

RECOMMENDATION

42



Ontario has recognized these developments and has provided in its new Human Rights Code for a Race Relations Division and Commissioner. The Race Relations Division develops programs and policies to help promote harmonious race relations in Ontario. It identifies concerns and establishes networks in connection with race relations through consultation with community groups. The Division also engages in research and education programs in areas of emerging race relations issues. The Commissioner oversees these programs and sits as a member of the Commission, participating in all of its deliberations.

Race relations will become of greater importance as Canada continues to develop as a multiracial/multicultural society. Consequently, they must be given particular attention by Human Rights Commissions. The Committee urges the Canadian Human Rights Commission, and those provincial Human Rights Commissions that have not already done so, to set up specific Divisions and to assign specific Commissioners with special responsibility for race relations.

RECOMMENDATION:

All levels of government should mandate the appropriate Human Rights Commissions to improve their Outreach Programs and establish race relations divisions, and the necessary funding should be provided.

AMEND THE CANADIAN HUMAN RIGHTS ACT TO COVER SYSTEMIC DISCRIMINATION

First: Human Rights legislation was first adopted to deal with intended discrimination - there was no attempt to cover practices which, while not intentionally discriminatory, had a discriminatory result when applied to certain sectors of society. Attempts in recent years to bring this type of systemic discrimination within legislation requiring proof of discriminatory intent have not succeeded.

In the Bhinder case, the courts have found that the Canadian Human Rights Act does not cover a situation where a hard hat safety requirement has the effect of preventing a Sikh from working in a train yard. In the Simpsons-Sears case, the Ontario Human Rights Act (as it was at that time) was found not to prevent a rule on Saturday work from affecting the observance of the Sabbath by a Seventh Day Adventist. Both cases have been appealed to the Supreme Court of Canada.

Awareness: The Human Rights Commissions have realized that they have reached a level where not all discriminatory acts are overt or intentional. There is systemic discrimination - it appears to be objective and non-discriminatory but has a disproportionate effect on identifiable groups in Canadian society. Height, weight and strength requirements may adversely affect women. The same is true of work schedule and clothing requirements for certain religious groups such as Sikhs and Seventh Day Adventists.