

Deputy Minister of Justice and  
Deputy Attorney General of Canada

Ottawa, Canada  
K1A 0H8

Sous-Ministre de la Justice et  
Défense Nationale

MAR 24 1986

Deputy - Minister of  
National Defence

BY HAND

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Referred to  
Transmit to

MAR 25 1986

File No. 1461-31  
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Charged to/Chargé à 1461-31

Mr. D.B. Dewar  
Deputy Minister of National Defence  
North Tower, 13th Floor  
National Defence Headquarters  
101 Colonel By Drive  
Ottawa, Ontario  
K1A 0K2

Dear Mr. Dewar:

I am writing to you concerning the review of the Canadian Human Rights Act being conducted by the Department of Justice, in conjunction with Toward Equality, the Government's response to Equality For All.

By now, the Minister of National Defence will have received a letter from the Minister of Justice dealing with these matters and outlining our approach to reviewing the Canadian Human Rights Act. As the Minister of Justice indicated, the review is fairly broad in scope, reflecting fundamental concerns that arose out of the development of the Government's response to Equality For All and the work of the Task Force on Program Review operating under the auspices of the Deputy Prime Minister.

The release of Toward Equality has clearly stimulated public interest in equality-related reforms, and the Minister of Justice has indicated his intent to introduce amendments to the Canadian Human Rights Act before the end of 1986. Even before a Cabinet document is developed, we are hoping to circulate an options paper within the government and to consult you and other departments both before and after its release.

I have set out below some of the issues that we are examining in the course of the review and that may be of specific interest to your Department:

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- The government announced in Toward Equality that the Act would be amended to eliminate provisions for blanket exceptions from the Act for mandatory retirement, although it would be necessary to determine whether certain limited exceptions should remain. Further consideration will be given to the form of such amendments as well as to the need for transitional provisions;
- Consideration will be given to the steps to be taken to implement the government's commitment in Toward Equality to take whatever measures are necessary to ensure that sexual orientation is a prohibited ground of discrimination;
- The government stated in Toward Equality that it agrees that human rights legislation should in general have primacy over other laws, but that in light of the Supreme Court of Canada decision in Winnipeg School Division No. 1 v. Craton that human rights legislation will have primacy except where there is a "clear legislative pronouncement" to the contrary, it is being considered whether it is necessary to amend the Act;
- The government indicated in Toward Equality that the Act would be amended to incorporate the concept of reasonable accommodation, and it will be necessary to determine the form that such an amendment will take;
- The government indicated in Toward Equality that it would consider whether political belief and criminal conviction or charge should be added to the Act as prohibited grounds of discrimination;
- Whether the Act should be made applicable to persons working on contract;
- Whether a right of appeal to the courts from Human Rights Tribunal decisions should be provided;

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- Whether the Act should be amended to permit legal costs to be awarded to parties to complaints;
- Whether provision should be made to permit Human Rights Tribunals to order affirmative action in respect of past discrimination;
- Consideration will be given to the roles and powers of the Canadian Human Rights Commission, their relationship and their impact on the fairness of the process under the Act.

Undoubtedly there will be other issues of interest to your Department, and we will ensure that these are addressed in consultations with your Department.

I would ask you to designate a departmental contact person for the purposes of this review. At our end, the review is being conducted by the Human Rights Law Section, the General Counsel of which is D. Martin Low.

Thank you for your cooperation.

Sincerely,



Frank Iacobucci