


Winter 12-15-2017

Exploring Employment Equity: Diversity & Inclusion in Canada's Legislation & Policy

Vanessa Toussaint Miller
vanessatmiller@gmail.com

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Exploring Employment Equity: Diversity & Inclusion in Canada's Legislation & Policy

In Partial Fulfillment of the Requirements for the Degree

MASTER OF ARTS
in
INTERNATIONAL STUDIES

By Vanessa Toussaint Miller
December 18, 2017

University of San Francisco

Under the guidance and approval of the committee, and approval by all members, this thesis project has been accepted in partial fulfillment of the requirements for the degree.

Adviser

Date

Academic Director

Date

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Abstract

Multiculturalism is considered very much a part of Canada's national heritage and identity, becoming the first nation to adopt multiculturalism as an official policy in 1971. Over the last 40 years, the Canadian population has undergone significant changes bringing in immigrants with different cultures, ideologies, religions and ways of life. Despite the various changes in society, the multiculturalism policies have remained the same. This thesis examines Canada's *Employment Equity*-a policy intended to eliminate systemic discrimination in the workplace-and its effectivity at creating a diverse and inclusive workforce. The main research question is, in the past five years, has *Employment Equity* assisted in providing an accurate representation of the marginalized subjects in the Canadian workforce?

Terms

Aboriginal peoples: means people who are Indians, Inuit or Metis¹.

Barriers: for the purpose of employment equity, are defined as formal or informal policies or practices (written or unwritten) that disproportionately restrict or exclude designated group members based on factors unrelated to the nature of the work, merit or safety. Barriers can be obvious or direct, or they can be embedded in systems and may seem neutral on their nature but have negative impacts on particular groups.

Closeted/In the closet: This term refers to individuals who do not openly disclose their sexual orientation to others².

Designated groups: means women, aboriginal peoples, persons with disabilities and members of visible minorities³.

Gender expression: How an individual manifests a sense of femininity or masculinity through appearance, behaviour, grooming and/or dress⁴.

Gender identity: One's inner sense of being a woman or man, regardless of biological sex; different from sexual orientation⁵.

Labour market availability: refers to the share of designated group members in the workforce from which the employers could hire⁶.

¹ Employment Equity Act. 1995.

² Silva, C., & Warren, A.K. "Building LGBT-Inclusive Workplaces: Engaging Organizations And Individuals In Change", *Catalyst*, 2009.

³ Employment Equity Act. 1995.

⁴ Silva, C., & Warren, A.K. "Building LGBT-Inclusive Workplaces: Engaging Organizations And Individuals In Change", *Catalyst*, 2009.

⁵ Ibid

⁶ Canada. Employment and Social Development Canada. Labour Program. *Employment Equity Act Annual Report 2016*. 2016.

Members of visible minorities: used in the *Employment Equity Act* to describe persons, other than aboriginals, who are non-white in color⁷. For the purpose of this study I will be using the term “People of Color” to describe this group.

Representative workforce: According to the EEA, a workforce is considered representative when the representation of designated groups is equal to their LMA⁸.

Sexual Orientation: A term commonly used to refer to a person’s emotional, romantic, or sexual attraction to individuals of a particular gender⁹

EEA Occupational Groups

Senior Managers: Employees holding the most senior positions in large firms or corporations. They are responsible for policy and strategic planning, and for directing and controlling the functions of the organization. (i.e: President, CEO, VP, General Managers, etc.)

Supervisors, Crafts and Trade: Non-management first-line coordinators of workers in manufacturing, processing, trades and primary industry occupations. (i.e: supervisors of workers in motor vehicle assembling, electronic, carpentry, etc.)

Skilled Sales and Service Personnel: Highly skilled workers engaged wholly or primary in selling or providing personal service. (i.e: sales- insurance agents and brokers, real estate. Service- police officers, firefighters, chefs, etc.)

Clerical Personnel: Workers performing clerical work, other than senior clerical work. (i.e: general office and other clerks such as data entry, records and file, accounting, library, etc.)

⁷ Employment Equity Act. 1995.

⁸ Ibid.

⁹ Silva, C., & Warren, A.K. “Building LGBT-Inclusive Workplaces: Engaging Organizations And Individuals In Change”, *Catalyst*, 2009.

Semi-Skilled Manual Workers: Manual workers who perform duties that usually require a few months of specific vocational on-the-job training. (i.e: truck drivers, railway yard workers, machine operators, etc.)

Other sales and service personnel: Workers in sales and service jobs that generally require only a few days or no on-the-job training. The duties are elementary and require little or no independent judgement. (i.e: service station attendants, security guards, janitors, etc.)

Abbreviations

LMA: Labour Market Availability

LGBT/LGBTQ+ : Individuals in the minority with respect to sexual orientation and/or gender identity or expression. LGBTQ is most commonly used to address the lesbian, gay, bisexual, transgender and queer community¹⁰.

NCCM: The National Council of Canadian Muslims

¹⁰ Ibid.

Acknowledgements

I would like to thank all those who supported, motivated and guided me along this journey. First and above all I thank God for blessing me with this opportunity and for always being with me every step of the way. Thank you to all my MAIS professors for the encouragement and equipping me with the tools to write this thesis. I would like to give a special thanks my advisor Dorothy Kidd for her guidance and support, the work of this thesis would not have been possible without her help. I'd like to thank my family for all their support and encouragement - My parents, sisters, grandfather Linton Miller and grandfather Sylus Toussaint. Finally I'd like to thank my friends Middledé, Joel and Amanda for inspiring me and believing in me.

"Equal rights, fair play, justice are all like air; we all have it or none of us has it" - Maya Angelou

Chapter 1: Introduction

As a Canadian immigrant from a multinational family, one aspect of Canada's heritage and national identity I have always admired is the celebration of multiculturalism¹¹. Canada can be considered the most diverse among the G8 member states, with more than 20% of its population foreign born. A number significantly above Germany's foreign population of 13% and that of United States of America at 12%¹². 85% of Canadians view ethnic and cultural diversity as a value that Canadians share to a great or moderate extent and an increasingly large majority views multiculturalism as an important symbol of national identity¹³. One of the most popular terms used to describe the ethnic and cultural diversity in Canada is as a *mosaic*. This term "postulate[s] the preservation of some aspects of immigrant culture and communal life within the context of Canadian citizenship and political and economic integration into Canadian society"¹⁴. *Mosaic* suggests that in Canada, assimilation is not enforced and it is a nation respectful of diversity and inclusion for all.

The importance of multiculturalism to Canadians has long historical roots. One of the most important events occurred in 1971, when Canada became the first nation to adopt multiculturalism as an official policy¹⁵. The policy of multiculturalism was based on recommendations from the Royal Commission on Bilingualism and Biculturalism created in 1963 to evaluate the current state of bilingualism and biculturalism as well as the equality of the

¹¹ Canadian Multiculturalism Act, 1985. (3) (1) (b)

¹² Canada. Statistics Canada. *Immigration and Ethnocultural Diversity in Canada*. 2011.

¹³ Sinha, Maire. "Canadian Identity, 2013". Statistics Canada. 2015

¹⁴ Peach, Ceri. 2005. "The Mosaic Versus the Melting Pot: Canada and the USA." *Scottish Geographical Journal* 121, no. 1: 3-27. *Humanities Source*, EBSCOhost.

¹⁵ Canada. Canadian Heritage. *Annual Report on the Operation of the Canadian Multiculturalism Act 2015-2016*. 2017.

partnership between the British and French elements of Canada¹⁶. The Commissioners were additionally instructed to consider other ethnic groups and eventually the Commission's reports included a recommendation that ethnic minority groups who were not of English or French heritage, be given greater recognition and support in preserving their cultures.

The adoption of multicultural policy was partially moved by political concerns. In Quebec a movement for separatism from Canada was on the rise in the 1960s and the Liberal's traditional support in Quebec was being challenged. Pierre Elliott Trudeau, from Quebec, hoped a policy of multiculturalism would assist the Liberals in widening support from minority groups in Ontario and furthermore hope to reconcile the opposition to bilingualism in Western Canada¹⁷. Prime Minister Pierre Elliott Trudeau declared multiculturalism as an official policy during his powerful a speech at Parliament. Trudeau announced “for although there are two official languages, there is no official culture, nor does any ethnic group take precedence over any other. No citizen or groups of citizens is other than Canadian, and all should be treated fairly”.¹⁸ Trudeau's proclamation gained the unanimous approval of all members of Parliament demonstrating the overdue political support for ethnic and cultural diversity in Canada¹⁹.

The values of diversity and inclusion are fundamental to Canadian legislation and are outlined today in documents such as the *Canadian Human Rights Act*, the *Charter of Rights and Freedoms*, the *Employment Equity Act* and the *Canadian Multiculturalism Act*²⁰. However

¹⁶ Sarah V. Wayland, “Immigration, Multiculturalism and National Identity in Canada,” *International Journal of Group Rights* 5, no. 1 (1997): 46-47.

¹⁷ Ibid.

¹⁸ Pierre Elliott Trudeau Multiculturalism. *Canada History*.

<http://www.canadahistory.com/sections/documents/Primeministers/trudeau/docs-onmulticulturalism.htm>

¹⁹ Richter, Miriam Verena. *Creating the National Mosaic: Multiculturalism in Canadian Children's Literature From 1950 to 1994*. Amsterdam: Brill Academic Publishers, 2011. 39.

²⁰ Canada. Canadian Heritage. *Annual Report on the Operation of the Canadian Multiculturalism Act 2015-2016*. 2017.

despite the celebration of multiculturalism and the legislation enacted, inequalities and discrimination still remain in Canada. From the 1970s to the mid-1990s, there was a trend across many of the wealthier countries in the northern hemisphere to increase the recognition and accommodation of diversity through a wide range of multiculturalism policies. These policies were endorsed by both domestic and international organizations²¹. *Employment Equity* is one of those policies that was created in 1986 to fight systemic discrimination in the workplace and with the following goals:

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 fulfilment 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 differences²².

