

Preferential Policies in Canada and Abroad:

Do They Really Work?

BY

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**A Thesis
submitted to the Faculty of Graduate Studies
in partial fulfillment of the requirements
for the Degree of**

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Preferential Policies have been used in different countries and at different times to improve the economic and social conditions of certain groups of people. In Canada, these policies have been used in the Government of Canada's Employment Equity program to promote certain groups of people who have been traditionally under-represented in the Public Service. Despite their presence for over 20 years, these groups continue to be under-represented. This is due, in part, to inherent assumptions in the organisational theories that underpin the government organisations in question. A study of these theories along with suggestions for more flexible organisational arrangements concludes this study.

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Dedication

*I would like to dedicate this thesis to my parents, Rajen and Daya
Ramgoolam.*

Introduction

National governments have often led the way in the introduction of measures aimed at achieving social progress. This has certainly been the case in Canada with the promotion of persons from so-called disadvantaged groups into professional positions in government. From the selective hiring and promotion of Francophones during the 1960's to the introduction of special hiring measures for members of other designated equity groups, the Canadian government has sought to fashion a public service that in essence, "looks more like Canada". This direction is embodied in the *Official Languages Act* (1969), the *Canadian Human Rights Act* (1978), the *Charter of Rights and Freedoms* (1982) and the *Employment Equity Act* (1995). This approach has also been extended to federally regulated businesses (largely in the banking, communications and transportation industries) with the *Employment Equity Act* (1986).

In Canada and abroad, the introduction of preferential policies for designated groups has its roots in the atrocities of WW II. The systematic destruction of the Jewish population in Europe no doubt weighed large in the deliberations of politicians and policy makers who sought to infuse their respective societies with a greater measure of social justice. Also, throughout North America, the 1950's and 60's saw a rising awareness of

civil rights abuses and ethnic and racial discrimination. This culminated in an increasing sense of nationalism among minority groups. The emergence of the civil rights movement in the United States and the Quiet Revolution in Quebec are two examples of the claims that were being made by racial and linguistic minorities.¹ A similar trend is emerging today among more recently established minority groups who have also experienced discrimination.²

At the same time, an expectation of a certain amount of equality of economic opportunity was beginning to gather momentum in the Western democracies in a way that required governments to attempt to provide all citizens with as level a playing field as possible.³ Preferential policies were seen as one way to redress the historical advantages that certain groups of citizens held over others.

It can also be argued that of the Western democracies, Canada may have been in the best position to implement preferential policies. In 1988, Canada officially became a multicultural country through an Act of Parliament. The *Multiculturalism Act* (1988) entrenched the legal right of all Canadians to preserve their cultural heritages and committed the federal government to the provision of assistance to minorities in overcoming social barriers posed by past assimilationist practices. Moreover, an entire regime of law has been built around the preservation

and enrichment of minority cultures in Canada. The introduction of collective rights into Canadian jurisprudence is unique among Western democracies for its emphasis on minority rights. Among Western countries, Canada is perceived to have demonstrated a commitment to cultural plurality and equality of economic opportunity that far exceeds that of other nations.

Despite these broad social trends, it is safe to conclude that preferential policies aimed at securing a more representative workforce in Canada's public service have only been moderately successful. With the notable exception of Francophones, certain targeted groups continue to be under-represented in the federal government. These groups are, namely, women, visible minorities, Aboriginals and persons with disabilities. Moreover, their under-representation has been more acute at the senior levels of government. It should be noted that this phenomenon is not unique to national government, but also tends to be the case with most provincial governments.

Despite innovative hiring practices and broad-based attempts to reform the culture of the federal public service, the government's own statistics paint a bleak picture for minority hiring and retention. In 1988, for instance, Aboriginal people represented only 1.7% of employees in the public service.⁴ Visible minorities represented only 2.9% of employees in

the public service.⁵ By 1995, opportunities for members of designated equity groups had improved marginally with, for instance, persons with disabilities registering only a .5% increases in representation across the public service.⁶ Further analysis will show that where there have been marginal improvements in the number of new hires for members of these groups, much of it tends to be concentrated in so-called traditional or stereotypical occupations. This is especially the case for women and visible minorities.

There are a number of different reasons to explain the limited success of these government-led initiatives. Before providing an analysis of the results of employment equity programs in Canada, this study will begin by examining the nature of preferential policies and how they are often seen to be at odds with the traditional definition of equality.

The study will then draw on international examples to demonstrate how preferential policies have been used to distribute economic and political benefits across different ethnic and linguistic groups in a society. The role of preferential policies will be examined cross culturally across three basic social situations:

- (1) preferential policies favouring a majority in a majority dominated social and economic setting;⁷
- (2) preferential policies favouring a majority in minority dominated economies;

- (3) preferential policies favouring minorities in majority dominated economies.

Following this, the Canadian model will be studied in greater detail with an emphasis on how the legal regime in Canada has not, despite a perception to the contrary, supported a broader notion of collective rights to enhance the preservation and the development of minority cultures. It will be argued here that this lacunae in Canadian jurisprudence has contributed to the federal government's failure to achieve the diversity that it has long sought in its public service. The argument will continue that the inclusion of some key collective rights in Canadian law may help in establishing the necessary preconditions for a successful employment equity program.

It will be argued in this study that a precondition to the successful implementation of any employment equity initiative is a culture in which respect for and an appreciation of different cultures are evident. Where a culture holds certain ethnic or linguistic groups in higher esteem than others, those that are less valued will not enjoy the legitimacy held by those groups deemed to be better or worthier. A truly diverse workforce will embody different perspectives and approaches to work. A organisation that is committed to diversity must truly value a variety of opinion and insight.

This study will conclude by offering prescriptions for the implementation of successful employment equity programs in government. It will emphasise that diversity initiatives in government must now go beyond the traditional “recruiting and retaining” model that has long characterised employment equity and focus more closely on achieving greater organisational effectiveness. In other words, where diversity was once about increasing racial or gender representation in an organisation, it must now be understood as, “*the varied perspectives and approaches to work that members of different identity groups bring*”.⁸

For instance, it will be stressed that leaders in government must recognise both the learning opportunities and the challenges that the expression of different perspectives present for an organisation. It will be argued that currently, this is not being done very well. It will also emphasise that the organisational culture must create an expectation of high standards of performance from everyone, regardless of gender, ethnicity or personal circumstances. Currently, women and other minorities tend to be streamed into more traditional positions in government. Women tend to find themselves in support or administrative roles or as front line workers. Visible minorities tend to be steered towards scientific and technical occupations.⁹ Members of targeted equity groups must be directed towards the higher status and

more responsible positions in ministries such as Finance and in other key institutions such as the Privy Council Office and Treasury Board. Relegating them to lower status work would only reinforce the impression, among themselves and others, that they are not capable of rising beyond that level.

This study will also contend that the public service must encourage an organisational culture that will stimulate personal development. In other words, public servants from minority groups must not be led to believe that only by mimicking the perspectives and approaches to work of the culturally dominant groups in their organisation will they be able to advance their careers. Encouraging minority employees to develop their own perspectives through the careful design of jobs and training and educational programs will allow the organisation to leverage the value of its workforce by drawing on a true diversity of ideas and opinions.

Furthermore, it will be posited that the public service must make its members feel valued. If this is achieved, public servants will feel empowered and thus more challenged to apply their skills and perspectives in new ways that will enhance their job performance. Currently, there is a disproportionate number designated equity group members who feel undervalued in their work situations. ¹⁰

In summary, therefore, this paper will study the evolution of preferential policies and how they have posed a challenge to the traditional definition of equality. Following a cross cultural study of the three different types of preferential policies, this paper will review the Canadian government's policies in this area with respect to the four designated equity groups. This paper will then argue that federal initiatives will have only minimal effect without strong legal and social support for the preservation and development of minority cultures. Finally, an analysis of the effectiveness of employment equity policy will be followed with a list of recommendations for a more inclusive notion of diversity that looks beyond simple numerical goals in hiring and retention.

The chapters will include the following division of content:

Chapter 1: Preferential Policies: An International Perspective

Chapter 2: The Ideological Underpinnings of Employment Equity and the Policies of the Government of Canada

Chapter 3: The Government Record: Assessment and Suggestions for Renewal

¹ Please see, for example, James W. Button, **Blacks and Social Change : Impact of the Civil Rights Movement in Southern Communities**, Princeton, NJ : Princeton University Press, 1989 and William D. Coleman **The Independence Movement in Quebec**, Toronto, University of Toronto Press, 1984

² Sheppard notes that the marked increase in influence of Chinese-Canadians in political, commercial and educational matters in British Columbia closely mirrors that of French-Canadians in Quebec during the period of the Quiet Revolution. Please see Robert Sheppard, "A new flowering in BC", **The Globe and Mail**, p. A19, April 21, 1997

³ Please See "Freedom of Economic Opportunity" in Edgar Z. Friedenberg's **The Disposal of Liberty**, New York: Anchor Books, 1976

⁴ Please see "Table 2: Historical Representation of Designated Groups in the Public Service", in Canada Treasury Board, **Employment Equity in the Public Service: Annual Report**, Ottawa: Communications and Co-ordination Directorate, Treasury Board of Canada, 1992.

⁵ *ibid.*

⁶ Please see "Table 1: Representation of the Designated Groups in the Public Service" Canada Treasury Board, **Employment Equity in the Public Service: Annual Report**, Ottawa: Communications and Co-ordination Directorate, Treasury Board of Canada, 1995

⁷ In North America, preferential policies are almost automatically associated with affirmative action and employment equity policies with the intention of aiding minorities within majority dominated social structures. Historically, however, such policies are of relatively recent origin and internationally, we find many examples of current preferential programs for majorities. For an account of some of these programs, see, for example, Mary Fainsod Katzenstein, **Ethnicity and Equality**, Ithaca: Cornell University Press, 1979 and Thomas Sowell, **Preferential Policies, An International Perspective**, New York: William Morrow and Co., 1990

⁸ David A. Thomas and Robin J. Ely, "Making Differences Matter: A New Paradigm for Managing Diversity", **Harvard Business Review**, September-October 1996, p.80

⁹ The government's own employment equity statistics support this observation. Please see Canada Treasury Board, **Employment Equity in the Public Service: Annual Report**, Ottawa: Communications and Co-ordination Directorate, Treasury Board of Canada, 1995. The report reveals that, for instance, women comprise 82.1 % of the staff in the category **Administrative Support, Clerical and Regulatory** and hold only 19.1% of the executive positions in government. Visible minorities hold only 2.4% of the executive positions in government, but are well-represented in the category of **Scientific and Professional, Chemistry**, representing 14.8% of the staff. This last figure is somewhat misleading as it is important to note that scientific and technical workers in the federal government generally do not enjoy much upward mobility.

¹⁰ Although much of this evidence is anecdotal it is well documented in publications such as, John Samuel and Associates, **Visible Minorities and the Public Service of Canada**, February 1997. Please see p.46, s.4.15, "Comfort in the environment of the workplace".

Preferential Policies: An International Perspective

All societies, no matter their size, are heterogeneous. In any human society, labelling and dividing people into different groups based on their perceived differences, is a common activity. In complex industrial societies, the more sophisticated and complex social organisation breed a variety of groups which have a complex series of interrelations.

Making distinctions and finding similarities among people is a basic function of human perception. It is natural to discriminate among differences and classify according to similarities. Yet, what is not natural is the discrimination that divides a plural society and establishes favoured groups. These distinctions are social and political, as opposed to natural, and are often the product of established prejudices with unknown and often ancient origins.

In many societies, the discrimination that defines the social division and co-ordination of labour is a root cause of social injustice.¹ Often, invariably, it is not only individuals but groups as well that are subject to discrimination in the allocation of scarce resources. Some groups obtain more and others less than their (fair) or proportionate share of these resources.

There are a variety of reasons as to why certain groups are favoured over others in the allocations of resources. History, tradition and rigid social structures all combine to legitimate these inequalities. Also, conscious attempts

may be made in certain societies to advance certain groups over others. National governments have used preferential policies to aid designated social groups. Unlike in Canada where such policies are designed by governments to assist disadvantaged groups, other countries have used these policies to assist dominant and powerful sectors of society.² Examples of such policies will follow later in this chapter.

Employment equity or affirmative action, however, are a particular type of preferential policy. These programs are designed to actively redress any unconscionable imbalances that may exist between groups in a society. They exist as public or government mandated programs in a great many countries around the world.³ While these programs differ in the nature of their implementation, they all have at their root a function of hiring and promoting members of designated groups over others to ensure some greater measure of equality or preference in the workplace.

In those societies where it is practised, democracy demands equal treatment for all citizens. In many industrialised countries, the more basic form of equality-economic equality-is ruled out as it stands in antithesis to the functioning of such societies. These societies function around an economic principle that requires certain levels of economic inequality among individuals and groups.

Rather than pursue the unattainable goal of economic equality, these societies choose instead to focus on equality of opportunity.⁴ This is based on the premise that, if we cannot be economically equal, the state shall create the conditions where all who so choose, may compete equally for a society's scarce resources.

Democratic notions of equality do however pose certain challenges for employment equity programs. In Western democracies, employment equity or affirmative action policies are continually under challenge. This is due to these programs' emphasis on groups in societies where the individual is seen as paramount.

Today, especially in North America, preferential policies are almost always automatically associated with affirmative action policies designed with the intention of aiding minorities within majority dominated settings. Historically, such policies are of recent origin and internationally, there are many preferential policies designed to protect or advance the economic and social interest of majorities.⁵

Also, demographic minorities may (and in many societies do) hold the majority of economic and, or political power. For instance, the whites in South Africa continue, despite recent political change, to hold the majority of economic and to a lesser extent, political, power in that country.⁶

In other nations, a split exists between economic and political sectors of society. An ethnic or racial minority may exercise majority control over the economy while the demographic majority may have political power. Malaysia is an example of such a situation. While the native Malay population controls the country politically, the Chinese community dominates the economy.⁷

In some countries, such as India, for example, there is no clear policy. In other words, every possible situation exists. In the state of Assam, the Assamese, who constitute the political majority, are excluded by the dominance of minorities within the professional, educational, agricultural and business sectors of their society. In other states, the reverse is true where the demographic majority dominates and it is the minorities that are excluded. Amritsar would be an example. Yet in still other states, there is no clear cut majority, but a variety of competing minorities exercising various degrees of social and economic dominance within the economy.⁸ Furthermore, the situation is exacerbated by the caste system, a system which imposes its own level of complexity on the country's social structure.⁹ The caste system will be explored in greater detail later in this chapter.

In what follows, the role of preferential policies in these three basic social situations will be examined cross-culturally:

1. Preferential policies favouring a majority in a majority dominated social and economic setting;

2. preferential policies favouring a majority in a minority dominated economies;
3. preferential policies favouring minorities in majority dominated economies.

Preferential Policies Favouring the Majority in a Majority Dominated Society

Of all types of legislated preferential policies this variety is perhaps the oldest. It also is somewhat odd in that it provides legislated guarantees for a majority that already enjoys social, political and economic dominance.¹⁰ From an economic point of view, it is interesting to note that such a discriminatory policy is expensive in that it tends to impose a cost on the state where it is practised. The example of South Africa is very telling in this regard.

