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## **Standing Committee on the Status of Women**

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**EVIDENCE**

**Thursday, March 10, 2005**

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**Chair**

**Ms. Anita Neville**

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## Standing Committee on the Status of Women

Thursday, March 10, 2005

• (1520)

[English]

**The Vice-Chair (Mrs. Nina Grewal (Fleetwood—Port Kells, CPC)):** I would like to bring the meeting to order.

I would like to welcome the witnesses from the Canadian Human Rights Commission. Please, could we listen to your presentation, Mrs. Gusella.

**Ms. Mary Gusella (Chief Commissioner, Canadian Human Rights Commission):** Thank you very much, Madam Chair.

Before I begin, I'd like to introduce my colleagues to the committee. With me are Kathryn Hamilton, who is the acting director of employment equity, policy and outreach branch; Rhys Phillips, the director of policy and legislation in the employment equity compliance program; and Christine Watson-Sontere, who is the acting director of the employment equity compliance program.

[Translation]

I want to thank you for inviting us to appear today before the Committee.

[English]

As you are no doubt aware, women are one of the four groups designated under the Employment Equity Act. The purpose, of course, of the act is to ensure that the workforce of federally regulated employers is representative of the workforce and the labour force, and that barriers that are faced by women, by aboriginal people, by visible minorities, and by persons with disabilities are eliminated.

Under that act, the Human Rights Commission has the authority to audit the performance of employers to ensure that they comply with the legislative requirements. The scope of the act covers about 500 employers in the banking, transportation, and communication sectors, as well as, of course, federal departments and agencies.

[Translation]

Furthermore, section 11(1) of the Canadian Human Rights Act states the following:

It is a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value.

One of the Canadian Rights Commission's most remarkable achievements several years ago resulted in a settlement of \$3.6 billion for some 230 000 federal government employees and former employees in female-dominated jobs such as secretaries, clerks, hospital workers and librarians.

[English]

In order to put into context our commission's work with respect to the advancement of women, perhaps you would allow me to say a few words about some reforms that have been introduced over the past two years at the commission that have radically changed what I might call our business model.

Briefly, let me say that a previously very heavy emphasis on litigation has now been replaced with a more responsive alternative dispute resolution approach. Also, the investigation process was reshaped to provide a supportive and team environment and a more efficient and rapid service delivery. A prevention branch has been created to assist respondents in establishing a culture of human rights in their workplaces. An outreach branch has been established to involve stakeholders in a continuing dialogue. And a learning and development branch has been created to ensure a continuous learning culture tailored to the specialized needs of our employees.

All of this, of course, has been done within existing budgetary constraints, but together these measures have enabled us to all but eliminate the backlog of cases. There has been an 85% drop in the number of complaints that were two years or older, and a 70% increase in the number of final decisions rendered.

[Translation]

More importantly, implementation of our new business model, process improvements in all business lines and sound management of resources have resulted in savings of almost \$1 million. This money can now be devoted to new priorities, such as proactive initiatives aimed at resolving systemic issues.

[English]

I did mention earlier that under the Employment Equity Act the commission audits employers that fall under federal jurisdiction to determine if they meet the statutory requirements of the act. This means making sure the four designated groups are fairly represented in the workplace according to their representation in the appropriate labour market. At the end of an audit, among other things, an employer will have reviewed its employment practices, introduced best practices and special measures to correct systemic discrimination, and set hiring goals that will eventually lead to full representation. As a minimum, in fact, the employer will also have a harassment policy, an accommodation policy for persons with disabilities, and an employment equity policy all in place. Most importantly—and I do want to emphasize this—senior management will be accountable for the results in the plan and the targets they have set in their plan and the measures that are enshrined in the employer's employment equity plan. The commission then will have the confidence that with these facts and these targets, the company or the organization will make reasonable progress toward achieving full representation.

• (1525)

[Translation]

Compliance auditing does not stop there. The Commission follows up on employers' results and conducts another audit if the organization fails to make reasonable progress.

[English]

So if reasonable progress is not being made, it is possible for us to go back and reopen the audit.

To date the commission has initiated 282 initial audits, and 191 employers have been found in compliance. Almost always they have been found in compliance after a cooperative process between the commission and the employer. This represents 48% of employers and 77% of employees who are covered by the act. While the commission is empowered to enforce the legislation through directions and through referral to employment equity review tribunals, this really has rarely been required. In fact, there have been no employment equity tribunals to date.

[Translation]

One important consequence of the legislation is that most federal employers now have data bases which provide them with extensive, detailed information about the experiences of women in the workplace.

[English]

So this includes not only women's representation in the major occupational groups, but also how well women do within that organization in hiring, in promotion, in retention, as well as, of course, whether women are concentrated in the lower classification levels. In addition, the most sophisticated employers, including the federal public service, will often have data on areas such as training, appointments to development assignments, access to mentoring, and other such key components of good human resources management processes. Such information permits employers to do sophisticated gender-based analysis in order to identify the potentially differential impact of policies and practices on women and remove barriers

when they find such impact. As well, of course, employers are able to track the performance of their employment equity plans and make adjustments and improvements as required.

[Translation]

Since the Commission began conducting audits eight years ago, women have achieved considerable progress in both the public sector and the federally-regulated private sector.

[English]

In the public sector, women now comprise 53% of public service employees, an increase from 50% in 1997, when the commission began to conduct audits of federal departments and other employers. More importantly, in terms of numbers, women make up 35% of jobs in the executive group compared with 25% in 1997, and they make up 39% of all new executives hired. Their share of jobs in the scientific and professional area has increased from 32% in 1997 to 35% in 2004.

The data also indicate that there now exists a qualified pool of women to facilitate succession planning within the federal public service. Women continue to be concentrated, however, in the administrative support category, but less so than previously. For instance, a total of 30% of women hold these types of jobs in the public service now, compared with 44% in 1997.

In the private sector, women held 44% of all jobs in 2003, about the same as it was in 1997. However, many more women occupy senior management positions in the private sector than in 1997. In 2003, in fact, 20% of women held these positions, up from 15% in 1997. However, it is lower than the Canadian average of 25% in the 2001 census.

In the banking sector, 25% of senior management jobs are now occupied by women, up from 19% in 1997. In another sector, the communications sector, women held 21% of senior management positions in 2003, up from 15% in 1997. Women, however, were less present in the transportation sector, where 15% of senior management positions were held by women in 2003.

Recent statistics indicate that 23% of women in the private sector, compared with 10% of men, worked in part-time or temporary jobs. This pattern also holds true for visible minority women and women with disabilities, and it is most noticeable for aboriginal women, among whom it affects 25% of their population. Even when employed full-time, women earn only about 81% of what men earn.

Let me conclude, Madam Chair, by thanking the committee very much for the invitation to appear. I'd be pleased to answer any questions.