The *Employment Equity Act* was largely influenced by a 1984 report called *Equality in Employment: A Royal Commission Report* in which Justice Rosalie Silberman Abella analyzed the problem of inequality in Canadian society²³. In response to her report, the government took the initiative and responded to the demands of women, aboriginal people, people with disabilities and people of color who looked to affirmative action as a solution to the discrimination they faced. The solution to the discrimination these groups faced was not only inspired by the American experience but also the francophone Canadians who had already successfully increased their representation in the public service with affirmative action²⁴. While

²¹ Kymlicka, Will. 2010. "The rise and fall of multiculturalism? New debates on inclusion and accommodation in diverse societies." *International Social Science Journal* 61, no. 199:97-112.

²² Employment Equity Act. 1995.

²³ Agócs, Carol. 2014. *Employment equity in Canada: the legacy of the Abella report*. N.p.: Toronto: University of Toronto Press, 2014., 2014. 13.

²⁴ Ibid. 15

writing the report, Justice Abella researched the American approach; she however rejected the idea of affirmative action. Abella particularly disagreed with affirmative action quotas, the requirement of a prior finding of discrimination and the individual rights model on which it was based²⁵. The Commission advocated for goals and targets rather than quotas and ways of preventing discrimination rather than dealing with the aftermath²⁶. Abella coined the term “Employment Equity” and explained in her report that “measures to eliminate employment discrimination barriers and practices should be referred to as employment equity, rather than affirmative action.”²⁷

Research Question

The purpose of this study is to explore just how effective the *Employment Equity Act* has been to fight systemic discrimination and ensure the workforce is as fair, diverse and inclusive as possible. This study is significant because over 20 years have past since the *Employment Equity Act* was enacted and designated groups remain unchanged²⁸. Canada’s population has changed significantly over the last decade, as the country has accepted around 250,000 immigrants and refugees each year, bringing new cultures, religions and traditions²⁹. Canada has also amended its policies regarding the rights and protections for individuals to freely express their various sexual and gender identities, which was not the case when the EEA was created in 1986.

²⁵ Ibid. 14.

²⁶ Cohen, Marjorie. 1985. *Employment Equity is not Affirmative Action*. Canadian Woman Studies. 23-25

²⁷ Abella, R. S. 1985. *Equality in Employment: A Royal Commission Report: Research Studies*. Ottawa: Canadian Government Publishing Center.

²⁸ Employment Equity Act. 1995.

²⁹ Butler, Don. 2014. “Canadians in the Dark about Immigration numbers: survey”. Ottawa Citizen.

This study seeks to explore the following questions: In the past five years, has *Employment Equity* proven to be effective at providing an accurate representation of the designated groups in the Canadian workforce? Is there a need for inclusion of other marginalized subjects who were not included in the earlier designated groups such as sexual, gender and religious minorities in the *Employment Equity Act*?

Broader Significance

The first time I became inquisitive about Employment Equity was while working in Ottawa as Staffing Assistant in 2012. I quickly noticed an inviting paragraph on every job application stating the support of Employment Equity and encouraging members of the designated groups to apply. I admired the objective of this policy and for taking a step for more diverse and inclusive workplace. However after working with the organization for over two years and seeing various people come and go, I was still one of the very few people of color at my workplace. I began to question the practicality of the Employment Equity really is and the level of priority to employers. I didn't see any significant change in diversity at my workplace in those two years and spotted even less change in the higher ranking the positions.

This thesis draws on the studies and research on the effectiveness of the Employment Equity. Carol Agocs, Professor emerita at the University of Western Ontario, outlines many of the current issues with employment and equality policies in Canada and suggestions for change in her book *Employment Equity in Canada: the legacy of the Abella Report*, released in 2014. My thesis intends to provide an updated perspective on some of this research, specifically the effectiveness of Employment Equity for people of color, sexual and gender minorities. In

addition this thesis will explore the need for additional protection against systemic discrimination of religious minorities, specifically the case of Muslims in Canada, a newer topic to the discourse of employment equity and with very little research.

Methodology & Limitations

In order to answer the research questions I will be using both qualitative and quantitative analysis from secondary sources. The secondary sources include reports, statistics and interviews from Statistics Canada, Employment and Social Development Canada, The Catalyst and The National Council of Canadian Muslims. The data collected ranges from the years 2009-2016. I selected data from Statistics as it is Canada's national statistical agency and has the responsibility of conducting a country-wide census every five years on the first and sixth year of each decade. This thesis will be reviewing data from the Annual 2016 Employment Equity Act Report on the representation of people of color in which Employment and Social Development Canada is responsible for producing.

There are currently no government agencies responsible for research on workplace discrimination for LGBTQ+ and Canadian Muslims so I choose leading non-profit organizations who have released research on workplace discrimination and these issues. The Catalyst is an organization rooted in research focused on workplace change, who diagnose barriers and promote inclusive cultures. In 2009, they released a report on various LGBTQ+ employees experiences all throughout Canada. The National Council of Canadian Muslims have been at the

forefront for advocating their concerns and one of the largest organization to challenge Islamophobia and discrimination against the muslim community.

Although I have made every attempt to build on previous research and examine the relevant legislation and policies, this study is circumscribed by several factors. First, it is obtained from secondary sources and based on what is openly available to the public in addition, although the EEA Annual Reports are released every year, much of the data is drawn from previous years. The data cannot therefore be a representation of the most current demographics, representation of marginalized groups or the levels of discrimination in Canada. A final limitation to this study is that it does not reflect a majority of the workforce and is only a small representation of diversity management in Canada because the *Employment Equity Act* requires federally regulated employment sectors, which make up around 4% of the Canadian workforce to submit an annual report³⁰.

³⁰ Canada. Employment and Social Development Canada. Labour Program. *Employment Equity Act Annual Report 2016*. 2016.

Chapter 2: Literature Review

My thesis seeks to explore the effectiveness of multiculturalism policies for employment in Canada. Before we review the current state of these policies, it is necessary to review some of the leading theoretical debates that shape the public conversation and policies of managing diverse societies. I will first provide an overview of a dilemma for multiculturalism : recognition or redistribution. Redistribution requires for everyone to have the same and equal treatment and whereas recognition leads to differential treatment. Second I examine some of the arguments from the field of Canadian Ethnic Studies and the suggestions for post-multiculturalism approaches. Finally I review the values of intersectionality for this study, intersectionality is another contemporary approach to analyzing the experiences, claims and movements for change of marginalized people which grew out of critical race studies and within Feminist Studies.

Redistribution or Recognition

Two leading theorists have been responsible for leading the debate of redistribution or recognition. This debate attempts to solve the question of what culturally diverse groups really want. Asking the question if these groups looking for the recognition of their particularity, specificity and to rectify the cases of misrepresentation and misrecognition suffered over the years. Or do they seek to have a fair chance to collective assets and a more equitable distribution of wealth and power? It can be argued that minority groups want a combination of both however it is a complex suggestion because both ideas are based on different principles of how justice is defined³¹.

³¹ Siapera, Eugenia. 2010. *Cultural diversity and global media: the mediation of difference*. n.p.: Malden, MA: Wiley-Blackwell, 2010., 2010.

Redistribution is based on the idea of justice as equality, which requires everyone to have the same and equal treatment. Recognition on the contrary requires an acknowledgement of difference and culturally specificity, which leads to differential treatment. This debate has been at the forefront of the work of two major political theorists, Nancy Fraser and Axel Honneth. Nancy Fraser argues that claims for recognition and claims for redistribution must be honored in different ways. Honneth argues that recognition is a very particular category which includes redistribution and that claims for recognition precede and frame claims for redistribution. According to Honneth, social democracy - the equal distribution of resources, is opposed to multiculturalism as multiculturalism requires differential treatment³².

Nancy Fraser has described the problem of redistribution or recognition as a shift from historical demands concerning material inequality, concerning for example labor rights, to demands concerning cultural domination, expressed by feminists and anti-racist movements beginning in the 1960s and 1970s. These so-called new social movements shifted their emphasis from class to group identity as the main means for political mobilization framing race, ethnicity, gender and sexuality a new focal point for political struggle. These struggles have not always been connected to demands to challenge and remedy material inequalities and the distribution of public resources and services. Instead various citizens and social movement groups have requests against cultural domination, misrepresentation and the overall harm of mono-culturalism³³.

Fraser insists that there is a need to reformulate social justice in a way that can meet both kinds of demands of cultural recognition and social equality in a way that supports each other instead of undermining each set of claims making. The solution she suggests is called

³² Ibid

³³ Fraser, Nancy. 1997. From Redistribution to Recognition? Dilemmas of Justice in a "Postsocialist" Age.

perspectival dualism, which acknowledges the analytic division between the economy and culture and supporting redistribution and recognition. Social justice according to Fraser's *perspectival dualism* requires that the economic aspects of cultural misrecognition are addressed at the same time as the cultural aspects of maldistribution³⁴. In practical terms, *perspectival dualism* must ensure that a process of deconstruction is applied to misrecognized identities in order to restore them at the same time as a process of redistribution of resources is needed to address material inequalities³⁵.

Canada has accepted the need for both aspects of redistribution and recognition by declaring equal treatment for all under the *Charter of Rights and Freedoms* but also approving differential treatment for some of its marginalized communities with the adoption of multiculturalism legislation such as *Employment Equity Act*. Although there are multiculturalism policies in place, this thesis explores how effective they have been over the last couple of years at eliminating discrimination and ensuring the current approaches are benefitting its intended recipients.