The Case of South Africa

In the first half of this century, in various countries around the globe, legislation was passed explicitly or implicitly limiting the employment opportunities of minorities so as to protect those of majorities.¹¹ The most blatant example of such a policy was probably that of the Nationalist government in South Africa. Their policies assured that:

While whites in South African society have always been a demographic minority, they have until recently, enjoyed majority dominance in every significant sector of their society. Yet, since the late 19th century, the government has felt the need to legislate racial discrimination in employment against blacks. Non-whites, for instance, were legally barred from holding certain desirable jobs in the mining industry. After the suppression of the violent Rand Rebellion by white miners in 1922, strict quotas for black workers were imposed upon the mining companies by the newly elected Afrikaner administration.¹²

By the end of the 19th century, the largest ethnic segment of the politically dominant white population were the Dutch speaking Boers or Afrikaners. Coming from rural, agricultural backgrounds and economically devastated through their long struggle with the British, the Afrikaner tended to be poor and economically disadvantaged.¹³

As the Afrikaners moved off the land and became part of the industrial labour force, they resented the cheap pool of labour that was available in the black population. Other poor whites also shared the Afrikaner disdain for the blacks. It was however, not until the Rand Rebellion in 1922 that discriminatory policies against blacks became more widely enforced.¹⁴ The government that came to power in the elections that followed, set out to strengthen and enforce the colour bar laws designed to discriminate against blacks in the mining industry. Subsequently, laws were enacted that extended preferential policies to whites in all sectors of the economy.¹⁵

These policies imposed a cost on the country's industries.¹⁶ Consequently, there was little support for Apartheid by the industrialists who had to shoulder the costs of the policy through inflated wages for a diminished labour pool.

As a result, opposition to preferential policies for whites was motivated by the economic self interest of white employers.¹⁷ Despite this opposition, the policy was generally successful. The average wage of the Afrikaner population rose steadily, in comparison to the stagnant growth of black wages.¹⁸

Despite the resistance in the private sector, the policy was an unqualified success in the public sector. This may be attributed to the fact that an economic differential exists between the public and private sector costs of the policy. Public officials were not directly responsible for assuming the costs of a limited labour pool. These costs could easily be passed along to the tax paying public.¹⁹

It is ironic to note that it is not some high-minded humanitarianism that prompted the ruling Nationalist party to abandon its support of Apartheid. While mounting opposition from the African National Congress, liberally minded South Africans and the world community evidently played a key role, opposition within the party came with the rise of influential Afrikaner industrialists who were aware of the cost of maintaining the policy²⁰

It is safe to conclude from this analysis that preferential policies in South Africa helped the Afrikaner population move from the status of an underclass to the most prosperous segment of society. However, as noted above, this imposed

an economic cost on industry. The resulting differential cost of employment discrimination proved to be too costly. ²¹

Today, similar policies exist elsewhere. In Kenya, Fiji, Malaysia, Nigeria and many of the Indian states, politically dominant majorities have instituted preferential policies as a way of controlling and advancing their own employment opportunities.

Preferential Programs Favouring the Majority in Minority Dominated Economies

In some societies, through various accidents of history, one or more ethnic minorities have come to exercise the majority power within the economic sector.

Historically, this has been the case with Jews in various Eastern European countries before the Second World War, Indian immigrants in several east African nations (most notably Uganda before the rule of Idi Amin) and the Chinese in Vietnam, Malaysia and other countries in Southeast Asia.

Initially, preferential policies designed to aid disadvantaged demographic majorities appear to be morally justified. Such policies however, are more often the product of some form of resurgent nationalism. ²² Frequently, these policies

are used by the majority against a successful and prosperous minority. While nowhere near as virulent in their application as in many other countries, it is important to note nonetheless that such policies are not foreign to Canada. ²³

As the Europeans began to decamp from their former colonial possessions, they often left behind them unstable regimes bent on asserting their new found independence.²⁴ Frequently, minorities had been imported and had risen to economic dominance under colonial rule. With the onset of independence, these minorities were not repatriated, and were left to fend for themselves.²⁵

The Case of Sri Lanka

In 1948, the former British colony of Ceylon seemed ready to make the smooth transition to independence. At the time, the country was socially secure and it appeared that a prosperous future would greet the newly independent Sri Lanka. ²⁶ This optimism proved to be unwarranted. The example of Sri Lanka will reveal the dangers inherent in the *misapplication* of a preferential policy.

The population of Sri Lanka is divided between the majority Sinhalese (approximately 70% of the population) and the Tamil minority (20% of the population). As in so many other post-colonial developing countries, the various ethnic groups in Sri Lanka experienced the impact of Western civilisation differently.

The Tamils were the first to receive English education. They were also the community that proved to be most receptive to the British model of education. Not having the strong agricultural roots that had sustained the Sinhalese for generations, the Tamils were buoyed by the prospects of social advancement that were offered under the British model of education.

The Sinhalese majority, on the other hand, proved to be less receptive to the Western model of education. Controlling the most fertile area in the country, the Sinhalese had a wider range of economic opportunities and thus did not see the same advantage as the Tamils in embracing the Western model.²⁷

When the first election was held in 1947, the United National Party came to power. The UNP was dominated by the English-educated leaders of the colonial era. This group was able to build a political consensus based upon the common ideals of Ceylonese nationalism, parliamentary democracy and gradual economic progress through free enterprise. They, however, represented only 7% of the population. To the mass of Sinhalese educated or illiterate people, these values appeared irrelevant and incomprehensible. The continued neglect of traditional culture created a gulf between the ruling elite and the ruled.²⁸

In the years following independence, Tamils began to make economic gains at a rate that far outpaced the Sinhalese population. This lopsided development would be the catalyst for a nationalist movement that would eventually plunge the country into a civil war.²⁹

In 1956, the Sinhalese politician, S.W.R.D. Bandaranaike became Prime Minister, campaigning as a Sinhalese nationalist. The new government immediately set out to change the country's political structure. It made Sinhalese the sole official language, and took measures for state support for the Sinhalese culture. The period of Sinhalese nationalism was also a time of political instability as Sinhalese politicians quickly learned to exploit the prejudiced fears and suspicions of the majority. ³⁰

By 1963 preferential employment policies favouring the Sinhalese majority were introduced within the public service. Sinhalese officials were sent to staff government offices in Tamil controlled areas and, beginning in 1964, Tamil civil servants unable to speak Sinhalese were forced into early retirement.

Dissatisfied with the results of its preferential policies, in 1974 the Sinhalese dominated government imposed a quota system for university admission in the sciences. This action served to restrict Tamil access to the most lucrative and prestigious professions.

It has been argued that the application of preferential educational and employment policies greatly contributed to the ethnic polarisation of the nation and to the terrible civil war that proceeded the Tamil demand for an independent state in the north. Sowell comments that:

By 1973, the average educational and income levels of the Sinhalese overtook those of the Ceylon Tamils and of course, greatly exceeded those of the Indian Tamils. These policies "worked", but at a high price. Sri Lanka has

become almost a textbook example of how even unusually amicable relations between two groups can, within one generation, be turned into implacable hostility, violence, and ultimately civil war, simply by the polarisation of race and ethnicity.

The example of Sri Lanka points to the resentment that often accompanies the success of an economically successful minority.³¹ The widespread economic disparities which lead to demands for preferential policies are difficult to attribute to group discrimination, as the successful minority often has no political power to discriminate against the majority. This is particularly true in the educational field, where a minority tends to be over-represented in academic institutions controlled by the majority. ³²

Policies favouring Minorities in Majority Dominated Economies

Such policies are the most recent among the three listed here. The late development of these policies may be rooted in the fact that they depend upon the benevolence of a majority towards a disadvantaged minority. Therefore, the conscience of the majority power holders in a society must be stirred to action. Such policies can be said to be ethically or morally superior to those ones discussed above. Whereas the other categories of policies are concerned with the advancement of the majority or the minority *to the detriment* of the other segment

of the population, this type of policy does not impose unfair burdens by acting against weaker groups in the society.

In fact it could be argued that the practice of such policies is in the long-term best interests of the majority. When systemic discrimination leads to significant imbalances between social subgroups in the distribution of employment, income and status, that society is rendered collectively unstable.³³ In such circumstances, it can be argued that the potential for serious social disruption is increased, roughly in proportion to the demographic imbalance.

Today, a variety of countries have implemented preferential employment policies for minorities. These include Canada, Britain, New Zealand, India, the United States, Israel and China.

The Case of India

India appears to have been the first nation to have instituted minority preferences. This is in large part owing to the fact that few modern societies are more diverse or more socially complex than India.³⁴ India's linguistic, regional ethnic and religious diversities are tremendous and have generated important obstacles to nation building.³⁵ Thus, preferential policies have long been a key strategy in the effort of the Indian national state and local governments to construct and maintain social stability.

Preferential policies were first implemented by the British in India. The intention was to alleviate the discrimination practised against the caste of Hindu "untouchables". In the past and even today, the social and economic gulf separating a high caste Hindu Brahmin from an untouchable has been vast. Historically, untouchables were not even allowed to walk in the shadows of Brahmin Hindus. In India's villages where the lack of running water places the value of the local well at a premium, untouchables were not allowed to draw from the well. High incidents of arson and murder occur in what the Indian government refers to as "untouchability-prone" areas.³⁶

Since independence, India's constitution contains a clause prescribing equality for all citizens.³⁷ A constitutional amendment however, explicitly exempts programs designed to advance untouchables, disadvantaged tribal groups and what are categorised as other "backward classes".³⁸ Article 15 (4) of the Indian Constitution reads:

Nothing in the article...shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Preferential policies for minorities like the untouchables and tribal groups are mandated at the national level. Under the "backward classes" clauses, states and local governments have been able to implement equivalent programs for

majorities considered to be under represented in certain regional educational and economic sectors of the country.³⁹

The plight of the untouchable caste is exacerbated by the fact that there exists no common definition for the members of this group. That is due to the fact that the untouchables themselves are in no way homogeneous. Moreover, a particular caste that is discriminated against in one region may be welcome in another.

In essence, the social situation of the untouchable in Indian society is extremely complex ⁴⁰. Under the British rule over a *thousand* castes were placed on a list to identify groups for preferential treatment. After independence, a government agency, The Commission for the Scheduled Castes and Scheduled Tribes, was established to oversee and administer programs for minorities. The preferential policies are applied only to the public sector and involve a dual approach. First, in education, places are reserved for untouchables throughout the country's universities and technical institutes.

Second, in government, seats in the national and state parliaments are reserved for untouchables and preferential employment opportunities are provided throughout the civil service. Thus, where education is seen as the key to advancement for the untouchable in the private sector of Indian society, affirmative action measures are deemed necessary in the public sector.

Within India's public service, a certain number of positions are set aside for untouchables or "scheduled castes". In additions to these quotas, a variety of preferential programs are also in place. In some job categories, for instance, certain job requirements that other candidates are expected to meet are waived for members of the scheduled castes.

Throughout the ranks of government untouchables tend to be over represented at the lowest or menial levels of employment. Higher up the ranks, their representation is less prominent. Nevertheless, the policy has had the effect of increasing representation in the higher job categories⁴¹.

Studies of the program have consistently shown that jobs held by scheduled caste members tend to fall short of the number reserved for them under the policy. The programs seem to favour the best educated and the brightest among the scheduled group.⁴² The remainder of the group remains unemployed and jobs that were set aside for them go unfilled.

A very good example of this trend is apparent in educational and employment patterns for untouchables in the state of Andhra Pradesh.⁴³ In this state, where 37% of the untouchables are of the Mala caste, more than half of all preferential scholarships for untouchable students are awarded to Malas. The larger group of untouchables from the Madiga caste, comprising 44% of the state's untouchable population, trail far behind the Malas in securing government jobs, especially at the highest levels.⁴⁴

In government, the most advantaged of the untouchable groups also benefit from the preferential programs for reserved legislative seats. Those untouchables who serve in India's lower house are not very representative of the untouchable population at large. They tend to represent more elite castes among the untouchables. This has led to a perverse situation where "adoptions" into the elite castes of untouchables of non-untouchables, who are intent on securing a government job or admission to a select university, have become commonplace.⁴⁵

It is interesting to note that in India's drive to adopt Western democratic ideals, the country has been unable to break with the complex social and political structures of its history. One commentator notes that:

In a society so ridden with inequalities—so India's opinion makers argue—the goal of greater equality ought to be given the highest priority. The instrument for the achievement of this objective—preferential policies—builds upon the tradition of judging people on the basis of the ascriptive group to which they belong. Here again, as in other areas of Indian policy making, we see contemporary policies for the achievement of modern social goals built upon traditional values and relationships.⁴⁶

Grafting preferential policies onto a society such as India with its byzantine system of social relations and religious and linguistic cleavages has certainly not proven to be very easy. For the most part, the beneficiaries of these policies have come to be reviled. Resentment has grown as reservations in schools and the public service have come to include not only recruitment but promotions as well.

Moreover, there has been a concerted effort in India to extend the number of groups among the scheduled castes, much to the disdain of India's "favoured" castes. This resentment has grown as the rationale for these extensions seem to have more to do with political accommodation than with equity.⁴⁷ Other criticisms of India's preferential policies have focused on their lack of effectiveness and their inability to address the plight of India's poor.⁴⁸

Conclusion

Preferential policies have emerged as long-range social engineering efforts, rather than quick remedies. In the examples of India and Sri Lanka, employment patterns and school admissions have not changed dramatically, despite the presence of preferential policies. In South Africa, preferences policies were used only to reinforce employment patterns that was already in place. In each of these three instances, preferential policies have been used to either change or reaffirm employment and educational patterns that are deeply embedded in social relations, educational practices and recruitment networks.

It is also clear that crudely applied preferential policies can arouse great anger among those disfavoured. Opposition in India, for instance, has taken many forms including violent protests. Also, among disadvantaged minorities, it has been suggested that a sense of guilt and shame is experienced by recipients

of privilege. One commentator has warned of the social danger of creating permanent victims, with perpetual grievances, not related to their own performance or actual rewards.⁴⁹

Although preferential policies have often been motivated by a sense of justice (be it well placed as in the case of India, or otherwise, as in the case of South Africa), ultimately, these programs should be understood as being closely linked to power relations in a society. One commentator offers the insight that:

Moralism confuses issues in many ways. For example, justifiable compassion for less fortunate people often shades off into an unjustifiable romanticising of such people, their leaders' ideas and rhetoric. Groups seeking preferential treatment almost invariably say that they are seeking justice. But when groups with a sense of grievances acquire power, whether locally or nationally, they seldom stop at redressing grievances and seldom exhibit impartial justice towards others.⁵⁰

The conclusion therefore, is that preferential policies should not be considered apart from politics, for they can be driven by both the most base, and the most noble, of political ideals.

