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**A Review of Twenty-One Years of Employment Equity in Canada (1987-2008):**

**Progress and Propositions**

The purpose of this paper is to review the progress of employment equity in Canada since it officially came into effect in 1986. The review involves examining annual reports filed by employers who are covered under the federal employment equity program in Canada. Specifically four designated groups are examined, *Aboriginal peoples, persons with disabilities, visible minorities*, and *women*, for their representation in the labour force relative to their availability in the labour market. Employment equity appears to be most effective for the representation of visible minorities and women in the labour force, however glass ceiling and occupation ghettoization exist for them. Aboriginal peoples and persons with disabilities remain severely underrepresented in the labour force. The review is also extended to a discussion of provincial, territorial, and municipal/local government legislation, including progressive Québec’s family-friendly policies. A discussion on whether additional segments of the population should be included for coverage and the future of employment equity is also provided. This paper also identifies the areas for improvement for the four designated groups, and the findings can inform policy makers on how to improve the program given the success to date and the changing landscape of the Canadian workforce.

Introduction

The year 2008 marks the twenty-first[[1]](#footnote-1) anniversary of employment equity in Canada. Employment equity was officially sanctioned in 1986 with the passage of the federal Employment Equity Act (EEA). It follows a report from the *Royal Commission of Inquiry on Equality of Employment* by Judge Rosalie Abella who deemed that four designated groups, Aboriginal peoples, persons with disabilities, visible minorities[[2]](#footnote-2), and women, face insurmountable barriers leading to discrimination in employment. They were disproportionately excluded from the workplace because of their group membership, and most of the barriers they faced were systemic in nature. Consequently, the EEA was put in place to eliminate barriers in the workplace so that no person is denied employment opportunities for reasons unrelated to ability. The intent is to allow everyone to contribute evenly to the success of their employers and to the economic and social well-being of all Canadians.

The term ‘employment equity’ was developed by Judge Abella, who headed the Royal Commission, to describe a distinctly Canadian process for achieving equality in all aspects of employment. The term was meant to distinguish the process from the primarily American affirmative action model. It was felt that the phrase ‘affirmative action’ elicited negative reactions and resistance from many because it has become associated with interventionist government policies and the imposition of quotas (Mentzer, 2002). Abella argues that, ultimately, it matters little which term is used since both terms refer to “employment practices designed to eliminate barriers and to provide in a meaningful way equitable opportunities in employment” (Abella, 1984: 7).

The EEA requires employer to provide more than an equal opportunity to members of the designated groups, because equal opportunity frequently leads to unequal results with disproportionate success for some groups and disproportionate failure for others, despite equal distribution of ability and effort among the groups (Mighty, 1996). Therefore, its goal is to remedy past discrimination in employment opportunities, and improve access and distribution of the designated group members throughout all occupations.

Other legislations on protecting human rights and preventing discrimination also exist in Canada. For example, the *Canadian Charter of Rights and Freedom*, as part of the *Constitution Act of 1982*, guarantees certain rights and freedom of individuals without precluding employment equity programs. Specifically, Section 15(1) states that everyone is equal before and under the law, and has the right to equal protection and equal benefit of the law without discrimination, and in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, or mental and physical disability. In addition, the *Canadian Human Rights Act* (CHRA) prohibits discrimination on the basis of eleven grounds:

*Discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for which a pardon has been granted.* (Canadian Human Rights Act, R.S. 1985, c H-6, s. 2)

Note that while some may consider the EEA to be redundant (e.g., Mentzer, 2002) given the *Canadian Charter and Canadian Human Rights Act*, employment equity requires organizations to undertake special measures and to institute positive policies and practices to ensure that designated group members achieve proportionate presentation in the workplace. Thus, employers are required to take proactive measures to eliminate employment barriers and to ensure that members of designated groups are proportionately represented and distributed in their workforces. Specifically, Section 2 of the EEA specifically states that:

*The purpose of this Act is to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfillment of that goal, to correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities and members of visible minorities by giving effect to the principle that* ***employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences****.* (Employment Equity Act, 1995, c. 44, s. 2)

Consequently, under the EEA, employers are required to survey their workforces on the representation, occupational group, salary distribution, and share of hires, promotions and terminations of designated groups. They are also required undertake a workforce analysis for underrepresentation of designated group members; review their employment systems, policies and practices to identify employment barriers; and prepare a comprehensive plan on how they propose to remove the barriers and introduce positive policies and practices, including a timetable for implementation. Employers who fail to comply with their EEA reporting obligations may be subject to a monetary penalty levied by the Labour Program. Cases of non-compliance are also referred to the Canadian Human Rights Commission. The EEA extends to all federally regulated industries (banking, communications, transportation) and crown corporations with 100 or more employees, the federal public service, and separate employer organizations such as the Canadian Forces, Royal Canadian Mounted Police, and Canadian Security Intelligence Service. The Federal Contractors Program (FCP) was also established to include provincially-regulated employers with 100 or more employees, who bid or receive federal contracts worth $200,000 or more. In 2008, the EEA covers 1,565 employers and 2,300,182 employees across Canada (EEA: Annual Report, 2009).

