

Canadian Human Rights Tribunal

2007–2008 Estimates

Part III — Report on Plans and Priorities

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Minister of Justice and Attorney General of Canada

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Section 1 Overview

1.1 Chairperson's Message

Again in 2006, the Canadian Human Rights Tribunal handled one of its heaviest caseloads in its history. The Tribunal also continues to face the significant challenges of handling cases in which many parties, typically complainants, appear before the Tribunal without legal representation because they cannot afford it.

The case management system implemented by the Tribunal in 2005 responds to the needs of unrepresented parties, while also ensuring the effectiveness and efficiency of the inquiry process. At a very early stage in the inquiry process, a teleconference is conducted by a member of the Tribunal with all the parties and/or their counsel. During the teleconference, the member explains the Tribunal's pre-hearing process and hearing process and what is required from the parties. The member also sets time frames agreed to by the parties for document and witness disclosure and for hearing dates. In addition to explaining the Tribunal's hearing process, case management is designed to ensure that complaints are heard and decided without undue delay.

In 2007–2008, the Tribunal will continue to monitor its new case management process. We will also be planning further enhancements to our automated case management system, called the Tribunal Toolkit, which was installed in 2005 to enhance information retrieval efficiency and data integrity. As well, the Tribunal will be working toward achieving certification of its information technology platform, in accordance with the new government's Management of Information Technology Security Initiative.

The Tribunal remains well positioned to continue to offer a full, fair and timely hearing process.



J. Grant Sinclair

1.2 Management Representation Statement

MANAGEMENT REPRESENTATION STATEMENT

I submit for tabling in Parliament, the *2007–2008 Report on Plans and Priorities* (RPP) for the Canadian Human Rights Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of the 2007–2008 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the Treasury Board Secretariat guidance;
- It is based on the Tribunal's Strategic Outcome(s) and Program Activity Architecture that were approved by the Treasury Board;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved planned spending numbers from the Treasury Board Secretariat.



Name: J. Grant Sinclair

Title: Chairperson

Date: February 20, 2007

1.3 Summary Information

Raison d'être — The Canadian Human Rights Tribunal is a quasi-judicial body that hears complaints of discrimination referred by the Canadian Human Rights Commission and determines whether the activities complained of violate the *Canadian Human Rights Act* (CHRA). The purpose of the Act is to protect individuals from discrimination and to promote equal opportunity. The Tribunal also decides cases brought under the *Employment Equity Act* and, pursuant to section 11 of the CHRA, determines allegations of wage disparity between men and women doing work of equal value in the same establishment.

Financial Resources (Millions)

2007–2008	2008–2009	2009–2010
4.3	4.3	4.3

Human Resources (Full-time Equivalents)

2007–2008	2008–2009	2009–2010
26	26	26

The Tribunal's priorities are largely dictated by its singular adjudicative mission:

Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to the opportunities that exist in Canadian society through the fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.

We will therefore continue to do what we do well: provide Canadians with a fair and efficient inquiry process through the adjudication of human rights disputes. Tribunal members will provide well reasoned decisions and, where appropriate, order suitable remedies for those who have suffered discrimination. The Tribunal's decisions will also provide guidance and direction to employers and service providers on the development of policies and practices that are consistent with respect to human rights.

In addition to its usual business, the Tribunal plans to pursue the priorities summarized in the following chart:

Tribunal Priorities — Program Activity: Public Hearings under the *Canadian Human Rights Act*

	Type	Planned Spending			
		Expected Results	2007–2008	2008–2009	2009–2010
<p>Priority 1</p> <p>Monitor Tribunal inquiry performance targets.</p>	Ongoing	Performance measurements confirmed. An efficient inquiry process.	N/A	N/A	N/A
<p>Priority 2</p> <p>Undertake a Management Accountability Framework assessment.</p>	Ongoing	Modern public service management that fully supports accountability and results for Canadians.	\$15,000	N/A	N/A
<p>Priority 3</p> <p>Align the Tribunal's record management system and platform with government information and technology management policies.</p>	Ongoing	Efficient and effective management of government information.	\$65,000	N/A	\$25,000

1.4 Tribunal Plans and Priorities

Priority 1. Monitor Tribunal inquiry performance targets.

Planned activities	Results and time lines
Monitor the Tribunal's case management initiative and, if appropriate, adjust measures.	Measures confirmed or re-established, by March 2008, that appropriately assess the timeliness, effectiveness and efficiency of the inquiry process.