¹ See Durkheim, (1960), 35-47

² See, for instance, Fredrickson, (1981)

³ Although beyond the scope of this paper, it is important to note that programs of this nature have increasingly come under attack, particularly in the United States. See for example Pipes and Lynch (1996)

⁴ Please see Friedenber, (1976)

⁵ Please see for example, Sowell (1993)

⁶ Please see Beinart (1995) and Murray (1993)

⁷ Please see Snodgrass (1980) and Jomo (1997)

⁸ Please see Galanter (1984) and Naipaul (1991)

⁹ Please see Mehta (1997) and Pandey (1986)

¹⁰ Please see Sowell (1975)

¹¹ In the mid-1920's, a minimum wage law was passed in BC that was designed to protect white Euro-Canadian workers from competition with Japanese and other Asian immigrant workers. Please see Young and Reid (1988)

¹² As cited in Lipton (1985) at 112-13

¹³ Lipton, *op.cit.*

¹⁴ In December 1921, the Chamber of mines (the body charged with overseeing South Africa's mining industry), faced with rising costs and a fall in the price of gold, decided to organise the industry more rationally by using blacks for semiskilled work. There was a violent reaction by white labour.

¹⁵ White supremacy was bolstered by the provision of sheltered employment for "poor whites". In state enterprises; by a *Mines and Works Amendment Act* (1926), which was very effective in shutting blacks out of skilled mining trades; by a *Native Administration Act*, (1927) and a *Riotous Assemblies Act* (1930), which gave the government wide powers over individuals and by franchise acts (1930-31), which extended the vote to all white men and women. Please see Thompson (1990)

¹⁶ Please see the first two chapters of Adam and Giliomee (1979)

¹⁷ During the 1970 election campaign, at the height of apartheid policy, South African business organisations publicly opposed the government extension of racial quotas. Please see Lipton, *op.cit* at 152-153

¹⁸ Please see Lapping (1987) at 160-167

¹⁹ By the early 1980's, when Afrikaners constituted 57% of the white population, they held 80% of all jobs within the government bureaucracy and comprised 85% of military personnel.

²⁰ For an excellent account of the popular process that contributed to the end of Apartheid, please see Mandela (1994). On the Afrikaner opposition in the Nationalist Party, please see Adam and Giliomee, *op.cit* at 177-184.

²¹ Sowell remarks that the increase in prosperity for the Afrikaners may not be due entirely to preferential policies. He notes,

In attempting to assess the over-all effectiveness of preferential policies, it is necessary to try to disentangle the effects of these policies from other policies and trends at work during the same span of time. Afrikaners in South Africa, for example clearly rose from the status of an underclass to that of a generally prosperous middle class during about half a century of widespread preferential policies, beginning in the 1920s. However, this was also a period of massive transfers of money, via numerous government programs, from the mining industry, and other prosperous industrial and commercial sectors to Afrikaner agriculture, Afrikaner relief, Afrikaner education, and subsidised jobs that went largely to Afrikaners. Given these massive transfers of resources, the effect of preferential employment policies alone is problematical.

Sowell, *op cit* at 38-9.

²² Speaking to the members of the United States Congress in 1992, regarding the break-up of the Soviet Union, Mikhail Gorbachev offered this insight:

The situation is aggravated by the paroxysms of extreme nationalism which have here and there generated direct discrimination against minorities. Sometimes this is carried to a point which resembles apartheid.

As cited in Moynihan (1993)

²³ In 1976, the Parti Québécois introduced Bill 101 in the National Assembly in Quebec. This bill had as its goal the reduction of the use of English in that province. A detail of the policy's provisions reveals that it sought to severely restrict the use of English and thus, disadvantaged the economically powerful English minority in Quebec:

Dans sa vie tous les jours, que ce soit au travail, à l'école, dans ses loisirs, et pour tous les services auxquels il a accès, le Québécois doit se sentir chez lui et doit pouvoir s'affirmer et s'épanouir suivant sa nature propre et son identité.

Sous un gouvernement du parti québécois, le français deviendra donc la seule langue de l'Etat, des municipalités, des commissions scolaires et de l'ensemble des institutions de caractère public, des raisons sociales et de l'affichage

Dans toutes les entreprises, les conventions collectives seront négociées et rédigées en français et les communications entre le personnel touché par la convention collective et les cadres de l'entreprise se feront obligatoirement en français

As cited in Lévesque (1986)

²⁴ While the scholarship in this area is exhaustive, please see for example Kennan (1992), Kedourie (1966) and Moynihan (1993)

²⁵ Lanternari (1980) notes the effect of hateful nationalist policies on minority groups in his comment that:

when a group A ends up by denying equal human value to a group B, the several levels of identity which each individual of group B recognised within himself are suppressed and denied. The group identity as such is threatened or destroyed. The disequilibrium that follows upsets the relations between the identity need and the and the corresponding social relations. This gravely disturbs the psychological and social equilibrium within the group on which ethnocentric pressure is exerted, and an analogous stress follows when nationalism or

racism finally smothers within a group that feeling of cultural identity that citizens nurture at the regional, ethnic and religious level. In fact, revivals of regional, separatist and nativistic movements frequently occur as a reaction against those governments which aim at the suppression of particular ethnic sentiment and identities even within their own countries

²⁶ For a brief and concise account of the history of inter-ethnic relations in Sri Lanka, please see Austin (1988)

²⁷ Please see the chapter on "Ceylon" in H.A. Wyndham, *Native Education*, as cited in Sowell, *op.cit.*, at 80.

²⁸ For a good collection of essays on Sri Lankan politics and society during this era, please see De Silva (1977)

²⁹ Samarasinghe (1984) at 177 notes that the educational head start of the Tamils was clearly visible after independence. By 1948, the Tamils held 25% of all jobs in the civil service. They also accounted for 32% of all doctors; 40% of all engineers and 46% of government accountants. He also notes that these proportions continued to grow during the period from 1948-1963.

³⁰ For an account of Sri Lanka's political descent into civil war, please see Tambiah (1987)

³¹ For a detailed account of the success of transplanted minorities around the world, please see Kotkin (1992)

³² In 1994 the California Civil Rights Initiative was proposed as a measure to end affirmative actions in, among other places, California colleges. The Initiative resonated with the many Californians who were fed up with affirmative action programs in the state's college admissions and job hiring processes. The idea that "The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, colour, ethnicity, or national origin in the operation of public employment, public education, or public contracting," made sense to many Californians and supporters were able to get the necessary citizen signatures to put Proposition 209 on the 1996 ballot. Ironically, the over-representation of Asian students in professional faculties would probably continue given that these students results were overall, higher than any other ethnic group. For instance, Henry (1994) at 69 writes, "...people of Asian stock readily adapt to the free market economy and the open competition for educational opportunities-so successfully, in fact, that the University of California at Berkeley has all but admitted it imposed a cap on the number of Asian-descent student admitted".

³³ Please see Moynihan, *op.cit.*, Glazer and Moynihan 1975), Horowitz (1985)

³⁴ Please see Naipaul, *op.cit.*

³⁵ For an excellent account of the modern history of India, please see Brass (1990)

³⁶ Please see Vakil (1985)

³⁷ Article 14 of the Constitution guarantees the right to equality for all.

³⁸ Also of contemporary significance are the demands of tribal groups, concentrated especially in India's northeast. Their grievances result from diminishing traditional rights to land and compensation for migrants. Many of these claims have been resolved through a mixture of coercion and economic aid, and, through the reorganisation of what was formerly the North Eastern Frontier Agency into tribal states. Please see Kholi (1990)

³⁹ For a detailed discussion of programs in India please see the annual *Report of the Commission of Scheduled Castes and Scheduled Tribes*

⁴⁰ Please see Joshi (1980)

⁴¹ Please see Galanter, *op.cit* at 88

⁴² This has often been a criticism of affirmative action programs in the United States. For instance, Henry *op. cit* at 72 writes "The programs devised to deal with this grim reality generally do so by

taking on the rather easier business of advancing privileged, middle class blacks into the upper echelons of the mainstream.”

⁴³ Andhra Pradesh is located in the eastern part of India.

⁴⁴ Please see Sowell, *op. cit.* at 112.

⁴⁵ Please see Galanter *op. cit.* at 338.

⁴⁶ Please see Weiner (1981) at 20.

⁴⁷ Please see Tummala, *op. cit.* At 73.

⁴⁸ *Ibid.*

⁴⁹ *Ibid* at 235.

⁵⁰ Sowell, *op. cit.* at 151.

The Ideological Underpinnings of Employment Equity and the Policies of the Government of Canada

I. Ideology

The liberal individualist notions that underpin Canadian society and law are not easily reconciled with employment equity's emphasis on favouring disadvantaged groups. A quick review of the relevant jurisprudence will highlight this tension.

Wrongs that have been wrought against groups ultimately require solutions that are group-based. It holds that individuals are not discriminated against because of who they are, but because of their membership in a particular group¹. Canadian law places on emphasis on the individual, and sometimes this is to the detriment of the group. This is based on a definition of equality that values "sameness" over "difference"² This classic definition of equality is also found in Dicey. In 1885, his *Introduction to the Study of the Constitution*, notes equality to be "the equal subjugation of all classes to the ordinary law...of the land as administered by the ordinary courts".

A quick review of the judicial record will reveal that this definition of equality has had a significant impact on judicial decisions in Canada. In *A.G. Canada v. Lavell*; *Issac v. Berrard*, Ritchie SCJ found that the law could discriminate against Aboriginal women. provided that as a group, they were discriminated against equally.³ In *Hunter v. Southam Inc.*, the Court ruled that the *Charter of*

Rights and Freedoms' function is to "provide...for the unrelenting protection of individual rights and liberties"⁴ It is also important to note that individual rights in Canada have often been seen to take precedence over even politically crucial French language minority rights.⁵

This emphasis on the individual draws on the works of enlightenment-age philosophers such as J.S. Mill. At the heart of Mill's understanding of liberty lay a strong belief in individual autonomy which stressed that,

it is not by wearing down into uniformity all that is individual in themselves, but by cultivating it and calling it forth, within the limits imposed by the rights of others, that human beings become a noble and beautiful object of contemplation.⁶

Here, the emphasis is on balancing the individual's interests with those of other individuals and with society-at-large. Mill suggested that there were individual "spheres of action" in which society had only an indirect interest. Individuals are thus taken to be the ultimate units of moral worth. They are, in Rawl's terms, a "self-originating source of valid claims"⁷ This emphasis on "sameness" and the primacy of the individual have influenced modern-day governments to formally treat citizens as equals.

Today, the demands from disadvantaged groups require that we accept that our society is no longer structured wholly on the 19th century premise of individual rights. Social advances for women, visible minorities, the disabled and Aboriginal people have both resulted in and brought about by the

development of a series of group rights. The distinction between the two types of rights (group and individual) is highlighted in this comment by W.S. Tarnopolsky:

There are at least two fundamental distinctions which must be emphasised for the sake of clarity. The first is that an assertion of an individual right emphasises the proposition that everyone is to be treated the same regardless of his or her membership on a particular identifiable group. The assertion of group rights, on the other hand, bases itself upon a claim of an individual or a group of individuals because of membership in an identifiable group...this leads to the second distinction... the guarantee of an individual right like free expression essentially requires the non-interference of the state. A group right like language rights, on the other hand, requires positive governmental action.⁸

The evolution in the development of this robust category of rights has come with the realisation that non-interference by the state as a way of assuring equality is not sufficient to resolve the discrimination against disadvantaged groups.⁹ What is further required is positive action on the part of states to resolve discrimination.

In fact, it could be argued that positive actions in the form of group rights have been around for some time.¹⁰ Section 91(24) of the *British North America Act* authorised Parliament to create a special legal status for Aboriginal peoples and for the governance of their affairs on reserves. Section 25 of the *Charter of Rights and Freedoms* reaffirms the validity of the special legal status for Aboriginal

people and, together with s.35, goes on to recognise and protect “existing Aboriginal and treaty rights”. Furthermore, positive actions in the form of group rights have extended as far as the right of a group to be self-governing. Aboriginal peoples have long claimed a right to self-government.¹¹

Similarly, the claims of the Quebecois for the preservation of their linguistic and cultural heritage calls for positive action on the part of governments to intervene and establish group rights through legislation.

Furthermore, the establishment of an official multicultural policy in the 1970's with the aim of preserving and promoting culture gave even more credence to a state's positive duty towards minorities.¹² This was clearly set-out in the federal government's policy of 1971.¹³

While the success of these policies will continue to be debated, what cannot be denied is that they clearly represent positive government action to disadvantaged groups.¹⁴ Moreover, the federal government will often go out of its way to stress Canada's commitment to some form of group right or accommodation.¹⁵ In this respect, Canada stands out among nations with its progressive approach to group rights.¹⁶

The Canadian courts have attempted to resolve the disjunction that exists between group rights and liberal individualism. For instance, in *R. v. Keegstra*¹⁷ a majority of the Supreme Court restricted the accused's freedom of expression, a

classically liberal freedom, so that it could prevent the promotion of hatred against identifiable groups.

The Supreme Court made an even stronger judgement in favour of group rights in the case of *Mahe v. Alberta*.¹⁸ Here, the court described s.23 of the *Charter* as a “novel form of legal right” which imposed a positive duty on the government to alter and develop the institution of minority language education.¹⁹ Consequently, it is suggested that both *Keegstra* and *Mahe* may signal a new judicial willingness to accept group rights.²⁰ However, other judgements suggest that this new approach may not be easily accepted.²¹ Also, other cases have shown that not all members of a designated group may want limits on their individual rights to protect their group rights.²²

Equally, various commentators have attempted to bridge the gap that exists between group and individual rights. I.M Young for instance, suggests that without an emphasis on difference, there is a danger that a “universal humanity” will be practised and will reflect the attitudes of the dominant group in society while appearing to be universal and neutral.²³ Lesley Jacob argues for the relevance of the group to the individual in her comment:

...that sometimes the preservation of the integrity of the individual requires the preservation of the integrity of the community or group to which her or she belongs...the integrity of the community is threatened when it is unable to sustain the traditions and cohesion that allow it to maintain its distinct existence. The loss of integrity for a community makes way for its assimilating into a larger, more dominant

community. That assimilation threatens in turn the integrity of its individual members since, for most of them, some of their identity-conferring commitments rest on the distinctive character of the community. The unique and valuable function of collective rights is that they seem capable of protecting the integrity of communities.²⁴

Both of these commentators stress the importance of maintaining the integrity of an individual's community, be it cultural or otherwise.²⁵

Finally, it is important to note that Canadian employment equity policies would be better received in a more cosmopolitan-oriented society. Cosmopolitanism represents a good alternative to both liberal individualism and the identity politics that is the basis for group rights. The theory behind it suggests that:

Cosmopolitanism criticises identity politics and liberal universalism both. It accuses liberal universalists of obliterating the specificity of their own origins and history in order to submit human diversity to the intangible standards of the liberal integration model that they themselves have devised and of which they are the only guardians. Cosmopolitanism views democracy as the art of opening up the field of possibilities. In this respect, the protection of both individual rights and cultural specificity is necessary but not sufficient. Men and women of all backgrounds must also have the liberty to question the way in which society identifies them and thus to invent their own relations to themselves and to other people. Hence the cosmopolitan abhorrence of any measure intended to affix an identity on anyone-be it the identity of a rational person with universal rights or that of a community.²⁶

From the cosmopolitan viewpoint, "differences are misrepresented just as badly when they are neutralised as when they are naturalised."²⁷ This ideology represents a significant departure from the typically Canadian preoccupation with identity politics and liberal individualism and as such, it provides a refreshing alternative.