•(1530)

**The Vice-Chair (Mrs. Nina Grewal):** Thank you, Ms. Gusella.

Ms. Hamilton, please go ahead.

**Ms. Kathryn Hamilton (Acting Director General, Employment Equity, Policy and Outreach Branch, Canadian Human Rights Commission):** Actually, I haven't prepared anything. I'm available for any questions you may have.

**The Vice-Chair (Mrs. Nina Grewal):** We'll be sure to do that and go to a round of questions. Let's have the Conservatives first.

Ms. Yelich, please.

**Mrs. Lynne Yelich (Blackstrap, CPC):** I really appreciate your coming forward, because I think there is so much we can learn from you about equity. You are not only monitoring it but you are also responsible for making sure there's compliance.

You said the act applies to over 300 federally regulated private sector organizations and crown corporations. What are the private sector organizations and crown corporations? Are they all of the crown corporations? I would like to know that specifically. I am looking at the statistic that 900,000 workers are covered by the act and that, although the number of employers varies, the act currently applies to over 300 federally regulated private sector employers.

I'd like to know who are the regulated private sector organizations and crown corporations.

**Ms. Mary Gusella:** Maybe I could go sector by sector and give you a couple of examples in each sector.

**Mrs. Lynne Yelich:** Yes, would you, please.

**Ms. Mary Gusella:** In the federally regulated private sector, we could start with banking. You have all of the federal banks, like the BMO financial group, the Canadian Imperial Bank of Commerce, Canadian Western Bank, Citibank, and I could go on, including TD Bank Financial Group. All of the banks essentially are covered, including some that we don't think normally of, like Symcor Services, and so on. That's within the banking sector. There are probably about 16 in the group that we have under audit at the present time.

In the communications sector, there are about 51 that we have either audited or have under audit presently. You would include AT&T long distance services, Bell Canada, Bell Mobility—all of the Bell cellular service—CallNet Enterprises, Canada Post Corporation, Canadian Broadcasting Corporation, CANPAR Transport LP, and CHUM Limited. It is really quite a large number in that sector.

I'll just quickly give you an idea of the other sectors. In the transportation sector, we have 105 that are either audited or under audit. There are a lot of bus lines, all of the airlines, and a lot of the airline service companies, and the British Columbia Maritime Employers Association—because they provide services—and Canadian National Railway, of course.

That gives you an idea. It's a very large sector. It's a very difficult one for women in a variety of ways. Wearing my Human Rights Commission hat, in terms of the cases, I find we receive a lot of complaints from that sector.

**Mrs. Lynne Yelich:** What's your formula for employment equity? How do you go about auditing? How easy is it?

**Ms. Mary Gusella:** We have Rhys Phillips here with us today, who is I think quite prepared to give you a thumbnail sketch of the methodology we use.

**Mr. Rhys Phillips (Director, Employment Equity Policy and Legislation Branch, Canadian Human Rights Commission):** Very quickly. After the act was passed we established the 12 statutory requirements that Parliament had asked us really to audit. We then established some 46 assessment factors for which we could go out and use a consistent approach with employers to see if they were in compliance.

Compliance, I should point out, is not that you have full representation of the four designated groups, but that the compliance officer believed you had implemented the 12 statutory requirements and had a plan that, if implemented, with reasonable efforts would lead toward reasonable progress toward full representation.

We initiate the complaint. We contact the employer through the secretary general, and then a compliance review officer is assigned. The officer goes out and then assesses the company on those 12 statutory requirements. The employers have to have done a survey so they know what they have in terms of the four designated groups. They then have to do a workforce analysis and compare that with what the census suggests you should have, based on the types of jobs where you're located, etc. And where you find that there are gaps with the designated groups, the employer does an employment systems review to determine what are some reasonable explanations for why they have those gaps.

You have essentially a problem identification process and then a resolution process—removing the barriers, establishing special measures, setting goals and timetables. They have to consult with their employees, they have to communicate with their employees, and they have to keep good records.

So we do an audit. If you're not in compliance—and I have to admit that probably about 90% of the time the employer is not in full compliance—the compliance review officer negotiates a series of undertakings that are signed by the deputy minister or by the CEO of the organization, who then goes back and implements those undertakings. We come back and do a follow-up audit, and in 80% of the cases—actually 90% now—we would find the employer then in compliance.

Subsequently, we then monitor to make sure they are meeting their goals. If there is a problem with making reasonable progress in meeting their goals, we may initiate—we've just begun this process over the last year—an implementation audit to make sure the company is actually implementing the plan that had been found in compliance in the original audit.

In a nutshell, that is what we do.

• (1535)

**Mrs. Lynne Yelich:** Do you have a copy of the 12 statutes that you follow?

**Mr. Rhys Phillips:** The statutory requirements? Yes, we have a document called the framework document, which is a very neat little document. It explains how we do an audit, what the 12 statutory requirements are, and what each of the assessment factors is. We're very consistent in what we do. Those assessment factors are applied against all employers in the same way. It's this document here. It's on our website.

I'm quite pleased to say that in the eight years we've had to make very few changes to this document. But certainly if you'd like copies, we can provide that to you.

**Ms. Helena Guergis (Simcoe—Grey, CPC):** Thanks very much for being here.

Of the four main categories of the Employment Equity Act—women, aboriginal people, persons with disabilities, and members of visible minority groups—in your experience, in which would you find that employers may be failing to comply with the act? With our aging population, are you maybe seeing any of this where seniors are concerned? Would any of you care to comment on mandatory retirement for senior women?

**Ms. Mary Gusella:** There are quite a number of questions in that. I'm happy to answer them because we do see some patterns. In the federal public service the targets are being met for three of the groups and not being met for the fourth. The three groups where they are being met are for women, aboriginal persons, and persons with disabilities. But visible minority hiring targets are not being met.

However, having said that, one of the things that it would be important to say is that there have been improvements with respect to the representation of visible minority individuals in both sectors. In the federal public service we just haven't seen as great a representation.

I'll give you a couple of statistics, because improvements do vary both by group and by sector. In particular, the transportation sector has been a pretty challenging one for women specifically. In 2003 visible minority women occupied 12.5% of jobs in banking, for instance. That's up from 10.4% in 1997. In communications their share arose from 3.7% to 4.7%. In transportation we see only from 1.7% to 2.8% between 1997 and 2003.

Aboriginal women have had better representation in the transportation sector, but not in banking.

**Mrs. Lynne Yelich:** I would like to interject for a moment. When you say “visible minorities”, are you talking about immigrants? You've covered aboriginals, you've said “women”, and you've said

“disabled”, so does “visible minority” to you mean the immigrant women or coloured persons?