Multiculturalism

The concept of multiculturalism has many different layers and dimensions, and scholars usually begin by defining these different dimensions or layers. For an example, Garcea views multiculturalism both as an ideology and a public policy, distinguishing between "multicultural public philosophy" and "multicultural public policy"³⁶. Fleras and Elliott distinguish between official multiculturalism- as a public policy and critical multiculturalism- as a discourse. Fleras

³⁴ Ibid

³⁵ Siapera, Eugenia. 2010. "*Cultural diversity and global media: the mediation of difference*. n.p.: Malden, MA: Wiley-Blackwell, 2010., 2010. Ignacio:USF Libraries Catalog, EBSCOhost. 55

³⁶ Garcea, J. 2008. Postulations on the fragmentary effects of multiculturalism in Canada. *Canadian Ethnic Studies* 141-160.

and Elliott outline five dimensions of multiculturalism in a comprehensive book on multiculturalism in Canada--multiculturalism as an empirical fact, an ideology, a practice, a critique and a state policy. Multiculturalism as an empirical fact refers to demographic diversity and corporate pluralism where state policy protects cultural differences and provides institutional means to encourage ethnically proportional distributions of privilege and power.

Multiculturalism as an ideology seeks to explore an ideal of what multiculturalism ought to be.

Multiculturalism as a practice explores what occurs with the commodification of diversity as a “resource” and the political, commercial and minority interest in its utilization. Multiculturalism as a critique seeks to challenge the traditional authority and includes the challenge by specific minority groups of the official policy of multiculturalism or in its absence³⁷. Another distinction within debates multiculturalism has been termed as “from above” and “from below”.

Multiculturalism “from below” refers to a discourse played out within local communities whereas multiculturalism “from above” refers to when the state organizes multiculturalism through policy and is involved in the management of diversity³⁸.

Legal and political ideas concerning the management of diversity have been in debates all around the globe for over the past 40 years and has been referred to as the rise and fall of multiculturalism. From the 1970’s to the 1990’s there was a growing trend to accommodate diversity through a wide range of multiculturalism policies. However since the mid 1990s there has been a backlash and pullback from multiculturalism in many western countries and the re-insertion of ideas of common national identities and even in some cases the reinsertion of discourses and policies of assimilation. The shift back to previous methods and ideas of

³⁷ Fleras, A., Elliott, J. 2002. Engaging diversity: Multiculturalism in Canada (2nd ed.)

³⁸ Werbner, P. (2012). Between global demise and national complacent hegemony p.103-114

managing diversity largely stems from groups within the dominant ethnic groups, and identified with conservative or right-wing political formations who feel as though the accommodation of minority groups has gone too far and is threatening to their lives³⁹.

In Europe, U.S, Canada and elsewhere, political parties on the right-wing suggest that multiculturalism has contributed to the social breakdown, ethnic tension and the increase in extremism and terrorism⁴⁰. An example right-wing ideologies in Canadian legislation is with the Citizenship law Bill C-24. This law gives power to the federal government to revoke Canadian citizenship for certain dual citizens and creating a division classes of citizens on the basis of a so called “ever-evolving threat of Jihadi terrorism”⁴¹. Political parties on the left with some members who previously were supporters of multiculturalism have also began to question the model as a contribution to the fall of the welfare state and failure of public services⁴². Additionally the political centre-left see multiculturalism as failing to aid its intended recipients such as the social democratic parties in Europe who have shifted to discourse of a shared values and integration. The following questioning and criticism has called for the reevaluation of multiculturalism. The social-democratic discourse of national integration is different from the radical right, as they call for the need for a more inclusive national identity to fight discrimination and racism but to nevertheless still wish to distance themselves from the rhetoric of multiculturalism⁴³. The term “post-multiculturalism” or “end of multiculturalism” has been

³⁹ Kymlicka, Will. 2010. “The rise and fall of multiculturalism? New debates on inclusion and accommodation in diverse societies.” *International Social Science Journal* 61, no. 199:97-112.

⁴⁰ Vertovec, Steven. “Towards post-multiculturalism? Changing communities, conditions and contexts of diversity”

⁴¹ McQuigge, M. “Citizenship law Bill C-24 challenged as unconstitutional by civil rights groups.” 2015, August 20. *Globe and Mail*.

<https://www.theglobeandmail.com/news/national/citizenship-law-bill-c-24-challenged-as-unconstitutional-by-civil-rights-groups/article26032727/>

⁴² Vertovec, Steven. “Towards post-multiculturalism? Changing communities, conditions and contexts of diversity”

⁴³ Kymlicka, Will. 2010. “The rise and fall of multiculturalism? New debates on inclusion and accommodation in diverse societies.” *International Social Science Journal* 61, no. 199:97-112.

used by scholars to suggest the need for change to the current policies and practices as well as to ameliorate the integration process of immigration and ethnic diversity. The term “post-multiculturalism” is particularly popular in Europe and used by Vertovec who intended its use to suggest an alternative to multiculturalism. According to Vertovec “post-multiculturalism” seeks to find for new models that promote social cohesion, assimilation and a common identity. It is to no surprise that , both academically and publicly, Europe’s dominant discourse views multiculturalism as a failed project⁴⁴.

In contrast to Europe’s anti-multiculturalism discourse, Canada’s dominant discourse favours multiculturalism. Fleras and Elliott provide a summary of the various critiques of multiculturalism as an official public policy in Canada. The first critique perceives multiculturalism as divisive because it undermines Canadian identity and social coherence. This critique argues that cultural diversity is promoted at the expense of Canada’s national unity. The second type of critique views multiculturalism as marginalizing because it ghettoizes minorities and their aspirations and commodifies their culture by inserting cultural solutions to structural problems. The third type of critique views multiculturalism as essentializing because it views Canada as a collection of autonomous ethnic groups that are self-contained, determining and controlling and does not observe the differences among ethnic and other groups. The fourth type of critique views multiculturalism as deceiving because it does not address the root cause of inequalities. This critique suggests multiculturalism is a symbol without any substance and only seeks to conceal, avoid and distort. The fifth critique views multiculturalism as hegemonic

⁴⁴ Revisiting Multiculturalism in Canada: Theories, Policies and Debates p. 2-5

because it does not empower minorities but rather uses them as an instrument of control that achieves unity by manipulating individual's consent without them being aware⁴⁵.

As mentioned, some of the critiques with multiculturalism in Canada point out the need to observe the differences among ethnic groups. The current designated groups of the *Employment Equity Act* are aboriginals, women, people of color and people with disabilities although these marginalized groups are not mutually exclusive. The contemporary approach of intersectionality stresses the importance of multiply experiences of marginalized communities and the need for a new approach to the way we have been promoting multiculturalism.

Intersectionality

Intersectionality has been described as “the notion that subjectivity is constituted by mutually reinforcing vectors of race, gender, class and sexuality” and it has surfaced as the main analytic tool for theorizing identity and oppression⁴⁶. The term intersectionality was originally coined by Crenshaw and refers to the multidimensionality in the experiences of marginalized individuals⁴⁷. Intersectionality grew from critical race studies in the late 1980s and 1990s as a scholarly movement dedicated to addressing the problem of color blindness, neutrality and objectivity in the legal academy. Intersectionality has a particular interest; analyzing the intersection of race and gender bypassing the “single-axis framework” which is commonly used by feminists and anti-racists. Intersectionality seeks to explore the different ways in which race and gender interact and the complexity of experiences⁴⁸.

⁴⁵ Fleras, A., & Elliott, L. (2002) *Engaging in Diversity : Multiculturalism in Canada*

⁴⁶ Nash, Jennifer C. 2008. Re-thinking intersectionality, *Feminist Review* 89(1): 1–15.

⁴⁷ Crenshaw, K. 1989. Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*. 139

⁴⁸ Nash, Jennifer C. 2008. Re-thinking intersectionality, *Feminist Review* 89(1): 1–15.

Intersectionality serves a couple of theoretical and political purposes for the works of both feminists and anti-racists. Firstly, it invalidates race and gender binaries and theorizes identity in a more complex form⁴⁹. Intersectionality accommodates to individuals who exist in the overlapping of the margins of race and gender, as well as the empty spaces between⁵⁰. Secondly, intersectionality attempts to provide a vocabulary to the response to critiques of identity politics. Liberal critiques of identity politics criticize its failure to transcend difference however Crenshaw argues that the real problem is that identity politics neglects intra-group differences. Which is a problem that intersectionality seeks to solve by highlighting the differences within the broad categories such as “women” or “black”, mediating the tension between multiple identities and group politics⁵¹. Lastly intersectionality allows scholars to recognize the consequence of exclusions that multiply marginalized individuals experienced from feminist and anti-racist work as well as the impact the absence has had on both theory and practice⁵².

Intersectional theorists argues that marginalized subjects have an advantageous knowledge and particular perspective that scholars should consider when envisioning a just society. Critical race theorists have created a range of terms to describe the methodology of drawing upon marginalized subjects vantage points such as “looking to the bottom”, exploring “iterative knowledge” or “multiple consciousness” of black women. These strategies help

⁴⁹ Ibid

⁵⁰ Crenshaw, K. 1992. “Whose story is it anyways? Feminist and antiracist appropriations of Anita Hill” in Morrison, T. *Race-ing Justice, Endangering Power*, New York: Pantheon

⁵¹ Crenshaw, K. 1991. “Mapping the margins: intersectionality, identity politics, and violence against women of color” *Stanford Law Review*, Vol. 43, No. 6: 1241-1299.

⁵² Ibid, Crenshaw, K. 1989. *Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics*. University of Chicago Legal Forum. 139 & Williams P.J. 1989. *The Alchemy of Race and Rights*, Cambridge: Harvard University Press.

intersectional theorists explore the distinct position of marginalized subjects to create a better vision of equality⁵³.

With intersectional theory having an emphasis on the experiences of subjectivity and oppression of black women, it has often blurred the question of whether all identities are intersectional or if it is only multiply marginalized subjects who have an intersectional identity. Some feminists scholars insist that intersectionality refers to all subject positions that are fundamentally developed by the interplay of race, gender, sexuality, class, etc. However the majority of intersectional studies has been centered on the experiences of multiply marginalized subjects⁵⁴.