Having identified this perspective, it is now possible to focus attention on the policy recommendations that have defined the Government of Canada's employment equity programs from over the last thirty years.

II. The Policies

Employment equity policies in Canada date back to the late 1960's but the roots of their inspiration probably lie in the post-war era of the 40's and 50's.²⁸ Canadians, like so many others around the world, were deeply shocked and disturbed by the murderous racism of the Nazi regime. Throughout North America, the 1950's and 60's saw a rising awareness of civil rights abuses and a heightened sensitivity about the injustices of racial and ethnic discrimination.

In the early 60's, as the American civil rights movement began to gain momentum in the U.S., Canada faced a rising tide of French Canadian nationalism. During the Quiet Revolution in Quebec, French speaking Canadians began to demand the recognition of their linguistic and cultural distinctiveness within Canadian society.

The 1962 *Report of the Royal Commission on Government Organisation* officially established the fact that French speaking Canadians were seriously under-represented within the ranks of the federal public service. Moreover, the vast majority of French Canadians employed by Ottawa were concentrated in the lower echelons of the federal power structure. It was clear that French-speaking Canadians had long been the victims of systemic discrimination within the country's national civil service.

The basic principles of the emerging Canadian policy on employment equity were first articulated in the 1969 *Report of the Royal Commission on Bilingualism and Biculturalism*. Special preferential programs for recruiting, hiring and promoting French Canadians were immediately adopted within the federal public service.

The program was quickly and notably successful. A mere eight years after its implementation, in 1977, French Canadians were proportionately represented at all levels within the federal civil service.

Currently, there exist two general approaches to employment equity within Canadian society. There is the legal avenue of both provincial and federal human rights legislation which guarantees the individual redress from discrimination. There are also provincial and federal programs designed to increase collective minority participation in both public and private sector employment.

Human Rights and Systemic Discrimination

In Canada, as in the United States, the systemic approach to discrimination has been established in law. Malice, prejudice and intent to discriminate -- all of which are virtually impossible to prove -- are no longer vital in the deciding of such cases.

One of the first Canadian cases establishing the systemic approach was heard by the Ontario Human Rights Commission in 1978. A member of the Sikh community had lodged a complaint against a private security company when he was refused employment as a security guard because he wore the turban and beard required by his religion. The Commission's Board of Inquiry ruled that, while the company had not intended to discriminate, its policy was unintentionally discriminatory against members of the Sikh faith. Henceforth, the Commission ruled, effective discrimination was sufficient to establish a contravention of the provincial *Human Rights Code*.

This precedent was quickly reinforced by another Ontario ruling in January of 1979. The Ontario Police Commission was informed that its minimum height requirement unfairly and unnecessarily discriminated against women seeking employment as officers within the force.

The systemic approach is now accepted throughout the country. However, while human rights legislation is a significant and vital factor in protecting the individual from undue discrimination within the Canadian workplace, it can do little to correct the collective demographic imbalances that exist between minority and majority groups at all social levels.

Employment Equity Initiatives by Government

The alteration of broad social imbalances between groups engendered by systemic discrimination can only be achieved through proactive employment equity strategies. In Canada such programs have been implemented by both the provincial and federal levels of government. The Canadian initiatives, however, differ from the policy pursued in the U.S. in one important respect. With a single recent exception, all such policies apply largely to the public sector. Such measures on the part of the private sector are more or less voluntary. Although many corporations in Canada demonstrate a strong public commitment to employment equity and a diverse workforce, it cannot be enforced through legislation.

Provincial Programs

The provincial and territorial governments have either implemented or are in the process of formulating proactive measures designed to increase

minority participation within their public service sectors. One province, however, has recently legislated an initiative that was to apply equally to the private sector.

On December 9, 1993, Ontario became the first jurisdiction to mandate an employment equity policy for the workforce. The legislation affected some 17,000 Ontario employers. All public sector employers with ten or more employees and all private employers with fifty or more workers were now required by law to develop plans for hiring and promoting four designated minorities: women, Aboriginals, visible minorities, and persons with disabilities.

The legislation had been described as one of the strongest ever adopted anywhere in the world. Employers were be required to set numerical goals and timetables for making their work forces more representative of the community at large. Progress reports were to be filed every three years and compliance was to be enforced by a newly created Employment Equity Commission. Employers that failed to comply were to be subject to fines of up to \$50,000.

The program however, would never be implemented. It became a target for the Progressive Conservative party in the 1995 provincial election. Upon assuming power, the governing Conservatives' very first act was to disband the entire program. To date, there has been no replacement.

Currently, the most significant employment equity program aimed at changing minority group demographics within the workforce is that of the

federal government. The background, the aims and specifics of its implementation will be the focus of the remainder of this discussion.

The Federal Strategy: Origins and Development

The very idea of a bilingual and bicultural nation initiated an increasing recognition of the multicultural character of the country. The 1970's were a period of increasing sensitivity with regard to the social injustices endured by various minorities within Canadian society.

The first official and general federal policy on employment equity was initiated in 1975. In the following year, a Federal Contracts Program was established. All employers with federal contracts in excess of \$200,000 per year were requested to voluntarily establish an employment equity policy.

In July 1977, Section 15 of the *Canadian Human Rights Act* was passed guaranteeing the legality of such initiatives. A Canadian Human Rights Tribunal was also established with the power to order remedial action against practices considered to be discriminatory.

In 1978, the federal government announced a series of employment equity plans aimed at increasing the participation of three designated groups within the civil service: Aboriginals, women and persons with disabilities

Between 1978-1982 pilot projects aimed at eliminating discriminatory barriers in search and selection procedures within the hiring process were established by both the Treasury Board and the Secretariat of State.

It was not, however, until 1983 that a comprehensive policy was formulated for the civil service as a whole. In 1985, under the new Affirmative Action Program, a fourth designated group was added to the list: visible minorities

The new policy was to be administered by the Directorate on Affirmative Action under the Canadian Employment and Immigration Commission. The Directorate was designed to serve as a resource centre for the public service, crown corporations, federal contractors and federally regulated businesses (such as the banks and railways) required to implement employment equity policies and for private sector companies interested in voluntarily establishing such programs.

In April, 1985 section 15 of the *Canadian Charter of Rights and Freedoms* came into effect. It constitutionally entrenched the legality of employment equity programs by explicitly discounting the charge of reverse discrimination.

In 1988, with the passage of *The Multiculturalism Act*, Canada became the world's first officially multicultural nation. The act entrenched the legal right of all Canadians to preserve their cultural heritage and committed the federal

government to the provision of assistance to minorities in overcoming social barriers posed by past discriminatory policies and assimilationist attitudes.

In its 1990 report, *Beneath the Veneer*, The Task Force on Barriers to Women in the Public Service, surveyed the progress of the program and identified a range of challenges still to be faced. By 1993 advisory committees, focusing on each of the four designated groups, reported to the President of the Treasury Board on the relevant measures required for the further advancement of the initiative.

The Aims of the Federal Employment Equity Program

The essential purpose of the policy is to increase the representation within the Public Service Commission (PSC) of members of the four designated minority groups in all employment areas and levels where they are currently under-represented (in comparison with their participation in Canadian society at large).

The basic motivating rationale behind the policy is the belief that the PSC will be both more effective and better respected the more broadly it represents the population of the country. In this view, the inclusion of minorities at all levels throughout the federal workplace substantially enriches the PSC. A diversity of people automatically provides a broader range of experience and a

greater diversity of perspectives. This, in turn, ought to provide the government of Canada with more meaningful and relevant advice and make its delivery of services more responsive and sensitive to the needs of all Canadians.

What is more, the policy recognises that to allow the free play of systemic discrimination is to pursue a seriously defective policy regarding human resources. Organisational strength largely depends upon the ability to draw from all available pools of talent and expertise. It is frequently forgotten that systemic discrimination blindly operates against the merit principle.

Within the policy, the merit principle is seen as a key element. The fair application of the merit principle is seen as the best guarantor for the achievement of employment equity. When minority under-representation is found within a given sector of the PSC, the policy mandates, as a first step, the examination of recruitment and promotion procedures. If systemic barriers to employment and advancement exist, they are operating at the expense of the merit principle.

Finally, the policy finds a significant rational justification in the symbolic realm. Canadians can be expected to identify with and to show respect for their national institutions to the degree they see themselves, and the groups to which they belong, reflected in the social backgrounds of people serving in these institutions. Only national institutions which accurately reflect the diverse social

realities of the country can stand as powerful symbols of a society committed to the equal treatment of all its people.

One of the basic aims of the policy is to produce sustainable progress in the achievement of demographic balance within the federal workplace. This means a real change in the philosophy and culture of the PSC which moves recruitment and promotion policies "beyond the numbers" into a genuine commitment to the principles of employment equity within management and human resource practice.

The General Procedure of the Program

As we have seen, when evidence of minority under-representation is found, the first step is an examination of all relevant hiring and promotion practices with a view to the discovery of systemic barriers.

If such barriers to a minority (or minorities) are found, corrective measures are taken with a view to upholding the operation of the merit principle.

If under-representation continues to exist even after the identification and removal of systemic barriers, "Special Measures" are implemented in the form of specific employment equity programs. The range of these measures is broad and

specific strategies are flexibly chosen to suit the particular circumstances. Special Measures may include the following:

The delay of initial appointments in order to provide candidates with additional training and/or work experience;

the provision of counselling and professional development programs to assist minority employees in career development;

the provision of sensitivity training for existing non-minority employees and/or the provision of work experiences with members of previously under-represented minority groups;

the design of community publicity campaigns with a view to increasing awareness of opportunities and the general minority pool of interested employment candidates;

and co-operative ventures with educational institutions aimed at encouraging the minority acquisition of needed and rare skills and training.²⁹

Numerical targets are necessary for the meaningful alteration of workplace demographics. Two factors, however, largely determine the rate at which progress toward numerical targets can be achieved. They are the rate at which positions become vacant within an organisation and the percentage of designated group members available within the general labour pool.

A target setting-approach has been approved by the Treasury Board as integral to the implementation of the policy. Departments or agencies are encouraged to recruit or promote minorities at least in the same proportion as the designated group within the available supply of candidates or in the same proportion as the previous year, if the latter is higher.

For three of the four designated minority groups – Aboriginal peoples, visible minorities and persons with disabilities – the policy operates strictly upon the principle of voluntary self-identification. An employee must choose to be included in a specific minority group.

For a variety of reasons, some minority employees have been reluctant to identify themselves as members of one or other of the designated minority groups. Some object on the grounds of privacy, others out of a concern that they may be perceived as benefiting from special treatment or competing on a basis other than merit. As a result, self-identification numbers understate the actual minority demographics of the workplace.

Valuing Diversity in the Workplace: A New Philosophical Perspective on Employment Equity Within the Federal Public Service.

In all employment equity programs a certain tension inevitably exists between the numerical goals essential to the success of the initiative and the attitudinal changes necessary to the sustainable long-term aims of the policy. While the PSC has recognised the fundamentally numerical aspect of the program, it has also recognised that in order to achieve and maintain numerical balances, the policy must "move beyond the numbers".

This means that, while targets and numerical statistics continue to be monitored as a measure of progress, individual managers are increasingly encouraged to focus on the incorporation of the basic principles of employment

equity and managing diversity within the managerial culture and practices of their departments, agencies and organisations.

Over the past decade managerial education on employment equity and the management of workplace diversity have had an effect, though it has been somewhat limited. The organisational importance and benefits of encouraging diversity have been realised by an increasing number of managerial and supervisory personnel. As a result, the personal commitment to, and understanding of, the aims and nature of employment equity has increased among people in key positions throughout all levels of the PSC.³⁰ It is the PSC's expectation that this new understanding and commitment will be increasingly reflected in departmental and personal managerial initiatives.

In the context of this shift of emphasis within the policy, education and training are seen as powerfully effective instruments for deepening understanding, enhancing commitment and increasing the intrinsic support for the program by managers. The long term and enduring success of the initiative is seen as dependent upon a genuine attitudinal change within the general managerial culture of public service institutions.

A variety of specific strategies have been identified for the creation and support of such attitudinal changes.

One, for instance, is the creation of a learning culture within the working environment. By stressing an inquiry-oriented approach within the work place a

general atmosphere is created in which sensitive questions and issues can be raised and discussed. When combined with communication, mediation and conflict resolution skills such an environment can provide a milieu in which it is possible to learn about differences without being apprehensive about differences.³¹

Another is the provision of formal training that employs simulation, role reversal and role play and can serve to greatly enhance the understanding and empathy of managers with regard to minority issues.

There is also the integration of employment equity training into regular "training for performance" sessions within the workplace. It is argued that training related to the implementation of the employment equity ought not to be separated from other forms of on-the-job training. It has been found that when such training is brought into the everyday workplace, its practical relevance is more easily demonstrated and understood. This strategy also serves to reinforce the idea that diversity is a legitimate and ordinary part of the work environment and not merely some token gesture towards minority groups.³²

Another initiative calls for the provision of training opportunities that provide quality contact between managers and minority group members. Such strategies help to situate the manager in the real world of Canadian society and encourage the perception of the link between a socially representative work force and the provision of services to an equally diverse clientele. The managerial

understanding of the human element behind the 'numbers' is seen as vital to increasing commitment to the initiative.

The encouragement of managers to create ordinary opportunities for open discussion on employment equity related issues is also needed in the workplace. It is felt that managers should be encouraged to take the lead in raising such issues within the everyday context of staff meetings. Senior management personnel can play a key role during the course of such everyday discussions by expressing and explaining their support for the concept of an inclusive work place. When the issue is presented as a challenge to which senior management personnel are genuinely committed, lower level managers and employees can be more readily motivated to take the initiative and put elements of the policy into practice.³³

THE GOALS AND PROGRESS OF MINORITY REPRESENTATION WITHIN THE FEDERAL EMPLOYMENT EQUITY INITIATIVE

The federal Employment Equity Program has been formulated, guided and monitored over the course of the past decade by a series of Advisory Committees to the President of the Treasury Board.

In 1991 a new External Advisory Committee was established along with four Internal Employment Equity Consultation Groups. Between 1992-1993 the Consultation Groups submitted individual reports to the Secretary of the

Treasury Board. The following provides a brief survey of their findings and policy recommendations for the future implementation of the initiative.