The Tribunal has established three leading targets for ensuring the timely and effective delivery of its inquiry process:

- begin hearings within six months of receiving a complaint referral in 80 percent of cases;
- render decisions within four months of the close of a hearing in 90 percent of cases; and
- conclude inquiries within 12 months of referral in 80 percent of cases.

Statistics compiled for 2006 indicate that the Tribunal continues to have difficulty achieving these targets. This is largely because of three main factors: the unusually high number of inquiries currently before the Tribunal; a significant number of litigants appearing before the Tribunal without legal representation; and the level of complexity that has evolved in human rights cases.

The high number of cases currently before the Tribunal is a holdover from a tripling of referrals experienced in 2003 and maintained in 2004. From 1996 to 2002, the Tribunal opened an average of 44 case files a year, based on human rights complaints referred by the Canadian Human Rights Commission. In 2003, the number of case files opened rose dramatically to 130 and increased even more in 2004 to 139, before dropping to 99 in 2005 and to 70 in 2006. Commission representatives advise that the volume of complaint referrals is expected to decrease further toward pre-2003 levels within the next few years.

The Tribunal's new case management model is designed to respond to the other two factors. The model was developed and implemented in early 2005. This process comprises a series of teleconferences with a Tribunal member who instructs the parties in meeting their pre-hearing obligations, such as disclosure, particulars of the complaint, and the identification of witnesses and experts. The member's intervention at this stage of the inquiry also helps to resolve preliminary issues that would otherwise need to be addressed at the time of the hearing of the complaint.

Some human rights complaints raise factual and/or legal issues of such complexity and importance that a rush to hearing is neither feasible nor desirable. The necessary delay has a severe impact on the Tribunal's performance measures. Nevertheless, hearings now

are unfolding more efficiently, unconstrained by the quagmire of procedural issues and objections that, before the new case management system, often resulted in postponements and additional expense.

It has become evident as well that the expert intervention of a Tribunal member at the early stages of an inquiry greatly assists litigants who, without professional legal representation (apart from assistance offered by the Commission), must grapple with the exigencies of a complex quasi-judicial process. And, despite the high number of case files now before the Tribunal, we anticipate that hearing time frames will be met at the earliest convenience of the parties. The Tribunal will continue to monitor its case management procedures for optimum effectiveness and efficiency of the inquiry process.

Priority 2. Undertake a Management Accountability Framework assessment.

Planned activities	Results and time lines
Review management practices at the Tribunal for their adequacy in supporting the Tribunal’s mandate, and integrate human resources planning into the Tribunal’s business plan framework.	The Tribunal’s management practices assign clear accountability, are managed with probity and reflect public service values, by March 2008.

The Management Accountability Framework was established by the Treasury Board Secretariat as a guideline and a set of standards for management expectations in the public service. In 2006–2007, the Tribunal reviewed its management practices and policies to ensure their soundness and relevance in supporting Modern Comptrollership, Human Resources Management Modernization, Service Improvement and Government On-Line. The Tribunal took steps to ensure its human resources plan reflects public service values and ethics and demonstrates clear linkages with the Tribunal’s business and strategic planning.

Further to the coming into force of the *Public Service Employment Act* in December 2005, the Tribunal has focused efforts on ensuring transparency and a better understanding of the new appointment process and the way that merit is applied. Through information sharing and collaborative initiatives with other federal government departments and central agencies, we have ensured that the necessary guidance and tools are available to support the Tribunal’s managers in fulfilling their new modern management responsibilities.

The Tribunal has also reviewed its information management and decision-making practices to ensure access to and use of integrated information for corporate decision-making at all levels within the organization, including those taken at the senior management level. This has included an examination of the Tribunal’s full suite of policies, with a view to assuring its success in supporting the government’s horizontal

initiatives such as representativeness, workforce capacity-building, linguistic rights, stewardship and accountability.

In 2006–2007, with guidance from the government’s central agencies and through partnerships with other small agencies, the Tribunal also completed a business continuity plan and began developing a system for internal audit and program evaluation.

These initiatives present daunting challenges for a small organization like the Tribunal. We are nevertheless confident that the collaboration, information sharing and partnerships that are becoming more readily available within the federal government will enable us to fully achieve an effective management accountability framework in 2007–2008 without unduly constraining the Tribunal’s most important activity, the adjudication of human rights and employment equity complaints.

Priority 3. Align the Tribunal’s record management system and platform with government information and technology management policies.

