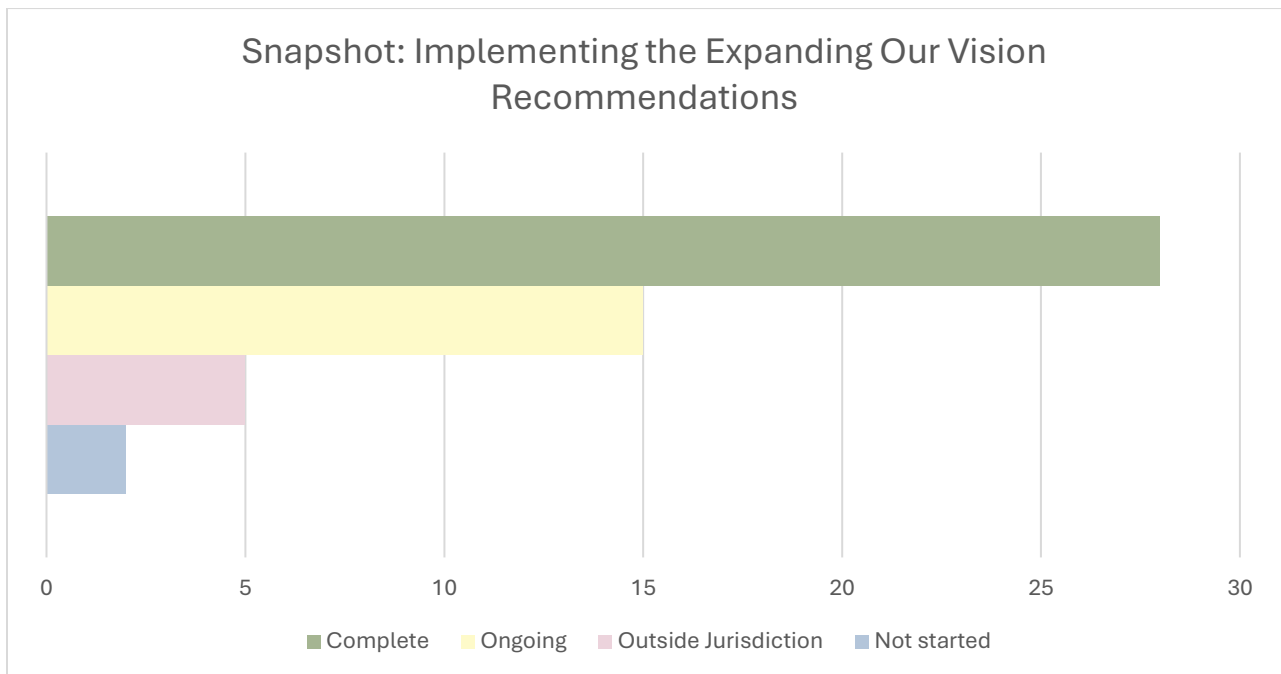




BC HUMAN RIGHTS TRIBUNAL

Implementing the recommendations of *Expanding Our Vision: Cultural Equality & Indigenous Peoples' Human Rights*