Women

According to the 1992 report of the Consultation Group on Employment Equity for Women entitled, *Gender Balance: More Than the Numbers*, the federal employment equity strategy for women has enjoyed a certain degree of success.³⁴

Nevertheless, in spite of such successes, and the operation of various employment equity policies and programs, the goal of gender balance within the federal work place remains elusive. The basic problems identified in *Beneath the Veneer*, the 1990 report of the Task Force on Barriers to Women in the Public Service, remain largely untouched. These are chiefly the problems of "compression and concentration": The report notes that:

Over 75% of all women within the PSC are concentrated in *four* occupational categories (Clerical & Regulatory, Secretarial, Stenographic & Typing, Administrative Services and Program Administration);

Within most employment categories, women remain concentrated in the lowest employment levels;

Women still hold proportionately fewer of the positions of power and influence within the federal work place.³⁵

The Consultation Group did make the following recommendations with regard to the future implementation of the initiative for women:

(1) Identify attitudinal barriers on the part of the managerial elite and provide appropriate strategies for their elimination. The later include:

The development of ongoing internal mechanisms for identifying the existence of barriers – especially attitudinal barriers – to gender balance.

The provision of diversity training aimed at promoting the value of gender balance and increasing individual commitment to the removal of attitudinal barriers. The provision of such training at all levels but, first of all and especially, at the managerial level.

The development of mechanisms for ensuring managerial accountability with regard to gender balance. Superior performance ratings, for example, should require the manager to identify what specific actions have been taken to ensure or promote gender balance.

Continuation of the policy by which Deputy Ministers are held accountable for results achieved in moving towards gender balance.

(2) Promote an increased recognition of the need to balance work and family life.

Flexibility in working hours should be seen as an organisational need and flexible working arrangements ought to be implemented immediately in all areas of the work force.

A mechanism should be constructed for the review of all negative managerial decisions regarding flexible work hours and arrangements.

A central referral service should be established to provide employees with information on child care services. This is especially important when emergency child care is needed.

(3) Provide specific career development opportunities for women in administrative support occupations and ensure that administrative category employees feel that their work contributions are valued.

Institute a "bridging" program which facilitates the movement of employees from administrative support positions to analyst and officer positions.

Ensure that the work of the administrative support group is properly valued. Pay must be based on the principle of *equal pay for work of equal value*.

(4) Address the problem of moving women into the area of non-traditional occupations.

Change the definition of non-traditional work for women within the PSC. Broaden the definition by eliminating the external availability factor and including in the non-traditional category all job categories in which women represent 30% or less than 30% of the work force.

(5) Continue to bolster the progress made in increasing the percentage of women within the management category.

Provide "beacons for change" by appointing women to key strategic positions within federal organisations.

Rotational assignments through the key central agencies could help women move through the Executive Category by developing vital senior management skills.

Provide a system of formal mentor support for women. An inventory of those willing to spend time counselling and advising women could serve to help women in the management feeder groups and in junior management positions to develop management skills and abilities.

Provide an *external* evaluation of the new Assessment Centre for Managers to ensure that its procedures and personnel contain no gender bias.

Continue support for the Women's Career Counselling and Referral Bureau.

(6) Make an greater effort to identify and address the difficulties of women specific to the regions.

All organisations should ensure that women in their regional and district offices have equitable access to employment information and all training and career development opportunities.³⁶

Aboriginal Peoples

In December 1991, the Aboriginal Employment Equity Consultation Group presented its report, *Completing the Circle*. The Group attempted to provide as broad a perspective as possible on current programs aimed at promoting employment equity for Aboriginal peoples across the country. To this end the initiatives of thirty public and private sector organisations were examined with a view to establishing:

Case Studies detailing the employment equity policies of particular organisations for the purpose of providing ideas and models for application within specific PSC contexts.

The development of A Best Practices Framework to assist in the design of PSC strategies based on the lessons and achievements detailed in the case studies.

The compilation of A Compendium of Ideas for Managers.

The compilation of A List of Recommendations for Government Wide Reforms designed to support and facilitate the government's Employment Equity Program for Aboriginal peoples.³⁷

The single most important conclusion of *Completing the Circle* was the need to take immediate measures to enlarge the pool skilled aboriginal youth available for employment. In the eyes of the Consultation Group it is vital that the talents of aboriginal youth be developed and channelled toward occupations that will be in demand over the course of the decade.

Coherent, co-ordinated and culturally sensitive approaches must be made toward aboriginal youth with a view to building self-esteem and basic skill levels. Moreover, unless aboriginal students can be successfully encouraged to pursue studies in potential areas of employment demand, unemployment among aboriginal post-secondary graduates could grow with rising graduation rates.

The following specific actions were recommended:

The federal government should encourage and support the development of culturally sensitive career guidance materials. Emphasis should be placed on occupations expected to experience employment growth during the 90's.

On reserve schools should be encouraged to provide improved career guidance counselling for both children and parents before the high school level.

Encourage measures designed to broaden the potential pool of trainable Aboriginal entrants to the work force. A team approach between the federal government, the private sector and Aboriginal communities is needed. Barriers must be reduced, the school dropout rate lowered, the transition from school-to-work eased and the social and intellectual development of Aboriginal youth supported.

Regional Councils should be established to co-ordinate local partnership committees between schools, students, parents,

teachers, local service agencies, government and private sector employers.

Regional Councils could co-ordinate partnership initiatives between the government and local communities. Such programs could, for example, involve "stay-in-school" projects or the offering of scholarships and bursaries.

Initiate high school work\study programs designed to familiarise Aboriginal youth with work place situations.

Expand the current post-secondary co-operative educational programs for Aboriginal youth and have federal organisations commit to engaging coop Aboriginal students for specified work experience terms.³⁸

As the current work force ages and the number of youth entering declines over the course of the next decade, the PSC can expect to find itself in increasing competition with the private sector for skilled employees. Although the Aboriginal youth population will grow, the federal government will need to adopt certain special measures to attract its fair share of Aboriginal employees.

The retention and advancement of aboriginal employees is an on-going problem within the public sector. To surmount these problems customised approaches tailored to the career development needs of the individual are required. Frequently, individuals feel the need to return home to work within their own communities or feel an obligation to work with other First Nation communities. Periods of leave ought to be provided with the option of returning to the PSC without penalty. Specifically, the report recommended:

The establishment of a "Careers Canada Option" a five to ten year in-service, co-operative and systematic rotation program designed to facilitate career movement between governments, the private sector and the Aboriginal community. Such a program could help reduce the problem of discontinuous employment for Aboriginal peoples; respond to the unique career\development needs of Aboriginal Canadians and improve the level of individual expertise available to First Nation organisations.

Individual Aboriginal employees should be encouraged to develop "Career Management Plans" jointly with immediate supervisors and personnel services within their organisations. These plans should be monitored by management personnel.

– Special attention should be given to the career advancement of Aboriginal women and to the special needs of Aboriginal employees with disabilities.³⁹

The Group concluded a number of government-wide initiatives are required by both Aboriginal employees and individual organisations. The following are a few of the most significant recommendations *Completing the Circle* makes in this regard.

Aboriginal employees should be encouraged to form an "Aboriginal Employees Association".

Establish a special Aboriginal Managers Seminar.

Establish a "Mentors Inventory" to link new Aboriginal employees with more senior and experienced Aboriginal members of the organisation.

Encourage the building of bridges between senior managerial staff and the Aboriginal community.

Hold annual consultations with Aboriginal Student Associations and provide modest financial support for the publication of career options and opportunities within the PSC.⁴⁰

The current evidence suggests that the labour market is tight for employers looking to hire Aboriginal post-secondary graduates. Better data on the available labour pool of Aboriginal graduates is required in order to develop realistic Aboriginal employment equity strategies. To this end existing federal labour market data ought to be used and, if necessary, new research\surveys conducted. This is seen as essential for the development of realistic strategies in both the public and private sectors.

Visible Minorities

In their March 1992 report, *Breaking Through the Visibility Ceiling*, the Visible Minority Consultation Group on Employment Equity squarely faced the problems of definition and identification.

In Canada, 'visible minorities' include a wide range of racial and ethnic groups and mixtures thereof. Any attempt to categorise them by anyone other than the individuals themselves would be Kafkaesque in its implementation, to say nothing of the invidious comparisons that one would be tempted to make to the racial classifications of South Africa.⁴¹

In the view of the Consultation Group, self-identification is the only acceptable way of determining who is and who is not to be counted as 'visible' within the work place. Moreover, while managers have a real need for statistics that are reliable and consistent over time, an exaggerated concern with numbers may be fundamentally misplaced with regard to the issue of employment equity for visible minorities. Presently, the predominant equity issues for visible

minorities within the federal work place are occupational structure and career advancement. Again, to quote *Breaking Through the Visibility Ceiling*:

Success may not be a matter of how many visible minorities can be brought into the PSC but of how many barriers to their advancement can be torn down, especially through changes in behaviours, attitudes and culture. ⁴²

In the Consultation Group's January 1993 report, *Distortions in the Mirror: Reflections of Visible Minorities in the Public Service of Canada*, this conclusion was clearly supported by analysis of the available data. Five Major conclusions regarding the profile of visible minorities within the federal work place were drawn.

- (1) Visible minorities are conspicuously absent in management and, especially, in the region of senior management.
- (2) Visible minority women within the federal work place face a "double jeopardy" in their career aspirations: gender and visibility.
- (3) Visible minorities are unduly concentrated in the Scientific and Professional Category and in certain "feeder categories". These categories clearly constitute a "visibility trap" from which visible minority employees do not proceed into management positions.
- (4) Visible minorities are significantly under-represented in central agencies and key departments that serve as the traditional "training grounds" for senior management positions.
- (5) Visible minorities are not being trained for responsible managerial positions in sufficient numbers to meet the minimum requirements of the Employment Equity Program. ⁴³

The conclusion seems clear: a systemic bias operates within the federal work place against the natural career progression of persons visibly different from the majority. The report, *Distortions in the Mirror*, captures the nature of this bias in the comment that:

Our interviews and discussions with visible minority employees detail first-hand experiences of being on the receiving end of that bias. Some of these reactions were graced by a remarkable understanding of human nature; some were marked by frustration and anger; a few were flawed by elf-pity. Whatever fault may be found with them, these perceptions define another reality: a vast discontent; a feeling of undeserved injury; and cynicism about whether anything can or will be done to assuage the injury and create a more positive climate.

In this situation, managers have no alternative but to face both the demonstrated reality of bias within the system and the perceptions of bias on the part of minority employees.

Distortions in the Mirror recommends a two pronged approach:

- (1) Improve the culture of the PSC for visible minorities through persistent, visible leadership from the highest levels of organisational management.
- (2) Ensure that visible minorities are prepared for full participation at all organisational levels and especially in the area of access to promotion within management circles.⁴⁴

To maintain even the current level of visible minority representation within the federal work place will take a conscious and concerted effort. The poor recruitment and retention figures demonstrate a serious threat to the

credibility of the employment equity initiative for visible minorities. It becomes extremely difficult to maintain that the program is a priority objective of management policy. In the eyes of the Consultation Group, if the drain of visible minority employees continues, the result can only be increased cynicism and alienation among the remaining visible minority members of the work force.

The demonstration of an effective commitment was felt to be an element of critical importance in the retention of current levels of visible minority representation within the PSC.

Persons with Disabilities

In April 1992, the Consultation Group on Employment Equity for Persons with Disabilities delivered a report entitled: *Looking Beyond What You See*.

The PSC numbers for this designated minority group clearly demonstrate the need for strong employment equity measures. In 1986, Statistics Canada estimated that approximately 7.3% of the country's working age population (aged 15-64) were persons with disabilities which in some way limited them at work. Within both the federally regulated and Public Service work place, the annual reports for the *Employment Equity Act* indicate the following realities:

— In the 1990 Annual Report it was shown that persons with disabilities within Canadian society had higher unemployment rates, lower participation rates and lower pay than the general labour force.

– In the Annual Report for 1991 persons with disabilities made up 5.4% of the general Canadian labour force. Within the federal work place, however, of employers subject to the *Employment Equity Act*, persons with disabilities represented only 1.6% in 1986 and 2.4% in 1990.

In spite of the government's Employment Equity Program, employment growth for persons with disabilities within the federal work force has been *lower* than the growth within the unregulated general work force. This is partially accounted for by the low level of hiring in comparison to the relatively high number of terminations.⁴⁵

It was strongly felt that such figures are indicative of the on-going existence of serious systemic barriers within the PSC for persons with disabilities. It was felt that both attitudinal barriers and discriminatory practices continue to exclude and limit the employment opportunities of persons with disabilities within the public sector.

In May 1993, the Consultation Group presented a second report, outlining *Effective Practices in the Employment of Persons with Disabilities*. The following were the indispensable elements they identified in the framework of successful employment equity strategies for this minority.

(1) The Existence of a Strong Organisational Commitment. The level of corporate commitment to the policy is vital and must be actively demonstrated through the leadership of senior management personnel. This commitment must be long term and adequate resources must be provided for both the equity program and accommodation initiatives.

(2) The Identification and Elimination of all Specific Barriers to Employment Equity for Persons with Disabilities.

(3) The Establishment of a Flexible Approach to Accommodation Measures. Employees with disabilities are a very diverse group and accommodation must be flexible if it is to effectively deal with the often unique needs of individuals. Peripheral job duties may be reassigned, flexible work hours and arrangements provided; physical facilities appropriately altered or appropriate technical aids acquired.

(4) The Building of a Supportive Organisational Environment. Such initiatives may include:

programs and policies designed to handle and eliminate harassment within the organisation;

educational and training efforts designed to build a broad internal commitment to both employment equity and the concept of work place diversity;

(and) programs to increase awareness of the myths and misconceptions that popularly surround and limit persons with disabilities. Disability awareness ought to be a key component in all existing diversity and sensitivity programs.

(5) The Formulation of a Realistic and Effective Employment Equity Plan.

(6) Provision Should be Made for the Use of Special Measures. targeted specifically at persons with disabilities are an especially crucial element in the recruitment, training, development, promotion and re-integration aspects of employment equity programs for employees with disabilities. The report goes on to suggest:

– The use of Pre-Recruitment Programs. Participation, for instance, in work familiarisation programs run in conjunction with agencies serving persons with disabilities. The "Discovery" program run by the March of Dimes provides a combination of computer training for persons with disabilities and work experience in participating organisations. Such initiatives serve to broaden the employment opportunities of persons with disabilities by providing contacts, dispelling misconceptions and attacking systemic and attitudinal barriers.

The use of Targeted Recruitment Strategies. Outreach initiatives can be undertaken through the auspices of local and national organisations for persons with disabilities. Recruitment efforts and application procedures can also be made more accessible and appropriate for potential employees with disabilities. This may involve such accommodation measures as the provision of telecommunications devices for the deaf (TDD"s) or widened interview rooms accessible to applicants in wheelchairs. ⁴⁶

Conclusion

The reports by the four consultation groups point to some serious shortcomings in the manner in which the Public Service integrates designated group members. Limited career advancement, an inhospitable if not hostile environment, the lack of coherent and well-thought out employment equity plans and blatant sexism and racism are a few of the problems that designated group members are facing. Although the consultation groups delivered their reports close to 5 years ago, it is safe to say that conditions in the PSC have generally not improved.

The lack of initiative in pursuing employment equity for members of the designated groups is interesting when contrasted to the situation faced by Francophones some thirty years ago. As noted above, the workplace situation for Francophone employees improved dramatically in the 1960's. That the threat of Quebec separatism may have influenced this process is almost certain. Unfortunately, members of the designated groups do not wield as powerful a political stick.