Intersectional literature has generally been opposed to the exploring the identities those who are perceived to be privileged or partial privileged identities. Although they are, like all identities, the composition of various vectors of power. Peter Kwan notes:

“[...] straight white maleness is arguable a multiply identity, but intersectional theorists would resist the claim by straight white males that theirs is an intersectional subjectivity. Central to intersectional theory is the recovery of the claims of identities of those who, like African American women, are pushed to the margins of racial discourse because of assumptions of patriarchal normativity, and simultaneously pushed to the margins of the feminist discourse because assumptions of racial normativity”⁵⁵.

Kwan suggests that intersectional theorists have for the most part been opposed to imagining non-multiply marginalized subjects as part of their theoretical and political debates because of their investment and main importance is to recover the voices of marginalized subjects⁵⁶. Intersectionality is an approach that would be beneficial to the representation of

⁵³ Nash, Jennifer C. 2008. Re-thinking intersectionality, *Feminist Review* 89(1): 1–15.

⁵⁴ Ferguson, A. 2000. Resisting the veil of privilege: building bridge identities as ethio-politics of global feminists.

⁵⁵ Kwan, P. 1996. “Jeffrey Dahmer and the cosynthesis of categories” *Hastings Law Journal*. Vol: 48. 1257-1292

⁵⁶ Nash, Jennifer C. 2008. Re-thinking intersectionality, *Feminist Review* 89(1): 1–15.

marginalized subjects in the *Employment Equity Act*. The different minority groups in Canada have such different historical past, experiences and struggles and the current approaches should be challenged.

Chapter 3: Historical Context

History of Immigration in Canada

Immigration for the purpose of settling has always played a role and been central in Canada's history. The national identity of multiculturalism and the acceptance of diversity in Canada was not always nationally celebrated. Canada's immigration was and still is a catalyst to the economic development of the nation and a reflection of Canadian attitudes and values. It has been economically self-serving and ethnically and racially biased⁵⁷. When exploring the discrimination of marginalized people it is essential to understand this historical past.

In the 17th century and much of the 18th century, the British and French colonial administrations were initially uninterested in the investment of money and energy to encourage settlement. However this policy slowly changed and the number of settlers began to slowly grow with the hopes that settlement in Canada would secure the sovereignty of colonial land claims, spread christianity to the aboriginal people and exploit natural resources on behalf of European investors. The population at the time of the British conquest in 1760 was around 65,000. Despite the victory of the British ending much of migration from France, this did not translate into an influx of English speaking immigrants. With the exception of a few colonial administrators, military personnel and merchants few English speaking settlers were interested in Canada. It is doubtful that British administrators would have been welcoming to the settlers, who feared an influx would create complications with the conquered Roman Catholic, French territory⁵⁸.

Many of Quebec's new British rulers were however forced to accept thousand of English speaking, mostly Protestant settlers who were displaced by the American Revolution as the

⁵⁷ Troper, H. 2017. Immigration in Canada. The Canadian Encyclopedia.

⁵⁸ Ibid

United States was often restricted. These settlers were largely political refugees, they were referred to as United Empire Loyalists. The Loyalist migration was not uncontrolled or unassisted. Their plight was assisted and made less severe with the help of government agencies.

During the mid-19th century, the Western parts of Canada in particular, returned to a painfully inconsistent and slow economic growth. Immigration from England, Scotland and the U.S was officially being encouraged and the agricultural lands, commercial and administrative towns were gradually being strengthened. The new immigrants were similar to those of the already established community. However this changed in 1848, with the arrival of a new wave of immigrants due to the Irish potato famine and to a smaller group fleeing the 1848 European rebellions.

In addition, ten thousand settlers arrival in Canada, mostly Irish, were responsible for initiating great economic and social changes. In many ways the Irish were the first large wave of foreign immigrants. Although they spoke English, their cultural, social or religious values did not mirror that of the majority. Irish sections and wards were beginning to rapidly develop in Canadian cities and large towns filling the seasonal employment demands. The Irish stood out as they were Catholics, with low incomes and different ways of life. For a few years the Irish supplied the base for the slow advancement of communication, commerce and industry. However as many Irish were not farmers and they were only a small addition to the central component of North American economic and social life at the time-commerce and agricultural activity.

Canada underwent a shock when arable land began disappearing from the market. The beginning of the post-Confederation era was marked by overpopulation. There was no large

industrial base, low death rates, high birth rates and a small but continuous number of immigrants from the British Isles. In the late 19th century, Canada's future prairie provinces (Manitoba, Saskatchewan and Alberta) were open to settlement. There was a demand for farm goods which fit the elections of Wilfrid Laurier's government who encouraged settlement in the West with large scale immigration. Clifford Sifton, Canada's new minister of interior organized a far-reaching program was prepared to admit agricultural settlers from places other than the British Isles, Northern Europe and the U.S. However this was not a reflection of the actual government policy. From 1896 to 1930, the immigration policy enacted was within the framework of the British Empire in which the Canadian government and English-speaking Canadians believed in. The government defined immigrants who did not originate from the British Isles as foreign. The ideal immigrant were those of British or American independent farmers who were willing to settle in the West. The Canadian immigration policy and public opinion was evidently racist at the time.

However with the growing pressure to increase immigration for business, the railway and the potential global demands for Canadian resources, Sifton and his immigration authorities listed their ideal settlers in preference. British and American agriculturalists were followed by the French, Belgians, Dutch, Scandinavians, Swiss, Finns, Russians, Austro-Hungarians, Germans, Ukrainians and Poles. Close to the bottom of the list and the less wanted and less admissible by the government were Italians, South Slavs, Greeks and Syrians and at the very bottom were Jews, Asians, Roma people and Black persons.

Regardless of the government policies not all immigrants were committed to agriculture lifestyle or the exploitation of resources. Similar to the Irish, many "foreign", non-English

speaking and largely non-Protestant people- rejected the rural life and preferred to work in the cities. Many “foreigners” only saw themselves staying in Canada or North America for a short term until they were able to earn enough money to buy land back home or to pay off a debts. But due to the various political troubles back home, they found themselves establishing themselves in Canada and bringing along their wives and children. The hostility towards the Macedonians, Russians, Finns, Chinese and others would have been minimal if they accepted to remain isolated in the rural areas. However by moving into the large cities of Montreal, Toronto, Winnipeg, Hamilton and Vancouver they were subject to prejudices that were previously directed towards the Irish. These immigrants were allowed into Canada to satisfy the need of cheap labor force or for a pool of skilled men for factory and construction work. Although the immigrants played a significant economic role in urban centers, many Canadians demanded for stricter enforcement and a restriction of admission based on ethnicity or race.

Upon their arrival many immigrants found place for their families however the Canadian immigration policy and administration would not bend enough to admit other would-be immigrants. For example various taxes, travel restrictions and restriction agreements essentially prohibited the immigration of Asians. Female Asian immigrants were refused by the Canadian authorities who feared it would encourage permanent settlement and a generation of “yellow peril” with Asian immigrant men temporarily working on the railway and mines. In 1914 close to 400 East Indians aboard Komagata Maru-the immigrant ship- were denied entrance into Canada. The Canadian navy escorted them away from the Vancouver waters as many residents cheered with approval from the shore. In 1910 and 1911, there were rumors spreading that descendants of freed slaves were preparing to migrate to central Alberta. They were hoping to build new lives

after being forced out of their land in Oklahoma. Although there was nothing outlined in the Immigration Act that refused Blacks, they could be denied under medical grounds without an appeal. Black migrants were advised not to waste their time hoping to immigrate in Canada. Due to the economic effects of the Great Depression, selective immigration in Canada began to fade. Immigration authorities worked to prevent admissions all together. During Hitler's rule in 1933, millions of Jews and political opponents may have survived if offered a home. Canadian although expressed to sympathy to the events, they reacted with alarm to the pressure of accepting Jews and political refugees.

At the end of the war in 1945, the immigration was still restricted and unchanged from the pre-war years. Canada eventually re-opened its doors to European immigrants with the growing job market and a demand for labour. The Soviet Union and its allies closed their border and the number Eastern Europeans immigrants in Canada came to an end, bringing in a large number of immigrants from Southern Europe- Italians, Greeks and Portuguese in particular. Unlike the earlier immigration requirement and needs, the new in flux of immigrants was not restricted to agricultural activity or rural-based industries. Canada grew from the Second World War as an urban, industrial power. Some post war immigrants worked in construction and manufacturing and the better educated and skilled immigrants help expand the infrastructure of the city.

Post-wars years in Canada also lead to much needed immigration changes. Immigrants who had sacrificed in an common cause with other Canadians in the war refused to be second class citizens in a country they had helped protect. With the support from like-minded Canadians they rejected the ethnic and racial discrimination and demanded human rights reform. The last

remains of racial discrimination in immigration had gone by the late 1960s. In 1971, for the first time the majority of immigrants entering into Canada were not of European descent and has continued every year since⁵⁹.

Immigration Points System

While there are no longer any restrictions based on race or national origin, there is still a strict criteria for determining who may be a suitable candidate for entry into Canada. The points system was introduced in the 1960s. With this system, each applicant is awarded points based on their age, education, ability to speak English or French, and their skill or ability to fulfill a job in high demand⁶⁰. The points system in Canada has the goal of ensuring that large numbers of immigrants will have the minimum qualifications to thrive in a modern economy. Since 1971, Quebec has collaborated with the Federal government in the selection of immigrants, with its own points system and giving priority to the French language⁶¹.

Since the 1990s there have been major changes in Canada's immigration system. The significant change was a shift away from an emphasis on family-class immigrants and family reunification to an emphasis on independent economic class immigrants and their dependants and skill development for immigration. There was a change in the points system moving away from specific occupational preferences to a broader emphasis on education credentials, language

⁵⁹ Troper, H. 2017. Immigration in Canada. The Canadian Encyclopedia.

