

Human rights plunge into the past

by Shelagh Day

Human rights in British Columbia may be about to plunge backwards by twenty years. In 1983 Bill Bennett abolished the Human Rights Commission, fired all the Commissioners and staff, and narrowed human rights legislation in one sweeping assault. Though a little slower off the mark, the current government seems poised to substantially weaken the province's human rights institutions and protections.

Human rights matter. They protect everyone from discrimination based on race, sex, age, disability, and sexual orientation. Because the purpose of a human rights system is to shield us from bias in fundamental areas of our lives (work, housing and services), governments of all stripes should be committed to ensuring that this system is stable, effective and tough. However, recent signs indicate that, far from giving B.C. residents a vigorous, and influence-resistant system, the government is about to repeat old moves.

In July, Attorney General Geoff Plant removed Mary Woo Sims from her office as Chief Commissioner of the B.C. Human Rights Commission before her term was completed. In most Canadian jurisdictions, including B.C., human rights legislation requires that Commissioners be appointed for fixed terms in order to ensure that the law will be enforced without political interference.

When the Attorney General fired the Chief Commissioner, he announced that the Commission and Tribunal would be reviewed. The review was to include a background paper, a government white paper on proposed changes, and public consultation. So far only a background paper, which contains no recommendations, has been produced.

And, before any review has been conducted, the province has cut the Commission's budget by 32%. This has forced the Commission to reduce its staff by one third, and to inform the Legal Services Society that it can no longer pay for legal aid for human rights complaints. As of April 1, human rights complainants will have no direct legal representation. Hearings will be difficult for all parties, and potentially very unfair for unrepresented complainants, even though the Commission will try to provide some assistance through its two in-house counsel. The latest news is that new legislation will be introduced in this session, prior to any public consultation on proposed changes.

A review of the B.C. human rights system is fine. As in other jurisdictions, there are important questions to ask about what can be done to improve complaint-processing, particularly when systemic discrimination is involved. However, this review needs to take place in an open, transparent, and independent forum. Because governments are subject to human rights laws, and because the most significant complaints now being brought forward concern discrimination in government services, a purely internal government review of human rights legislation and Commission powers creates an obvious conflict of interest. When the federal government reviewed the *Canadian Human Rights Act*, it appointed an independent panel of experts, chaired by former Supreme

Court of Canada Justice Gerard La Forest, to make recommendations for improvement. A credible review of human rights legislation requires this kind of arms'-length process.

So far, the government's approach to the human rights system is consistent with its approach to the province's other watchdogs and advocates, including the Privacy and Information Commissioner, the Mental Health Advocate, landlord and tenants' offices, legal aid, and women's centers. Cuts to these agencies will not make them more "effective," as the government claims. Rather, the cuts make them less able to protect British Columbians when they encounter government policies and actions that are unfair or discriminatory.

To diminish the capacity of the human rights system at this moment is all too convenient for the provincial government, because the human rights system is a potential vehicle for contesting cuts to other services on the grounds that they will have a discriminatory impact on already disadvantaged groups. For example, Aboriginal people, one of the poorest groups in B.C., are likely to be disproportionately affected by cuts to welfare rates, the elimination of poverty law services, and the closure of Native Community Law Offices.

B.C.'s most vulnerable residents should be able to rely on a vigorous human rights system to support their rights, particularly at a time when they are threatened by government actions. If the government is confident that its policies are not discriminatory, it should make sure that our human rights system functions at top form, in order to provide vulnerable people with a way to be heard.

The government of B.C. can still lead the province towards an improved human rights system. But this will require stepping away from its current defensive stance and embracing respect for human rights as a central component of a fair society.

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Shelagh Day is a Director of the Poverty and Human Rights Project, and a Research Associate with the Canadian Centre for Policy Alternatives.

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