¹ Mr. Justice Burton supports this notion in *Courtner v. National Cash Register Co.* in writing, "discrimination means the act of making a distinction in favour or against a person or thing based

on the group, class or category to which that person belongs rather than on individual merit". As cited in Beckton (1987) at 7.

² Lebel (1987) supports this interpretation of the definition of equality in Canada in writing that, "l'égalité est prise dans un sens d'identité de traitement, ce qui implique nécessairement l'interdiction de toute mesure discriminatoire qui aurait pour effet d'introduire un traitement différent de celui de la majorité. Cette conception de l'égalité est centrée sur la similitude entre les personnes, et, poussée jusqu'à sa limite elle nie les différences entre les majoritaires et les minoritaires....Il faut reconnaître que cette conception de l'égalité est toujours dominante de nos jours en droit international et dans la plupart des états."

³ (1974) S.C.R. at 1349

⁴ [1984] 2 S.C.R.145 at 155. As cited in Magnet (1986) at 178.

⁵ In *Quebec Association of Protestant School Boards v. A.G. Quebec*, Deschenes C.J.C.'s decision regarding attempts secure group language rights in Quebec noted that "Quebec's argument puts forward a totalitarian view of society to which the court does not subscribe. Human beings are, to us, of paramount importance and nothing should be allowed to diminish the respect due to them. Other societies place the collectivity above the individual. They use the Kolkhoze steamroller and see the merit only in the collective result even if individuals must be destroyed in the process...This concept of society has never taken root here...and this Court will not honour it with its approval." In a subsequent interview, the Chief Justice was noted to have said "it is the cornerstone of our belief in the protection of human rights that rights must be vested in the individual. When it comes to determining rights it is on the individual as a member of the minority that the emphasis must be put". [1984] 2 S.C.R.66.

⁶ Mill (1985)

⁷ Rawls (1971) at 511.

⁸ Tarnopolsky (1983) at 259-60.

⁹ Please see Tarnopolsky and Pentney (1985) at 16-27

¹⁰ Morton (1985) discusses the development of group rights in Canada.

¹¹ Please see Canada (1995). Despite the government's intentions, commentators such as Mary Ellen Turpel still see a gap between the government's public pronouncements on Aboriginal self-government and the courts rulings in this area. Please see Turpel (1992)

¹² Please see, for example DaRe (1995) and Cholewinski (1988). In fact, cultural pluralism and the ethnic mosaic began to develop in Canada as early as the 1920's. It was suggested that ethnic diversity could be reconciled with national unity and that assimilation was not necessary or even desirable. See V. Haywood and E. Watson in *Romantic Canada* and K. Foster in *Our Canadian Mosaic*, as cited in Berry et. Al. (1976) at 6-7

¹³ *House of Commons Debates*, 8 October, 1971 at 8581:

1. The government of Canada will support all of Canada's cultures and will seek to assist, resources permitting, the development of those cultural groups which have demonstrated a desire and effort to continue to develop a capacity to grow and contribute to Canada, as well as a clear need of assistance
2. The Government of Canada will assist members of all cultural groups to overcome cultural barriers to full participation in Canadian society
3. The Government will promote creative encounters and interchange among all

Canadian cultural groups in the interest of national unity.

4. The Government will continue to assist immigrants to acquire at least one of Canada's official languages in order to become full participants in Canadian society.

¹⁴ R.B. Fleming (1991) notes that "official multiculturalism encourages false images of immigrants-culture demonstrated at ethnic festivals gives the impression that immigrants lived in splendid rural isolation, while in their native countries, they had already come into contact with sophisticated technologies and ideas". See also Moodley (1983) at 326 and Rahim (1990) at 38, "culture is defined here as a bundle of artefacts rather than the living experience of a people. Breton (1986) at 53 adds that, "instead of enhancing the value of cultural diversity and its contributions to Canadian society, multiculturalism ran the risk of producing the opposite effect. To the extent that it was fostering the attitude that ethnocultures were not to be taken seriously, multiculturalism in its concrete form faced the danger of degrading ethnocultures rather than celebrating them". Some commentators however, believe that multiculturalism has had some positive effects. For instance, Abu-Liban and Stasiulis (1992) have concluded that "multiculturalism allows for a more inclusionary political discourse than either liberal individualism or the two nations model of Canadian society, providing legitimacy for both the presence and the articulation of concerns of ethnic minority collectives".

¹⁵ A recent government of Canada publication noted:

In the Canadian experience, it has not been enough to protect only universal individual rights. Here, the Constitution and ordinary laws also protect other rights accorded to individuals as members of certain communities. This accommodation of both types of rights makes our constitution unique and reflects the Canadian value of equality that accommodates difference. The fact that community rights exist alongside individual rights goes to the very heart of what Canada is all about.

Please see Canada (1991)

¹⁶ It is important to note that there are not many other countries that accord the same respect to group rights. France, for instance, does not even recognise minorities. Rouland explains that:

la France n'admet pas juridiquement l'existence des minorités: l'intégration ne peut être que celle d'individus. Fidèle à sa logique, elle défend dans les forums internationaux une interprétation individualiste des droits de l'homme et se refuse à signer les conventions instituant une garantie spécifique des droits des minorités ou des autochtones

Please see Rouland (1993) at 16

¹⁷ [1990] 3 S.C.R. 697.

¹⁸ [1990] 1 S.C.R. 342.

¹⁹ *ibid* at 365.

²⁰ Please see Hosein (1992) at 602.

²¹ Please see C. Sheppard's comments in "Recognition of Disadvantaged Women: The Promise of *Andrews v. Law Society of British Columbia*", *McGill Law Journal*, 35, no.206, 1989 at 224, where she remarked that this case (*Andrews*),

repeatedly refers to "individual and groups" rather than just "groups". Such a reluctance to abandon individuals perhaps reflects conventional societal regard for human rights as individual rights

As cited in *ibid* at note 21.

²² Some Aboriginals in Canada have argued that their right to protection from the larger society entails the right limit the basic liberties of their own members. This was evident in two recent court cases. The first case involved the special fishing rights of Aboriginal peoples, which are a form of protection from the larger society. Fishing is an important aspect of some Aboriginal cultures, and guaranteed fishing rights ensure that they are not outbid by outsiders for special fishing stocks. These external protections were upheld by the Supreme Court. The second case involved an Aboriginal man who was literally kidnapped by members of his band to and forced to undergo an initiation ceremony which involved assault, battery, and unlawful imprisonment. The defendants argued that the earlier case involving fishing rights proved that the Collective rights of Aboriginal people take precedence over individual rights in the Canadian constitution. The court rejected this argument, saying that there was no reason to assume that external protections against society and internal restrictions against groups members need to be considered together.

Please see *Sparrow v. Regina* [1990] 3 CNLR SCC and *Thomas v. Norris* [1992] 3 CNLR BCSC.

²³ Young (1990) at 165

²⁴ Jacobs (1991) at 379. Jacques Barou speaks to the psychological importance of maintaining a group identity in his comment that

Pour autant qu'il soit possible d'établir des règles en sociologie, il semblerait que l'appartenance à un group communautaire solide et ayant de lui-même une conscience claire et positive soit une condition favorable pour l'intégration des individus à une entité nationale plus vaste.

Please see Barou (1993). Please see also Taylor (1993) who argues for the importance of *group recognition* as a key component to one's identity.

²⁵ For instance, Kymlicka (1989) at 165 contends that:

liberals should be concerned with the fate of cultural structures, not because they have some moral status of their own, but because it's only through having a rich and secure cultural structures that people can become aware in a vivid way of the options available to them and intelligently examine their value.

²⁶ Please see Feher (1994) at 276.

²⁷ *Ibid*

²⁸ The term "employment equity" is relatively new. It originated in Canada, and was first coined by Judge Rosalie Abella, in the *Report of the Federal Royal Commission on Equality in Employment* released in 1985. The term refers to employment policies or programs which aim at promoting equal access to employment opportunities for traditionally disadvantaged groups, through activities which will increase and make more equitable their representation at all levels of the workplace.

²⁹ Please see *Special Measures Initiatives Programs* in Treasury Board Secretariat Reports.

³⁰ Treasury Board Secretariat Reports reveal that at the Executive Level, there is a growing number of senior civil servants participating in employment equity consultation groups.

³¹ Please see *Central Agency Initiatives* in Treasury Board Secretariat Reports.

³² This is the approach to diversity training that successful consulting companies have used in both the private and public sectors.

³³ Please see Treasury Board Secretariat Report, *Workshops*, 1997 at 16.

³⁴ Female representation in the federal employment sector has continued to grow, increasing from 42.4% in 1987 to 45.2% by 1991. The target figures for 1991 were met in four categories – Management, Technical, Administrative and Foreign Service.

The number of women in the management category increased from 10.6% in 1987 to 16.1% in 1992. Moreover, for the first time, women accounted for more than 50% of the participants in the first intake of the key career development course, the Management Trainee Program.

³⁵ Consultation Group on Employment Equity for Women at 14, 1992.

³⁶ *Ibid.*

³⁷ Consultation Group on Employment Equity for Aboriginal People *Recommendations*, 1992.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ Consultation Group on Employment Equity for Visible Minorities at 5, 1992.

⁴² *Ibid* at 6.

⁴³ Consultation Group on Employment Equity for Visible Minorities at 1, 1993.

⁴⁴ *Ibid, Recommendations.*

⁴⁵ Consultation Group on Employment Equity for Persons with Disabilities, *Introduction*, 1992

⁴⁶ Consultation Group on Employment Equity for Persons with Disabilities, *Recommendations*, 1993.

The Government Record: Assessment and Suggestions for Renewal

The policies described in the previous chapter are designed to bring about a representative bureaucracy or, in other words, a bureaucracy that “looks more like Canada”.¹ The equation holds that once there are more members from the designated equity groups in the public service, the bureaucracy will be seen to be valuing diversity. Therefore, the recruitment of designated group members into the public service has long been the principle objective behind the government’s employment equity program.²

This policy has developed over the years to include explicit prohibitions against discrimination. This has come to include both explicit acts and more subtle, systemic, forms of discrimination³

To this end, it is safe to say that the government has been moderately successful in the recruitment of designated group members to fill Public Service Commission (PSC) positions.⁴ Treasury Board statistics clearly show that there has been an increase in the number of persons hired from the designated groups. What these statistics do not show however, is the experience of those group members once they begin their period of employment with the government.

A closer examination will reveal that while the federal government and the PSC may actively seek out designated group members to foster a more representative bureaucracy, their contributions tend to be limited due to the

unyielding and largely inflexible bureaucratic culture. This has often led to a situation where frustrated and dispirited, designated group members leave the PSC at a rate that is substantially higher than that of non-group members.⁵

Therefore, where the government has had some success in *recruitment*, it still faces problems in the area of *retention*. It will be suggested here that this is partially the result of a definition and understanding of diversity held by the government that is not very sophisticated or progressive. This chapter will address some of the factors in bureaucratic culture that force designated group members to leave the government and suggest an evolution in the traditional approach to the management of diversity.

The Traditional Understanding of Diversity

Two perspectives have guided most diversity initiatives to date: the *discrimination and fairness* paradigm and the *access and legitimacy* paradigm. The following discussion will describe them and demonstrate how they have become outmoded.

Using the discrimination and fairness paradigm is perhaps thus far the dominant way of understanding diversity. Government officials who look at diversity through this lens usually focus on equal opportunity, fair treatment,

recruitment and compliance with the Treasury Board's guidelines.⁶ The paradigm's logic can be expressed as follows:

Prejudice has kept members of certain demographic groups out of organisations such as ours. As a matter of fairness and to comply with federal mandates, we need to work toward restructuring the makeup of our organisation to let it more closely reflect that of society. We need managerial processes that ensure that all our employees are treated equally and with respect and that some are not given unfair advantage over others.⁷

Although it resembles the thinking behind traditional employment equity efforts, the discrimination and fairness paradigm does go beyond a simple concern with the numbers. Government departments that operate with this philosophy often institute mentoring and career development programs specifically for women and visible minorities.⁸ Under this paradigm, progress in diversity is measured by how well the department achieves its recruitment and retention goals.⁹

Without doubt, there are benefits to this paradigm: it does tend to increase demographic diversity in an organisation, and it often succeeds in promoting fair treatment.¹⁰ But it also has significant limitations. The first of these is that its colour-blind, gender-blind ideal is to some degree built on the implicit assumption that "we are all the same" or "we aspire to being all the same". Under this paradigm, it is not desirable for diversification of the workforce to influence the organisation's culture of work. This paradigm maintains that the department should operate as if every person were of the same race, gender and

nationality. It is unlikely that managers responsible for diversity under this paradigm will explore how people's differences generate a potential diversity of effective ways of working, leading servicing customers, managing people and learning.¹¹

Not only does this paradigm insist that everyone is the same, but it also puts pressure on everyone to ignore differences. Genuine disagreements about work-related issues can often be labelled as sexist or racist, especially when it is accompanied by tense debate. In attempting to assimilate as quickly and fully as possible into an organisation, an employee may be reluctant to point to ethnic differences that may influence the success of a program.¹² For instance, a minority employee may not speak out about the appropriateness of a government campaign targeted at certain groups so as not to appear to be importing knowledge into the organisation that might be perceived as inappropriate in a workplace blind to cultural differences.

Ultimately, this paradigm severely limits the employee's ability to function. By limiting the ability of employees to acknowledge their cultural differences, an organisation's ability to improve its strategies and processes is undermined.

Similarly, those minorities coming from cultures with more collectivist orientations find themselves having to function in an environment that is rigidly individualistic. ¹³This has led to what has been termed a "situational ethnicity",

where, “bicultural members of minority cultural groups may respond using norm sets from two different cultural backgrounds and that contextual cues may dictate which norm set is operative in a given situation”¹⁴ In other words, minority group members must reserve their more authentic personal characteristics for situations outside of the workplace, and behave as expected when inside.¹⁵

Over the years, the discrimination and fairness paradigm has given way to the access and legitimacy paradigm. If the discrimination and fairness paradigm can be said to have idealised assimilation and colour-and gender-blind conformism, the access and legitimacy paradigm was predicated on the acceptance and celebrations of differences. The underlying motivation of the access and legitimacy paradigm can be expressed as:

We are living in an increasingly multicultural country, and new ethnic groups are quickly gaining consumer power. We need a demographically more diverse workforce to help us gain access to these differentiated segments. We need employees with multilingual skills in order to understand and serve our clients better and to gain legitimacy with them. Diversity isn't just fair; it makes good business sense.¹⁶

Where this paradigm has taken hold, organisations have pushed for access to a more diverse clientele by matching the demographics of the organisation to those of critical consumer or client groups. In some cases, this has led to substantial increases in organisational diversity.¹⁷ For instance, the PSC has increased the

representation of Asians among its workforce to serve the growing South Asian immigrant population in the lower mainland of British Columbia.¹⁸ Indeed, it could be argued that the PSC has had no choice but to adopt the access and legitimacy model, as its client base has changed radically over the last ten to fifteen years.

