

## **Chronological History of Representation under the Human Rights System and the Development of a Clinic in Human Rights:**

- 1984 Introduction of the *British Columbia Human Rights Act* by Robert McLelland, Minister Responsible for Human Rights. This *Act*, makes the B.C. Council of Human Rights a third party between two parties in dispute, and provides no provision for complainant representation.
- 1985 Provision for legal aid for complainants with no means test and for respondents with a means test. Provision allowed for representation through all stages of a complaint – from intake to hearing. Funds provided by the B.C. Council of Human Rights to the Legal Services Society in order for LSS to administer a human rights tariff to the private bar.

The B.C. Human Rights Coalition (the Coalition) begins providing advocacy services to human rights complainants during the pre-hearing stages of the complaints process.

- 1992 Tim Agg's Review of Legal Aid Services in British Columbia recommends a mixed model delivery system comprised of both lawyers and paralegals for human rights. This system allows for a holistic focus on the complainant/client, with the potential to plug in one of a variety of services depending on the situation at a reduced cost. He notes that a mixed model of delivery is already practiced in human rights with the private bar providing representation at the hearing stage and the Coalition providing advocacy services at pre-hearing stages. Agg suggests this system could be strengthened further by coordinating services and through the creation of a community-based human rights legal clinic.

Tim Agg brings the Community Legal Assistance Society (CLAS) and the Coalition together to design a joint proposal for a community based human rights legal clinic.

Anita Hagen, Minister Responsible for Human Rights commences a review of human rights in B.C.

- 1993 Anita Hagen, commissions Professor Bill Black to do a full review of human rights in B.C.

- 1994 The Black Review recommends a mixed model delivery approach citing Agg's report, and suggests a human rights legal clinic as the preferred option for the provision of representation to claimants. Black suggests this clinic should have both lawyer and paralegal components and that it could be accomplished by establishing a new facility, or by providing existing experienced organizations with the resources necessary to undertake this role.

CLAS and the Coalition submit a joint Clinic proposal to the Legal Services Society to provide representation within a mixed model delivery system. This proposal also



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proposes the creation of a Centre for Excellence meant to function as a resource and training center for the whole of the legal community in human rights issues.

1995 In March, the B.C. Council of Human Rights withdraws part of the tariff provided to Legal Services and reduces the scope of publicly funded representation to cover only the hearing stage of the complaints process. This arrangement continues until February 2002.

1997 The new Human Rights Commission and Tribunal come into being. Representation at the hearing stage of a complaint continues through the provision of a tariff administered by the Legal Services Society to the private bar.

In 1997, the new Chief Commissioner, Mary Woo Simms, seeks submissions from the business community, human rights groups, Legal Services Society and the private bar in a paper entitled, "Options for the Provision of Commission Funded Legal Representation under the *Human Rights Code*". From this, a roundtable was created that included all interested parties where a consensus was reached for the provision of a legal clinic in human rights. Bill Black and Kathryn Thompson were contracted to produce a report on the feasibility of such a clinic.

1998 Black and Thompson complete their report suggesting that a clinic is feasible. The above roundtable was recalled to discuss this report and together, they reach a second consensus: that a mixed model approach – clinic and tariff provided to the private bar - was the best method to provide complainant representation. They also agree that this model is financially feasible and that existing organizations should be utilized for reasons that are both financial and relate to expertise and experience.

The Ministry of the Attorney General issues a Request for Proposals on the Provision of Legal Services to Clients of the Commission.

1999 By January, CLAS and the Coalition submit a joint proposal for the provision of a human rights legal clinic that would provide advice, information and representation to complainants through all stages of the complaints process.

In early 1999, Mary Woo Simms and Harinder Mahil met with the Coalition and CLAS to discuss this proposal. The Coalition and CLAS also met with Attorney General Dosanjh and Deputy Minister Maureen Maloney to discuss this proposal.

In August 1999, the Coalition and CLAS are informed that the clinic proposal is off until the Ministry of the Attorney General undertakes a thorough review of support services available to individuals, including the provision of legal services. This review was to take into account changes in the complaints screening process and any new dispute resolution functions played by Commission staff.