Provincial and Territorial Legislation

Canada is also a federation of 10 provinces and three territories, and the federal government has jurisdiction over matters such as foreign affairs and telecommunications, while the provinces are responsible for healthcare, education, and welfare (Wikipedia, 2012). While the federal government can initiate national policies such as the Human Rights Code and Employment Equity, provinces and territories can enact separate legislations to meet their specific needs (e.g., French language requirement in Québec). Furthermore, Québec’s uniqueness regarding language, culture, and law within Canada, also necessitates that it enacts separate legislations relating to human rights and employment discrimination.

At the provincial level, there is a wide variety of approaches and levels of commitment to employment equity. Bakan and Kobayashi (2000) distinguish between provincial employment equity *law* as a legal employment equity act (e.g., in British Columbia and Québec), and provincial employment equity *policy* as limited voluntary programs which applies to provincial government employment in most other provinces. British Columbia’s legislative assembly has passed the *Public Service Act Directive on Employment Equity* (1994) as employment equity legislation. Québec is the only province which has employment equity legislation (see section below) that applies to some of its provincially-regulated employers. *The Act Respecting Equal Access to Employment in Public Bodies* covers public sector employers in Québec such as school boards, municipalities, transit authorities, universities and colleges, health and social services, and other “public bodies.”  Québec also has an Affirmative Action Contract Compliance Program, similar to the Federal Contractors' Program. In 1994, Ontario legislated the *Ontario Employment Equity Act* (OEEA), but it was repealed in 1995 following the election of a Conservative government.

An example of a provincial employment equity *policy* is the Affirmative Action Program of Nova Scotia, which applies only to provincial-level employment, based on an agreement between the Nova Scotia Department of Human Resources and the Nova Scotia Human Rights Commission (see Bakan & Kobayashi, 2000). Most of the other eight provinces also have similar employment equity policies that apply to provincial government employment. These policies are included in the provincial human rights legislation that prohibits systemic discrimination and provides for “special programs” to promote employment equity (see Table 1 for details). Provincial human rights policies allow employers to develop employment equity programs, however the absence of legislation at the provincial level has been associated with weak implementation of employment equity programs. For example, after the repeal of the OEEA in Ontario, all provincial employers were ordered to destroy the employee data they had gathered for employment equity purposes under the former legislation (Bakan & Kobayashi, 2002).

In the three territories, Yukon and the Northwest Territories both have a *Human Rights Act,* while Nunavut is the only territory with employment equity legislation specifically for Inuit peoples.  Nunavut is Canada’s newest and largest territory, which officially separated from the Northwest Territories in 1999, and has put in place special measures to promote the employment of the Inuit population. Article 23 of the *Nunavut Land Claims Agreement* mandates the Government of Nunavut to increase Inuit participation in government employment to a level which reflects their representation within the Nunavut population, and to develop employment and training programs in order to achieve reflective representation.

Québec

Québec also has legislation on employment equity, related to the *Charte des droits et libertés de la personne* (the Charter of Rights and Freedom), but it is only in 1982, 10 years after the Charter, that the articles 86 to 92 of part III, related to programs for access to equality (programmes d’accès à l’égalité) came into effect, with the Loi modifiant la Charte des droits et libertés de la personne (LQ, 1982, c.61)[[3]](#footnote-3). Prior to this, all preferential treatment with regards to employment is seen as discrimination in this group’s favour or “*discrimination à rebours*” (reverse discrimination). Subsequently, recognition of systemic discrimination has resulted in a decision to hire members of specific groups with equal competencies, to reduce discrimination and to meet minority groups’ numerical representation in the workforce. The article of the law in Québec actually goes beyond employment and includes elements such as health and education services, and other public services. Furthermore, Québec has always been at the forefront of family-friendly policies, largely due to the efforts of progressive family associations, unions and women’s groups (Barrère and Tremblay, 2009). Consequently, it should not come as a surprise that Québec also has universal childcare and parental leave policies which enable women to participate more fully and freely in the labour market. These policies are also extended to men and same-sex couples, making Québec one of the most progressive jurisdictions in terms of equality rights in North America (Tremblay, 2009).

Local and Municipal Government

The Federation of Canadian Municipalities, comprised of municipalities and provincial and territorial municipal associations, adopted a declaration on *Improving Interracial Relations in Canadian Municipalities* in 1986 and a *Policy Statement on Interracial Relations* in 1993, with the latter focussing on the fight against discrimination and racism in employment and services, and on equality of citizens and their rights to participate in the municipal administration. The Federation in its foresight noted that Canada needs to adapt itself to five major trends in the Canadian workforce. They include a decrease in the number of workers, the aging workforce, women, individuals with disabilities, Aboriginals, and members of ethnocultural minorities, the need for immigrant labour and an increasing demands for professional skill (Icart, Labelle, Antonius, & International Observation of Racism and Discrimination, 2005). However, given the voluntary nature of the policy statement, and the lack of compliance regulation such as the federal EEA, the adoption of employment equity practices are weak. A study by Elling and Elling (2007) found that few municipalities had employment equity programs of their own in place and that few collected and analyzed data on the demographic composition of their workforces. They suggest that the commitment of municipal officials to the goals of employment equity is weak, arguing that progress in diversifying the workforces of local governments in Canada requires bringing them under the mandate of the federal government’s employment equity legislation or individual provinces mandating their local units of government to collect and report information on the demographic composition of their workforces. Thus, municipal and local governments will need to increase their efforts and commitment to keep pace with the efforts of the federal government. In the next section, we will now turn our attention to a review and an assessment of the effectiveness of employment equity in Canada.