• (1540)

**Ms. Mary Gusella:** If you want to speak to the definitional issue

**Mrs. Lynne Yelich:** And in that same answer, because Helena has another question, I just would like—

**The Vice-Chair (Mrs. Nina Grewal):** Could we get a short answer, please? We're running short of time.

**Ms. Helena Guergis:** We can wait until the next round.

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Brunelle, please.

[Translation]

**Ms. Paule Brunelle (Trois-Rivières, BQ):** Good afternoon. Ms. Gusella, you state in your presentation that women now comprise 53 per cent of public service employees. You also say they hold 35 per cent of senior positions, that is to say executive positions. Do you think that parity can be achieved?

I have one other comment to make. Looking at your audit process, I have to say I am reassured by the fact that 90 per cent of employers are in compliance. The example that comes to mind is the Office québécois de la langue française, which also conducts audits of companies and has a lot of trouble getting them to comply with its rules, because there seems to be no process in place by which they can be forced to do so, and no legal obligation for an employer to abide by equality principles.

How can we achieve gender parity at senior levels within a system where—unless I'm mistaken—these principles are not legally binding?

**Ms. Mary Gusella:** Thank you for your question. In fact, when the Employment Equity Act was designed and subsequently implemented by Parliament in 1986, there was no audit process. In the 1990s, Parliament decided it would be appropriate to ensure that an organization such as ours is required to undergo an audit. In my opinion, that is absolutely critical, because as long as there was no auditing going on, very little progress was made. Since there have been regular audits, we see that there is progress as soon as we go into an organization to begin an audit.

At the time of the first review of the legislation five years ago, it was very clear that the audit process had resulted in progress. We work in close cooperation with these organizations, and that is what the legislation calls on us to do. The process we use is quite different from what a financial audit involves. It focusses much more on cooperation.

In my opinion, this is the proper procedure. We are seeing progress. It may not be as fast as we would like, but these are organizations where change does not occur quickly. At the same time, we are seeing that things can change. I am hopeful that we will see more and more progress in this area.

**Ms. Paule Brunelle:** We can't predict the future, of course: we don't have a crystal ball. When these equity processes are put in place, the results come fairly quickly, since there is so much to do. Now, however, progress seems to be slow. It seems to be more difficult to achieve the next milestones along the road to accomplishing this task.

Is that what you are seeing?

**Ms. Mary Gusella:** That is certainly what we observe in terms of culture change. It is possible to make progress by introducing new structures. As soon as an organization starts to put in place consistent human resources processes, we see progress.

Sometimes, these are informal mechanisms that prevent women from accessing certain jobs. The more they are consistent and designed to cover the organization as a whole, the more progress we observe. In terms of culture change, that occurs more slowly. However, as soon as management takes action to encourage equity within the organization and realizes that diversity contributes to its success, we note very rapid progress in terms of culture change.

• (1545)

**Ms. Paule Brunelle:** Have you observed any cultural differences between different regions of Canada?

**Ms. Mary Gusella:** That's a very good question. I think Rhys probably has more of an opportunity to observe that.

[English]

**Mr. Rhys Phillips:** I have the benefit of having been in this area now for 27 years, and I often have young people in any of the designated groups saying, you know, nothing ever changes. I can tell you, from my experience over 27 years of having doors slammed in my face by employers, that among more sophisticated companies it is simply seen as an economic benefit to have a diverse workforce, and certainly to integrate women.

There is never a quick fix. I'm a great believer in the aphorism that for every complex question there's a simple answer and it is wrong. Employment equity has taken a much longer-term approach to it, and we're beginning to see a lot of change, particularly with women; that's probably where the change has taken place the most. In the public sector it's also had a very positive effect on women with disabilities, women from visible minority groups, and aboriginal women. It's a little bit less so in the private sector, although we do see some changes. So I would say very definitely that we've seen quite a significant cultural shift, certainly over the last 15 years.

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Bulte, please.

**Hon. Sarmite Bulte (Parkdale—High Park, Lib.):** Thank you very much, and thank you for coming.

I probably know the answer to this question already before asking it, but I'm going to ask it anyway. With employment equity, the employer must prepare the plans and talk about the employees. Is there any requirement when you talk about management? Do you look at the women who are on the boards of those companies? Do you look at the women who are on the boards of our crown corporations? Do you look to see if they're visible minorities? For me, a corporation is managed by its board of directors. Especially in the CBC, they're responsible for the day-to-day operations of the

corporation. They not only set the programming, they also deal with personnel issues.

I'm concerned more than anything about the lack of women on our boards. Again, I'm going to take it from a public sector point of view; while we lead in the private sector, it's still relatively small, but when you look at banks, it's even smaller. For example, with the Export Development Corporation, we always wonder why only 7% of women who own businesses export. When you look at the board, there are 15 members and only one is a woman. It speaks volumes, and if they're doing the day-to-day operations....

Is there some way, even if it means tweaking the act a little bit, we can get that reporting on the boards?

**Ms. Mary Gusella:** As you said, you probably know the answer to that question. The Employment Equity Act doesn't cover the boards of directors of the federally regulated private sector or the crown corporations or the federal departments. I suppose you could say it covers the highest levels of the public service in the sense that it covers the deputy minister community, but with the boards of directors, whether we're talking crown corporations or the federally regulated private sector, there is no coverage from the Employment Equity Act. You touched upon the potential solution to that, which would be some kind of amendment to the act, presumably, but without an amendment to the act, there doesn't seem to be any authority.

**Hon. Sarmite Bulte:** All right.

I noticed when you were talking about women in science and technology—and I happen to have an interest, as my daughter is an engineer—you said numbers had increased. Yet when I chaired the former Prime Minister's task force on women entrepreneurs, we had.... Actually, they have a wonderful best practice in the public service; they have an advocate for women in science and technology. They said, while there were women who came into the public sector in science and technology, their retention rate was very poor.

So while it's great to report that there is an increase, are we looking to address the retention? You did say you note the retention, but certainly, while there may be more, they're still not staying very long. I think that's a concern. I think we have to look at that and, if it's systemic, at what we can do. And are there other departments that use that role model, this advocate for women in science and technology, which I think is wonderful, along with the whole mentoring system they put in? I think this is a great best practice even for the private sector.

• (1550)

**Ms. Mary Gusella:** Right. Well, that advocate or champion system is a wonderful one, and there are best practices that are usually very tailored to the demands in that area.

Maybe Rhys would be more familiar with specifics in terms of departments. What do you see in terms of best practices?

**Mr. Rhys Phillips:** Well, if I can go back to what you were saying about retention, it's an interesting question relative to the act, because the act puts a lot of its emphasis on recruitment. So you have to set hiring and promotion goals. We cannot require the employer to set retention goals.

