

Tribunal File No. T11118/9905

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN

**MARJORIE GRIFFIN COHEN, LOUISE FORSYTH, GLENIS JOYCE, AUDREY
KOBAYASHI, SHREE MULAY, MICHELE OLLIVIER, SUSAN PRENTICE
AND WENDY ROBBINS**

Complainants

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED
BY THE MINISTER OF INDUSTRY**

Respondent

SETTLEMENT AGREEMENT

WHEREAS the Complainants filed eight complaints pursuant to section five of the *Canadian Human Rights Act* against Industry Canada in respect of the Canada Research Chairs Program ("Chairs Program") on May 7, 2003;

AND WHEREAS those eight complaints were investigated together by the Canadian Human Rights Commission (the "Commission"), and referred together to the Canadian Human Rights Tribunal (the "Tribunal") on or about November 21, 2005;

AND WHEREAS the Complainants, the Commission, Industry Canada and the Chairs Program (the "parties") participated in a mediation held by the Tribunal on May 29, 2006;

AND WHEREAS the Chairs Program is funded by the Natural Sciences and Engineering Research Council (NSERC), the Canadian Institutes of Health Research (CIHR) and the

Social Sciences and Humanities Research Council (SSHRC), and reports administratively to the SSHRC which is accountable to Parliament through the Minister of Industry;

AND WHEREAS the Chairs Program is responsible for performing the Respondent's obligations as described hereafter;

AND WHEREAS the parties wish to address the equity issues identified in the complaints in a speedy and forward-looking manner;

AND SUBJECT TO the approval of the Canadian Human Rights Commission pursuant to subsection 48(1) of the *Canadian Human Rights Act*;

THE PARTIES HEREBY AGREE THAT:

A. Collection of Information on the Status of Chair Nominees:

1. The Chairs Program agrees to collect and retain information on the status of Chair nominees in the following four protected groups: women, persons with a disability, Aboriginal Peoples and visible minorities (the "four protected groups"). To facilitate the collection of this information, the Chairs Program agrees to modify its nomination forms within 30 days after the Commission's approval of this Agreement to include a section where the nominees can report, on a voluntary basis, their membership in the four protected groups. A draft of the modified form is attached as Schedule A to this Agreement.

2. Within 30 days after the Commission's approval of this Agreement, the Chairs Program will contact all current chairholders to offer the option of voluntarily declaring their status in terms of the four protected groups.

3. In both cases, the Chairs Program will advise of the benefits of self-identification so that accurate statistics can be maintained by the Chairs Program.

4. The Chairs Program agrees to avoid double-counting individuals who identify themselves as members of more than one protected group in accordance with established federal government practices for the collection and reporting of employment equity statistics.

B. Targets for the Representation of Members of Protected Groups:

5. The Chairs Program agrees to require universities to establish targets for the representation of members of the four protected groups among chairholders.

6. The Chairs Program agrees to hire an external consultant to develop a methodology to be used by universities. The consultant will also develop a framework, for use by the Chairs Secretariat, to monitor the adherence of universities to the targets they set. The following process will apply to the selection, hiring and collaboration with the external consultant:

- a. The Chairs Program will receive suggestions for potential external consultants from the Complainants and a decision will be made collaboratively.
- b. The Chairs Program will make reasonable efforts to hire a consultant within 90 days of the Commission's approval of this Agreement.
- c. The Chairs Program agrees to make reasonable efforts to obtain data from the Federal Contractors Program in respect of universities. If available, this material will be provided to the external consultant for consideration, along with available pertinent data from Canadian granting agencies and

other national sources, in establishing the methodology to set targets for the four protected groups.

- d. The development of the methodology will be based on Canadian statistics and information but may also include readily available data from the major international pools from which Canada Research Chairs nominees are primarily drawn (currently the US and the UK). In the future, the targets may be refined as more data become available; however, the acquisition of data that are not readily available will not delay communicating the methodology for setting targets to universities.
- e. The deadline for delivery of the methodology for setting targets to the universities will be within 90 days of hiring the consultant. This deadline may be extended by agreement of the parties, which will not be unreasonably withheld.
- f. The Chairs Program will require universities to communicate their targets to the Chairs Secretariat within 60 days of receiving the methodology for setting targets.

7. Once targets have been set by universities, the Chairs Program agrees to monitor adherence and progress in terms of established targets. The Chairs Program will require universities to communicate to the Canada Research Chairs Secretariat their strategy to remedy any systemic under-representation of members of the four protected groups in Canada Research Chairs at their institution. This strategy must be implemented by the university in subsequent Chair nominations.

8. The Chairs Program agrees to ensure that the targets established for the representation of members of the four protected groups are updated or refined at least every three years.