Assessment of Employment Equity in Canada

Data Analysis

One key measure of the success of employment equity in Canada is the achievement of proportionate representation for designated group members relative to their availability rates in the labour market. Against this backdrop, the present study seeks to examine the effectiveness of employment equity in Canada using data from the EEA *Annual Reports*. Data from 1987 was selected as the benchmark year given that employment equity was officially sanctioned beginning in 1986, allowing for a first full year of reporting. Additionally, data from 1996 was included in the analysis, as the EEA was revised and strengthened following a parliamentary review[[4]](#footnote-4) in 1995 (and passed in 1996) empowering the Canadian Human Rights Commission to conduct on-site compliance reviews (audits), and the creation of the Employment Equity Review Tribunal to issue ‘court enforceable’ orders (Agocs, 2002; Jain, Sloane, & Horwitz, 2003). Data from 2001 and 2006 were also selected to reflect recent labour market (availability rates) from the Canadian census. Data from 2008 (2009 reporting year) reflects the most current reporting available from Labour Canada.

Insert Tables 2, 3, and 4 here

Table 2 shows the representation rate of the four designated groups relative to their availability rates in the labour market (note that the 1986 availability rate was used for comparison with 1987 EEA reporting, as census is undertaken once every 5 years in Canada). Table 3 shows the hiring, promotion, and termination rates for the designated groups, and Table 4 indicates the proportion of designated group members who achieved senior manager, manager, and professional occupations, considered as ‘high paying’ jobs.

Aboriginal Peoples

The representation of Aboriginal peoples rose steadily year-over-year from 0.7 percent in 1987 (base year) to 2.5 percent in 2008. However, their representation in the workforce still lags behind their overall labour market availability at every census year, although this gap is narrowing (see Table 2). Aboriginal peoples made up only 2.4 percent of the total workforce in the regulated industries, although their availability rate in the labour market is 3.1 percent for the most recent census year. Although the hiring of Aboriginal peoples has increased year-over-year, they also leave the workplace at roughly the same pace (see Table 2). The representation of Aboriginal peoples also appears to level off in recent years (see Figure 1). The share of promotions for Aboriginal peoples (see Table 3) is also significantly below their share in the labour force (except for 1996). This is particularly evident in the proportion of Aboriginal peoples who are represented in professional, management, senior management occupations (see Table 4).

Insert Figure 1 here

The Aboriginal population is also expected to grow at an annual rate of 1.8 percent, more than twice the rate of 0.7 percent for the general population, and is also younger than the non-Aboriginal population (Statistics Canada, 2005). Thus, Aboriginal peoples would be an important source of labour in the future. One of the long standing challenges facing Aboriginal peoples is their poverty rate, which affects their educational attainment and socioeconomic mobility. Consequently, efforts to improve the economic disparities and educational attainment of Aboriginal peoples must be made before employment equity can be an effective policy in achieving better results for them. With the recent repeal of section 67 of the CHRA, the Human Rights Commission is also required to ensure that over700,000 Aboriginal persons impacted by *the Indian Act* are aware of their rights under the CHRA, and have access to its services.

Persons with Disabilities

Persons with disabilities experience the most significant gaps in their representation in the workforce compared to other designated groups. Although their representations have improved year-over-year (see Figure 2), they only make up 3.2 percent of the workforce in the regulated industries, which falls short of their availability of 4.8 percent in the labour market based on the most recent census data (see Table 2). The actual representation rate *may* be higher since disability is “self-reported” under the EEA, and many respondents may be reluctant to report their disabilities due to social stigma. Although employers have a duty to accommodate workers with disabilities, many employers cite ‘undue hardship’ (imposing excessive financial burden to the employer) and ‘*bona fide* occupational requirement’ (e.g., job duties cannot be modified without creating a genuine safety risk) as a means of avoiding accommodation (Atkins, 2006). Furthermore, the termination rates for persons with disabilities are also higher than their hiring rates (see Table 3), which may further lower the workplace participation of persons with disabilities.

Insert Figure 2 here

The share of promotions for workers with disabilities is also below their share in the labour force. They are also similarly underrepresented in professionals and managerial (including senior management) jobs compared to their availability rates (see Table 4). Workers with disabilities persistently face underemployment, where they tend to be employed fewer hours, and are over-represented in entry level and part-time work (Hum & Simpson, 1996). Employment equity efforts, must therefore, be directed at accommodation efforts on the part of the employer, given that workers with disabilities can be better utilized in the workplace.

Visible Minorities

Employment equity appears to be most effective for visible minorities compared to the other designated groups. Overall representation of visible minorities in regulated industries kept pace with their growth in the labour market (see Figure 3). Most recent reporting and census data show that visible minorities make up 12.3 percent of the workforce compared to their availability rate of 14.5 percent in the labour market (see Table 2). More visible minorities were hired than terminated over the course of the reporting period, contributing to the increased growth in their participation in the workforce.