When we look at reasonable progress, therefore, we're generally looking at whether you are meeting your hiring and promotion goals, although we do kind of fudge it a bit; we also look at whether the representation numbers are going up as well. It would probably be much better if the act also included a requirement that there be retention goals that employers needed to monitor. And I want to emphasize that they're not quotas. In fact, the act expressly excludes quotas. They're management tools, but very important management tools.

So we've had to take a creative approach to be able to also look at the overall numbers. But it would be an improvement in terms of the legislation, I think, if that were more explicit.

In terms of best practices, certainly we see in the banking industry that they're not on the boards, but they have made huge progress in the upper levels through very good succession planning, special mentoring programs that are directed towards women, identifying fast-track women, and having very strong champions within the banks.

When I started working with the banks—and I certainly don't take full credit for this—they were 2% to 4% of the executive management, and we're talking about the top 200 in an organization of 40,000. One of those banks has now over 30% in that group, from 2% to 4% only 15 years ago. So that sort of supportive programming.... A lot of women leave. In engineering, for example, you always get the first job as a woman; it's that second and third job.... So it's the succession planning.

The biggest and most consistent change that takes place when we do an audit is the development of more structured HR practices. So the policies suddenly have to also become practices. They start training their hiring managers in doing a bias-free selection process. Probably second most important for the retention of women in the sciences or in non-traditional areas is proper succession planning, promotion, and the sense that they have some opportunities. And, of course, the final point is that we're now seeing a significant increase

in work-life balance programming, which has a real impact on women.

**Hon. Sarmite Bulte:** I appreciate the work that you are doing. It's obviously making some difference. It just seems to me that there's still so much more to do. And I can't help it. When I think of managing a corporation, it's the board that manages the corporation. We're missing doing that. If there were some way we could...even starting with basic reporting, in the same way, that would be a beginning.

Thank you.

**The Vice-Chair (Mrs. Nina Grewal):** Thank you.

Ms. Crowder, please.

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** I too want to thank you for your presentation.

I just want to check a couple of numbers. In your presentation you said that 282 initial audits had been done and that 191 are in compliance. What percentage of the total potential audits does that 282 represent, potential organizations that you might want to audit?

• (1555)

**Mr. Rhys Phillips:** It's 44% of all employers, but it's 77% of all employees. We've concentrated on larger employers.

**Ms. Jean Crowder:** Okay. So there are still 56% that could be audited.

**Mr. Rhys Phillips:** There are, but they represent, as I say, only about 24% of employees. We are now concentrating on starting new audits with those larger employers, maybe about 50. And once those are done, there's only 4%. Even though there are about 160 employers, they're very small employers of between 100 and 120.

**Ms. Jean Crowder:** So you are looking for ways to capture the most employees?

**Mr. Rhys Phillips:** That's correct.

**Ms. Jean Crowder:** I just want to come back to the question of retention, because it's quite an interesting one. From a human resource practices perspective, it costs far more money to continuously hire and train than it does to actually make sure the workplace is one that retains people. I know for aboriginal people, the retention rates have actually been very poor.

You mentioned that databases have been developed in many of these departments. So even though you don't audit retention, do you have any sense of what retention would look like? They are obviously collecting the data.

**Mr. Rhys Phillips:** Actually, we do get retention data from both the public and the private sector. The employer must report annually to Human Resources and Skills Development Canada. It includes both promotion and retention data, so when they do their workforce analysis, looking at what they do have and what they should have, they also have to go back to look at what percentage they are hiring, what percentage they are promoting, and whether they are staying—so if I have 10% aboriginal people in my company in Winnipeg, are they 10% of the people who leave, or are they 20% of the people who leave? You're right; it's a major problem with aboriginal people. The banking industry, which has had some success in improving its representation, has now reached a point where they're going to have to struggle with retention.

The public service has made some quite substantive increases in retention rates. That's one of the reasons we have a very good representation right within the public service. Even if you take out Indian Affairs, it's still well above availability.

**Ms. Jean Crowder:** It's concentrated, I think I read, in five departments. Aboriginal people are overrepresented in some departments—not overrepresented, but you know what I mean; they don't have the broad departmental representation.

I don't recall, from this employment equity federal public service report...do they report retention rates in here? I don't recall seeing them.

**Mr. Rhys Phillips:** I'm not sure, because that's the agency's report, not ours.

**Ms. Jean Crowder:** Okay, so this is the agency's report. You probably couldn't specifically comment on something in this report, then.

One of the things they do mention, though—and I think this would probably appear under the audit—is that while full integration of employment equity into human resource management and planning has not yet occurred, it's becoming more prominent. I think Madame Brunelle addressed this somewhat. What needs to be done to move it to that next step? You talked a little about cultural change, but are there specific tools or mechanisms or...?

**Ms. Mary Gusella:** I think the key is leadership. I think one of the important aspects is what I call an accountability-based strategy. I've been seeking to move that particular strategy forward.

When I arrived at the commission, one of the things I did early on was speak with the Clerk of the Privy Council. I knew the clerk had accountability agreements with all deputy ministers. One of the things we agreed would be important for him to do would be to include employment equity in those agreements.

So we signed a memorandum of understanding that enables me, every year at this particular time of year, to provide him with independent data and the results for the given year for the purposes of the accountability and for him to use with the deputy ministers. That's important, because up until then his source of information had been primarily from the departments. What we are able to provide is an independent source of data that can then be used to hold the accountability.

So I think the leadership is the key factor. I think it has the greatest role to play in creating the momentum for cultural change, as well. I also want to note that under the new Public Service Modernization Act, additional flexibility is granted at the departmental level to establish criteria in relation to merit, which takes into account requirements for succession planning and for competencies that can be assessed.

I believe this is going to allow for hiring and promotion with a broader perspective, so balance on management teams, and that kind of thing, is going to now be taken into consideration in the context of those hiring and promotion boards.

• (1600)

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Guergis, please.

**Ms. Helena Guergis:** Can you follow up on my last question, specifically about mandatory retirement and seniors? Are you seeing any change in our aging population?

**Ms. Mary Gusella:** Under the Human Rights Act, age is one of the prohibited grounds for discrimination, so we do get complaints. The way the act is written, it is a breach of the act, a discriminatory practice, to have a mandatory age of retirement if it can't be justified. This is assessed on a sector-by-sector basis, and we have seen over the last few years, particularly in the last two years, an increase in the number of cases where a person is alleging that they have been discriminated against because they've been forced into retirement.

We handle each of those cases on its merits and look at the particular sector from which it comes. There are a number of cases, in fact, that are in the process of being investigated or have gone on to tribunal. Happily, many of them have been settled through alternative dispute resolution.

So it is done case by case, but it is a prohibited ground of discrimination.