Status Report



1.0 GUIDING RECOMMENDATIONS		
1.1. Broaden the concept of human rights to incorporate UNDRIP and Indigenous legal traditions	Ongoing Shared jurisdiction	<ul style="list-style-type: none"> – Tribunal has amended practice and procedure – Tribunal screens Indigenous complaints through an UNDRIP lens – Tribunal case law recognizes UNDRIP and Indigenous legal traditions
1.2 Advocate to add Indigenous identity as a protected ground in the <i>Human Rights Code</i> .	Complete	<ul style="list-style-type: none"> – November 25, 2021: Indigenous identity added as a protected ground
1.3 Increase the number of Indigenous Peoples at all levels of the BCHRT	Complete / ongoing	<ul style="list-style-type: none"> – 2020: Tribunal audited its internal hiring practices – Tribunal has increased efforts to recruit Indigenous Tribunal members – Tribunal has hired Indigenous legal counsel, contract mediators, and navigators – Government has appointed Indigenous Tribunal Members
1.4(a) and (c) Create education materials for Indigenous peoples and general public	Complete / ongoing Shared jurisdiction	<ul style="list-style-type: none"> – Tribunal has posted Indigenous-specific information on website – Tribunal staff and Members participate in training for Indigenous-serving organizations – Work also underway by BC Office of the Human Rights Commissioner and BC Human Rights Clinic
1.4(b) Develop cultural competency and safety among Tribunal staff and members	Ongoing	<ul style="list-style-type: none"> – Regular internal education and training
1.5 Identify and remove procedural barriers	Ongoing	<ul style="list-style-type: none"> – Tribunal works with <i>Expanding Our Vision</i> Committee [EOV Committee] to identify barriers and modify process to increase access for Indigenous participants – Tribunal consults with EOV Committee about proposed changes to process
1.6 Increase training and support for lawyers	Ongoing	<ul style="list-style-type: none"> – Tribunal has liaised with the BC Human Rights Clinic, the Amici Curiae Friendship Centre, the Indigenous Community Legal Clinic, and the First Nations Justice Council to increase training and support for lawyers, especially Indigenous lawyers
2.0 – IMMEDIATE PROCEDURAL STEPS		
2.1 Implement active and concerted efforts to address the underrepresentation of	Ongoing	<ul style="list-style-type: none"> – See recommendation 1.3 re: hiring Indigenous staff

Indigenous complainants accessing the BCHRT. Create an affirmative access program for Indigenous Peoples.		<ul style="list-style-type: none"> – Since the Tribunal began collecting demographic data in 2021, complaints filed by Indigenous people increased from 7% to 14%
2.2 Create staff/Tribunal committee to implement recommendations	Complete/ongoing	<ul style="list-style-type: none"> – Expanding Our Vision Committee formed in early 2020 and continues to meet monthly
2.3 Report on implementation in annual report	Complete/ongoing	<ul style="list-style-type: none"> – Beginning in 2019/2020, the Tribunal reports annually on its progress

3.0 - INCORPORATE INDIGENOUS LAWS

3.1 Actively engage with Indigenous Peoples to incorporate Indigenous laws into process	Ongoing / developing	<ul style="list-style-type: none"> – Tribunal staff and Members receive education, including Indigenous-led education, about Indigenous laws – Tribunal incorporates Indigenous laws into mediation, on request – Tribunal needs to continue to build capacity
3.2 Institute Indigenous Ombuds Office	Outside jurisdiction	<ul style="list-style-type: none"> – Work ongoing through federal MMIWG Secretariat – April 2023: Tribunal presented to Standing Senate Committee on Indigenous Peoples

4.0 - INCREASE INDIGENOUS INVOLVEMENT WITHIN TRIBUNAL

4.1 Give priority to hiring Indigenous staff and members	Ongoing	<ul style="list-style-type: none"> – See recommendation 1.3
4.2 Audit hiring process and implement remedial measures, including hiring targets. Report on success in annual reports	Complete/ongoing	<ul style="list-style-type: none"> – 2020: Tribunal internal audit of hiring complete – Tribunal has reported on some Indigenous hiring in annual reports – Tribunal has developed draft Framework for Recruitment, Hiring and Retention of Indigenous Peoples – Tribunal has not set hiring targets
4.3 Audit Tribunal appointment process; set specific recruitment and appointment goals	Complete / ongoing	<ul style="list-style-type: none"> – 2020: Tribunal internal audit of hiring complete – Tribunal has indicated it may prefer Indigenous applicants for Member positions, and that part time options are available – Before appointments, Tribunal holds Information Sessions for Indigenous lawyers – Since 2020: three Indigenous Members appointed – Tribunal has not set specific recruitment or appointment goals

4.4 Implement options for part-time appointments	Complete	– Part time options are available
4.5 Offer human rights clinics in remote regions	Outside jurisdiction	– Tribunal will support work of BC’s Office of Human Rights Commissioner and Human Rights Clinic to deliver public education

