

The equality rights funding process and the language rights funding process are two quite distinct components of the Court Challenges Program, each operating through its own decision-making panel to fund challenges based on separate provisions of rights-conferring legislation. It is appropriate, therefore, to consider equality rights and language rights challenges separately with respect to their impacts and potential impacts.

I. EQUALITY RIGHTS CHALLENGES

The equality rights component of the Court Challenges Program was entirely new in 1985, providing for the funding of challenges based on the equality rights section of the *Charter*, which had just come into effect. The equality rights component was given a mandate not merely to support challenges based on sections 15, 27 and 28 of the *Charter*, but to give priority in its selection of challenges to those "having national importance to disadvantaged groups" referred to in subsection 2 of section 15. Subsection 2 refers to disadvantaged groups "including" those disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

It is noteworthy that the wording of this mandate confers substantial discretion on the program's equality rights funding panel. Cases of interest to groups seen by the Panel to be disadvantaged, but not among the groups specifically enumerated, may be awarded funding on a priority basis. Cases of interest to groups that are not seen to be disadvantaged are not precluded from receiving funding, although the funding of such cases must not impede the provision of assistance to priority groups.

A. The Distribution of Funds

A review of data supplied to the Committee by officials of the program suggests that the discretion established by its terms of reference has been amply exercised by the Equality Rights Panel over the past three years. Funding has been provided to a range of groups and individuals extending beyond those enumerated specifically in section 15 (2) in support of litigation concerning a wide range of equality rights issues.

1. Case Funding

Women's issues and issues relating to disabled persons have figured most prominently among the issues involved in cases funded. Some 21% of the equality rights cases funded since 1985 have related to sex discrimination and a further 9% have related to issues involving discrimination on grounds of marital status, with both of these categories being devoted, with only a few exceptions, to practices disadvantageous to women. About 21% of the cases funded have dealt with discrimination on grounds of mental or physical disability. Other significant categories of cases were those dealing with issues of discrimination on grounds of age (9% of