**Ms. Helena Guergis:** I understand what you're saying. In the province of Ontario, my previous experience, the Ontario human rights commissioner made a strong recommendation to the provincial government to proceed with eliminating mandatory retirement in Ontario. It's my understanding they are doing this. Is this something you would consider looking into or making a recommendation on?

**Ms. Mary Gusella:** In the federal public service there is no mandatory age of retirement.

**Ms. Helena Guergis:** I'm not talking about just the public service, though.

**Ms. Mary Gusella:** That's a fair point. In the federally regulated private sector there shouldn't be any mandatory ages unless they can be justified by the competencies that are required on the job. So if somebody reports that they have been the subject of mandatory retirement, we investigate to determine whether there's any bona fide occupational requirement for that. In the absence of a bona fide occupational requirement, we will find that it's a discriminatory practice and have it sent—

**Ms. Helena Guergis:** That was the case in Ontario, but they did proceed with the recommendation to the provincial government.

For my last bit, maybe we could finish with Ms. Yelich's question on visible minorities.

• (1605)

**Mrs. Lynne Yelich:** Just define visible minority, if you're looking at the four groups. But I have a couple of quick questions as well.

I had the chance to listen to Judge Abella, who did a report. I'm wondering if you could provide us with that report. I'd like to have a copy of it and I understand it's very good. She spoke at a luncheon, and I thought she was excellent. I'd like to see some of the recommendations she made in her report.

I do have a couple of questions. You said that aboriginal banking definitely reflected what you wanted to see with aboriginals in the workplace. Would it be because there are more aboriginal banks? Is that definitely contributing to it? I see more first nations banks, and I'm wondering if that's a possibility.

You alluded to leadership. Is there a proactive way that you could perhaps encourage companies? In my province I have some mining companies that work very well with encouraging aboriginal employment. I'm talking about Cameco and Cogema, which are very successful companies. They also really encourage women. I think Mr. Phillips alluded to the fact that banks try to make sure women are encouraged to be in these higher positions.

So to make people not so paranoid about human rights and human rights cases, I'd like to hear more about success cases—about people who have taken it on their own, didn't need to be worried about audits, and aren't under an audit, because they are registered as those who have supported and dedicated themselves.

In my own riding there's a potash mine. I just got their year-end report, and it's amazing how they have covered all of this. However, without a really clear definition of the four designated groups, I wonder how you can comply very easily if you have four groups that you're trying to target or audit.

**Ms. Mary Gusella:** I'm going to ask Rhys to elaborate a bit on the aspects pertaining to the definition and how this is handled.

**Mr. Rhys Phillips:** Unfortunately, I didn't bring the explicit definition from the regulations, but the act does set out a definition.

One of the key points to make is that visible minorities are not necessarily immigrants. There are many visible minorities who've been in this country, certainly, centuries longer than my family has been in this country.

**Mrs. Lynne Yelich:** I'm thinking more of the word “visible”. What are your comments on the definition for it?

**Mr. Rhys Phillips:** Essentially it means non-white and non-Caucasian in the act, and then the regulations actually set out particular groups that are considered visible minorities and some that are not. There's been extensive debate among some individuals to the effect that people of Jewish ancestry are not included, for example, while people of Arab ancestry are under the act. The key is non-white and non-Caucasian.

It's a self-identification process under the act when a survey is done in that it asks whether a person considers himself or herself to be a member of a visible minority. In the Employment Equity Act, it states that members of visible minorities are “persons, other than aboriginal peoples, who are non-Caucasian in race or non-white in colour”.

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Kadis, please.

**Mrs. Susan Kadis (Thornhill, Lib.):** Thank you, Madam Chair.

You referred to some complaints, I think it was specifically with regard to CN Rail. I wonder if you could elaborate—obviously without revealing things that are personal and confidential—about some of those types of complaints and the actions that were taken.

**Ms. Mary Gusella:** I was referring generally to the transportation sector. Positions in this sector constitute essentially non-traditional kinds of work for women. Some of the things that have been particularly challenging in those non-traditional jobs are things like the need to rely on word-of-mouth recommendations in order to get jobs, where networks of people have jobs that are not publicly advertised. This kind of thing can constitute a barrier to women's employment. If recruitment is by word of mouth, women can't get initial access.

Once they're in the workplace, there are things like harassment, non-acceptance, or even tests based on strength requirements and things of that kind, which in the past have really led to difficulties in accessing employment or promotions. There are attitudes, and then there's harassment. That's why, when putting into place an employment equity plan, we require that there be an anti-harassment policy in the organization.

What are the solutions? We've seen great progress come from things like mandatory diversity training, where some really good, hard looks have been taken at whether the strength requirements set are truly bona fide occupational requirements. This kind of thing can then counter those kinds of negatives, which have been preventing women from getting into certain jobs—and from wanting to stay there, frankly—if they find themselves in a very inhospitable work environment.

**Mrs. Susan Kadis:** We've referred a few times now, I think, to the visible minority issue. I'm wondering if it pertains more to females or males. In other words, is there a doubly whammy? The numbers are not high—or not as high as they should be, clearly. Is it the same for women and men, or is it even worse for women?

• (1610)

**Ms. Mary Gusella:** Traditionally, when a person belongs to two of the equity groups, it's more difficult. In human rights law we talk about intersectionality, or in other words, when there's an intersection of two prohibited grounds of discrimination, then the person is, in a sense, doubly disadvantaged. That's certainly the case.

In terms of employment equity, I don't know, Rhys, if you have any sense of what the statistics would look like.

**Mr. Rhys Phillips:** Interestingly, the public sector has been much better at ensuring that women from visible minorities and women who are aboriginal have made better progress. Other than for women with disabilities, where there's been very little progress made in the private sector, some progress has been made in the private sector for women in the other two groups, but it hasn't actually been as positive as in the public sector. The public sector has dealt with this intersectionality issue much better so far than the private sector.

I must say the act doesn't really give us the mandate to do a lot of work in this area. We try to encourage it, but it doesn't explicitly set requirements that employers deal with the gender issue beyond simply the gender issue.

**Mrs. Susan Kadis:** Thank you.

I agree with the statement of the honourable member Ms. Bulte, who is out of the room right now, that we've made progress and we appreciate a lot of the work. Obviously it's very extensive and certainly great strides have been made, but we also need to do better. The work of this committee is very much about that, about coming out with recommendations, ultimately. So we really need the best possible advice about what other mechanisms could be employed to encourage an upward-direction increase in the hiring of women, whether visible minorities or not, etc., in some of these sectors. What are the impediments, in other words, and how can we overcome them in general terms?

**Ms. Mary Gusella:** If you're interested in this kind of thing, what I'd like to do is perhaps formally come back with some type of communication that would in fact distill some of the learnings that

we have gained over the past few years that relate to the functioning of the act. I know the act itself is going to be coming up for review once again, so it's very timely to have this conversation. I'd like to do that on the basis of the learnings that we have from the act and the statistical analysis, to give you the best possible advice.