5.0 – PUBLIC OUTREACH TO INDIGENOUS COMMUNITIES

5.1 Create public education campaign for Indigenous Peoples	Ongoing Shared jurisdiction	– See recommendation 1.4(a)
5.2 Create step-by-step process for Indigenous complainants	Complete Shared jurisdiction	– Tribunal amended complaint forms, referral list, and website to create a step-by-step complaint process, Indigenous specific examples of discrimination, and other requests that can be made – BC Human Rights Clinic provides step-by-step information for filing a human rights complaint on its website.
5.3 Create videos or fact sheets to talk about successful cases	Ongoing Shared jurisdiction	– Tribunal has information on its website about leading cases, protected grounds, and how to bring or defend against a complaint. – The BC Human Rights Clinic and the Indigenous Human Rights Podcast have created content about successful cases by Indigenous people

6.0 MICRO-DISCRIMINATIONS

6.1 Create public education and awareness about micro-discrimination against Indigenous people	Ongoing Shared jurisdiction	– Tribunal recognizes micro-discriminations in its case law
--	--------------------------------	---

7.0 COORDINATING HUMAN RIGHTS RESPONSES ACROSS JURISDICTIONS

7.1 Develop coordinated process with Canadian Human Rights Commission to determine jurisdiction over Indigenous complaints	Ongoing	– Tribunal and CHRC have cooperated to ensure a coordinated process to address jurisdictional issues and any time-limit issues due to filing confusion or Tribunal delay. – Outstanding work: formalize a protocol.
--	---------	--

8.0 ADDRESSING SYSTEMIC RACISM

8.1 Develop baseline of information and understanding of anti-Indigenous racism	Complete / ongoing	<ul style="list-style-type: none"> – The Tribunal takes notice of Indigenous-specific discrimination, stereotypes, history, and impacts of colonialism
8.2 Develop guidelines and education about intersectional discrimination	Ongoing Shared jurisdiction	<ul style="list-style-type: none"> – The Tribunal recognizes intersectional discrimination in its forms and case law – Outstanding work: provide more public information about intersectional discrimination on Tribunal website
8.3 Empower Indigenous organizations to file collective complaints	Complete / ongoing	<ul style="list-style-type: none"> – Indigenous organizations can bring complaints on behalf of a class or group: <i>Human Rights Code</i>, s. 21(4) – The Tribunal has consulted with EOV Committee regarding its practice and procedures for group and class complaints

9.0 CREATE AN INDIGENOUS SPECIFIC STREAM WITHIN TRIBUNAL

9.1 Offer specialist training to BCHRT staff and members to develop cultural competency and safety	Complete / ongoing	<ul style="list-style-type: none"> – See Recommendation 1.4(b)
9.2 Create position of Indigenous Navigators to help guide, support, or coach Indigenous Peoples through process	Complete / ongoing	<ul style="list-style-type: none"> – March 2022: Tribunal created position of Indigenous Navigator and hired four Navigators – The Tribunal continues to review and support this role
9.3 Create an Indigenous stream for Indigenous complaints	Ongoing	<ul style="list-style-type: none"> – Throughout 2023, the Tribunal consulted with the EOV Committee about an Indigenous process stream – Changes to process will be implemented as part of broader process review
9.4 Amend Tribunal forms	Complete / ongoing	<ul style="list-style-type: none"> – Tribunal has amended forms to provide space for Indigenous names , explanation of trauma as a reason for delay in filing, and to contemplate Indigenous protocols – Tribunal continues to review and implement feedback about forms

10.0 TRAUMA-INFORMED APPROACH

10.1 Adopt trauma-informed practice; train staff and members	Complete / ongoing	<ul style="list-style-type: none"> – Staff and members completed Indigenous-led trauma informed training in 2020 and 2022 – Trauma awareness and cultural safety are qualifications for Tribunal Member position – Tribunal case law recognizes trauma in relation to Tribunal process
--	--------------------	---