Planned activities	Results and time lines
Enhance the Tribunal’s Records, Documents and Information Management System and attain certification of the Tribunal’s information technology platform.	The Tribunal’s information classification and retrieval and its supporting technology platform sustain business delivery improvement, legal and government policy compliance, citizen access, and accountability, by March 2008.

Managing information is a crucial element of all federal government activities and an important part of the Tribunal’s responsibilities. The government’s Framework for the Management of Information (FMI) provides strategic direction and practical guidance. It describes why and how to integrate the management of information with a wide range of Government of Canada activities to improve business delivery, legal and policy compliance, citizen access, and accountability.

In 2006–2007, the Tribunal enhanced its FMI compliance capability by implementing the government’s Records, Documents and Information Management System (RDIMS) for management of its corporate records. RDIMS also offers records imaging, optical character recognition, full-text indexing search and retrieval, workflow, an on-line document viewer, and reporting capabilities. RDIMS also creates an opportunity for linking it with the Tribunal’s automated system for management of its operational case files, called the Tribunal Toolkit, by 2008–2009. Having these systems able to exchange information will enhance information retrieval and strengthen the Tribunal’s strategy for assuring data source integrity and business continuity.

The Tribunal has also submitted an action plan to the Treasury Board Secretariat and has had ongoing consultations with the central agencies to meet the new government’s

Management of Information Technology Security (MITS) requirement. Further certifications and accreditations are the next steps to fully ensure the integrity of the Tribunal's information technology platform and to attain MITS certification in 2007–2008.

1.5 Links to the Government of Canada Outcome Areas

The Canadian Human Rights Tribunal's mandate consists of a single program, the determination of complaints of discrimination under the *Canadian Human Rights Act*, including allegations of wage disparity under section 11 of the Act and the adjudication of cases brought under the *Employment Equity Act*. This adjudication process provides Canadian society with decisions that serve as guidance and direction for the development of policies and practices that are consistent with the objectives of those acts. Decisions rendered by the Tribunal also serve to contribute to the new government's strategic outcome of creating a diverse society that promotes linguistic duality and social inclusion, as well as promoting the advancement of a more equal society through the fair adjudication of human rights and employment equity cases.

Section 2 Analysis of Program Activities by Strategic Outcome

2.1 Detailed Analysis by Program Activity

The Tribunal's two program activities (described below), together with its management and corporate administration activities, achieve these strategic outcomes and results for Canadians as shown in the logic model (Figure 2.1).

Program Activity: Public Hearings under the *Canadian Human Rights Act*

Financial Resources (Millions of Dollars)

2007–2008	2008–2009	2009–2010
4.3	4.3	4.3

Human Resources (Full-time Equivalents)

2007–2008	2008–2009	2009–2010
26	26	26

Description

Inquire into complaints of discrimination to decide if particular practices have contravened the *Canadian Human Rights Act*.

Results

- Clear and fair interpretation of the *Canadian Human Rights Act*.
- An adjudication process that is efficient, equitable and fair to all who appear before the Tribunal.
- Meaningful legal precedents for the use of employers, service providers and Canadians.

This program activity will answer all the priorities identified in Section 1.

Performance Indicators

- Client satisfaction
- Serving Canadians
- Number of cases commenced, pending, completed, withdrawn/discontinued, by time lines
- Number of cases heard
- Number of judicial reviews (overturned/upheld)

Program Activity: Review Directions Given Under the *Employment Equity Act*

Financial Resources (Millions of Dollars)

2007–2008	2008–2009	2009–2010
0	0	0

Human Resources (Full-time Equivalents)