**Mrs. Lynne Yelich:** Right now, it would be hard to tell if you would pass or you wouldn't. We have two women and one man, so I'm not sure how you'd make out on the Human Rights Commission.

**The Vice-Chair (Mrs. Nina Grewal):** Thank you.

Ms. Bonsant, please.

[*Translation*]

**Ms. France Bonsant (Compton—Stanstead, BQ):** Good afternoon. You spent a lot of time discussing complaints and the percentage of complaints that are resolved. This week, we saw that women in the Canadian Forces have filed a lot of complaints alleging discrimination. As well, you did not address additional positions in security-related organizations, such as the RCMP, Customs and the Canadian Forces. I would like to know whether you know what percentage of women hold key position in these organizations.

I will ask my next question after that. Let's start with this one.

**Ms. Mary Gusella:** I don't have the figures for those organizations with me today.

As regards complaints in general, that is the second prohibited ground under the legislation. Disability is first, followed by gender-related issues. We do now conduct audits of the Canadian Forces and the RCMP.

In 2003, there were 2004 such complaints, which represented 16 per cent of all complaints. In 2004, there were 165, or 17 per cent of all the complaints accepted by the Commission. Here I am not referring only to security-related organizations, but to total complaints.

**Ms. France Bonsant:** Do you mean that women or visible minorities file complaints that deal primarily with disability and gender-related issues? How long does it take to resolve these complaints? How much time elapses between the time they are filed and the time they are finally resolved? From what I've seen, the process can take three, four or even five years. Does it still take that long now?

• (1615)

**Ms. Mary Gusella:** I'm glad you asked that question, because we have been working flat out in that area. When I was appointed to the Canadian Human Rights Commission, it took between 26 and 30 months to resolve a complaint. In 2003, that was down to 15 months, and in 2004, it was 12 months. And that was accomplished primarily by resolving complaints, as opposed to transferring more of them to the courts. We resolved a great many more complaints than had been the case in the past. We are now working very hard to settle complaints so that the process can work more quickly. Thank you for your question.

**Ms. France Bonsant:** I'd like to know whether it is more frequent in the 35 and over age group or the 35 and under age group?

**Ms. Mary Gusella:** Are you talking about complaints?

**Ms. France Bonsant:** Yes, I'm talking about women who file complaints. Do you have any statistics by age group? Your colleague over here is saying no.

**Ms. Mary Gusella:** I don't think so, but I will check that. I don't believe that we ask questions about age.

**Ms. France Bonsant:** I've seen complaints against people who didn't want to hire young women because they were in their childbearing years.

**Ms. Mary Gusella:** That is prohibited by the legislation because it is a discriminatory practice. Some people have filed complaints when they lost their jobs for that reason. That is not allowed and these cases were referred to a court for a ruling.

[*English*]

**The Vice-Chair (Mrs. Nina Grewal):** Merci.

Ms. Crowder, please.

**Ms. Jean Crowder:** Thank you.

Ms. Yelich specifically referred to Judge Abella's report, the royal commission report on equality in employment. In her report she specifically talked about the fact that equal pay for work of equal value should be part of all employment equity programs.

I wonder if you could comment specifically on how it's considered under the current legislation.

**Ms. Mary Gusella:** Well, again, thank you for that question. The Human Rights Commission, I guess about three years ago, did table a special report in Parliament because of its concerns in this respect.

Right now, employment equity does not include pay equity. Pay equity is handled under section 11, I think, of the Human Rights Act, which makes it a prohibited practice to pay people for work of equal value on a different pay scale. We reported to Parliament that we thought a complaints-based system for pay equity has many serious deficiencies as an approach, and we very much favoured the proactive audit approach that the Employment Equity Act uses. So in order to protect people who are covered by the act, we would see it as better to use that kind of approach.

Following our report to Parliament there was also a task force on pay equity, and it also recommended a proactive model to encourage the implementation of pay equity. Essentially at this point I don't think there's been any response to that pay equity task force report, which I guess is about a year old now.

Obviously, we believe employment equity is important and that pay equity is important. But the two are handled very differently at the present time legislatively. One of the things we are attempting to do in terms of our own change process is to bridge that gap a little bit by having what we've called our prevention program. The prevention program works with individual employers, large ones at the present time, through the signature of a memorandum of understanding. We do this in order to encourage the adoption of measures other than the ones that are strictly required by the Employment Equity Act. So we are trying, as I say, to bridge this by working with them to adopt other measures. These can include anti-harassment, but also pay equity.

The other thing is that we really think the pitfalls of the complaint-based system are such that one of the key factors is that the people who are negotiating the collective agreements, which can have clauses in them that go against pay equity, also have to take responsibility. So where they're negotiating wages, they're also responsible for the equality in the wages. In other words, it's not just the responsibility of one. The union has a responsibility as well as the employer in that together they negotiate a collective agreement.

• (1620)

**The Vice-Chair (Mrs. Nina Grewal):** Thank you, Ms. Gusella.

Mr. Powers.

**Mr. Russ Powers (Ancaster—Dundas—Flamborough—Westdale, Lib.):** I think your timing here is appropriate from our standpoint, and hopefully for yours—the fact that you're just coming under the review. I think you see very clearly there's an interest in this committee in possibly being involved in the review and certainly in hearing provisional recommendations as things play out. You've outlined some concerns that you're experiencing, and I'm sure if we got into it, we would do the same.

Speaking only for myself, I think we'd like to be involved, and I certainly would welcome you back as things start to play out in that.

I have a couple of other questions. I probably have time for only one of them. Maybe I'll get in the next round.

Can you just take me through the formation of the Canadian Human Rights Commission—in other words, how you're created, who you're responsible to as officers? Just take me through, if you want to call it, the structure of the commission initially.

**Ms. Mary Gusella:** Okay, I'd be happy to. The commission was created, pursuant to the legislation, in 1978, and the commission itself really came into being around 1979. Really the legislation hasn't been changed fundamentally since then. There have been a couple of new prohibited grounds placed in the legislation, but by and large it's the same piece of legislation.

In fact, it was one of the earliest human rights commissions created in the world. So as a result of course, a lot of countries are very interested in what Canada does in this area, as they are in other areas.

The structure is that there is a chief commissioner who is appointed and who reports to Parliament through the Minister of Justice. So the governance model is not an officer of Parliament model but it is independent. As the chief commissioner, I can be dismissed only by a joint resolution of both Houses of Parliament. So that's a protection to independence.

There's provision in the legislation for, I believe, up to six part-time commissioners, and those are appointed by the Governor in Council. We have a number of part-time commissioners from various parts of the country. We involve them in the human rights side of our work, and more recently we've linked them to accountability for employment equity. So the employment equity audits are now reviewed by the commission, sitting as the commission.