11.1 CLARIFY SPECIAL EXEMPTION		
11.1 Educate employers about s. 42 of the <i>Code</i>	Outside jurisdiction	<ul style="list-style-type: none"> – The Human Rights Commissioner has jurisdiction for programs under s. 42 of the <i>Code</i>. It provides specific information about s. 42 on its website.
12.0 – SETTLEMENT		
12.1 Include Indigenous dispute resolution models, mediators and peacemakers	Complete / ongoing	<ul style="list-style-type: none"> – Tribunal contracts with Indigenous mediators – Parties may request Indigenous mediator – Parties may work with Indigenous mediator to implement Indigenous dispute resolution models
12.1 Track and report on cases where Indigenous people settle complaints and interview them about the process	Not started	<ul style="list-style-type: none"> - Tribunal does not currently report on cases where Indigenous people settle complaints - Tribunal does not currently have program to solicit feedback from participants
13.0 GATEKEEPING FUNCTION		
13.1 Track and report on complaints by Indigenous people that are rejected at gatekeeping stages	Complete / ongoing	<ul style="list-style-type: none"> – June 2021: At Tribunal’s request, Prof Bethany Hastie completed report analysing Tribunal’s decisions under s. 27(1) of the <i>Code</i> to complaints brought by Indigenous peoples – Most Tribunal gatekeeping complaints under s. 27(1) of the <i>Code</i> are published – November 2022: Tribunal reported on Indigenous screening decisions discussed with EOV Committee
13.2 Assign screening and dismissal of Indigenous complaints to specifically trained staff	Partially complete / ongoing	<ul style="list-style-type: none"> – All Indigenous complaints are reviewed by Indigenous Tribunal Member before they are rejected at screening – Tribunal continues to support and build capacity for all decision makers to adjudicate Indigenous complaints
14.0 – PLAIN LANGUAGE		
14.1 Use plain language	Complete / ongoing	<ul style="list-style-type: none"> – Tribunal has a policy to use plain language in all communication
15.0 – TIME LIMITS		
15.1 Provide public education for Indigenous people about strict time limits	Complete / ongoing	<ul style="list-style-type: none"> – Tribunal sets out information about the time limit in workshops, complaint forms, and on its website

15.2 Assess time extension requests with a trauma-informed lens, considering Indigenous approaches to conflict	Complete / ongoing	<ul style="list-style-type: none"> – Where appropriate, the Tribunal considers these facts in its decisions regarding timeliness
16.0 – HEARINGS		
16.1 Hold hearings in culturally safe space	Complete / ongoing	<ul style="list-style-type: none"> – The Tribunal will hold hearings in culturally safe spaces, on request of parties
16.2 Ask participants about culturally appropriate practices	Complete / ongoing	<ul style="list-style-type: none"> – Tribunal navigators, case managers, and Members ask Indigenous participants about culturally appropriate practices – The Tribunal has some information about available cultural options on its website, and offers those options to Indigenous participants
16.3 Offer to include cultural supports during process	Complete/ ongoing	<ul style="list-style-type: none"> – Indigenous participants may attend hearings, mediations, and case conferences with cultural supports
16.4 Incorporate Indigenous people as decision makers	Complete / ongoing	<ul style="list-style-type: none"> – 2021: Three Indigenous Tribunal Members appointed – An Indigenous perspective is available on complaints involving Indigenous participants
16.5 Ask participants about incorporating Indigenous protocols	Complete / ongoing	<ul style="list-style-type: none"> – See recommendation 16.2
17.0 – WEBSITE		
17.1 Develop website with plain language	Complete / ongoing	<ul style="list-style-type: none"> – Tribunal uses plain language on website – Tribunal still needs to revise website to improve accessibility
18.0 – NEED FOR LEGAL REPRESENTATION		
18.1 Advocate for legal representation for Indigenous parties	Ongoing Shared jurisdiction	<ul style="list-style-type: none"> – See recommendation 1.6 – The Tribunal maintains an updated referral list on its website
18.2 Explore options to support legal representation for Indigenous participants, for example through legal aid funding	Outside jurisdiction	<ul style="list-style-type: none"> - On request, Tribunal provides training to organizations supporting Indigenous participants - Tribunal lists available resources for Indigenous participants on its website

18.3 Partner with other organizations to train lawyers and law students about Indigenous Peoples' human rights	Ongoing Shared jurisdiction	– See recommendation 1.6
18.4 Provide student opportunities for Indigenous law students	Not started	- The Tribunal's limited resources have been a barrier to this recommendation
18.5 Encourage creation of regional human rights clinics	Outside jurisdiction	