EMPLOYMENT AND EMPLOYMENT EQUITY: Background to the National Policy

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HISTORY

- 1984: Abella, Judge Rosalie Silberman, Commissioner, *Report of the Commission on Equality in Employment*
- establishes ‘designated groups’: women; disabled persons; aboriginal peoples; visible minorities
- places employment equity in the context of the *Charter*
- Establishes that there is lack of representation in the labour force

Abella's definition of Employment Equity

Equality in employment means that no one is denied opportunities for reasons that have nothing to do with inherent ability. It means equal access free from arbitrary obstructions. Discrimination means that an arbitrary barrier stands between a person's ability and his or her opportunity to demonstrate it. If the access is genuinely available in a way that permits everyone who so wishes the opportunity to fully develop his or her potential, we have achieved a kind of equality. It is equality defined as equal freedom from discrimination.

Doubled-edged approach:

- Issues of pre-employment conditions that affect access to employment
- conditions in the workplace that militate against equal participation in employment

OBJECTIVES:

- Employment equity works in conjunction with the Charter and the Human Rights Code to eradicate discrimination
- It eliminates systemic barriers based on: a) historical negative impacts based on the homogeneity of dominant groups; b) practices based on stereotypes
- It uses remedial measures to increase representation of the designated group or to improve their distribution through the ranks
- “Systemic barriers require systemic responses”

FEDERAL LEGISLATION AND POLICY

1986 (rev. 1996) *Employment Equity Act applies to employers and crown corporations with 100 or more employees under federal jurisdiction or regulation*

- *requires employers to file an annual report and an employment equity plan*
- *requires employees to consult with employee groups*

- Federal Contractors Programme:
- Eff. Oct 1, 1986, affects organizations with 200 or more employees which bid on federal government contracts
- required to sign a certificate of commitment
- collect information on representation of designated groups
- establishment of goals for hiring and promotion of designated group employees
- adoption of special measures where necessary

Supreme Court Action in Action Travail des Femmes v. Canadian National Railway (1984)

- Made employment equity measures mandatory
- Recognized that the effects of discrimination are cumulative, and therefore require actions of redress
- Required that women (in this case) be hired in positions of responsibility, to reduce stereotypes
- Recognized that the concept of ‘critical mass’ is important in achieving equity – both to change systems and to overcome ‘tokenism’

1995 the Federal Act was amended to

- include the Federal Government
- increase requirements for meeting targets
- require workplace audits
- require both consultation and collaboration between employer and bargaining units.

Health Canada Tribunal (1997)

- Imposed a binding decision on Health Canada, accepted without appeal
- An overseer at the Associate Deputy Minister level
- All managers required to justify hiring a non-visible minority
- All managers accountable through performance reviews, and required to take training
- Specific hiring targets set
- An internal review committee, and an external consultation committee meet regularly

Where are we today?

- Women are representative in the workforce in numbers, but are poorly distributed, clustered at the lower end of the scale
- All the other groups are under-represented and poorly distributed
- The least progress has been made for visible minority women and aboriginal women, especially immigrant visible minority women

Members of Visible Minorities in All Employers Under the Employment Equity Act

Employers	Unadjusted		
	2005	2007	
	R* %	R* %	A** %
Total Private Sector	**14.1**	15.9	**12.6**
Federal Public Service	8.7	9.2	10.4
Separate Employers†	11.3	12.0	12.6
Other Public Sector Employers‡	3.0	3.5	10.8
Total Public Sector	**7.0**	7.8	**10.8**
Grand Total for Both Sectors	**11.6**	13.1	**12.0**

Share of Members of Visible Minorities Hired into the Federally Regulated Private Sector*

Sector	1987		2001		2006		2007	
	#	%	#	%	#	%	#	%
Banking	2,211	10.1	3,990	13.8	6,502	21.3	7,702	22.4
Communications	975	5.6	5,130	15.5	6,578	17.8	7,663	18.9
Transportation	691	2.1	4,187	10.1	5,040	11.9	5,530	11.5
Other	150	3.3	416	8.7	3,890	17.7	3,361	15.7
All	**4,027**	**5.2**	**13,723**	**12.7**	**22,010**	**16.7**	**24,256**	**16.8**

Representation of Members of Visible Minorities in the Federally Regulated Private Sector*

Sector	Unadjusted			
	1987	2001	2005	2007
	%	%	%	%
Banking	9.5	17.1	22.8	24.9
Communications	4.0	10.8	12.6	14.5
Transportation	2.6	7.6	9.1	9.4
Other	2.6	7.7	8.3	13.9
All	**5.0**	**11.7**	**14.1**	**15.9**

Public Service Employee Survey (1999)

Question	Response	All respondents	Visible Minorities
In my work unit, every individual, regardless of his or her race, colour, gender or disability, would be/is accepted as an equal	Strongly/ mostly agree	**87%**	**75%**
I have experienced discrimination in my work unit	Yes	**18%**	**33%**
I believe I have a fair chance of getting a promotion	Yes	**43%**	**36%**
I am satisfied with my career in the public service	Yes	**69%**	**58%**

The province of Ontario:

- 1993 – *Act to Provide for Employment Equity for Aboriginal People, People with Disabilities, members of Racial Minorities and Women*

  - covered all employers, not just government

  - headed by an employment equity commissioner

  - required positive support measures

1995 – *An Act to Repeal Job Quotas and Restore Merit-based Employment in Ontario*

- occurred in a highly ideological political context

- rejected all aspects of employment equity

- required that all information compiled for the purposes of employment equity be destroyed

1997 – Ontario government published a pamphlet entitled “Business results through diversity”

- emphasis is on the individual, not the group