So that's basically the governance model. There is a secretary general, and that is the senior public servant in the organization. We are fewer than 200 people in the organization. As I think I mentioned in relation to some of the questions earlier, in terms of the timelines, we have been very overwhelmed in recent years with large numbers of complaints, so much so that a backlog developed. Consequently we've undergone a major change process within the organization over the last two years in order to reduce the backlog and essentially put into place a business model that will not permit a backlog to ever return.

So we have got our timelines are down. At one point they were as high as 30 months, but back in 2002 they were around 26 months, and when the Auditor General did his report in 1998, there were serious issues identified. So we have really moved our timelines down to less than.... We're at around the 12-month mark, which really puts us on par with the highest standard in terms of human rights commissions in the country.

Those are basically the lines of how we operate. We accept complaints as long as they're within our jurisdiction. The act says that the last act of discrimination needs to have been within a year, so that's the timeframe we work within in terms of receipt of complaints.

• (1625)

**Mr. Russ Powers:** When you come back to me in the next round, I want to ask about the employment equity policy.

**The Vice-Chair (Mrs. Nina Grewal):** I think we can go for another round of questions. Ms. Yelich, go ahead, please.

**Mrs. Lynne Yelich:** Yes. I was wondering.... Well, I learned something: the terms are not interchangeable. I thought employment equity and employment pay would be the same.

I can't imagine the work you have in the cases coming forward. I'm going to ask you this: is there a lot of litigation, and do you have a lot of outstanding litigation?

I wanted to know about an example of a complaint. Other than, let's say, sexual harassment in the hiring practices, are there a lot of complaints at the outset? For instance, if I advertise, do I find out that if I...? Actually, quite frankly, it happened to me personally: somebody said, "You won't hire me because I'm old", because some young person had come in. And I thought, no, I never.... I felt very upset, because she might have even got the job if she hadn't said that. But I'm just wondering, when something like that happens, when a complaint comes to you, what you do with it. that must be difficult for your people.

I kind of wonder about the frivolous complaints and the serious ones—it must be very difficult to look objectively at both—and about what kind of timeline you have; I think that was alluded to. I

want examples of complaints, other than sexual harassment, if you can give me a couple.

I wouldn't mind hearing about the process, just like what Mr. Powers asked for; he wanted to know the framework. For example, you have this lady coming to you complaining that she couldn't be hired because, she thought, she was old. Maybe that's why we're discussing seniors today, because we've had lots of complaints about mandatory retirement as well.

**Ms. Mary Gusella:** There are eleven grounds of discrimination, of prohibited grounds, under the act in addition to sex: marital status, sexual orientation, disability—and the courts have extended that to perceived disability as well—religion, race, colour, national or ethnic origin.... I probably don't have them all, but there's also an offence for which a pardon has been granted. That's sort of an unusual one. But that's the range of—

**Mrs. Lynne Yelich:** Whose burden of proof is it?

**Ms. Mary Gusella:** The human rights law is an interesting kind of law in that way. The complainant has to bring forth some evidence that there has been a discriminatory practice. In each case, it will be a little bit different. Sometimes discrimination is very difficult to discern, and it can sometimes require quite an investigation to see the whole picture. But let me give you an example in hiring and how the courts have taken it.

The courts have said, for instance—and that's how we base our investigations—that if a number of people apply for a job and the person who was chosen has the same qualifications as a person who wasn't chosen except for what they call the gravamen, the identifier of a prohibited ground of discrimination, then that's a prima facie example of where you can take it to the next stage. In other words, there is a prima facie case of discrimination. Even though there's no direct evidence, you draw some conclusions.

The law around human rights has evolved over the years, on each of the different grounds, in terms of what constitutes the necessary proof in each case. Let me just walk you through the process. You might be interested, because we have been trying to front-end load our model, if I can put it that way.

You used the word "litigation". One of the ways the commission had...in terms of its operations over the years—and I think partially because of the backlog that it had—is that the cases were pretty much handled in very much a litigious and adversarial manner. You had to go all the way through the process before getting to that point. That's also the most expensive part of the process, coincidentally, and of course it's time-consuming because you have to get there.

What we did in terms of our business model was say that this litigious approach is not good for anybody. It's not good for individuals because they don't get healing until way at the end of the process. Even if they do get to win at the level of the tribunal, the independent trier of the facts, some kind of imposed solution is often not very satisfactory to the individuals. It's very much win-lose.

So we conceived of a business model that would reorient our resources from that end of the process to the front end of the process, where we spend more time on the early assessment of the complaint that's coming in. We've formed teams at the front end of the process, and those teams include the lawyers, some of whom used to work in litigation. Along with the policy people, they look at the complaint at the early stages of the process. It's a cross-functional and cross-disciplinary team that looks at it to determine, based on the facts that are being brought forward, what the best route is for this complaint to follow.

It could be an individual complaint. It could also reveal a policy issue in the organization for which the person works, because it can be either employment or a service that's being offered in a discriminatory manner. So they look for the best route for this complaint to follow.

We attempt even there to have an alternative dispute resolution process. We try to mediate early on. In fact, we have mediation available throughout the process, and more and more...in fact, we've practically doubled the number of complaints that have been solved through mediation. That gives the individual an opportunity to bring closure to something, to get some healing, and it allows for the organization to undertake to do some work that will prevent this problem in the future. Maybe it's a new policy that they need to put in place. Maybe it's some training that they need to put in place. It can be whatever is required.

• (1630)

**Ms. Lynne Yelich:** Do you have statistics or a standard that can actually show your success? Do you have a high percentage of success?

I'll say one other thing before I leave.

**The Vice-Chair (Mrs. Nina Grewal):** Mr. Powers, please.

**Mr. Russ Powers:** If you would like to continue to answer that, then you can answer my question next.

**Ms. Mary Gusella:** Well, the answer is yes. I would invite you to look at our report to Parliament last year, which began the story of our change process. We're just putting the finishing touches on the new one now, which we'll be tabling before March 31, the report that is effectively for the second year of our change process.

**Mr. Russ Powers:** Okay, I'll start off, perhaps.

So the Employment Equity Act governs the federally supported employers. Yes?

**Ms. Mary Gusella:** It is regulated.

**Mr. Russ Powers:** It is regulated and supported. Okay.

The equity policy is just a statement that's issued. Perhaps you give us some clarity on this. It's something that's issued out of the Treasury Board Secretariat, but what is it meant to achieve?

**Ms. Mary Gusella:** The Employment Equity Act covers all federal departments and agencies, for which the Treasury Board, of course, is the employer or acts as the employer, as well as the federally regulated private sector, like the Bell Canadas and Air Canadas, and so on. Because the Treasury Board is the federal employer for those departments—and I'm not talking about crown corporations, because they are also covered but don't have the Treasury Board as the employer—the Treasury Board has put in place policies relative to employment equity.

