a complaint; and whether or not to ratify a settlement of a case.

Since Human Rights Ontario will no longer be involved in individual claims and will be able to concentrate its energies on proactive initiatives, the Task Force believes there should be a smaller number of Commissioners, who would be primarily full time and accountable to the public for a specific area of responsibility. In this way, clear responsibility could be assigned and greater results achieved.

Key areas for which Commissioners should be assigned responsibility are: proactive systemic initiatives, education, policy and research, compliance services, and advocacy services. The Chief Commissioner would play a key role of leadership and coordination. An integrated, proactive approach would be used in each area, enabling the Commission to have major impact in overcoming discrimination throughout the province. (See Chart at Appendix 2)

The roles of the Commissioners are described below.

... Chief Commissioner ...

The Chief Commissioner should have overall leadership responsibility, including

- responsibility for creating and leading a dynamic organization, dedicated to the advancement of human rights, by setting strategic priorities, allocating resources, and implementing and evaluating policies;
- responsibility for effective coordination and supervision of the Commissioners and all their units within the new Commission as well as working with those bodies outside the Human Rights Ontario that have responsibility for human rights (Employment Equity Commission, Pay Equity Commission, Anti-Racism Directorate, etc.);
- responsibility to ensure the services of the new Commission are accessible both to Ontario's regions and to the needs of its diverse population;
- responsibility to regularly seek the advice of the Advisory Council and provide it with sufficient support and information to play an effective role; and
- responsibility to act as a strong public spokesperson for the new Human Rights Ontario and for the *Code*.

... Commissioner Responsible for Proactive Systemic Initiatives ...

Among the responsibilities of this Commissioner will be to

- monitor trends in specific industries and sectors in all regions of Ontario and identify systemic patterns of discrimination;
- analyze data from individual claims to determine if any pattern of systemic discrimination is apparent;
- organize public forums with representatives of all stake holders to discuss and seek solutions to problems of discrimination;
- hold public hearings and public inquiries, publish reports, and make recommendations to government;
- in consultation with the affected group and in coordination with other community initiatives, investigate, file and, pursue systemic discrimination complaints before the Tribunal and intervene as appropriate in the public interest; and
- hold wide public consultations in order to develop and pass regulations.

... Commissioner Responsible for Education ...

Among the responsibilities of this Commissioner will be to

- develop and implement creative and innovative educational strategies, in partnership with the Advisory Council, so as to increase understanding of human rights by the general public;
- use creative and nontraditional approaches to inform disadvantaged communities of their rights and how to access the human rights system;
- widely distribute regular, up-to-date information to community groups and the general public on human rights developments and decisions;
- assist the Commissioner of Compliance Services in identifying needs and educational resources to assist the community responsible for ensuring equality;
- work with the Commissioner of Advocacy Services to identify needs and develop training for community advocates; and

- use the following principles in developing educational initiatives:
 - Is the educational campaign accessible?
 - Does it adopt a consumer-centred, empowering approach to human rights education?
 - Does it use the existing human rights expertise within the community?
 - Does it meet specific regional needs?

... Commissioner Responsible for Policy and Research ...

Among the responsibilities of this Commissioner will be to

- carry out strategic research to identify and analyze major issues of discrimination and recommend effective strategies to overcome such discrimination;
- monitor government laws, policies, and practices for their impact on human rights and subsequently prepare reports and recommendations that Human Rights Ontario will submit to the Legislative Committee on Equality Rights;
- analyze decisions of the Equality Rights Tribunal to determine if any clear patterns are emerging; and
- provide research and advice to assist in the development of regulations.

... Commissioner Responsible for Compliance Services ...

Among the responsibilities of this Commissioner will be to

- consult with major organizations representing employers and service and accommodation providers to determine their needs in complying with the *Code*;
- provide information and support to assist the community responsible for ensuring equality in obtaining human rights training and resources;
- meet with individuals and organizations representing that community to develop proactive human rights policies and practices; and
- consult with representatives of this community with regard to proposed binding Regulations.

... Commissioner Responsible for Advocacy Services ...