C. Gender and Diversity-Based Analyses:

9. No later than 180 days after universities establish targets for the representation of members of the four protected groups in Chairs, through the process outlined above in paragraphs 5-8, the Chairs Program agrees to conduct and complete a gender-based analysis and a diversity-based analysis of the Chairs Program.

10. The Chairs Program agrees to consult with the Complainants and the Commission in the selection of an expert and in the development of Terms of Reference for the gender-based and diversity-based analyses.

D. Transparent, Open and Equitable Nomination Processes:

11. The Chairs Program agrees to advise all of the universities participating in the Chairs Program that all Canada Research Chair recruitment processes they undertake for the appointment round ending in April 2007 must be transparent, open and equitable. In particular, these processes should be consistent with the principles and safeguards embodied in the universities' existing tenure-track hiring practices (collective agreement or equivalent), and must contain features such as: open advertising with a statement of commitment to equity in the nomination and appointment process; encouragement for persons in protected groups to apply; active recruitment measures for members of underrepresented groups; and involvement in the Chair recruitment, nomination and appointment process by university equity officers, or equivalent. The Chairs Program further agrees to send a letter to universities within 10 days after the Commission approves this Agreement encouraging them to comply with these new process requirements for all nominations being submitted for the December 2006 nomination deadline, as well as advising them of the target requirements set out in this Agreement that will be implemented in the Program over the next year .

12. The Chairs Program agrees to require universities to confirm, for all nominations that are submitted, that the nominee was recruited in accordance with the recruitment and nomination processes outlined above. Nomination forms will be modified within 10 days of the Commission's approval of this Agreement to include a provision that requires universities to confirm their compliance with the recruitment and nomination processes outlined above for the appointment round ending in December 2006 (the December appointment round) and all subsequent rounds. The Chairs Program agrees to periodically monitor, by random review, universities' adherence to the recruitment and nomination processes outlined above. The Chairs Program agrees to work with universities to find solutions, and in appropriate circumstances to take remedial action, in order to increase awareness of, and adherence to, the above principles in their Chair recruitment and nomination processes.

E. Reviewing Systemic Barriers:

13. The Chairs Program agrees to include a review of systemic barriers to people in the four protected groups in the upcoming Chairs Program midterm review and all subsequent Chairs Program reviews.

14. The Chairs Program agrees to the ongoing monitoring of the reasons individuals decline initial Chair appointments or renewals, or resign their Chair appointments, using the current process of exit surveys. The data will be analyzed for trends, such as systemic barriers to persons in the four protected groups, and the Chairs Program agrees to work with universities to identify and develop means to eliminate those barriers. Follow-up with universities will occur at the discretion of the Canada Research Chairs Program Secretariat.

F. Other Matters:

15. The Chairs Program agrees to ensure that within six months after the Commission's approval of this Agreement, and then on an ongoing basis, all of its employees and management personnel responsible for developing, implementing and monitoring the Chairs Program receive gender-based and diversity-based analysis training, as well as training on systemic discrimination.

16. In time for the December appointment round and then on an ongoing basis, the Chairs Program agrees to communicate information on the issues of equity and systemic discrimination to the members of the Chairs College of Reviewers and the Chairs Interdisciplinary Adjudication Committee.

17. Within six months after the Commission's approval of this Agreement, the Chairs Program agrees to continue to consult with chairholders on policy and procedural issues. The current ad hoc committee will become an ongoing advisory committee. The committee will address equity issues as a standing item on its meeting agendas, along with other areas where the Secretariat seeks advice. Committee members will continue to be drawn from existing chairholders, taking into consideration representation from the three granting agencies, two tier levels, required expertise, and membership in one of the four protected groups. To address the agenda standing item on equity issues, the committee will draw upon the advice of external experts where necessary.

18. Immediately following the Commission's approval of this Agreement, the Chairs Program agrees to post, on the Canada Research Chairs Web site, the name, title, postal and email addresses of a person to whom complaints about the equity issues addressed in this Agreement can be addressed.

19. Within six months after the Commission's approval of this Agreement, the Chairs Program agrees to establish a process for providing recognition, on an annual basis, to

universities with exemplary equity practices in recruiting, nominating and/or appointing Chairs and meeting equity targets.

20. The Chairs Program agrees to publicly state that it is committed to the federal government's published policies on non-discrimination and equity in employment.

21. In respect of the December appointment round and for subsequent rounds, the Chairs Program agrees to inform universities in Program documents and on the Program website that the goals of equity and excellence are not mutually exclusive, and that equity ensures that the largest pool of qualified candidates is accessed without affecting the integrity of the selection process for the program.

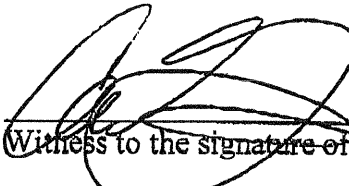
22. The parties may execute this Agreement in any number of counterparts and all such executed counterparts taken together will constitute one and the same Agreement. The Complainants and the Respondent undertake to forward three (3) originally executed copies of this Agreement to the Commission forthwith.

