

effect of changes to the Ontario *Human Rights Code* which permit income discrimination; and on whether social condition should be added as a prohibited ground of discrimination under Canadian human rights statutes.⁴⁷

Rather than simply adding to the already heavy responsibilities of the Human Rights Commission, a special sub-committee with responsibility for promoting compliance with social and economic rights should also be established.⁴⁸ The creation of a specialized sub-committee of the Commission would have the advantage of enabling the Commission to draw on specific expertise in the social and economic rights area, and of ensuring that a specialized unit within the Commission can focus on social and economic rights exclusively. Such a sub-committee should not play a role in relation to the filing of complaints. Rather, complaints which did not fall within the anti-discrimination provisions of Part III of the *CHRA* should be submitted directly to the Tribunal. The sub-committee should have the right to intervene in any case that is heard before the Social Rights Tribunal, but should not have the power to screen complaints, or to decide which complaints should go forward to the Tribunal. In the area of social and economic rights in particular, the entity which is responsible for promoting compliance with social and economic rights obligations must be free from any requirement to remain neutral with respect to the outcome of complaints. The duties and functions of the sub-committee would include effective liaison with non-governmental organizations who may also be parties under the complaints procedure. It is important that the sub-committee be liberated from the constraints which go with any role in the evaluation or processing of complaints, in order to be an effective social and economic rights advocate within the Commission, within government and at a broader public level.

Conclusion

Including social and economic rights in the *CHRA* is not simply a question of achieving compliance with international human rights law, or greater consistency with the approach to *Charter* interpretation advocated by the Committee on Economic, Social and Cultural Rights and increasingly accepted by the Supreme Court of Canada.⁴⁹ Nor is it simply a matter of bringing our national human rights institution into closer conformity with the *ICESCR* and the *Paris Principles*. Rather, it is about creating a federal human rights regime that recognizes and validates the substantive claims to dignity and equality advanced by the most disadvantaged members of Canadian society.

⁴⁷ *List of issues, supra* note 11 at paragraphs 12 - 14.

⁴⁸ The Social Rights Sub-committee is modeled, in part, on the provisions the *Alternative Social Charter*, which the authors of this paper participated in drafting. The *Alternative Social Charter* was endorsed by a national coalition of anti-poverty and equality seeking groups during the constitutional negotiations leading up to the *Charlottetown Accord* Referendum in 1992. The *Alternative Social Charter* is discussed and reproduced in J. Bakan & D. Schneiderman, *Social Justice and the Constitution: Perspectives on a Social Union for Canada* (Ottawa: Carleton University Press, 1992) Appendix I at 155.

⁴⁹ See for example the Supreme Court's recent decision in *Baker v. Minister of Citizenship and Immigration*, [1999] S.C.J. 39, where the Court ruled that federal laws must be applied consistently with the international human rights treaties ratified by Canada.