Insert Figure 3 here

Visible minorities also enjoy a promotion rate that is slightly larger than their share in the workforce (see Table 3). As a result, their representation exceeds their availability in professional occupations, and they are also closing in on their representation in managerial positions. Despite this progress, visible minorities remain severely underrepresented at senior management levels (see Table 4). Yap and Konrad (2009) found visible minority men experienced barriers at the highest organizational levels, indicating the “glass ceiling” effect. Jain and Lawler (2004) examined EEA reports from 1987-1999 and reported that visible minorities are also shut out of sale and service, as well as technical occupations. Additionally, very recent immigrants (less than 5 years) earn significantly less than their Canadian-born counterparts, and many are not employed in their trained profession (TD Economics, 2010). The most frequently cited reasons for this underutilization of skills include a lack of Canadian experience (credential and experience recognition) as well as literacy and language barriers (speaking with accents). While employment equity has been mostly effective for visible minority participation in the labour force, future efforts must focus on inclusion based upon cultural differences and breaking the glass ceiling barrier. This is critical given than the government has promoted immigration as a source of skilled workers to combat its low birth rate and aging workforce (Burke & Ng, 2006). Statistics Canada projects that immigrants to Canada, will comprise of all net labour force growth, and visible minorities will make up 1 in 5 working Canadians by 2017 (cf. TD Economics, 2010).

Women

Early efforts to promote women in the workplace has been successful as women’s participation in the labour force increased year-over-year from 40.9 percent in 1987 to 42.7 percent in 2008 (see Figure 4). Women’s representation dropped sharply from its peak at 47 percent in 2001 to under 43 percent in 2006, even though their availability in the labour market continues to climb to 48.6 percent in the census data (see Table 2). Early hirings exceed terminations for women in the regulated industries, although the flow of women into and out of the labour force are roughly even in recent years (see Table 3). Most of the issues for women in the workplace has centred around backlash from men (stemming from resentment and fewer promotional opportunities for men) and wage gaps (a result of gendered occupations) (Leck, 2002; Werner, 2002). Jain, Lawler, Bai and Lee (2010) examined EEA annual report data for women from 1997 to 2004, and found that women were also ghettoized in clerical work and excluded in high paying, male-dominated work. As a result separate legislations have been put place in several in provincial jurisdictions (e.g., *Pay Equity Act* in Ontario) to address the issue of pay equity and ‘equal pay for work of equal value’ for women.

Insert Figure 4 here

Similar to visible minorities, the promotion rates for women also exceed their share in the labour market (see Table 3). Likewise, women also exceeded their representation in professional occupations, and are closing in on managerial positions. Women are similarly underrepresented at senior management levels like visible minorities (see Table 4). While the education attainment for women has matched or exceeded those of men, women continue to face occupational barriers and the glass ceiling. Furthermore, women were also more likely to be engaged in contingent and part-time work, contributing to greater job insecurity for women relative to men (TD Economics, 2010). Thus, although employment equity has been effective for women in its early years, future efforts should be targeted at ensuring gender equality and breaking the glass ceiling.

Improving the Outcomes for Designated Group Members

A review of 21 years of employment equity suggests that it has not been uniformly effective for the four designated groups. The Aboriginal population is expected to continue growing, and will be a significant source of labour for Canada. However, Aboriginal peoples continue to face challenges in their participation in the labour force. Therefore, employment equity efforts must be directed at ensuring that they are proportionately represented in various occupations and organizational levels. Persons will disabilities also face very similar challenges, in that they are underrepresented in the workplace. Moreover, workers with disabilities are also underemployed, and they are often concentrated in entry-level and part-time work. Workers with disabilities can and want to work, and they can be an important source of skilled labour. On this basis, policy makers should ensure stronger enforcement of employment equity as employers are quick to cite ‘*bona fide* occupational requirement’ and ‘undue hardship’ for refusing to accommodate workers with disabilities. Visible minorities and women are considered to be success stories of employment equity, and they face very similar trends and employment patterns. For most part, their representation rates are tracking closely to their availability in the labour market (except for women in recent years), and they are proportionately represented in professional and managerial jobs. However, glass ceilings exist for both visible minorities and women at senior management levels, and they are also disproportionately employed and ghettoized in lower paying fields. While employment equity has been partially effective, efforts must be directed at breaking the glass ceiling and including visible minorities and women into the ‘white male’ domain. One such effort may be found in Québec’s universal childcare and parental leave policies.

Universal Childcare and Parental Leave

Although the focus of our paper is on employment equity, it is also important to consider other factors that can help remove the barriers facing women in the labour market. One way in which women can level the employment playing field is to have access to universal childcare, which would allow women to participate more fully and freely in the labour market. In Canada, there is presently no universal childcare system, and parents have to rely on their private means in order to secure childcare. However, the Québec government has taken a first step in introducing a subsidized childcare program in 1995 to allow women to access and participate in the labour market more easily (Tremblay, 2012, 2009). The cost for childcare reduced from $35 to $5 a day when it was first introduced (although it was subsequently raised to $7 a day in 2003) making it affordable and possible for women to participate in the labour market. A recent study (Fortin, Godbout, & St-Cerny, 2012) reported that Québec’s universal childcare system has made it possible for 70,000 more women to access the labour market in 2008, and in particular for women with children under the age of 3 (cf. Cette et al., 2009). While opponents of universal childcare were critical of its costs, the $1.6 billion in childcare expense to the province has resulted in a 1.7 percent increase in total employment for Québec. In turn, the Québec government also benefited with a corresponding income tax revenue from working women, which more than offsets the program costs (Fortin, Godbout, & St-Cerny, 2012).

