

Canadian Human Rights Act

The~~s~~ position put forward by the government and statements by ministers concerning the issue of sexual orientation leave some ambiguity. In fact, at the present time the Force has been left in limbo concerning this issue with no legal framework to guide us. If sexual orientation is not included as a proscribed ground of discrimination in the Canadian Human Rights Act (C.H.R.A.) and we believe this bent has an effect on a person's suitability to be a member of the Force we must be able to take a position subject to challenge and defence under the Charter of Rights. If sexual orientation is added ~~and~~ ^{to} the CHRA we believe a similar case could be defended as a bona-fide occupational requirement (B FOR) ^{the present} apparent legal vacuum is completely unacceptable.

You mention concerns about the structure, powers and procedures of the Canadian Human Rights Commission (CHRC). We too are concerned in connection with these areas and mentioned some of the issues in earlier responses to the Equality for All report.

While we have dealt with the CHRC fairly successfully on many cases they are perceived by many of our members to be less than impartial. A perception which, according to other reports,

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is widely held. Whether this impression~~s~~ is factual or perceptual it should be eliminated. To move in this direction we believe the CHRA should be amended to permit free appeal of CHRC Tribunal decisions to the Courts or to remove the judicial function from the CHRC entirely leaving them free to pursue their advocacy role before the courts.

It seems too that at least on some occasions the CHRC are more intent on expanding the interpretation of and adding to the list of proscribed grounds of discrimination rather than carefully enforcing existing grounds in an unbiased manner. These efforts certainly tarnish any appearance of impartiality and also create concern in another way. The present pressure from some quarters to expand provisions of the CHRA in a very pervasive manner is an example. To made the CHRA paramount over any other legislation without very careful study and ample representation from all affected organizations would be reckless in the extreme. Proposing legislation of such wide impact could be seem as underminⁿg the intent of the Charter of Rights which is supposedly the paramount law of Canada.

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When considering change to the CHRA or the structure/organization of the CHRC another anomaly must be addressed. The CHRC reports through the Minister of Justice who is also responsible for the CHRA. This arrangement creates at least the appearance of being in bed together and in our experience occasionally the fact. When you add to this the realization that the Minister of Justice and his department control all litigation by Federal agencies it is easy to understand why some agencies believe their side of a human rights issue may not be given a proper support.

Since we were given but the briefest of time to explore these very important ^{MATTERS} ~~issues~~ I have been able to touch on them only superficially. There are, however, many serious issues here which will create unforeseen ramifications for years to come if they are not properly examined before any major legislative change is undertaken.

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