Among the responsibilities of this Commissioner will be to

- advocate for the necessary resources for the Equality Services Board to provide appropriate services to human rights claimants around the province and special funding for community groups to bring forward significant cases that will have a major impact on advancing equality rights for disadvantaged groups;
- set, monitor, and evaluate the overall service standards for the Equality Rights Centres, after seeking the advice of the Equality Services Board;
- sit on the Equality Rights Board as an ex-officio Member; and
- provide an annual report to the Commission Advisory Council on advocacy services provided to the community, which would include a report from the Equality Services Board.

RECOMMENDATION (1):

Six Commissioners should be named, each with specific areas of responsibility:

- **the Chief Commissioner with overall leadership and coordination responsibilities;**
- **Commissioner Responsible for Proactive Systemic Initiatives;**
- **Commissioner Responsible for Education;**
- **Commissioner Responsible for Policy and Research;**
- **Commissioner Responsible for Compliance Services; and**
- **Commissioner Responsible for Advocacy Services.**

Resources and Coordination

Human Rights Ontario should receive adequate resources to enable it to play a leadership role as an independent agency with the important, almost constitutional mandate of advancing human rights in Ontario.

The Commissioners should work together as a dynamic, coordinated team under the leadership of the Chief Commissioner. They would share an integrated, proactive approach aimed at achieving significant, province-wide results. They would work in partnership with community groups and would be committed to the principle of community empowerment and self-representation. They would work with those responsible for ensuring equality.

It is imperative that the new Commission have sufficient staff to

- prepare, research, investigate and audit, and analyze systemic cases,
- monitor and report on equality issues, and
- develop and consult on regulations.

The degree to which Human Rights Ontario succeeds in reducing systemic discrimination in the province through its proactive, broad-based initiatives will substantially affect the number of individuals needing to file claims and seek redress at the Tribunal.

It is, therefore, in everyone's best interest for Human Rights Ontario to achieve effective results.

Accessibility

... regional accessibility ...

The new Commission, with its new more focused role, must still ensure that its service will involve and be informed by the concerns of all Ontario's regions. The Advisory Council made up of members from across Ontario will play an active role in this regard. The Commissioners will also reflect regional diversity. Human Rights Ontario can make use of modern technology to facilitate regional communication. There will likely also be a need for the new Commission to have some staff working in the regions.

... physical and other accessibility ...

Human Rights Ontario must ensure that barriers to its services are eliminated. Its regional offices must be physically accessible. Furthermore, its services must be available in formats that are understandable by all its consumers, not just those who read English.

RECOMMENDATION (10):

- **The new Commission, with its more focused role, must still ensure that its service will involve and be informed by the concerns of all Ontario's regions.**
- **The new Commission must ensure that barriers to its services are eliminated. Its regional offices must be physically accessible. Its services must be available in formats which are understandable by all its consumers and not just those who read English.**

Appointment Of Chief Commissioner And Commissioners

Human Rights Ontario is asked to represent the fundamental public interest in overcoming discrimination against Ontarians who belong to groups that are vulnerable and who lack social, economic, and political power.

Like an Ombudsman or an Auditor General, the new Commission is supposed to be a watchdog against abuse of power. It is therefore vital that Human Rights Ontario be clearly independent and committed to the purposes of its legislation.

RECOMMENDATION (2):

- **The Chief Commissioner and Commissioners should have a demonstrated commitment and proactive expertise in the field of human rights and the empowerment of members of equality seeking groups. They should have public leadership and communication skills, and familiarity with equality issues and the operations of business, government, and community organizations.**
- **The Commissioner for Compliance Services should have a background of demonstrated and effective proactive human rights implementation in the field of employment accommodation or services.**
- **The Chief Commissioner and Commissioners should be appointed through the independent process of the Equality Rights Appointments Committee after consultation with equality seeking groups and those responsible for ensuring equality.**
- **The representativeness of groups protected by the *Code* and the different regions of the Province should be considered in the appointment of the Chief Commissioner and Commissioners.**

- **The Chief Commissioner and Commissioners should have a term of five years with an option to renew for a further 5 and their terms should be staggered as much as possible to ensure continuity.**
- **The Chief Commissioner should be consulted by the Equality Rights Appointments Committee when the Committee is considering reappointment of a Commissioner.**