2007–2008	2008–2009	2009–2010
0	0	0

Description

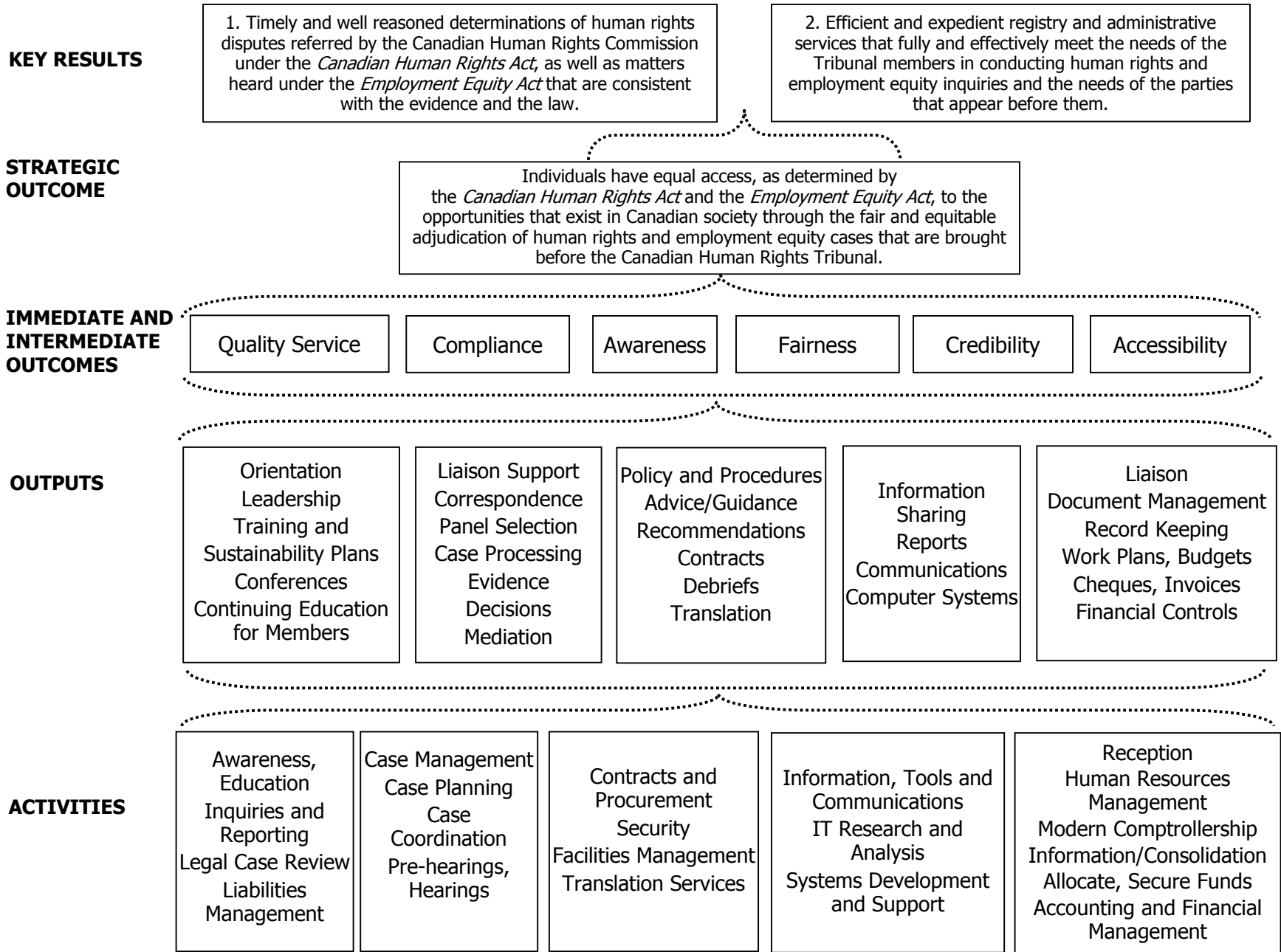
Conduct hearings into requests from employers to review decisions issued to them by the Canadian Human Rights Commission or into applications from the Commission to confirm directions given to employers.

Results

- Clear and fair interpretation of the *Employment Equity Act*.
- An adjudication process that is efficient, equitable and fair to all who appear before the Tribunal.
- Meaningful legal precedents for the use of employers, service providers and Canadians.

No activity is anticipated to occur during the planning period covered by this document.

Figure 2.1. Logic Model



Section 3 Supplementary Information

3.1 Organizational Information

Role of the Tribunal

The Canadian Human Rights Tribunal is a quasi-judicial body created by Parliament to inquire into complaints of discrimination and to decide if particular practices have contravened the *Canadian Human Rights Act* (CHRA). The Tribunal also decides cases brought under the *Employment Equity Act* (EEA) and, pursuant to section 11 of the CHRA, determines allegations of wage disparity between men and women doing work of equal value in the same establishment.

The Tribunal considers matters concerning employment or the provision of goods, services, facilities or accommodation. The CHRA makes it an offence for anyone to discriminate against any individual or group on 11 grounds:

- race;
- national or ethnic origin;
- colour;
- religion;
- age;
- sex (includes pay equity, pregnancy, childbirth and harassment, although harassment can apply to all grounds);
- marital status;
- family status;
- sexual orientation;
- disability (can be mental/physical and includes disfigurement and past, existing or perceived alcohol or drug dependence); or
- conviction for which a pardon has been granted.