2001 In August, the government launches its Administrative Justice Project, which includes a Human Rights Review. The Coalition coordinates a larger group of community

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organizations, human rights lawyers and consultants and produces two submissions to this committee, one in October 2001, and the other in February 2002.

Both submissions call for an end to the B.C. Human Rights Commission and a move to a direct access Tribunal. The submissions also call for the creation of a human rights legal clinic with both paralegal and lawyer components to work alongside the private bar in providing services to human rights complainants. The creation of a Centre of Excellence in Human Rights is also recommended with an extensive mandate focusing on research, education, and reporting functions.

In November 2001, the Coalition met with the Attorney General Geoff Plant in part, to put our proposal to him.

2002 In February, the B.C. Human Rights Commission's 2002-03 budget is cut by approximately 30% as a result of the Core Services Review.

On March 5, 2002, the Commission announces that they will cut the funds provided to the Legal Services Society used to administer the human rights tariff to the private bar. New funds provided for the tariff were terminated effective March 31, 2002. Complaints that had a hearing date scheduled already, would continue to have access to tariff funding until their hearing was complete.

In an attempt to ensure complainants received a full hearing and a fair resolution to their claims, the Commission announces that the Deputy Chief Commissioner (DCC) will become a party to most hearings effective April 1, 2002. Lawyers from the DCC's office would be responsible for presenting the complaint, calling and examining witnesses, leading evidence and making submissions regarding appropriate remedies. However, as the DCC does not have the statutory authority to represent a complainant directly, this meant that for this first time since 1985 there is no provision for complainant or respondent representation before the Tribunal.

On May 30, 2002, the Attorney General, Geoff Plant, introduces *Bill 53*, an exposure *Bill*, on proposed changes to the human rights system. The *Bill* proposes to disband the Commission and move towards implementing a direct access model. The public is asked to provide input into these proposed changes and has until September 15, 2002 to do so.

Recognizing that there is no current provision for legal representation for either complainants or respondents and that the current Commission is still referring complaints to the Tribunal for hearings, the Ministry of the Attorney General approaches CLAS and the Coalition to provide representation for these complainants during this transition phase. In July 2002, CLAS and the Coalition reach agreement with the Ministry to provide representation specifically for human rights complaints that have been referred to Tribunal. (See Fact Sheet: Our Current Involvement in the Human Rights system, July 2002).

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In the news release that accompanies the introduction of *Bill 53*, Attorney General Geoff Plant indicates that a publicly funded human rights clinic will work alongside the expanded direct access Tribunal. In further public communications dated August 30, 2002, Plant indicates that the services provided through this clinic will be provided by two community-based organizations: the Coalition and CLAS.

In late August the Coalition provides its submission on *Bill 53* to the Ministry of the Attorney General. Our submission reflects our concerns about: the elimination of the monitoring and reporting functions associated with the *Code*; the proposed changes regarding time limits associated with filing a complaint; mandatory mediation; new powers to award costs; new grounds for dismissing complaints; and, our concern regarding the absence of a statutory commitment towards providing educational and information programs to the public.

On October 29, 2002, *Bill 64*, an amended version of *Bill 53* passes into law. The new legislation, which addresses much of the cohesive nature of *Bill 53*, does allow for direct access to the BC Human Rights Tribunal and the Tribunal becomes the sole agency responsible for enforcing the *BC Human Rights Code*. The new legislation is to be brought into force by regulation in early 2003.

2003 In January 2003, the Ministry of the Attorney General issues a Request for Proposals for the Provision of Integrated Human Rights Services which are to include paralegal and legal client services and an education and training program.

By early February 2003, CLAS and the Coalition submit a joint proposal for the provision of a human rights legal clinic that would provide advice, information and representation to complainants through all stages of the Tribunal's new complaints process. The clinic proposal also includes an education and training program meant to raise the legal awareness of human rights legislation and offer tools to employers, service providers and unions to assist them in complying with *Code* provisions. The proposed clinic is to offer all services province wide.

In March, the above proposal is selected to provide this service and both organizations negotiate contracts with the Ministry.

On March 31, 2003, *Bill 64* is brought into force by regulation. The new direct access Tribunal opens its doors along with a publicly funded human rights clinic which is jointly run by CLAS and the Coalition.