

employment equity programs, while the Commission would serve as an enforcement or prosecutorial body of last resort. The CHRC would retain its basic role of investigating and rendering decisions on complaints of discrimination.

The Committee heard from many employers' representatives that employers would be more comfortable working with a monitoring agency to find the best method of compliance for each employer, as long as that monitoring body did not subsequently become their prosecutor. In their view, the prosecutorial approach to achieving employment equity should be available only as a last resort.

Most members of the designated groups agreed that the enforcement process should contain a monitoring component to verify and evaluate employer progress towards the attainment of a representative work force. However, these groups also stressed the need for a strong and proactive enforcement agency to ensure that non-compliant employers are meeting the requirements of the Act.

The Committee recognizes that both EIC and the CHRC have developed experience and expertise in the area of employment equity. The Committee is also mindful of the potential benefits of separating the advisory and monitoring function from that of enforcement under the *Employment Equity Act*.

The Committee strongly feels that the best approach is a remedial, as opposed to a punitive, method of enforcing the principles of employment equity under the Act. Coercing employers into complying with the legislation would only serve to build resentment and reinforce discriminatory attitudes. The Committee believes that creating positive attitudes is just as important to the process as eliminating institutional barriers. The Committee proposes that monitoring should be a separate function under the Act, which should be carried out by the Employment Equity Branch of EIC.

The Employment Equity Branch would continue to engage in consultation and problem-solving in an effort to aid employers in attaining work place equity based on their operational circumstances. In particular, the Branch would assist employers in ensuring that the plans, goals and timetables of their employment equity programs comply with the standards that the Committee has recommended be set out in the Regulations to the Act. The Branch would also approve employers' plans prior to their implementation and prior to any modification to them. Thereafter, the Branch would work with employers to ensure that they continue to comply with their employment equity commitments.

The Committee believes that there must also be an element of enforcement within the process to ensure that employment equity is taken seriously in this country. It is hoped that the process of consultation and cooperation between the employer and the monitoring agency would achieve desired results; however, where it did not, there would have to be recourse to a separate enforcement body that could adjudicate the matter and that would have the power to order compliance under the legislation. The Committee suggests that the CHRC serve as the enforcement body under the *Employment Equity Act*, since not only does the Commission already have an enforcement structure at its disposal, but it is also an agency that is at arms length from the government.

The Committee sees the CHRC as the final enforcement mechanism under the *Employment Equity Act*. Where the monitoring agency cannot reach an agreement with a particular employer on what is required under the legislation, EIC could refer the matter to the Commission as a complaint for resolution. In these cases, the Commission would have access to all information necessary for resolving the issue, including employer equity plans. Naturally, the Committee expects that the Commission would retain any such information and documentation on a strictly confidential basis.

The Committee also proposes that any individual or group of individuals with an interest in employment equity, such as a bargaining agent or a member of a designated group, could file a complaint with the CHRC with respect to the enforcement of the *Employment Equity Act*.