Unlike universal childcare, Canada does have a parental leave program, which is a component of the federal Employment Insurance (EI) program. The program originated in 1971 as maternity leave for mothers who worked 20 weeks or more prior to childbirth. Women received 67 percent of their pre-maternity wages for 15 weeks following childbirth. In 1980, the benefit was extended to adoption, and in 1990, an additional 10 weeks of parental leave were granted for the care of a child. This change also enabled both fathers and mothers to take time off work to care for newborn children (Doucet, McKay, & Tremblay, 2009). In 2001, the parental leave[[5]](#footnote-5) was further increased by an additional 25 weeks. Mothers on maternity leave and who also take all of the 35 shared (between mothers and fathers) weeks for parental care have access to 50 weeks of leave. The 25 week increase in parental leave has also produced a significant increase in use by men, from 3 percent in 2000 to 15 percent in 2005 (Marshall, 2008), and a jump to 23 percent in 2006 mainly due to the increase in participation from Québec fathers. In 2006, Québec introduced a new parental leave program which is particularly noteworthy, and merits a brief discussion here.

The new parental leave program in Quebec is a more generous and flexible policy than the federal plan. It is unique in that it introduces a non-transferable right to paternity leave: fathers can now take 3 to 5 weeks of paid paternity leave and these weeks cannot be transferred to the mother. This has resulted in a significant increase in participation from men, some 78 percent of men, taking on average of 7 weeks’ leave in 2011. Three other enhancements were also made. First, participants only need to have $2,000 in earnings rather than worked 600 hours under the federal plan, making the Québec Plan more accessible which allows more parents, including students, part-time, and self-employed workers to receive benefits. As a result of this, 77 percent of Québec mothers had access to parental leave in 2007, while only 62 percent of mothers do in the rest of Canada (Marshall 2008). Second, the Québec plan provides the flexibility of two options: a basic plan (longer leave with lower benefits) or a “special plan” (shorter leave with higher benefits). The basic plan provides benefits of 70 percent of the average weekly income for 18 weeks of maternity leave (plus 7 weeks for parental) and 5 weeks of paternity leave; and after that it is 55 percent for 25 weeks of parental leave. In contrast, the special plan offers a higher income replacement but for shorter periods. Maternity and paternity leave benefits are 75 percent of the weekly salary and are paid for 15 weeks and 3 weeks respectively. After this, parental leave is offered at 75 percent for 25 weeks which can be shared between the mother and father. Under the second plan, mothers can also receive benefits for a maximum of 40 weeks. Adoption leave can also be shared by both parents for 28 weeks at 75 percent under the special plan. A comparison of both plans can be found under Table 5. The third change involves increasing the maximum eligible income, which is important for the participation of fathers. The Québec Plan increased the maximum insurable income to $66,000 instead of $43,200, in addition to the abolition of the 14-day waiting period without benefits (under the federal EI program). Same-sex couples are also entitled to receive these benefits.

Emerging Underrepresented Segments of the Population

While employment equity has only covered four historically disadvantaged groups, the question on whether employment equity should be expanded to include other segments of the population ought to be considered. Following the events of September 11, there has been increasing religious persecution among the Muslim community. While religion is a prohibited ground for discrimination under Canadian human rights legislation, disparate treatment on the basis of religious practices and dress (e.g., *hijab* or head dress for Muslim women) has created unnecessary barriers and systemic discrimination against the Muslim community (Canadian Council of Muslim Women, 2005). Although Muslims are considered to be a designated group under the visible minorities category, in actual fact ‘visible minorities’ is widely diverse with disproportionate economic success for some groups (e.g., East Asians), and a corresponding lack of success for others (Ng & Sears, 2010). On this basis, a specific policy on addressing religious accommodation to promote tolerance and religious plurality in the workplace is necessary.

Also, in 2005, Canada legalized same-sex marriage and an increasing number of gays, lesbians, bisexual, and transgendered (sexual minorities) employees are ‘coming out’ in the workplace. Although most employers are quick to introduce diversity policies and practices (e.g., same-sex benefits), sexual minorities experience (social) stigmas and are often stereotyped on the basis of their gender identity. A recent study found that sexual minorities have different labour force patterns, including lower income and economic outcomes (Carpenter, 2008). For example, gay men typically earn less 12 percent less than their heterosexual counterparts, while lesbian women earn 15 percent more than heterosexual women on account of occupational sorting[[6]](#footnote-6) (Antecol, Jong, & Steinberger, 2008; Carpenter, 2008). These concerns are fairly similar to those experienced by visible minorities and women in Canada, in that pay (in)equity and occupational segregation also appear to exist for sexual minorities. Therefore, a strong case can be made for inclusion of sexual minorities for employment equity.

Future of Employment Equity in Canada

Lastly, the effectiveness of employment equity has been called into question by opponents who view employment equity as ineffective, violating the principle of meritocracy and causing reverse discrimination and backlash among Canadians (Bakan & Kobayashi, 2007; Leck, 2002; Ng & Wiesner, 2007). Ng and Wiesner (2007), in an experimental study, found that while backlash may exist, Canadians are more likely to select a minority candidate when employment equity directives are in place, as long as they are qualified. Ng and Burke (2010) also compared firms covered under the EEA with firms that are not, but have voluntary diversity management policies. They reported that organizational leaders (i.e., CEOs) of EEA firms were committed to managing diversity, and had more diversity practices in place. Overall, it appears that EEA, while controversial, remains as an effective tool in promoting equity and diversity in Canadian organizations.