⁶⁰ Ibid

⁶¹ Reitz, Jeffrey G. 2012. "The distinctiveness of Canadian immigration experience." *Patterns Of Prejudice* 46, no.5: 518-538. SocINDEX with Full Text, EBSCOhost.

capabilities and young families. All with the goal of increasing Canada's human capital and skills development⁶².

There are however concerns that have arose from Canada's emphasis on the high levels of education human capital such as problems with the labour market recognition of foreign credentials, the rise of agglomeration of recent immigrant in the three urban areas of Toronto, Vancouver and Montreal as well as a slomer rate of assimilation in the Canadian labour market for recent cohorts of immigrants. Scholars such as Reitz call for the improvement of Canada's immigration suggesting an approach in where immigrants could better utilize their skills⁶³. The Canadian points system provides one explanation for the under representation of people of color in the workforce. This thesis explores however how *Employment Equity Act* has tackled this issue.

The adoption of the Employment Equity Act

Canadian social and political activism in the 1970s through the mid 1980s was marked by the demands of equal rights for women, racialized groups, people with disabilities and Aboriginal people. These groups organized politically and demanded that the inequalities they had been experiencing be addressed. In 1982, the Canadian *Charter of Rights and Freedoms* was adopted influenced by grassroot activism of the women across Canada. In 1984 during elections, three major political parties all adopted equity measures to increase the number of women they

⁶² Beach, C., Green, A.G., Worswick, C. 2006. "Impacts of the Point System and Immigration Policy Levers on Skill Characteristics of Canadian Immigrants" Queen's Economic Department.

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.599.2497&rep=rep1&type=pdf>

⁶³ Ibid.

nominated. As a result of these initiatives, the number of women elected to Parliament and provincial legislatures began to increase⁶⁴.

Over the next two decades there had been sufficient experience with a human rights process to establish worker rights and employers responsibilities for discriminatory acts in the workplace. However the human rights system left the burden of change on the discriminated individuals-keeping the same structures and systems that continued to exclude and marginalize them. Despite the human rights codes and the *Charter of Rights and Freedoms* allowing voluntary affirmative action, there were very little who did⁶⁵.

After demands for proactive and mandatory approaches to the discrimination, Pierre Elliott Trudeau's Liberal government made an announcement. In June of 1983, Lloyd Axworthy the Minister of Employment and Immigration in the Liberal government of Pierre Trudeau announced the Royal Commission on Equality in Employment and the appointed Judge Abella, who was at the time the sole commissioner of the Ontario Provincial Court⁶⁶. Her responsibility was to "inquire into the most efficient, effective and equitable means of promoting employment opportunities, eliminating systemic discrimination and assisting all individuals to compete for employment opportunities on an equal basis"⁶⁷. Abella's Report was published in 1984 and was an long awaited time for activists concerned about the fairness and equality in employment for aboriginals, women, people of color and people with disabilities. When the Employment Equity Act was enacted in 1986, Canada held a sense of pride that this form of legislation was a

⁶⁴ Harder, Lois. 2006. "Women and Politics in Canada" In *Women, Democracy and Globalization in North America*. 69

⁶⁵ Agócs, Carol. 2014. *Employment equity in Canada: the legacy of the Abella report*. N.p.: Toronto: University of Toronto Press, 2014., 2014. 3.

⁶⁶ Ibid

⁶⁷ Abella, R. S. 1985. *Equality in Employment: A Royal Commission Report: Research Studies*. Ottawa: Canadian Government Publishing Center.

distinctly Canadian approach to affirmative action. One that was different from the United States being mandatory, proactive and designed in a way to prevent discrimination in the workplace⁶⁸.

In the 1980s and 1990s, the Royal Commission Report and the *Employment Equity Act* positioned Canada as a policy leader, due to the recognition of the structural and systemic roots of inequality in the workforce and the need for change. In the Royal Commission Report, the concept of equality is described as one that is not an absolute state but one that evolves over time. Equality is a long-term process of removing discriminatory barriers and improving access to opportunities for discriminated groups. Abella suggested that equality in the workplace would require removing “barrier by barrier, discriminatory disadvantages” and replacing them with more inclusive and fair policies, accommodating their differences as well as initiating supportive and positive measures. Based on the recommendations of the report, the *Employment Equity Act* outlined a series of diagnostic, problem solving, and change actions that employers in the federal jurisdiction and federal contractors sector would be required to implement in the workplace⁶⁹.

⁶⁸ Agócs, Carol. 2014. *Employment equity in Canada: the legacy of the Abella report*. N.p.: Toronto: University of Toronto Press, 2014., 2014.

⁶⁹ Ibid

Chapter 4: Data & Findings

The presentation of people of color in the Annual EEA Report

As per required by the *Employment Equity Act* (EEA), every year the Minister of Employment, Workforce Development and Labour must submit the status of the Employment Equity in the federally regulated private sector to the Parliament⁷⁰. The most recent report was released to the public in 2016. All data used in the annual report for the “visible minorities”, women and aboriginal people is obtained from the 2011 National Household Survey. The EEA report points out the time lag in the data as the representation of the 2015 demographics is being compared to the national household survey data of 2011. The report displays that the only designated group members who have consistently been growing in representation and stayed above the Labour Market Availability (LMA) is the “visible minority” group.

An initial finding from the presentation of data in the Annual EEA Report-is that it fails to display the representation of different race and ethnic groups but it rather groups all people of color into a category called “visible minorities”. Woolley reveals the problematization of this term. First, problematizing visibility is “thought to normalize whiteness as a the normative standard at the expense of “ab-normalizing” racial minorities” and it therefore suggested to have biased in its racial connotations”⁷¹. In the regards to the Annual Reports, “normalizing invisibility under a single expression, specifically minority experiences and identities [are] in effect perpetuating the very exclusion under challenge”⁷². This is problematic because the labour force experience is different for each member of the group. The grouping of all people of color

⁷⁰ Canada. Employment and Social Development Canada. Labour Program. *Employment Equity Act Annual Report 2016*. 2016.

⁷¹ Woolley, F. 2013, June 10. “Visible minority”: Misleading Concept That Ought to be Retired. *Globe and Mail*

⁷² Fleras, Augie. 2014. *Racisms in multicultural Canada: paradoxes, politics, and resistance*. N.p.: Waterloo, Ontario: Wilfrid Laurier University Press, 2014., 2014..162

into one fails to acknowledge which races, cultures, nationalities and ethnicities are the most susceptible to discrimination, disregarding each group's different historical discrimination in Canada.

The EEA Annual Report provides data demonstrating the overall representation of people of color in the federally regulated sector in comparison to the previous years. The representation of people of color in 2014 was 20.4% and increased to 21.2% in 2015, both of these numbers above the LMA of 17.8%.

Table 1:

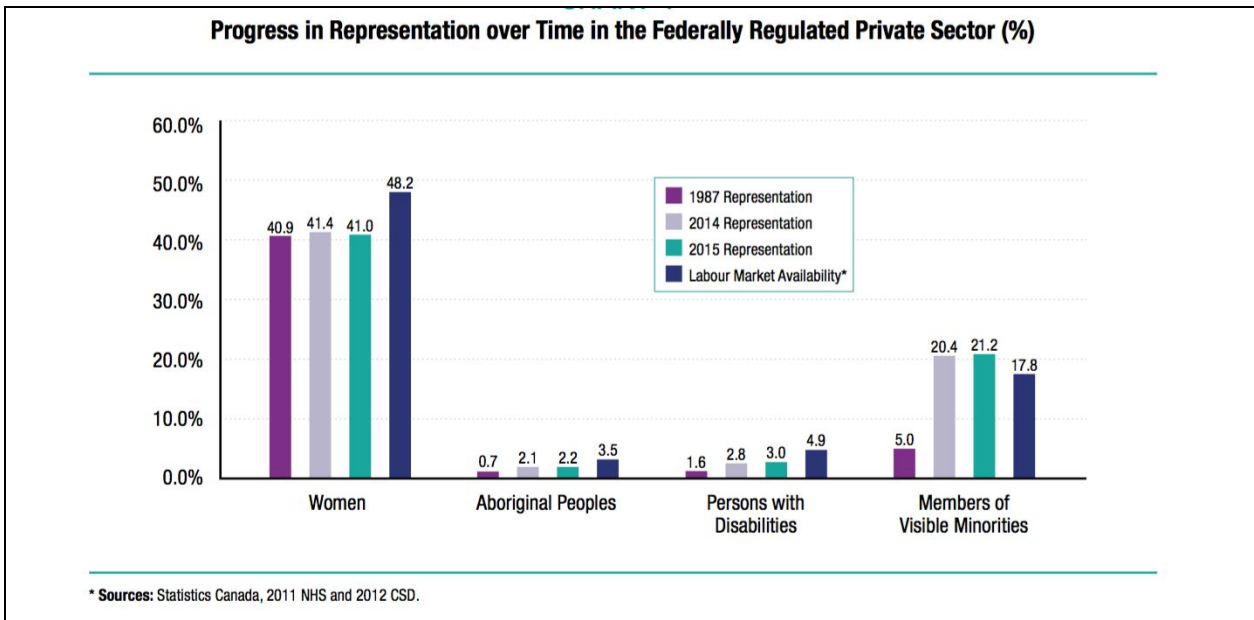
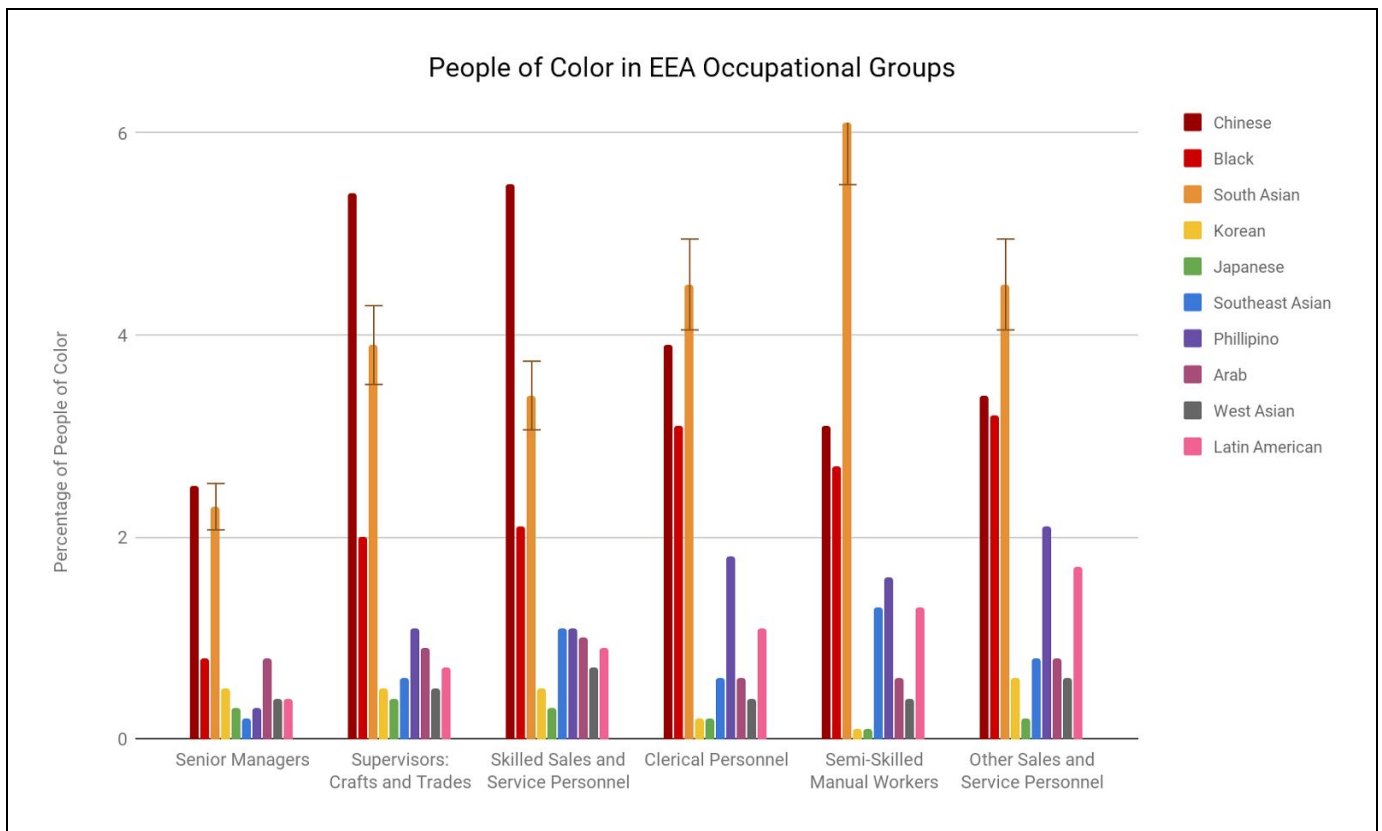