The Tribunal's jurisdiction covers matters that come within the legislative authority of the Parliament of Canada, including those concerning federal government departments and agencies, as well as banks, airlines and other federally regulated employers and providers of goods, services, facilities and accommodation. The Tribunal holds public hearings to inquire into complaints of discrimination. Based on evidence and the law (often conflicting and complex), it determines whether discrimination has occurred. If it has, the Tribunal determines the appropriate remedy to compensate the victim of the discriminatory practice, as well as policy adjustments necessary to prevent future discrimination.

The majority of discriminatory acts that the Tribunal adjudicates are not malicious. Many conflicts arise from long-standing practices, legitimate concerns by employers, or conflicting interpretations of statutes and precedents. The role of the Tribunal is to

discern the positions of the parties and establish fair and appropriate “rules” to resolve the dispute.

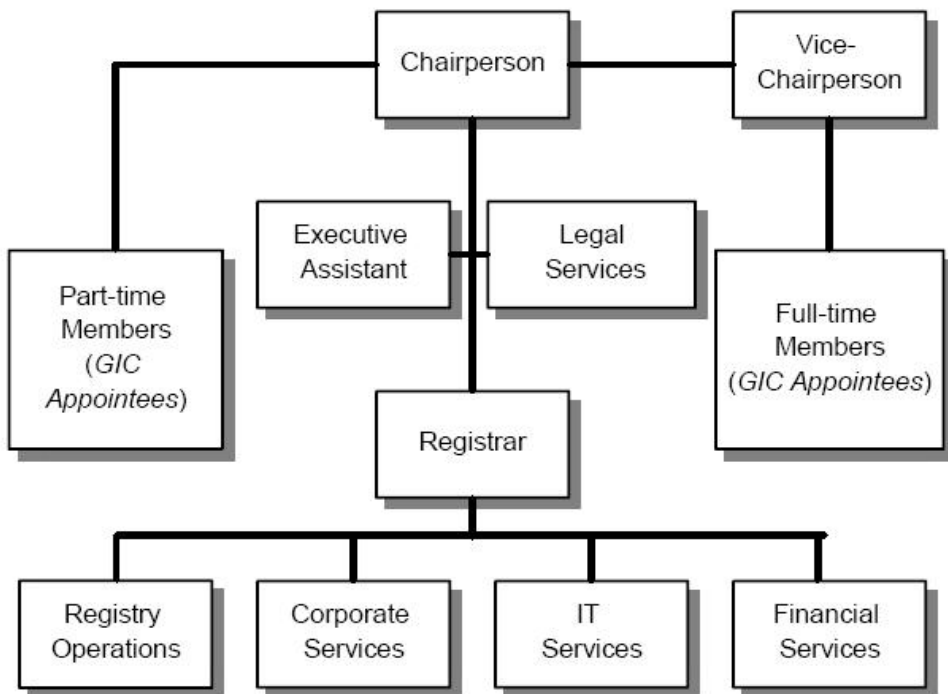
The Tribunal may only inquire into complaints referred to it by the Canadian Human Rights Commission, usually after a full investigation by the Commission. The Commission resolves most cases without the Tribunal’s intervention. Cases referred to the Tribunal generally involve complicated legal issues, new human rights issues, unexplored areas of discrimination or multi-faceted evidentiary complaints that must be heard under oath, especially in cases with conflicting evidence where issues of credibility are central.

The Tribunal is not an advocate for the CHRA; that is the role of the Commission. The Tribunal has a statutory mandate to apply the Act based solely on the evidence presented and on current case law. If there is no evidence to support the allegation, then the Tribunal must dismiss the complaint.

Our Organizational Structure

The Canadian Human Rights Tribunal is a small, permanent organization, comprising a full-time Chairperson and Vice-Chairperson and up to 13 full- or part-time members (see Figure 3.1). Under the statute, both the Chairperson and the Vice-Chairperson must have been members of the bar for more than 10 years.

Figure 3.1. The Tribunal’s Organization Chart



Members

To be eligible for appointment by the Governor in Council, all members of the Tribunal are required to have expertise in, and sensitivity to, human rights issues. In addition, members attend regular meetings for training and briefing sessions on such topics as decision-writing techniques, evidence and procedure, and in-depth analysis of human rights issues. Throughout their three- or five-year terms, all Tribunal members are given opportunities for professional development.