Conclusion

The present study provides a brief review of 21 years of employment equity in Canada. While the results have been encouraging for visible minorities and women, additional efforts are required to break the glass ceiling for the two groups. Additionally, Aboriginal peoples and persons with disabilities continue to be underrepresented in the workplace and will require additional commitment from employers to increase their participation in the labour force. In Québec, family0friendly policies such as universal childcare and parental leave supplements the federal employment equity policy, by enabling women to participate more fully and freely in the labour market. Furthermore, it is also inclusive and unique by encouraging man, including same-sex couples, to access paternity and parental leave is important. These developments are important because they set the trend for other jurisdictions in promoting greater equality in the workplace, particularly for women. Two emerging segments of the population, Muslim Canadians and sexual minorities, are also identified as vulnerable and face systemic discrimination in the Canadian labour market. Consequently, they also merit consideration for inclusion as “designated groups” under the present EEA. While the effectiveness of the EEA has been called into question, recent studies have found that employment equity remain as an effective tool in promoting the hiring of minority candidates. CEOs of EEA firms are also more committed to employment equity and put in place a greater number of diversity practices in their organizations. In conclusion, and on the basis of this review, policy makers should consider greater enforcement of employment equity for existing designated group members, include newly identified segments of the workforce who are vulnerable to discrimination in the labour market, follow Québec’s lead in promoting family-friendly policies, and extend the coverage of employment equity across a larger number of employers in Canada.