23. The Complainants shall discontinue their complaints before the Commission and agree to take no further legal action or pursue any avenues of redress against Her Majesty the Queen in right of Canada, her servants, agents or employees in respect of the matters set out in their complaints.

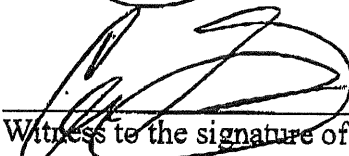
24. The Complainants and Respondent understand and agree that the Respondent enters into this settlement without prejudice and without admission of liability or wrongdoing with respect to the incidents alleged in the complaints.

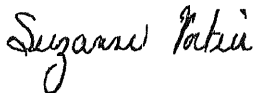
25. The Complainants and Respondent agree that all communications between the parties and non-parties to this Agreement about the matters addressed in this Agreement will reflect the understanding set out in paragraph 24 above.

SIGNED AT _____, in the Province of _____,
this _____ day of _____, 2006.

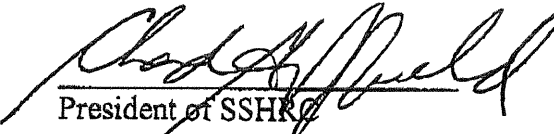

Witness to the signature of


President of CIHR


Witness to the signature of


President of NSERC


Witness to the signature of


President of SSHRC

Witness to the signature of

For Her Majesty the Queen in Right of
Canada as represented by the Minister of
Industry

Witness to the signature of

Marjorie Griffin Cohen

Witness to the signature of

Louise Forsyth

Witness to the signature of

Glenis Joyce

Witness to the signature of

Audrey Kobayashi

SIGNED AT _____, in the Province of _____,
this _____ day of _____, 2006.

Witness to the signature of

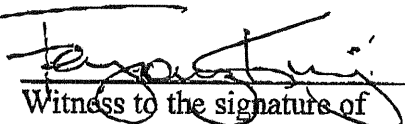
President of CIHR

Witness to the signature of


President of NSERC

Witness to the signature of

President of SSHRC



Witness to the signature of



For Her Majesty the Queen in Right of
Canada as represented by the Minister of
Industry

Witness to the signature of

Marjorie Griffin Cohen

Witness to the signature of

Louise Forsyth

Witness to the signature of

Glenis Joyce

Witness to the signature of

Audrey Kobayashi

SIGNED AT Ottawa, in the Province of Ontario,
this 24 day of October, 2006.

Witness to the signature of

President of CIHR

Witness to the signature of

President of NSERC

Witness to the signature of

President of SSHRC

Witness to the signature of

For Her Majesty the Queen in Right of
Canada as represented by the Minister of
Industry

Louise D'Amour
Witness to the signature of
Louise D'Amour

Maureen Webb Maureen Webb on behalf of
of Marjorie Griffin Cohen

Louise D'Amour
Witness to the signature of

Maureen Webb Maureen Webb on behalf of
of Louise Forsyth

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of Audrey Kobayashi

Shiree Simpson
Witness to the signature of

Maureen Webb Maureen Webb on behalf of
of Shree Mulay

Shiree Simpson
Witness to the signature of

Maureen Webb Maureen Webb on behalf of
of Michele Olliver

Shiree Simpson
Witness to the signature of

Maureen Webb Maureen Webb on behalf of
of Susan Prentice

Shiree Simpson
Witness to the signature of

Maureen Webb Maureen Webb on behalf of
of Wendy Robbins

Approved by the Canadian Human Rights Commission at Ottawa, Ontario
this 1st day of Nov, 2006,
pursuant to subsection 48(1) of the *Canadian Human Rights Act*.

Robert Lynn per Marie Veilleux
Canadian Human Rights Commission
Secretary to the Commission

SCHEDULE "A"**Collection of data on four protected groups from current chairholders**

In order to gain a better understanding of the diversity of researchers supported in the program, more information is being collected from current chairholders on their membership in four protected groups. This information will be used by the Canada Research Chairs secretariat to monitor the representation of people from these four groups in the program. Provision of this information is voluntary and will be treated as confidential. The information on this page will not be made available to reviewers.

Please indicate if you are a member of one of the following four protected groups:

- Women
 - Visible minorities
 - Persons with a disability
 - Aboriginals
-

Collection of data on four protected groups from new nominees

In order to gain a better understanding of the diversity of researchers supported in the program, statistical information is collected on four protected groups. This information will be used by the Canada Research Chairs secretariat to monitor the representation of people from these four groups in the program. Provision of this information is voluntary and will be treated as confidential. The information on this page will not be made available to reviewers.

Please indicate if you are a member of one of the following four protected groups:

- Women
- Visible minorities
- Persons with a disability
- Aboriginals