Table 1 indicates the Canadian employers under the EEA have increased the representation for people of color when compared to the LMA and the representation of the previous year 2015. To further understand the details of this data, I analyze the different occupational groups of people of color under the EEA. There is very little data available to the public, however Table 2 displays the EEA occupational groups data of 2014. I choose to analyze

the 6 occupations out of the total 14 occupational groups within the EEA. I selected the four groups with highest percentage of people of color and two groups with the lowest representation for comparison. The occupational group with the highest percentage of people of colour is Other Sales and Service Personnel at 18.5%, Semi-Skilled Manual Workers at 17.9%, Skilled Sales and Service Personnel at 17.2%, Clerical Personnel at 17.2%. The lowest percentages of visible minorities are found in Senior Managers positions at 8.7% and Supervisors: Crafts and Trades 5.6%.

Table 2



Source: Statistics Canada NHS (2011)

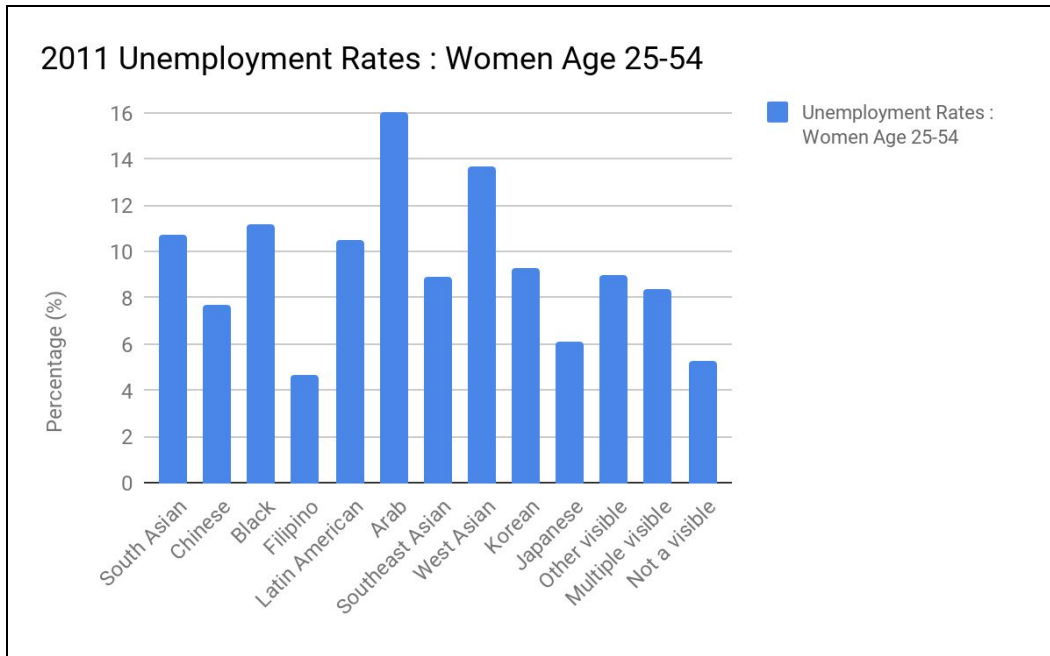
It should be noted that South Asians, Chinese and Blacks are the largest minorities found in Canada⁷³. South Asians make up 25% of all visible minorities, Chinese 20% and Blacks 15%. However it does not change the fact all visible minorities group members are underrepresented in the Senior Manager positions. Table 2 displays Senior Manager positions are consistently at a low for all minority in number regardless of ethnic and racial background. People of color who identified as Chinese are found to be better represented in Supervisors in Craft and Trades than other races. Blacks, Filipinos, Latin Americans have larger gap between those in found in positions of sales and service personnel and craft and trade supervisors or senior manager positions. This data demonstrates how vastly different the workplace is for each member within the people of color group and the need more research and representation in the EEA Annual Reports. The EEA Annual Report data displays people of color been represented accordingly based on the labour market availability, the EEA Annual Report does not explore how the discrimination and prejudice that can occur within higher ranking positions. This information needs to be further researched and included in future reports.

The EEA Annual Reports fails to address the study of intersectionality within the designated groups. Individuals who are members of two or more designated groups have very different experiences in the workforce. In 2011, the unemployment rates of women of color were significantly different. Table 3 displays women of the core working age, 25 to 54 years have vastly different unemployment for Filipinos and Arab women. Arab women have an employment rate of 16% compared to Filipino women with a rate of 4.7%. In addition the unemployment rate

⁷³ Statistics Canada, "Immigration and Ethnocultural Diversity in Canada: Visible Minority Population," Census Program Analytical Products, 2011 (2015).
<http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-010-x/99-010-x2011001-eng.cfm#a4>

of Filipino women was 0.6 percentages lower than that of women who were not a visible minority in comparison to Arab women is 10.7 percentages higher.

Table 3



*Source Statistics Canada NHS 2011

The intention of Table 3 is not to be displayed enough evidence that discrimination is greater for one particular group. The collection of data and causes behind unemployment rates is quite complex. Rather this graph demonstrates how experiences vary for different people of color, especially those who belong to two or more discriminated groups, and emphasizing the need for a detailed and intersectional representation of data in the Annual Employment Equity Reports.

Barriers and Discrimination for LGBTQ+ Employees

In 1986 the *Employment Equity Act* was created. Over a decade later when the Act was consolidated, LGBTQ+ rights in Canada were still being challenged throughout the nation. In 2005 Canada legalized same-sex marriages nationwide, making Canada the fourth country worldwide to do so⁷⁴. There have been recent changes for the rights of gender minorities this year, as Canadians now have been provided the option to identify as a “X” for an unspecified third gender on their passports⁷⁵. These recent changes suggest why members of the LGBTQ+ might not have been considered as members within the designated groups of the *Employment Equity Act*.

The current framework of laws and policies that support the diversity and inclusion of members of the LGBTQ+ in the workforce are quite broad. The *Canadian Charter of Rights and Freedoms* protects all people and supports equal rights for all⁷⁶. All employers in Canada must comply with the Charter and it is the protection that no employer can discriminate on the basis of sexual orientation, gender identity or expression.

Every individual is equal before and under the law and has the right to the equal benefit of the law without discrimination and in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability⁷⁷.

However despite supportive legal documents, workplace barrier persist for members of the LGBTQ+ community. It is difficult to quantify the discrimination of the LGBTQ+ because there

⁷⁴ Bill C-38: The Civil Marriage Act.

https://lop.parl.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?ls=c38&Parl=38&Ses=1

⁷⁵ Zimonjic, Peter. CBC News. August 25 2017. “Canadians will soon be able to ID gender as “X” on their passports” <http://www.cbc.ca/news/politics/transgender-passport-x-identify-1.4261667>

⁷⁶ Government of Canada, Parliamentary Information and Research Service, “Charter Equality Rights: Interpretation of Section 15 in Supreme Court of Canada Decisions,”

<http://www.parl.gc.ca/information/library/PRBpubs/bp402-e.htm>.