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|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **TABLE 1-**  **CANADA** | **Alberta** | **British Columbia** | **Saskatchewan** | **Manitoba** | **Ontario** | **Québec** | **New Brunswick** | **Nova Scotia** | **Prince Edward Island** | **Newfoundland** |
| **Employment Equity Act**  **1986** | Human Rights Act  2000 | Human Rights Code 1996 | Human Rights Code 1979 | Human Rights Code 1987 | Human Rights Code 1962 | Charter of Human Rights and Freedoms | Human Rights Code 1973  (HRA 2011) | Human Rights Act 1989 | Human Rights Act 1975 | Human Rights Code 1971  (HRA 2010) |
| **Revised in 1995**  **-Women**  **-Aboriginal Peoples**  Defined as Indians, Inuit or Métis  **-Persons with Disabilities**  Defined as persons who  have a long-term or recurring physical, mental,  sensory, psychiatric or learning impairment  **-Visible Minorities**  Defined as persons,  other than aboriginal peoples, who are  non-Caucasian in race or non-white in colour; | -race  -religious beliefs  - colour  -gender  - physical disability  - mental disability  -age  - ancestry  - place of origin  - marital status  - source of income  - family status or  - sexual orientation of that person | -race  -colour  -ancestry  -place of origin  -political belief  - religion  -marital status  - family status  -physical or mental disability  -sex  -sexual orientation  -age  -or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person | -religion  -creed  -marital status  -family status  -sex  -sexual orientation  -disability  -age  - colour  -ancestry  -nationality  -place of origin  -race or perceived race and  -receipt of public assistance | -ancestry, including colour and perceived race  -nationality or national origin  -ethnic background or origin  -religion or creed, or religious belief, religious association or religious activity  -age  -sex’ including pregnancy  -gender determined characteristic  -sexual orientation  -marital or family status  -source of income  -political belief, association or political activity  -physical or mental disability or related characteristics/ circumstances including reliance on a dog guide or other animal assistant, a wheelchair, or other remedial appliance or device. | - race  -ancestry  - place of origin  - colour  - ethnic origin  - citizenship  - creed  - sex  - sexual orientation  - age  - record of offences  - marital status  - family status  -disability. | -race  -colour  - sex  -pregnancy  - sexual orientation  -civil status  -age except as provided by law  -religion  -political convictions  -language  - ethnic or national origin  -social condition  -a handicap or the use of any means to palliate a handicap | -race  - colour  - religion  - national origin  - ancestry  - place of origin  - age  - physical disability  - mental disability  - marital status  - sexual orientation  - sex  - social condition  -political belief or activity | -age  - race  - colour  - religion  - creed  -sex  -sexual orientation  - physical or mental disability  - an irrational fear of contracting an illness or disease  - ethnic national or aboriginal origin  - family status  - marital status  - source of income  - political belief affiliation or activity  - that individual's association with another individual or class of individuals | - age  -race  - colour  -religion  -creed  -sex  -sexual orientation  -physical or intellectual disability  -ethnic or national origin  - family status  - marital status  -political belief  or source of income of any person with whom the  individual or the class of individuals associates | -race  - color  - nationality  - ethnic origin  - social origin  - religious creed  - religion  - age  - disability  - disfigurement  - sex  - sexual orientation  - marital status  - family status  - source of income and  - political opinion |
| **Federal Contractors Program** | No Employ-ment Equity Program | **Special Programs:**  **Employment Equity Program-**  It is not discrimination or a contravention of this Code to plan, advertise, adopt or implement an employment equity program that has as its objective amelioration of conditions individuals or groups disadvantaged because of race, colour, ancestry, place of origin, physical or mental disability, or sex | **Programs, orders or approval by Commission** *for*  improving opportunities  respecting services, facilities, accommodation, employment or education.  -Employers under provincial jurisdiction can develop equity plans approved by the Saskatchewan Human Rights Commission under section 47 of the *Saskatchewan Human Rights Code.* | **Affirmative Action:**  to plan, advertise, adopt or implement an affirmative action program or other special programs  making reasonable accommodations for the special needs of an individual or group  Discrimination in employment  Discrimination can be based upon bona fide and reasonable requirement/ qualifications for the employment/ occupation. | Special  Programs-Section 14  to relieve hardship or economic disadvantage or attempt to achieve equal opportunity  **Special Employment-Section 24**  preference in employment if it is reasonable and *bona fide* qualification because of the nature of the employment;  Reasonable accommodation of the employee without undue hardship to the employer | **An act respecting equal access to employment in public bodies**  **Division**  **AFFIRMATIVE ACTION PROGRAMS**  **1982, c. 61, s. 21.**  Affirmative action program.  The object of an affirmative action program is to remedy the situation of persons belonging to groups discriminated against in employment, or in the sector of education or of health services and other services generally available to the public. | **Exception** Despite any provision of this Act, a limitation, specification, exclusion, denial or preference on the basis of social condition shall be permitted if it is required or authorized by an Act of the Legislature. | **Race Relations**  **Equity and Inclusion**: to develop and recommend programs and policies to promote racial harmony and to eliminate barriers to the full participation of members of racial minorities in society | **Exception**  does not apply to a refusal, limitation, specification or preference based on a  genuine occupational qualification  or employment where physical or intellectual disability is a  reasonable disqualification or an exclusively religious or ethnic organization | **Special Programs**  On the application of a person, the commission may approve programs designed to prevent, reduce or eliminate disadvantages respecting services, facilities, accommodation or employment that may be or are suffered by a group of individuals where those disadvantages would be, or are based on or related to, a prohibited ground of discrimination of members of that group. |
| Within 2 years | Within 1 year | Within 6 months | Within 1 year |  | Within 1 year |  | Within 1 year |  |  | Within 1 year |
| A fine of not more than  $10 000 for a single violation and not  more than  $50 000 for repeated or continual violations | A fine of not more than  $10 000. | Compensation for any wages or salary lost, or expenses incurred  Compensation for injury to dignity, feelings and self respect or to any of them | Individual fine of <$500 in the case of a first offence or <$2,000 in subsequent offence  - other than an individual, fine <$2,000 a first offence or <$3,000 in subsequent offence | Individual fine of not more than $2,000  In any other case, a fine of not more than $10,000 | A fine of not more than $25,000 | May be condemned, with or without imprisonment for not over one year, and without prejudice to any suit for damages, to a fine not exceeding $50,000.  Unauthorized disclosure. | Employer to pay the aggrieved  compensation for loss of employment not exceeding  the sum that is  equivalent to the wages, or remuneration  accrued to that person up to the date of  conviction, but for the violation | (a) if an individual, a fine not exceeding $500  (b) if a person other than an individual, a fine not exceeding $1,000 | Individual fine of not less than $100 and not exceeding $500  - other than an individual, a fine of not less than $200 and not exceeding $2,000 | If a person, a fine not exceeding $500  If a trade union, employers' organization, employment agency, a fine not exceeding $1,000 |

Table 2 – Representation of designated groups and their availability rates in the workforce (key years)

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **1987** | **ARa** | **1996b** | **ARa** | **2001** | **ARa** | **2006** | **ARa** | **2008** |
| Aboriginal peoples | 0.7 | 2.1 | 1.2 | 2.1 | 1.9 | 2.6 | 2.4 | 3.1 | **2.5** |
| Persons with disabilities | 1.6 | 5.4 | 2.7 | n/a | 3.0 | 5.4 | 3.2 | 4.8 | **3.2** |
| Visible Minorities | 5.0 | 6.3 | 9.2 | 10.3 | 10.4 | 12.0 | 12.3 | 14.5 | **13.6** |
| Women | 40.9 | 44.0 | 44.8 | 46.4 | 47.0 | 48.1 | 42.7 | 48.6 | **42.7** |

Notes:

a Availability rates in the labour market based on census data for 1996, 2001, 2006. Reporting for 1987 was matched with 1986 census data as census is undertaken once every 5 years in Canada.

b Data obtained from Agocs, (2002)

Source:

EEA: *Annual Reports, 2000, 2004, 2007, 2008, 2009*

Table 3 – Hiring, promotion, and termination rates of designated groupsa

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **1987** | **1996** | **2001** | **2007** | **2008** |
| **Aboriginal peoples** |  |  |  |  |  |
| Hiring | 0.5 | 1.7 | 1.7 | 2.0 | **2.3** |
| Promotion | 0.6 | 1.4 | 1.6 | 1.8 | **1.7** |
| Termination | 0.5 | 1.6 | 1.7 | 2.2 | **2.1** |
| **Persons with disabilities** | |  |  |  |  |
| Hiring | 0.6 | 1.1 | 1.2 | 1.4 | **1.4** |
| Promotion | 1.4 | 2.4 | 1.9 | 2.3 | **2.1** |
| Termination | 1.0 | 2.5 | 1.9 | 2.2 | **2.1** |
| **Visible Minorities** |  |  |  |  |  |
| Hiring | 5.2 | 10.4 | 12.7 | 16.8 | **17.7** |
| Promotion | 6.8 | 12.1 | 14.6 | 22.6 | **22.4** |
| Termination | 3.2 | 8.4 | 10.8 | 15.2 | **16.0** |
| **Women** |  |  |  |  |  |
| Hiring | 42.7 | 39.8 | 41.6 | 37.8 | **36.4** |
| Promotion | 52.5 | 56.0 | 53.2 | 51.8 | **50.1** |
| Termination | 40.3 | 39.3 | 40.2 | 37.5 | **37.3** |

Note:

a Only data from federally regulated private sector available

Source:

EEA: *Annual Report, 2009*

Table 4 – Representation of designated groups in management and professional occupation groups

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **1987** | **1996a** | **2001** | **2006** | **ARb** | **2008** |
| **Aboriginal peoples** |  |  |  |  |  |  |
| Senior Managers |  | 0.3 | 0.5 | 0.7 | 2.4 | **0.7** |
| Managers |  | 0.8 | 0.8 | 1.0 | 1.9 | **1.1** |
| Professionals |  | 0.7 | 0.9 | 1.0 | 1.8 | **1.0** |
| **Persons with disabilities** | |  |  |  |  |  |
| Senior Managers |  | 2.5 | 1.9 | 2.5 | 3.2 | **2.2** |
| Managers |  | 2.9 | 1.9 | 2.6 | 3.2 | **2.6** |
| Professionals |  | 2.3 | 1.9 | 2.2 | 4.5 | **2.3** |
| **Visible Minorities** |  |  |  |  |  |  |
| Senior Managers |  | 3.0 | 3.7 | 5.1 | 8.7 | **5.8** |
| Managers |  | 8.4 | 8.8 | 12.2 | 14.0 | **13.7** |
| Professionals |  | 15.2 | 16.5 | 21.0 | 16.5 | **23.8** |
| **Women** |  |  |  |  |  |  |
| Managers |  | 14.9 | 19.6 | 22.2 | 24.2 | **22.0** |
| Professionals |  | 47.9 | 42.4 | 44.2 | 39.1 | **42.1** |
| Senior Managers |  | 41.4 | 44.5 | 46.3 | 54.2 | **46.0** |

Notes:

a Data obtained from Agocs, (2002)

b Availability rates in the labour market based on census data for 2006

Source:

EEA: *Annual Reports, 2000, 2007, 2008, 2009*

Table 5 - Main Characteristics of the Two Parental Leave Plans in Québec

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Basic Plan** |  | **Special Plan** |  |
| **Types of benefits** | **Maximum number of weeks of benefits** | **Percentage of weekly average income** | **Maximum number of weeks of benefits** | **Percentage of weekly average income** |
| **Maternity** | 18 | 70% | 15 | 75% |
| **Paternity** | 5 | 70% | 3 | 75% |
| **Parental** | 7  25 (7+25=32) | 70%  55% | 25 | 75% |
| **Adoption** | 12  25 (12+25=37) | 70% | 28 | 75% |

Figure 1 – Representation of Aboriginal Peoples relative to their availability in the labour market

Figure 2 – Representation of Persons with Disabilities relative to their availability in the labour market

Note: Availability rate for 1997 was not available

Figure 3 – Representation of Visible Minorities relative to their availability in the labour market

Figure 4 – Representation of Women relative to their availability in the labour market

1. Although 2009 is the most recent data available from Labour Canada, reporting undertaken by employers is for the previous year; there is no reporting in the first year, hence 1987to 2008 marks 21 years of reporting. [↑](#footnote-ref-1)
2. Visible minorities are defined, under the EEA, as “persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.” The visible minority population consists mainly of the following groups: Chinese, South Asian, Black, Arab, West Asian, Filipino, Southeast Asian, Latin American, Japanese and Korean. [↑](#footnote-ref-2)
3. See Sabourin, Diane (2006). Le cadre législatif en vigueur au Québec en matière d’équité en emploi. In *Équité en emploi-équité salariale*. Textbook for the course RIN 1025 of Télé-université, université du Québec. Québec: Télé-université, université du Québec, pages 44-69. [↑](#footnote-ref-3)
4. Legislation requires that the EEA undergo a review every five years. In 2006, Parliament passed a motion referring the review of the EEA to *the Standing Committee on Human Resources, Social Development* and the *Status of Persons with Disabilities*. The review was not placed on the Committee agenda and was lost when the House was prorogued in fall 2007. A new referral was made in March 2009. [↑](#footnote-ref-4)
5. To access parental leave, parents must have worked 600 hours prior to leave, and they earn benefits equivalent to 55% of their salaries to a ceiling which is adjusted each year (CAD$457 per week or $43,200 per year in 2011). [↑](#footnote-ref-5)
6. Gay men are more likely to be employed in female-dominated industries, while lesbian women in male-dominated industries.  There is a misconception that gay men earn more, in reality, they have more disposable income because they have less family-related expenses, including child rearing. [↑](#footnote-ref-6)