

Presentation of Brenda R. Clapp
OPSEU Local 710
August 10, 2006

Hello and good afternoon to all of you. I'm glad to be hear today and to have been given this opportunity to voice concerns surrounding the McGuinty governments Bill 107 and changes to the Ontario Human Rights Code.

Before proceeding further I would like to introduce myself and share some of my history with you.

I am Brenda Clapp and I am employed with the Ministry of the Attorney General. I have spent the past 27 years working in the offices of the Superior Court of Justice. Throughout the 27 years I have been a proud and active unionist with the **Ontario Public Service Employees Union**. Currently I hold and elected position on my local's executive as President of Local 710.

I say with confidence and conviction that the Ontario Public Service Employees Union has worked intensely to ensure that the Ontario Human Rights Code is upheld and preserved in numerous ways such as within our Union, within our Collective Agreements and within our province.

OPSEU Leads in many areas of equality such as the Provincial Women's Committee, Live and Let Live Fund, Provincial Human Rights Committee, Youth Committee, Rainbow Alliance, Aboriginal Circle, and Worker's of Colour, to name just a few.

Our Ontario Human Rights Commission is second to none and it is recognized and revered as a safe guard for those who require its services. The Ontario Human Rights Commission does not discriminate who you are, what you are and especially not where you are in the province of Ontario when you are seeking representation. All peoples are given quality treatment in our communities across this province.

We identify that the current Ontario Human Rights Code needs change. These changes can be achieved and must support strengthening what we already have.

Ontario's Human Rights Enforcement system is backlogged, seriously under funded and far too slow. These issues need to be remedied and necessary amendments to the Ontario Human Rights Code be implemented.

I will begin by addressing issues of concern and conclude my presentation by offering improvements.

Concern(s)

Bill 107 eliminates a victims' right to have a public investigation of their human rights complaint by the Human Rights Commission. Discrimination is eminent when a victims' right to have the Human Rights Commission prosecute their case is stripped. Victims' will have to become their own investigators and prosecutors or find someone to do it.

Bill 107 does not ensure that every human rights complainant will have free publicly-funded legal advice and representation as the government previously committed to. It also does not necessitate that legal services be provided by lawyers.

Bill 107 lets the Tribunal charge user fees. The Tribunal could order human rights complainants to recompense their opponent's legal costs at Tribunal hearings if they lose. Currently the Tribunal can order the Commission, not the complainant, to pay legal costs of the party accused of discriminating. The bill will give rise to discrimination victims' afraid of bringing their case forward.

Bill 107 allows the Tribunal to make up rules that strip the right to be represented by a lawyer at a hearing, to call relevant evidence, and to cross-examine opposing witnesses.

Bill 107 noticeably reduces the right to appeal from the Tribunal to court under the Judicial Review system. At this time, anyone losing at the Tribunal has the broadest right to appeal to court. This Bill 107 only lets the loser go to court if the Tribunal decision is demonstrably unreasonable – a far tougher test

Bill 107 unjustly forces thousands of discrimination cases now in the human rights system to start over again in the new system and without the Human Rights Commission's help. Ontarians have trusted they could use the current system.

Improvement(s)

Allow all complainants the choice of taking their case directly to the Human Rights Tribunal or opt for the Human Rights Commission to investigate their case, and to prosecute if evidence warrants.

Guarantee all complainants the dignity of a publicly-funded lawyer at all Tribunal proceedings.

Continue current practise by allowing the Tribunal authority to order the Commission, not the complainant to pay the legal costs of the party accused of discriminating and totally eliminate any user fees.

Ensure all hearing(s) are conducted fairly, e.g. stop the Tribunal, the judge, from also being the investigator

Let complainants retain their right to appeal to court if they lose at the Tribunal. Ensure that cases now in the human rights system are completed under the Code, and needn't start all over under Bill 107.

In conclusion:

I personally thank each and every one of you for being here today, for giving of your time, and making an endeavour to strengthen the Ontario Human Rights Code.

Your voices are strong, they are heard by many and you have the ability to empower those in our government to make all necessary changes to the existing Human Rights Code.

We must move forward together unified to ensure that our families and all Ontarians have fair and equal treatment under Bill 107.