Registry Operations

Administrative responsibility for the Tribunal rests with the Registry. It plans and arranges hearings, acts as liaison between the parties and Tribunal members, and provides administrative support. The Registry is also accountable for the operating resources allocated to the Tribunal by Parliament.

Corporate, Financial, Legal and Information Technology Services

Tribunal and Registry operations are supported by Corporate Services, Financial Services, Legal Services and Information Technology Services.

Corporate Services provides support to the Tribunal in facilities management, communications, materiel management, procurement of goods and services, information management, security, reception, and courier services. It also assists the Registrar's Office in the development and implementation of government-wide initiatives, such as representativeness, workforce capacity-building, linguistic rights, stewardship and accountability.

Financial Services provides the Tribunal with accounting services, financial information and advice.

Legal Services provides the Tribunal with legal information, advice and representation.

The main priority of Information Technology Services is to ensure that the Tribunal has the technology required to perform efficiently and effectively and that it is secure. The section advises Registry staff and members on the use of corporate systems and technology available internally and externally, and offers training. It provides procurement and support services for all computer hardware, software and information technology services. The section is also responsible for ensuring system compliance with government-wide technology policies and for ensuring system integrity and continuity.

Human resources services are contracted out to Public Works and Government Services Canada.

Funding

The Tribunal is funded by annual appropriations from Parliament through a program expenditures vote for hearings and administrative operating expenditures. Main reference levels are not usually sufficient to cover costs for cases requiring inordinately long hearings, such as cases to determine allegations of wage disparity between men and women doing work of equal value in the same establishment (i.e., pay equity cases); Treasury Board submissions are prepared as required to obtain additional funding for these cases.

3.2 What's New

Workload

From 1996 to 2002, the Canadian Human Rights Commission was referring about 44 human rights complaints each year on average. In 2003, there was a dramatic rise in the number of new case files opened, to 130, with a further increase to 139 in 2004. The number of case files opened at the Tribunal decreased slightly in 2005, to 99. Seventy case files were opened in 2006. At the time of publication, 97 case files remain active at the Tribunal.

Based on advice from Commission representatives, the Tribunal can anticipate the volume of human rights complaints to decrease further toward pre-2003 levels within the next few years. Meanwhile, however, the Tribunal continues to deal with its heaviest workload since its creation in 1998. The Tribunal is also working on several important horizontal government initiatives, most notably modernizing human resources management, strengthening accountability frameworks, refining government information management, and reinforcing internal audit and business continuity. With its limited resources, the Tribunal anticipates some daunting challenges in 2007–2008.

To meet these challenges, the Tribunal plans a combination of operational and corporate strategies. As noted in Priority 1, the Tribunal's introduction in 2005 of a case management system for closely monitoring the pre-hearing phase of inquiries and the implementation of the Tribunal Toolkit, which is an automated case management system, will help make the inquiry process more efficient. Priority 3 further underscores the Tribunal's plans for collaborative arrangements, information-sharing opportunities and partnerships with other government departments and agencies. This will assist the Tribunal in meeting the above-mentioned government initiatives at a much lower cost than the Tribunal's very limited resources would otherwise expect to achieve, at least not without severely hampering the Tribunal's operational services.

In 2007–2008 and beyond, the Tribunal will continue to seek every opportunity for benefiting from both new technologies and inter-departmental and agency collaborations. In this way, we believe that the Tribunal will be well positioned to continue not only to meet its mandate for conducting inquiries without undue delay to the parties, but also to fulfil its managerial responsibilities to meet management expectations for probity of resources and accountability.

3.3 Tribunal Links to Government of Canada Outcome Areas

2007–2008							
Program Activity	Budgetary				Total Main Estimates	Adjustments (planned spending not in Main Estimates)	Total Planned Spending
	Operating	Gross	Revenue	Net			
<i>Strategic Outcome:</i> Individuals have equal access, as determined by the <i>Canadian Human Rights Act</i> and the <i>Employment Equity Act</i> , to the opportunities that exist in Canadian society through the fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.							
Conduct hearings under the CHRA	4.3	4.3	—	4.3	4.3	—	4.3
Review directions given under the EEA*	—	—	—	—	—	—	—
Total	4.3	4.3	—	4.3	4.3	—	4.3

* No activity is anticipated under the program activity called *Review directions given under the EEA*; therefore, no funds have been allocated or approved.

