

Since 1985, the Program has received 951 applications for funding in relation to equality rights. It has funded 175 court challenges, 124 proposals for case development and 11 impact studies. The majority of these cases (125) were presented before a trial court. Twenty six went before a court of appeal and the Supreme Court of Canada heard 24. Among the cases funded by the Program, 47 concerned sex discrimination, 36 dealt with the rights of persons with disabilities, 23 involved discrimination on the basis of racial or ethnic origin and 18 clarified the equality rights of aboriginal persons. Currently, 85 test cases funded by the Program are, or soon will be before the courts. Of these, 72 will be in a trial court, 6 in a court of appeal and 7 in the Supreme Court of Canada.

2. Language Rights

From the time that the Program became independent of the government in 1985, it has received 171 applications for funding in relation to language rights. It has funded 77 court challenges, 13 case development proposals and 4 impact studies. Of these cases, 39 concerned education rights, 14 involved legislative bilingualism and 13 dealt with legal rights.

Again, the vast majority of these cases (35) will only have been heard by a court at the trial level, the lowest level of court. Of the others, 23 went to a court of appeal and 19 to the Supreme Court of Canada.

At the time of the Program's cancellation, 20 test cases were before the courts (16 in a trial court, 1 in an appeal court and 3 in the Supreme Court of Canada).

3. Commentary

The Administrator of the Program provided the Committee with statistics showing that judgments have been rendered in 104 cases in which the Program has funded either a party or an intervenor (48 cases dealing with equality rights and 56 with language rights). Most of these judgments were delivered by a trial court (27 equality rights and 12 language rights cases) or a court of appeal (15 and 18 respectively). It is only reasonable to expect that some of these cases are worthy of appeal to the Supreme Court of Canada.

If the cancellation of the Program remains in effect, disadvantaged groups may not be able to secure definitive judgments in the higher courts. The situation is particularly serious since the vast majority of cases funded by the Program are still at the trial stage. If the groups lose these cases, there will be no money available to commence the expensive process of appealing these cases. Given its mandate, the Program has only funded "test" cases where a definitive judgment can only be expected either from a court of appeal or the Supreme Court of Canada.

We share the concern of our witnesses that because of the slow moving nature of the judicial process and the dilatory tactics that are often employed by those who oppose equality and language rights challenges, unfavourable decisions rendered in test cases brought by