⁷⁷ Constitution Act. 1982. Canadian Charter of Rights and Freedoms
<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

is no official data being gathered and reported on the systemic discrimination faced in the workforce. There is a great need for further research and studies on employment discrimination and barriers for members of the LGBTQ+.

Experiences of homophobia

Despite the LGBTQ+ exclusion from the EEA, there are various organizations committed to promoting and researching inclusion and diversity in the workplace for members of the LGBTQ+ community such as the Catalyst, a nonprofit organization with a mission to build an inclusive workplaces and expand opportunities for women. The Catalyst's work is rooted in research, studying women and men, across various job levels, functions and geographies⁷⁸. There is still a need for further research and more quantifiable data supported by the Canadian government and legislation, however the following study demonstrates a few examples of the large scale barriers and workplace discrimination that need to be addressed for the LGBTQ+ members.

In 2009, the organization released a report "Building LGBT Inclusive Workplaces: Engaging Organizations and Individuals in Change". The report outlines types of LGBTQ+ discrimination drawing on the experiences of LGBTQ+ employees in Canada. The report data was drawn from two surveys conducted; a survey of LGBTQ+ employees experiences and a career advancement survey. The main findings were based on qualitative open-ended questions that captured the respondents experiences, perceptions and stories. The sample consisted of respondents of the LGBTQ+ community who identified as lesbian, bisexual, transgender,

⁷⁸ Silva, C., & Warren, A.K. "Building LGBT-Inclusive Workplaces: Engaging Organizations And Individuals In Change", *Catalyst*, 2009.

transsexual male-to-female, transsexual female-to-male, queer, questioning, intersex and two-spirit

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One of the findings presented in the Catalyst report was the lack of knowledge and awareness that many other workers had about LGBTQ+ individuals. The following statements were presented about two employees opinions and experiences about the subject.

“I think that misconceptions of what it means to be LGBT still exist and can cause people to be concerned that we are going to show up to work one day dress in drag or leather”. - Gay man.

“As a lesbian woman, I have sometimes had to fend off occasional stereotypes about lesbian women as all butch and muscular and ungainly - I’m none of these. - Lesbian woman.

Without appropriate education and exposure of LGBTQ+ experiences, many employees are left to rely on stereotypes and can lead to uncomfortable workplace environments and barriers for LGBTQ+ individuals. Some respondents also shared their work experiences of blatant forms homophobia and discrimination towards LGBTQ.

“Bosses and senior management have made fun of gay people in social settings, not knowing there were gay people in the room”. - Gay man

“There was active or tacit discrimination, homophobia, and harassment, in which LGBT employees were forced to be closeted or silent in the face of abuse. This is very stressful, and has negative effects on the health and productivity”. - Lesbian woman.

⁷⁹ Silva, C., & Warren, A.K. “Building LGBT-Inclusive Workplaces: Engaging Organizations And Individuals In Change”, *Catalyst*, 2009.

Another form of discrimination presented in the report was the exclusion from important connections. The respondents described the lack of LGBTQ+ role models, causing them to question just how possible it would be to advance and grow within their organization and lifelong careers.

“Advancement in the organization is about political networking...Trans people are left out of these networking attempts/opportunities because we are seen as complicated—maybe an embarrassment”. - Queer transsexual female-to-male man.

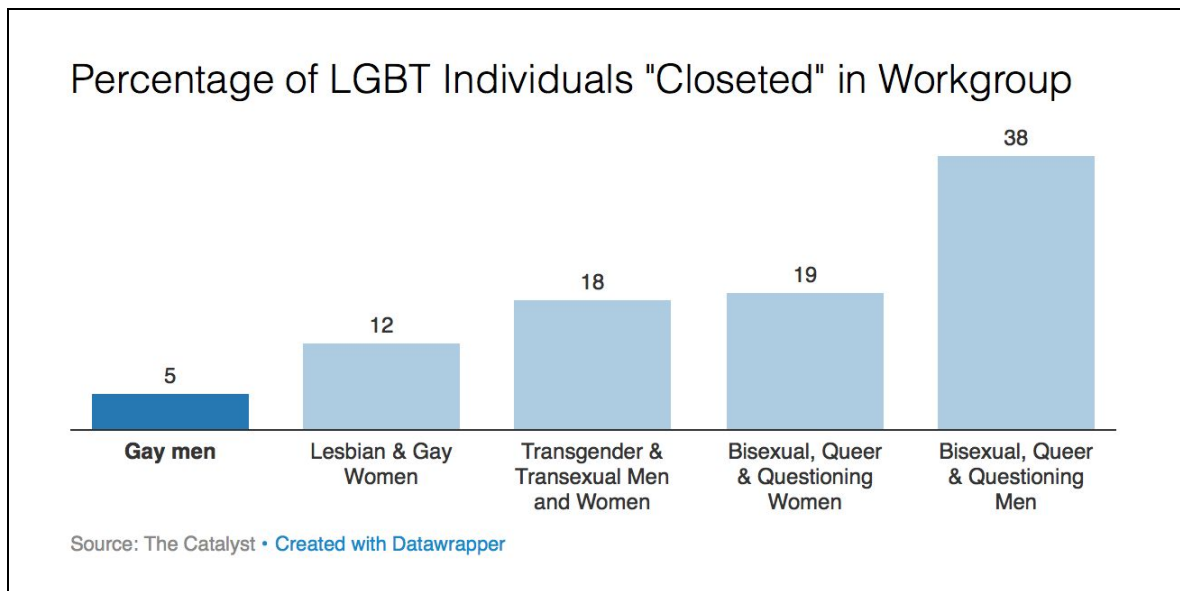
“There has not been an openly LGBT person in a senior manager or VP role in my division of the organization since I have been employed here [early 1990s]. It does make one wonder”. - Gay man

An additional finding from the report was the differences reported within the LGBTQ community. The findings prove the importance of intersectionality and provided research for each member of the discrimination group. Out of the various LGBTQ+ identities and groups, Table 4 displays, gay men were the less likely to closeted in the workplace. With only 5% of gay men being closeted in their workgroup. Lesbians and gay women more than doubled that with 12% closeted. One woman respondents commented on the following suggesting she has a easier time “passing” as a bisexual.

“I find that I have not had to come out as a bisexual, since my same-sex relationships are few and far between, and, as we all know, people in straight relationships can rest of heterosexual priveldge for that time is they want to”. - Queer woman.

Whereas the majority of transgender and transsexual respondents suggested they usually do not have the option of “coming out” when there transexuality is immediately apparent.

Table 4:



Source: The Catalyst (2009)

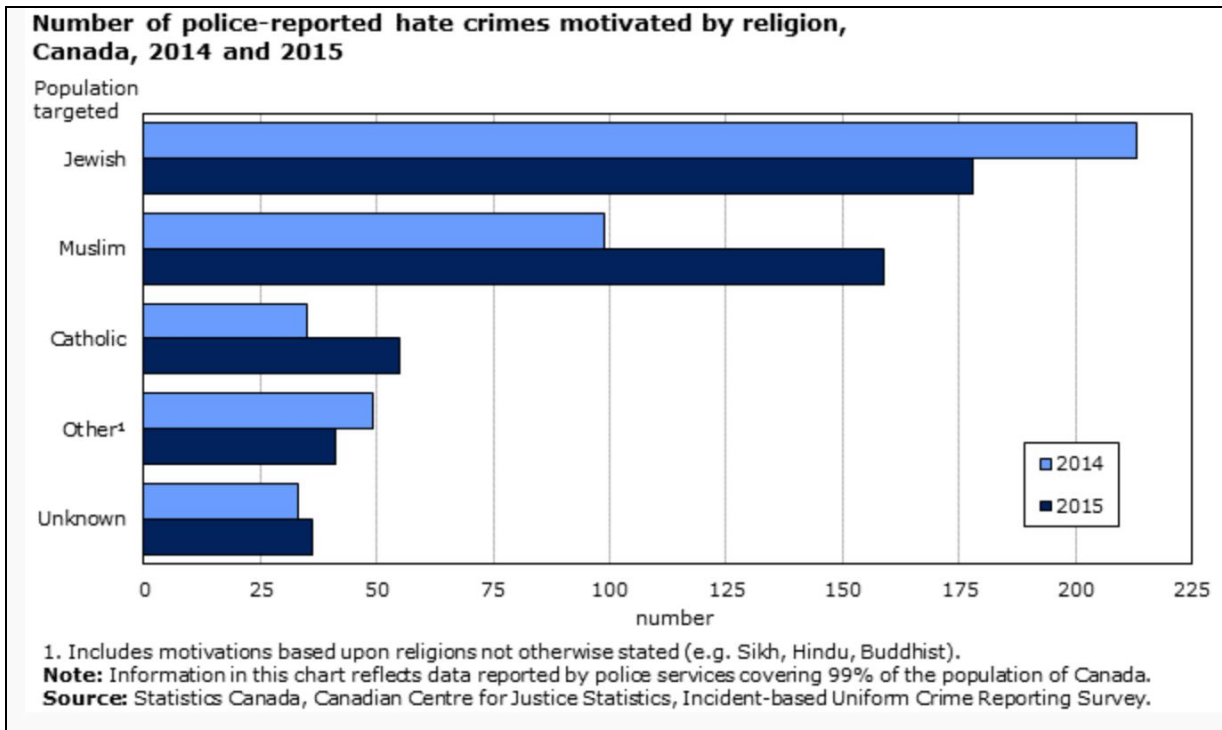
The data from the Catalyst report displays not only some of the issues faced by members LGBTQ+ but the complexity and diversity of the experiences. The experiences of the respondents demonstrate there is indeed a need first for additional legislative protection-specifically inclusion in the *Employment Equity Act*-demonstrating the importance of this issue and providing further resources for research and studies. There is also a need for greater knowledge and awareness of this community in the workplace. Much of the discrimination is rooted from a lack of knowledge and therefore built on stereotypes. Not only to workplaces need to be more proactive in hiring diverse employees but also ensuring the working environment is one where LGBTQ+ members feel comfortable and can succeed. Additionally, the study of intersectionality is essential when exploring inequalities within the LGBTQ+

community, as some members of the group such as transexuals, transgender, gay women and lesbians who are multiply marginalized individuals require additional support and protection in comparison to gay men as they face more barriers.