Program Activities 1 and 2 contribute to the achievement of government's outcome area of "creating a diverse society that promotes linguistic duality and social inclusion."

3.4 Resource Requirements

Table 3.1 Tribunal Planned Spending and Full-time Equivalents

(\$ millions)	Forecast Spending 2006–2007	Planned Spending 2007–2008	Planned Spending 2008–2009	Planned Spending 2009–2010
Public hearings under the CHRA	4.4	4.3	4.3	4.3
Review directions given under the EEA	—	—	—	—
Budgetary Main Estimates (gross)	4.4	4.3	4.3	4.3
Public hearings under the CHRA	—	—	—	—
Review directions given under the EEA	—	—	—	—
Non-Budgetary Main Estimates (gross)	—	—	—	—
Less: Respendable Revenue	—	—	—	—
Total Main Estimates	4.4	4.3	4.3	4.3
Adjustments:				
Supplementary Estimates:				
Funding for administration and coordination of pay equity cases before the Canadian Human Rights Tribunal	—	—	—	—
Operating budget carry-forward (horizontal item)	0.1	—	—	—
<i>Total Adjustments</i>	—	—	—	—
Total Planned Spending	4.5	4.3	4.3	4.3
Total Planned Spending	4.5	4.3	4.3	4.3
Less: Non-respendable revenue	—	—	—	—
Plus: Cost of services received without charge	1.2	1.2	1.2	1.2
Total Departmental Spending	5.7	5.5	5.5	5.5
Full-time Equivalents	26	26	26	26

Note: The figures for 2006–2007 and beyond include a reduction of \$10,000 each year for procurement savings as directed by Treasury Board Secretariat.

Table 3.2 Voted and Statutory Items

Vote or Statutory Item	Truncated Vote or Statutory Wording	2007–2008 Main Estimates	2006–2007 Main Estimates
15	Operating expenditures	3.9	4.0
(S)	Contributions to employee benefit plans	0.4	0.4
	Total Tribunal	4.3	4.4

Table 3.3 Services Received without Charge

(\$ millions)	2007–2008
Accommodation provided by Public Works and Government Services Canada	1.0
Contributions covering the employer's share of employees' insurance premiums and expenditures paid by Treasury Board of Canada Secretariat (excluding revolving funds)	0.2
Salary and associated expenditures of legal services provided by the Department of Justice Canada	—
Total 2007–2008 Services Received without Charge	1.2

Calculations: Insurance Plans — 7% of \$2,140,000 = \$149,800.

Table 3.4 Internal Audits and Evaluations

Internal Audits or Evaluations
The Tribunal continues to work closely with the Treasury Board Secretariat of Canada, in partnership with the community of federal small agencies, to design, develop and implement an internal audit and evaluation capacity. A program evaluation is planned for fiscal year 2007–2008.

Section 4 Other Items of Interest

Contacts for Further Information and Web Site

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Ottawa, Ontario
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E-mail: registrar@chrt-tcdp.gc.ca

Web site: www.chrt-tcdp.gc.ca

Legislation and Associated Regulations Administered

The Minister of Justice is responsible to Parliament for the *Canadian Human Rights Act* (R.S. 1985, c. H-6, as amended).

(<http://laws.justice.gc.ca/en/h-6/index.html>)

The Minister of Labour is responsible to Parliament for the *Employment Equity Act* (S.C. 1995, c. 44, as amended).

(<http://laws.justice.gc.ca/en/E-5.401/index.html>)

Statutory Annual Reports and Other Tribunal Reports

The following documents can be found on the Tribunal's Web site:

Annual Reports http://www.chrt-tcdp.gc.ca/about/annual_e.asp

*Action Plan for Modern
Comptrollership* (November 26, 2002) <http://www.chrt-tcdp.gc.ca/about/download/Final%20Action%20Plan-e.htm>

*Modern Comptrollership Capacity
Assessment Final Report* (June 2002) <http://www.chrt-tcdp.gc.ca/pdf/capacityassessment-e.pdf>

Performance Reports http://www.chrt-tcdp.gc.ca/about/performance_e.asp

Reports on Plans and Priorities http://www.chrt-tcdp.gc.ca/about/plan_e.asp

Rules of Procedure http://www.chrt-tcdp.gc.ca/about/tribunalrules_e.asp