It should not be said however, that this paradigm does not have its strengths. Its “market based” motivation and the potential for competitive advantage that it suggests are qualities that bureaucrats have been told to emulate in order to be more efficient.¹⁹ Yet, while leaders in these organisations now tend to emphasise cultural differences, they do so without really analysing those differences to see how they actually effect the work that is done.

Whereas leaders working under the discrimination and fairness model sought to deny differences in order to maintain organisational cohesiveness, access and legitimacy leaders are quick to push staff with “cultural competencies” into specific jobs, without considering the impact on the staff member or the organisation. By slotting a staff member into one of these niche roles, subtle prejudices are invoked that suggest the staff members is only competent in dealing with other members of their group. As a result, many individuals recruited for a particular function may come to feel undervalued and used as they begin to sense that opportunities in other parts of the organisation are closed to them.²⁰

Also, designated group members who are successful in carrying out their culturally oriented task do so without influencing the rest of the organisation. Leaders seldom go on to identify and analyse the culturally based skills, beliefs and practices that worked so well.²¹ Nor do they consider how the rest of the organisation can incorporate and learn from those skills, beliefs or practices that worked so well.²² Such successes take on a slightly mysterious and exotic quality and are generally not seen as being consistent with the organisation's corporate culture.²³ Ultimately, this approach will have consequences for the organisation in that,

Striking at the heart of the changing composition of the workplace is the recognition that the standard homogenised approach to management will likely prove progressively less effective with a broad array of diverse styles and perspectives brought to the workplace.²⁴

A return to cultural homogeneity in the workplace, however, is neither feasible nor practical....returning to cultural homogeneity in the workplace would come at a tremendous cost to organisations and individuals...We need to create multicultural organisations in which all workers can be productive, rather than return to monocultural organisations that stifle individual creativity...²⁵

This situation is not only consistent with the experience of visible minorities and Aboriginal people in the workplace, but women as well. Increasingly, research is revealing gender-based differences in ways of thinking.²⁶ Women and men in organisations often find themselves at odds with

each other because of their different understandings of personal experiences. It is suggested that this may be due to the fact that women and men have traditionally conducted their lives in different spheres, with men occupying positions in public life and women occupying positions in private life. Furthermore, the unequal distribution of power between women and men gives each gender a different vantage point for making sense of the world around them.²⁷ It is suggested that, “women’s ways of knowing are often at odds with the rationalistic approach to understanding and decision-making that forms the foundation of management theory and practice...”.²⁸

The situation that faces disabled persons is somewhat different. Although there does exist a culture of disability, the discrimination practised against the disabled tends to be far more pernicious, as it is difficult to use cultural differences to critique their performance. Despite the increasing support for disabled people to have easier access to work, they also have to deal with the problems faced by other designated group employees.²⁹ For example, research indicates that some people perceive disabled people negatively and these hurtful attitudes can affect the performance of a disabled employee and hinder their full integration into the workplace.³⁰

The Challenges of Organisational Culture

A recalcitrant organisational culture appears to be one of the biggest stumbling blocks to the full integration of designated group members into the Public Service.³¹ A study of the existing impediments to change and a quick review of the literature of organisational theory and diversity will offer a background for a new emerging paradigm that will seek to link diversity to work perspectives.

Diversity initiatives have proven not to be compatible with North American organisational development theory.³² Several factors in the development of organisational theory and research created and reinforced its emphasis on understanding the experiences of white men. First, organisational theory has always been about the managing of organisations. It is deeply rooted in highly pragmatic concerns about accomplishing organisational purposes, whether those purposes are ruling nations, winning wars or producing goods and services.³³

An emphasis on the people and the activities at the top of the organisation created a managerial bias in organisational theory that has focused attention on the white men who have held, and continue to hold these positions at the top of virtually every government department.³⁴ Although historically women have dominated the pink-collar ranks and visible minorities have been overrepresented in the scientific and technical fields, organisational development theory has generally ignored their presence because it has focused on managers and their concerns.³⁵ In so much as designated group members are represented

in the literature, their contribution seems to be as test subjects for management's experiments in attempting to manage diversity.³⁶

Also, just as the managerial ranks of government departments have been dominated by white men so too were the academic ranks of universities where organisational research work was done. Thus, not only were the subjects of the research studies white males, the researchers themselves were white and male.

This has led to a situation where,

The unquestioned assumption of the normative nature of white male behaviour in organisations was reinforced by the basic assumptions of the larger culture in which organisations were situated. Basic assumptions about the societal roles of men and women, about the division of labour, and about the necessity of hierarchy were deeply reinforced in what we saw in organisations and in what researchers found when they studied organisations. Because basic cultural assumptions are taken for granted and operate at a preconscious level, they are "non-confrontable and non-debatable". Thus researchers rarely questioned their assumptions about the normative nature of white male attitudes and behaviour, even when they discovered that other attitudes and behaviours in the organisation were different

The academic literature in organisational theory generally does not acknowledge cultural differences among employees, despite the presence of women and people of colour in organisational life for at least two decades. The prevailing assumption in the organisational literature is that these newcomers would either behave in the same way as white males or assimilate into white male patterns.³⁷

It is interesting to note that these organisational theories have become so engrained that even organisations established by women or visible minorities often display values of the dominant culture.³⁸

A New Paradigm: Connecting Diversity to Work Perspectives

Over the years, the PSC has incorporated various elements of the two paradigms discussed above. Despite their best efforts however, the public service has not been able to build a successful multicultural organisation or import these values to other government ministries. Also, recently released figures show that the PSC has not been able to retain designated group members.³⁹

A new paradigm that connects diversity to work perspectives may begin to help end these setbacks in the PSC. Leaders in government departments must begin to understand that employees frequently make decision and choices at work that draw upon their cultural backgrounds. These are decisions and choices that are made because of their identity group affiliations.⁴⁰ Thus, these leaders must begin to develop an outlook on diversity that incorporates employees' perspectives into the main work of the organisation and enhance work by rethinking primary jobs, business practices and even the organisational cultures.

It is interesting to note how this paradigm relates to those two discussed above. The discrimination and fairness paradigm is organised around the theme of assimilation, in which the aim is to achieve a demographically representative workforce whose members treat one another exactly the same. On the other hand, the access and legitimacy paradigm proposes an opposing concept: differentiation, in which the objective is to place different people where their demographic characteristics match those of important constituent groups or markets.

The emerging paradigm, in contrast to both, organises itself around the overarching theme of integration. Assimilation goes too far in pursuing sameness. Differentiation, on the other hand, shoots too far in the other direction. This new model for managing diversity transcends both. Like the fairness paradigm, it promotes equal opportunity for all individuals. And like the access paradigm, it acknowledges cultural differences among people and recognises the value in those differences. More importantly, this new model for managing diversity lets the organisation internalise differences among employees so that it learns and grows because of them

Adopting this paradigm will help to create more productive departments and employees. At this point, it is possible to sketch the broad outlines of what these revamped departments will be like, and one can conclude that:

Multicultural organisations will not have a
white, masculine bias that pervades their

structures, policies, procedures and discourses. Multicultural organisations will expect all employees to be bicultural-to be able to think and act within more than one cultural perspective...Multicultural organisations will reflect difference as their central construct. Employees will differ from each other and their means of achieving organisational goals will also differ. Organisational policies and procedures will incorporate and reflect those differences.

Multicultural organisations are the ends in process. As we learn to respect, value and reward different cultural modes; as we learn to respect and hear all cultural voices; as we ensure that all cultural voices participate in setting goals and making decisions, we will create multicultural organisations. That transformation is continuous and has no end point.: The product is the process.⁴¹

Senior bureaucrats who attempt to implement this model will have to first make sure that certain preconditions are met to prepare the organisation for the paradigm switch.

First of all, senior bureaucrats must come to truly rely on and value a variety of opinion and insight. Management must be willing to review standard practices and see if employees are able to perform their jobs in a more productive manner by using a different approach. For instance, Asian employees may seek to foster consensus among employees rather than follow the adversarial style of interaction that attends many organisational meetings. The manager or departmental director, in this case, must not counsel the employee to adopt the adversarial style in meetings (because that is the way it has always been) but create an environment where decisions based upon consensus can be achieved and, more importantly, are valued.⁴²

Second, the leadership of the organisation must understand the challenges and learning opportunities that the expression of different perspectives present for the organisation.⁴³ Such an understanding would be consistent with the current trend in organisational theory that calls for the creation of “learning organisations” within companies and government.⁴⁴ It is also consistent with the Total Quality Management (TQM) initiatives that many government departments have sought to implement.⁴⁵

Thirdly, the organisational culture must create an expectation of high standards of performance from everyone. Some managers in government departments fully expect women and visible minorities to underperform.⁴⁶ Unfortunately, this negative assumption all too often becomes a self-fulfilling prophecy.

The next precondition calls for an organisational culture that stimulates personal development. Such a culture brings out people’s full range of useful knowledge and skills. This could be done through a careful design of jobs that allow people to grow and develop but also through training and education programs.⁴⁷ Job descriptions must be modified to reflect the broad range of skills that people from the designated groups bring to the workplace.

Also, the organisational culture must encourage openness. Such a culture instils a high tolerance for debate and supports constructive conflict on work-related matters. All too often, debate of this nature may be suppressed, out of a

fear that it may be viewed as racist or sexist. Equally, minority employees may feel reluctant to engage in debate if they do not feel confident in an organisational setting. To this end, the department must also strive to make all workers feel valued. This will not only give workers the confidence to participate in debate, but also allow them to feel comfortable in taking the initiative to apply their skills and experiences in new ways to enhance job performance. When workers believe that they must suggest and apply their ideas covertly, the organisation also misses opportunities to discuss and build on those ideas more fully.

Finally, the department must have a well-articulated and widely understood mission. Such a mission enables people to be clear about what the company is trying to accomplish. Being clear about the company's mission helps to keep discussions about work differences from degenerating into debates about the validity of people's perspectives.

The types of changes proposed here will not be easy to implement. Many commentators have noted that the bureaucracy, by its very nature, is opposed to diversity-oriented change..⁴⁸ The social context in which these changes are implemented is also very important. An individual who has little exposure to informal sources of information on diversity who not see it as an issue of much importance..⁴⁹

Change of this magnitude will also require that the federal bureaucracy introduce a good measure of flexibility into its organisational culture..⁵⁰

However, given the organisational culture that currently supports it, the PSC may already be in a good position to contemplate this type of change. One commentator offers this observation:

As public services strive to become more representative in terms of the social backgrounds of their members and emphasise the importance of respecting cultural diversity, there is a serious challenge, if not a contradiction, to the goal of achieving a unified organisational culture for the entire public sector. Furthermore, with large, multi-functional public organisations there are likely to be specialised subcultures based upon the technology employed and the occupational background of its members. It is more realistic, therefore, to describe the public sector as a loose coupling of subcultures, with some shared and numerous divergent value systems. Finally, as open as the public sector is to external pressures, its value system is likely to be fluid, as it reflects value shifts within society at large, within the political culture, within the public service at large and within the task environments of particular organisations.⁵¹

This comment reveals that much of the framework necessary for building a multicultural organisation may already be in place. Of course, this is not to say that the bureaucracy is ready to fully embrace change.⁵² However, it may not be as difficult as first anticipated.

¹ Traditional theories of representative bureaucracy suggest that the entire civil service reflect society as a whole. Thus, questions of the traditional theories are often analysed in terms of race, the most salient variable in employment practices. Please see Kim (1993)

² Please see Abella (1984) where the rationale for the government's employment equity policy is detailed.

³ *Ibid.* at 2 notes that, "It is not a question of whether this discrimination is motivated by an intentional desire to obstruct someone's potential, or whether it is the accidental by-product of innocently motivated practices or systems. If the barrier is afflicting certain groups in a disproportionately negative way, it is a signal that the practices that lead to this adverse impact may be discriminatory.

⁴ The recruitment process itself as come under fire. A recent report concluded that managers engaged in "mirror image" recruitment strategies where they searched for people like themselves who "they can trust". Please see Samuel (1997)

⁵ Over the 1994-1995 fiscal year, 6 out of 10 separations related to persons in the designated groups.

⁶ Please see for example, the specific provisions of the *Financial Administration Act*, as detailed in Treasury Board Secretariat (1995) at 2.

⁷ Please see Thomas and Ely (1996) at 80

⁸ Please see for example, Consumer and Corporate Affairs Canada (1993) and Samuel, *op.cit.*.

⁹ The government's report states that,

Targets are an important element of the Employment Equity Program in the federal Public Service. Achieving them is one measure of success in employment equity, indicating progress towards the goals of equitable participation of the designated groups in the Public Service.

Hiring targets reflect the proportion of new recruits who, other things being equal, might normally be expected to come from the employment equity designated groups.

As cited in *ibid.*, at 4.

¹⁰ Despite downsizing in the Public Service, the representation of three of the four designated equity groups increased slightly. The only decrease, for persons with disabilities, was very slight, from 3.2% last year to 3.1% on March 31, 1996. The decrease can be attributed in part to the Departure Incentive Program. Please see Treasury Board Secretariat (1996) at 22.

¹¹ For the most part, any examination of other cultures is limited to fairly superficial aspects. For instance, "many departments...participated in special awareness events such as the International Women's Day symposium...the Week for the Elimination of Racial Discrimination...and National Access Awareness Week. They used information kiosks, posters, workshops, video presentations....and *cultural activities* to support and promote these events, successfully increasing employee awareness and participation". Please see Treasury Board Secretariat (1995) at 13.

¹² Mackenzie (?) at 291 suggests another reason that minority employees may be reluctant to speak out in his comment that,

the general acceptance of some victims of racial prejudice could perhaps be viewed as a coping strategy. Prejudice is so pervasive it at most appears to be a natural phenomenon. This "normalisation" of discrimination serves to perpetuate the idea of classes of citizens...victims are viewing discrimination and abuse as a normal social experience

¹³ Cox et.al. (1991) notes that, "cross-cultural studies have shown that northern and western Europeans and North Americans tend to be individualistic and that Chinese people, other Asians, Latins and most east and west Africans tend to be collectivist.

¹⁴ *Ibid* at 830

¹⁵ Fine (1995) at 55 notes that,

African Americans in organisations often talk about the relief they feel when they go home at night and can take off their white organisational identities and return to their genuine cultural identity as African Americans/ They understand that “gettin ovah” (achieving success in a white world) means “talkin like the Man” , but the Man’s identity is one they assume only for its instrumental value in helping them to achieve success in a particular context (work); the identity is quickly abandoned in another context

¹⁶ Please see Thomas and Ely, *op.cit.*, 83

¹⁷ The Department of Indian and Northern Affairs, with a large component of front line staff, reported close to 20.7% Aboriginal staff on March 31, 1996. Please see Treasury Board (1996)

¹⁸ The Treasury Board report states that,

“Excluding employees in the National Capital Region, the province of Ontario had the largest number of employees in each of the four designated groups, followed by Quebec for women and persons with disabilities, and British Columbia for Aboriginal peoples and persons in a visible minority....Persons in a visible minority comprised 7.1% of all Public Service employees in British Columbia...

As cited in Treasury Board (1995), at 20.