Discrimination towards religious minorities

Negative perceptions, discrimination and attacks towards Muslims in Canada have been on the rise over the last few years. Police reported hate-crimes against the Muslim population rose 61% in 2015⁸⁰. Table 5 displayed Muslims had the most drastic highest increase in police-reported hate crimes motivated by religion from 2014-2015 compared other targeted populations.

Table 5



⁸⁰ Statistics Canada. 2017. "Police-reported hate crime in Canada, 2015"
<https://www.statcan.gc.ca/pub/85-002-x/2017001/article/14832-eng.htm>

The National Council of Canadian Muslims (NCCM), a human rights and advocacy organization has for over 17 years been working towards the protection of the fundamental rights of Canadian Muslims and diverse communities⁸¹. The NCCM recently submitted a report to the UN Committee on the Elimination of Racial Discrimination on Canada's implementation of human rights obligations under International Convention on the Elimination of all forms of discrimination. The report reveals various barriers and systemic discrimination faced by Canadian Muslims.

A large number of the complaints received by the NCCM are in regards to alleged discrimination and accommodation in the workplace. In 2016, employment complaints of discrimination made up 20% of total human rights complaints. It was also highlighted that 45% of the employment complaints involved Muslims women. The following is an example of the employment complaints received by the NCCM⁸².

In 2016, a Muslim woman was asked an intrusive questions at a job interview. At one point during the process, the hiring manager asked if she would keep the hijab on if she got the job. She was told by the employer that he understands her right to wear religious attire, but would not encourage it in the workplace. She refused the job.

Another challenge presented in the report was surrounding inclusion. Many Muslims workers felt excluded from workplace events, some felt they were given weightier tasks than others and being denied to their right to observe prayer at their workplace⁸³.

⁸¹National Council of Canadian Muslims. "Submission to the United Nations (UN) Committee on the Elimination of Racial Discrimination (CERD)" 2017
https://www.nccm.ca/wp-content/uploads/2017/08/NCCM_Submission_to_CERD_August32017_93rd_Treaty_Bodies_Session_CANADA-1.pdf

⁸² Ibid

⁸³ Ibid

The *Canadian Charter of Rights and Freedom*, is the main policy protection nationwide against the discrimination of an individual based on religion. As there are no religious groups included as a part of the designated groups of the *Employment Equity Act*. There is very little research done on the discrimination of religious minorities groups in the Canadian workforce. There are however trends and data demonstrating the rising discrimination against Muslims in Canada and the need for further protections. The lack of research and trends prompted a recent passing of parliamentary motion M-103 on systemic racism and religious discrimination in March of 2017⁸⁴.

The motion outlines various steps for the Canadian government to fulfill. First, the need to recognize and overcome the increasing public climate of hate and fear. Second, to condemn Islamophobia and all forms of systemic racism and religious discrimination and take note of the House of Commons e-411 petition on Islamophobia and the issues that were raised by it. Thirdly, a request that the Standing Committee on Canadian Heritage undertake a study focusing on three points. Develop a whole of government approach to reduce or eliminate the systemic discrimination and religious discrimination including islamophobia in Canada. Collect data to contextualize hate crimes and reports and to conduct a needs assessment for the affected communities. It is expected that the report provide recommendations that government may use to better reflect the rights and freedoms in the Constitution Acts⁸⁵.

It is hoped that with the motion M-103 and the recent milestones of the Ontario government with the adoption of the *Anti-Racism Act*, with the focus of eliminating systemic

⁸⁴ Canada. Parliament. House of Commons. "E-411 (Islam). Petition e-411 - E-petitions. 2017. Available at <https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-411>

⁸⁵ Canada. Parliament. House of Commons. Private Members Motion: M-103: Systemic Racism and Religious Discrimination. 2017.03.23. (Online) Available at [http://www.ourcommons.ca/Parliamentarians/en/members/Iqra-Khalid\(88849\)/Motions?documentId=8661986](http://www.ourcommons.ca/Parliamentarians/en/members/Iqra-Khalid(88849)/Motions?documentId=8661986)

discrimination and advancing racial equity, that more can be done Canada to ensure a more inclusive and diverse society⁸⁶. Given the trends and experiences of marginalized communities, the current broad legislative protections are not enough and many such as Canadian Muslim communities continue to experience barriers and discrimination in the workplace.

⁸⁶ Government of Ontario. Anti-Racism Act. 2017 <https://www.ontario.ca/laws/statute/17a15>

Chapter 5 : Conclusion

Discussion

Canada has a reputation of being a socially progressive and accepting nation with its distinct multiculturalism policies and national identity. However this thesis reveals the prevailing issue of systemic discrimination in Canada and the problem with the current approaches at tackling the issue. This thesis explores the harm in misrepresenting the experiences of marginalized people, especially those who are multiply marginalized subjects drawing upon the study of intersectionality. This thesis shows there has been a misrepresentation of diversity in the Canadian workforce under the *Employment Equity Act* and the need to improve research, analysis and inclusion practices. The designated groups of the *Employment Equity Act* are presently not up to date with Canada's current population and the demands of other marginalized subjects are being neglected.

The most recent Employment Equity Act Annual Report of 2016 suggests there was an increase in representation of people of color in the federally regulated sector from the previous year. However after manipulating the data based on occupational group along with ethnic and racial groups within Canada it is not actually be the case for all people of color. Of the designated groups, the main focus of this thesis is on people of color as it was the only designated group demonstrated to have an increase in representation and above the labour market availability. The findings of this thesis display how vastly different people of color's experiences are in the Canadian workforce. For example Canadians who identified as Chinese were found largely represented in higher ranking positions of supervisors of craft and trade in addition to positions of skilled sales and service personnel compared to Canadians who identified as Black,

Filipino and Latin American were the most represented in lowest ranking positions of other service skills and personnel.

The findings of this thesis confirm the importance of intersectionality within the designated groups. The Employment Equity Act Annual Reports does not outline the experiences of individuals who are multiply marginalized subjects. It is a misrepresentation to display data on the representation of women as mutually exclusive to the other designated groups with people of color, aboriginals and people with disabilities. The current approach to analyzing the representation of the designated groups is problematic. The experiences of all women cannot be grouped into one category. For example women who did not identify as a “visible minority” found themselves having of the low unemployment rates of around 5% compared to women who identified as Arab with unemployment rates of 16%. There is a need for more research and specifically an intersectional approach to analyzing the experiences of marginalized subjects under the *Employment Equity Act*.

This thesis also examined two groups who are not included as designated groups but are heavily discriminated in the workplace - members of the LGBTQ+ and the Muslim community. Although there is currently no legislation in place with a specific focus on the discrimination and barriers for these marginalized groups, there are non-profit organizations that have revealed trends of discrimination suggesting the need for further protections or inclusion in the *Employment Equity Act*. A report released by the Catalyst outlines the stereotypes many employees have about the LGBTQ+ members which creates barriers and non inclusive working environments. The report also reveals how the workplace experiences differ within the LGBTQ+ and touches on intersectionality within the community such as how gay and lesbian women are

more likely to be closeted than gay men in the workplace. The National Council of Canadian Muslims released a report on incidents they have received regarding employment discrimination. The data provided on the employment discrimination is limited and under researched however the rising trends of Islamophobia in Canada demonstrate the need for further research and study on the problem.

This thesis confirms previous work by Carol Agocs proving although there has been progress in the representation of marginalized individuals with past legislation, there is still much work to be done. The Canadian government has made progress by acknowledging systemic discrimination as a problem and providing designated groups of the Employment Equity Act with recognition, redistribution and differential treatment. However, we are now in a post-multiculturalism area and there is a need to explore different approaches to address the ever-changing Canadian population. The proposed changes include the study of intersectionality in the research and analysis on marginalized individuals. Agocs' research highlights the importance of focusing on the study of intersectionality including people of color and members of the LGBTQ+ for a better understanding of the inequalities in the labour market as confirmed and presented in Chapter 4. An aspect of this thesis that has not been greatly researched and discussed within literature is the inclusion of religious minorities in the *Employment Equity Act*.

Suggestions for Future Research

My suggestions for future research is firstly to improve the quality of the data used in the research of systemic discrimination in Canada. This thesis was limited to secondary sources primarily from Statistics Canada who run country-wide census every five years on the first and

sixth year of each decade. This thesis therefore was limited to making generalizations of the current state of the Canadian population and could not be deemed as an accurate representation of Canada's current demographics. I would suggest that the Canadian government sets in the place a unique research unit with the Employment Equity as the main focus that collects data every year. My second recommendation would be to eliminate the category and term "visible minority". The grouping of all of people of color has racial connotations and does not allow for an accurate analysis of the experiences of people of color. This must be changed before including other marginalized groups in the EEA. A third recommendation would be to expand the scope of the Employment Equity to all employers in Canada. The *Employment Equity Act* only requires only federally regulated employment sectors to submit annual reports, which make up around 4% of the Canadian workforce and is nowhere close to a representation of the majority of the Canadian representation in the workforce. A final recommendation for the Canadian government is to create a policy that requires employees to provide diversity and inclusion training for all of their employees. Many barriers and forms of discrimination arise from people know lack knowledge and awareness about people of color, the LGBTQ+ community, the Muslim community and other marginalized subjects. Teaching employees about marginalized communities could reduce some of the attitudes of hostility, unfamiliarity and encourage a positive and inclusive working experience.

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