Our role specifically, though, is under the act, and we audit for compliance with the act, both in the agencies and departments, as well as in the federally regulated private sector.

**Mr. Russ Powers:** That is helpful. Thank you.

**The Vice-Chair (Mrs. Nina Grewal):** Ms. Brunelle, please.

• (1635)

[*Translation*]

**Ms. Paule Brunelle:** I understood you to refer to systemic discrimination. I hope there is no longer any of that here in Canada. At the same time, it is clear we will have to wait until attitudes change before further gains can be made with respect to equality and the status of women. The work you perform is interesting and seems to yield good results.

Are you facing any challenges? What kinds of challenges will you be facing over the next few years with respect to achieving equality?

**Ms. Mary Gusella:** Our main challenge is our workload, because we work with the resources that are provided to us and do not want to request additional resources. We feel very responsible for our own resources and want to work with what we have. However, the number of complaints rises every year. That is why we are focussing more and more on prevention. Ultimately we would like there to be no more complaints. That would be ideal. We are now devoting resources to prevention. We also want to work proactively—again in order to head off complaints, because there are systemic issues and we want to do the necessary research.

One of the systemic issues flows from the Canadian Human Rights Act, one of the sections of which states that Aboriginal people living on reserve do not have the right to file a complaint. That is unfair and unacceptable in 2005. We have suggested that this section be removed from the legislation.

In addition, we have undertaken a study on access for the deaf. They were unable to use our lines, and there were many complaints. That is also a systemic issue and we are currently investigating. Many people suffer if the system doesn't function properly, and we want to make an impact when it comes to human rights. This is how we would like to work, because it has a major impact.

**Ms. Paule Brunelle:** The Quebec system is very restrictive for employers and lays out specific responsibilities with respect to sexual harassment and smoking. The employer practically has to have seen all cases of psychological or sexual harassment suffered by his/her employees. They have the burden of proof, if you like.

Do you think that greater employer accountability is the way of the future, or do you see that as being utopic and impossible to achieve?

**Ms. Mary Gusella:** Our purpose, in engaging in prevention, is to ensure that employers and managers are all accountable for creating a human rights culture in every workplace. I see that as an ideal to work towards. As regards policy and systemic issues, I don't believe discrimination is deliberate. I believe it is caused by policies being implemented without there having been sufficient study beforehand. Often we see very quickly thereafter, or several years down the road, that they have had a negative impact on a specific group. These are very complex issues; as a result, it is worth examining them carefully and in a systematic way, in order to eliminate them.

• (1640)

[English]

**The Vice-Chair (Mrs. Nina Grewal):** Thank you.

Ms. Crowder, please.

**Ms. Jean Crowder:** Very quickly, you just referenced that not enough analysis is being done on policies. I assume you will be talking to a broader range, but we of course have been spending a fair amount of time on gender-based analysis.

In your experience, are there particular aspects of things like gender-based analysis that you think should be brought to our attention that would help us in analyzing policies in legislation?

**Ms. Mary Gusella:** That's a very big question.

From the employment equity perspective, what I could contribute is that in our work we see that when employers take hold and put into place proper human resource structures and have proper databases, they have much better tools to understand potential adverse impacts, such as the kind that gender-based analysis is intended to bring to the surface.

Essentially, often providing the tools to do that analysis is what employment equity can bring to the table. These are databanks, understanding of trends, and understanding how particular groups are impacted by a specific policy. You can't do that in the ether. You have to have data that will enable you to understand the reality of a particular group within your overall organization.

**Ms. Jean Crowder:** Just out of curiosity, have any of the federal government departments specifically asked you to come in and consult around gender-based analysis? You certainly would see it at the complaints end, where perhaps policies or legislation have adversely impacted on people. Have the departments actually asked you up front?

**Ms. Mary Gusella:** Certainly, I haven't been asked. I don't think the employment equity group....

You work interdepartmentally a fair bit, but on this subject?

**Mr. Rhys Phillips:** We always say to the employer, we're there to audit, we're not consultants. And then we go in and we consult with them because we have a particular role under the legislation. We've done a lot of work. For example, we're starting an audit very shortly—this month—with the Canadian Forces. I'm hopeful they're going to be found in compliance fairly quickly, because we've spent the last two years working very closely with them helping them to do their analysis.

I will often meet with a department and their employment equity people to talk about how to do not just gender-based but race-based and disability-based analysis. One of the things that all employers must have to be in compliance is a process in place that will ensure that in the future they do gender, race, and disability analysis of all HR systems as they develop. It's not just what they used in the past, not just what they're using now, but they have to have something in place to indicate they will continue to do that in the future. T

he answer is no, it's not part of our mandate, but yes, we do it quite frequently.

**The Vice-Chair (Mrs. Nina Grewal):** Thank you.

Ms. Kadis, please.

**Mrs. Susan Kadis:** I don't have a question at this time.

**The Vice-Chair (Mrs. Nina Grewal):** Does anyone else have a question?

Ms. Yelich.

**Mrs. Lynne Yelich:** I really appreciate your presence here today. I think it's really worthwhile. I think we all can agree that we could spend a lot more time with you, because you certainly cover the gamut.

In your future presentation, I'd like to hear more about your provincial counterparts. They stretch across the country. I'd like you to do an analysis of your own if you were to score yourself. You said there are 200. Right now I don't see a visible minority in front of me, do I? There are three people.

I'm trying to be as tough as you will be on the employer. If you were, then I'd like to take you a step further. What would you do if you found out there was postal code discrimination? Earlier we took the government to task because there were government jobs that were advertised only in the national capital region. So there you are trying to have these four groups represented. Whom would you go to? Would you go to the federal government, or would you go to the department that put that ad out? Then what would you do with that ad that says you can only apply if you live in these postal code areas? I think that's another form of discrimination.

I really appreciate your coming here today. I think you're very knowledgeable, and you certainly are very competent.

• (1645)

**Ms. Mary Gusella:** On your point about the commission, let me just say that we in fact subjected ourselves to an independent external audit, and we were found in compliance. But it was done independently.

**Mr. Rhys Phillips:** Now, to be honest, we made the secretary general at the time sign undertakings because the commission wasn't fully in compliance at the time, but they brought themselves into compliance in good order.

**Mrs. Lynne Yelich:** I was going to ask you who does your performance reports and whether you are in compliance. You just answered that. Thank you.

**The Vice-Chair (Mrs. Nina Grewal):** I would like to ask Ms. Gusella to give a copy of her presentation to the clerk.

I would like to thank all of you for taking the time to come here. Certainly, we have learned a lot from you.

This meeting is adjourned.

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