¹⁹ Please see for instance, Osborne and Gaebler (1992) and Tellier (1990). In terms of diversity, the public service has sought to emulate the private sector. A recent government document notes that, “work force diversity can give an organisation an important marketing and service edge....It is also the assurance that an increasingly diverse customer body will be treated with fairness and sensitivity”. Please see Government of Canada (1994) at 10-11.

²⁰ Please see for example, “Chart 6: Reasons for Not applying for Promotions-Comparison of Responses From visible Minorities and Control Group” in Samuel, *op.cit.*, at 44.

²¹ Jules Oliver, Director General, Diversity Management Directorate, Staffing Programs Branch, PSC, details a list of skills inventory projects in the federal government. It is interesting to note that the skills are traditional in nature and do not reflect the growing skills pool that designated group employees bring to the workplace. Please see “What is the SMIP Trying to Achieve and How Does it Fit in All of This”, in Oliver (1997)

²² Diversity training initiatives in government focus mainly on inter-employee relations such as eliminating tension among employees and dealing with sexual harassment or racism. Occasionally, they may go as far as sensitizing employees to changes in culture that diversity brings to the workplace”. Please see Consumer and Corporate Affairs (1993) at 15.

²³ Please see for example Edmonds (1990), Section 2-Corporate Culture, and Samuel, *op.cit.*, Chapter 5, Management Perspectives

²⁴ Pomerleau (1994) at 86.

²⁵ Please see Fine, *op. cit* at 108.

²⁶ Please see for example Belenky (1986)

²⁷ Please see Fine *op. cit*, at 105.

²⁸ *Ibid* at 86

²⁹ Please see Treasury Board (1996) for some examples of the current accommodations that are being made for disabled employees in the PSC. Please see also Canada (1994) "Effective Practices Checklist" at 243

³⁰ Please see Mamman (1996) at 455.

³¹ Laudicina (1995) at 189 notes that,

large-scale bureaucracies are notably resistant to change; The structural dimensions of bureaucratic organisations have been overlooked in discussions of diversity policy changes. Nevertheless, they can present substantial obstacles to implementation of many of the organisational changes needed to create cultural change.

³² Nkomo (1997) at 497 notes that, "when management researchers have studied race, much of the research is narrowly focused, ahistorical and decontextualized; in this research, race is mainly treated as a demographic variable"

³³ Please see Fine, *op.cit* at 20.

³⁴ All of the designated equity groups combined, only account for 40% of all executive level staff in the PSC. Please see Treasury Board (1995) at 31, "Table 3: Distribution of Public Service Employees by Designated Group Showing occupational Category and Occupational Group"

³⁵ A good example is the literature that has been developed on race in organisations. In their review of 20 journals during the period 1965-1989, Cox and Nkomo (1990) identified 201 articles focusing on race. They reported a notable decline in this type of research during the 1980s. In general, they concluded that the research in these articles provided little insight into the complexity of the psychological, organisational and societal variables that led to the findings in these articles. The literature on women in organisations is equally as revealing. Powell (1990) , in an exhaustive review of the literature, concluded that there was no evidence of actual differences between male and female managers and he concluded at 71 that "companies should not act as if there are".

³⁶ A recent review of articles on employment equity leaves one with the distinct impression that the focus is on finding the best way to manage the participation of designated equity groups in the workforce. Beyond some basic platitudes about the benefits of a diverse workforce, none of the articles focused on how equity group members could have positive influences on organisational development. Please see Pay Equity Commission Library (1995)

³⁷ Fine, *op. cit*, at 22

³⁸ Please see Carnevale and Stone (1995) at 94

³⁹ Please see Treasury Board (1996) at 8.

⁴⁰ Please see Swidler (1986) where he argues that culture and identity group affiliations provides one with a "tool box" for determining responses to particular situations.

⁴¹ Please see Fine *op. cit* at 40.

⁴² Please see 'Asian Cultural Values and the Workplace" at 232 in Carnevale. *op. cit*

⁴³ Nemetz (1996) at 457 writes,

To the extent that formalised programs are pursued, organisational leaders must be

responsible for articulating a vision of diversity,
, for diligently examining the content of
diversity programs, and for empirically
evaluating the results of diversity training.

⁴⁴ Please see Bennis (1996) and Tobin (1993)

⁴⁵ Laudicina (1995) at 178 states that, "the unfreezing of organisation culture which commitment to TQM entails also opens doors to behavioural and attitudinal adjustments conducive to diversity initiatives". Please see also Laudicina (1993).

⁴⁶ Please see for example, Samuel, *op. cit* at 43 where his research concludes that, "the suggestion is that some visible minority potential candidates for promotion are discouraged because they are not regarded by others as competent and take themselves out of the competition process." Similarly, Edmonds' *op. cit* study concluded at 68 that "preventing a woman from demonstrating that she is capable of performing the full range of duties of a position ultimately leads to an assumption that she is incapable of doing the job.

⁴⁷ Edmonds notes in her chapter "Barriers-Beyond the Numbers" that women are often intentionally denied educational and training opportunities for a variety of reasons, none of which have to do with the quality of their job performance.

⁴⁸ Laudicina (1995) at 189 notes that

Large-scale bureaucracies are notably resistant to change. The structural dimensions of bureaucratic organisations have been overlooked in discussions of diversity policy changes...these can present substantial obstacles to implementation of many of the organisational changes needed to create cultural change. An aging federal workforce further exacerbates the difficulty of changing organisational cultures"

⁴⁹ Please see Nemtez (1996) at 451

⁵⁰ The meaning of flexibility here must not be confused. Hall and Parker (1993), for instance, at 10 suggest that it is "important to note that while many firms may have flexible work arrangements, this does not mean that flexibility has worked its way into the fabric or organisational structure of these firms."

⁵¹ Please see Thomas (1996) at 19.

⁵² Carenevale and Stone *op. cit*. St 276 raise the interesting point that even in progressive organisations, change may be somewhat elusive due to a lack of self-knowledge. The note that:

The biases people bring to organisations, or that they brought in the past, tend to be institutionalised as policies, practices, and organisational culture. These have a life of their own and are the basis for systemic discrimination. Within such a system, even individuals who consider themselves unbiased may fall into discriminatory behaviour.

Conclusion

Whether it be the Government of Canada or anyone of the others mentioned here, it would appear that preferential policies often do not deliver the social stability or political outcome that is sought. In Canada, the representation of designated group members across the public service remains low. In India, Sri Lanka and South Africa, these policies have often come with a very high political price as violence and civil war have often threatened the hegemony of the ruling classes.

Moreover, these policies do not always benefit the neediest candidates. For instance, American preferential policies benefit high achieving Asian students, particularly in California. In India, high caste Hindus will be “adopted” into lower caste families so as to improve their chances of university admission. This would appear to signal the need to include a means test for those who seek the benefits of these policies. In Canada for instance, designated group members can seek the benefit of employment equity policies regardless of their socio-economic circumstances. The use of these programs by high-income minority group members would appear to be a perversion of the original goals of

the program. Any future revision to the government's policies should take this into account.

Preferential policies also hold implications for the success of nationalist movements. Despite an aggressive policy in the late 1960's, the recruitment of the Quebecois into the Public Service Commission (PSC) has not dampened the nationalist ardour of the separatist movement. Similarly, Black nationalism and a philosophy of self-reliance and self-imposed segregation have strong support among that population in the United States. This stands in the face of decades long preferential policies, both in hiring and in the awarding of federal contracts, to Afro-Americans.

In Canada, the political climate has made the expansion of collective rights, the bedrock of preferential policies, very difficult. A strong resurgence of liberal individualist and market driven political philosophies among leading political parties has effectively stalled the debate on group-based remedies for minorities. The recent opposition to collecting data on Canadians' racial origin is one example. This climate has also proved particularly troublesome for Aboriginal people whose land claims are based on a philosophy of communal stewardship, a concept foreign to civil law and liberal individualism. Furthermore, the Aboriginal demand of negotiating with the federal government on a "nation to nation" basis (not unlike Quebec-Canada negotiations) has only inflamed these passions. Moreover, until the separatist

question is settled, the dominant political cleavage in Canada will continue to be that of English-French. In this debate, the claims of minority groups are pushed to the margin.

In terms of the Canadian program itself, there leaves much to be desired. Employment Equity continues to remain very controversial and it is very rare that political leaders speak out in support of its goals. This may in part be because those goals are poorly articulated and vague. For instance, the current Annual Report from the Treasury Board contains vague platitudes such as, "as the workforce becomes increasingly diverse, human resource management must incorporate new principles and practices to enable all employees to contribute fully..."¹ Also, the tabling of the Annual Report draws very little media attention and is not considered as high profile as that of the Auditor General, for instance.

Top-down initiatives from federal ministers to their departments are also lacking. Federal ministers' staffs, with a few notable exceptions, do not reflect the diversity that departments are mandated to achieve.² There is no directive or legislation that compels ministers to recruit a diverse staff. As such, it is often difficult for ministers to provide directives to their own departments without first assessing the situation in their own offices.

The fact that the business community is also wary of employment equity initiatives does not help proponents of the programs. While many companies do

have diversity officers and self-prescribed employment equity programs, the culture of business in Canada continues to be defined by those ethnic groups that have been traditionally dominant. As a result, minorities must conform or risk not being seen as “team players”. It is ironic that Canadian big business’ infatuation with globalization has not resulted in a workplace culture that is more open and more accepting of different perspectives. One commentator suggests that:

In order to be effective in the emerging global environment, the global leader must be aware of, and sensitive to, dramatically different people and situations. By this we mean more than sensitivity to differences of language, customs, and culture, which is certainly important in itself. We mean an ability to find complementarity and synthesis of radically different points of view, and to give voice to other person’s perspectives and values....the leader gives voice to various perspectives and honours them, fostering an inclusiveness that transcends parochialism yet does not stifle differences.³

It could be argued that this approach would be relevant to any organisation and would be good advice for any manager, regardless of the composition of his or her workforce.

It is offered here that it is in fact this cultural inflexibility that impedes the advancement of the members of designated equity groups. The programs themselves cannot effect the attitudinal change or the openness that is required to accept and value different perspectives in the workplace. In fact, the constant reinforcement of diversity and employment equity programs may in result in a

backlash against minorities. This is perhaps most evident in the government's own statistics. The retention of designated group members-particularly Aboriginals-is very low. Various forms of systemic discrimination contribute to the inability of the PSC to retain designated group members. Numerous studies point to the low levels of job satisfaction among these employees. More overt forms of discrimination-sexual and racial harassment-also contribute to this trend.

As a final note, it must be stressed that preferential policies cannot correct decades, and in some cases, centuries, of discrimination and hatred that groups, be they ethnic or otherwise, feel toward one another. Simple institutional solutions to complex social problems are bound to fail. In countries like India, the problems that preferential policies seek to redress often go back centuries and are rooted in long-standing religious and ethnic differences. Our advantage in Canada may be our country's relative youth and our considerable experience in accommodating the needs of minorities. Also, as the need for well-educated and technically adept workers increases, the PSC will have to look to designated group members if they are truly committed to recruiting the best candidates. The consequences of losing these workers might be so great that corporate culture of the public service will be forced to change to accommodate and value differences. It is an intriguing challenge that, if properly undertaken, will allow us to experience once again, the halcyon days of public service in Canada.

¹ Please see Treasury Board Secretariat (1997) at 24

² Among federal cabinet ministers, the offices of Hon. Harbans Dhaliwal, Hon. Rayond Chan and Hon. Lucinne Robillard are the only three that have good representation from designated group members.

³ Alexander and Wilson (1997) at 293.

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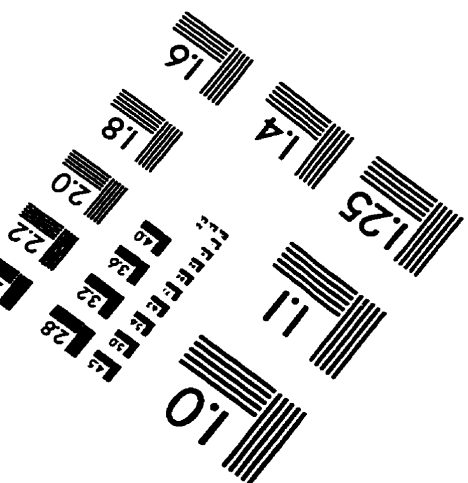
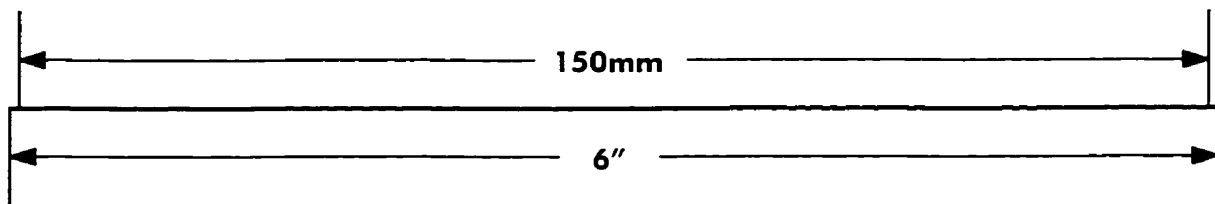
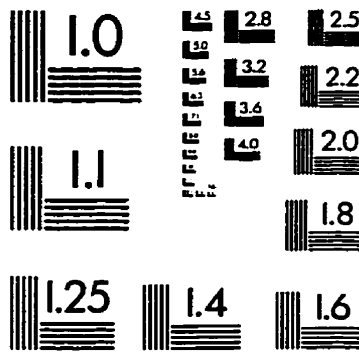
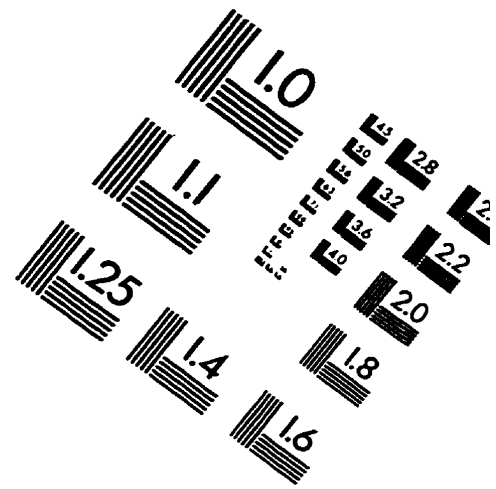
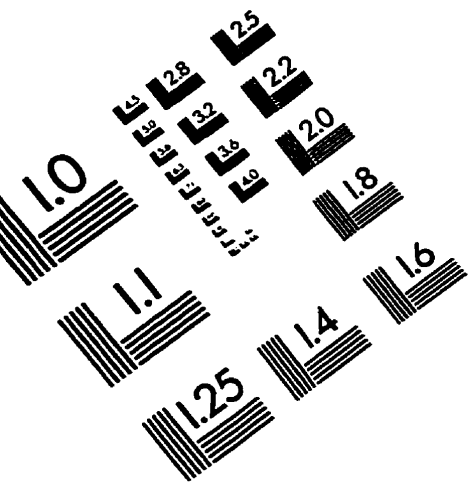
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