

Essay

The effectiveness of Canada's *Employment Equity Act* since 2009

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This paper evaluates the effectiveness of Canada's *Employment Equity Act* (EEA) from 2009 to 2021, building on earlier research by Ng et al. (2014), which analyzed the Act's impact from 1987 to 2009. The EEA aims to improve the representation of historically disadvantaged groups — women, Indigenous peoples, visible minorities, and people with disabilities — in federally regulated workplaces. Through a comparative analysis of employment data, this study highlights both successes and shortcomings of the EEA over the past decade. Findings suggest that while the EEA has been effective in increasing the representation of visible minorities in both management and overall workforce positions, significant challenges remain. Women, though making strides in senior and middle management roles, have experienced declining representation in the broader federally regulated workforce. Indigenous peoples and people with disabilities continue to face persistent underrepresentation, both in management positions and across the general workforce, despite legislative efforts. While the EEA has contributed positively to the representation of visible minorities and women in leadership roles, it has largely failed to achieve proportional representation for all designated groups, particularly Indigenous peoples and people with disabilities, highlighting the need for stronger and more targeted policy interventions.

Keywords: employment equity, representation, workforce**Introduction**

Known in the United States as affirmative action, employment equity is Canada's approach to increasing the representation of workers who have been historically disadvantaged in the workplace (Public Service Alliance of Canada, n.d.). While the effectiveness and utility of employment equity has been the subject of many studies and significant public debate in the United States, with the US Supreme Court even ruling that affirmative action policies are unconstitutional, minimal research and public attention has been paid to the effectiveness of employment equity policies in Canada. Accordingly, this research paper will take a data-oriented approach to analyze the effects of the federal government's *Employment Equity Act* (EEA) in the Canadian workforce. In determining the effects of these policies, this paper furthers the research conducted by Ng et al. (2014), which evaluated the effects of employment equity in Canada from 1987 to 2009. This paper contends that while appearing to benefit the representation of visible minorities in the Canadian labour force, the EEA has ultimately fallen short in achieving proportional representation in the federally regulated labour force for women, Indigenous peoples, and people with disabilities.

The structure of this research essay is comprised of four parts and proceeds as follows. Part one will provide a background on the history of the EEA, as well as the intended purpose of the EEA. Part two will outline the methods that will be employed to refine and establish results on each equity group, with a specific emphasis on the aspects of the Ng et al. (2014) study that will be replicated for the purpose of this research paper. Part three will analyze the EEA data which was collected for the period between 2009 and 2021 and contrast this data with the results of the Ng et al. (2014) study (Employment and Social Development Canada, 2013, 2018, 2023; Human Resources and Skills Development Canada, 2011). Lastly, part four will revisit the conclusions from the Ng et al. (2014) study, namely, to assess whether the EEA has enabled women and visible minorities to break through the glass ceiling, and to determine whether the EEA has produced more positive outcomes for Indigenous peoples and peoples with disabilities.

Part 1: History of the *Employment Equity Act*

In 1986, the Mulroney government officially sanctioned employment equity with the passage of the federal EEA (Ng et al., 2014). At its core, the goal of the EEA was to “remedy past discrimination in employment opportunities,” as well as enhance the access and representation of members from the designated groups throughout all fields (p. 46). Accordingly, the introduction of the EEA introduced a new set of rules which required employers to not only eliminate employment barriers, but also “to ensure that members of the designated groups are proportionately represented and distributed in their workforces” (p. 47). These four groups were Aboriginal peoples, persons with disabilities, visible minorities, and women. While the legislation uses the term Aboriginal, the term Indigenous is deemed to be more appropriate and will be used in lieu of the term Aboriginal throughout this paper. Specifically, the EEA applied to four types of employers: (1) all federally regulated industries, (2) crown corporations, (3) the federal public service, as well as (4) separate employer organizations including the Canadian Forces (CF), the Royal Canadian Mounted Police (RCMP), and the Canadian Security Intelligence Service (CSIS; Employment and Social Development Canada, 2024). While the EEA applies to almost all industries tied to or regulated by the Canadian federal government, it is also important to note that the Federal Contractors Program (FCP), which was implemented in 2007, extends the EEA to apply to all provincial employers with 100 or more employees who bid or receive federal contracts valued at \$200,000 or more (Ng et al., 2014). In 2021, a total of 551 employers and 742,506 employees throughout Canada were covered under the EEA (Employment and Social Development Canada, 2023).

In practice, employers who are legislated to abide by the EEA must adhere to the following set of regulations. First, employers are obligated to constantly survey their workforces on the following parameters: representation, occupational group, salary distribution, share of hires, as well as promotions and terminations of designated groups (Ng et al., 2014, p. 47). Second, on a regular basis, employers must conduct a workplace analysis to (1) gauge whether their workforce is representative of designated group members, (2) determine if their policies and practices have any employment barriers, and (3) if identified, develop a plan to remove any employment barriers that exist (p. 47). If an employer fails to comply with their EEA obligations, they are at risk of receiving a monetary penalty from the Labour Program, as well as being reported to the Canadian Human Rights Commission (CHRC).

Part 2: Methods

In the Ng et al. (2014) study, which evaluated the progress of EEA in the two decades since its establishment in 1986, the primary metric used by the researchers to evaluate the effect of the EEA was “the achievement of proportionate representation for designated group members relative to their availability rates in the labour market” (Ng et al., 2014, p. 54). Specifically, Ng et al. (2014) focused on the effects of EEA in professional, management, and senior management occupations. On the analysis side,

the researchers resorted to the EEA's annual reports that are published by Human Resources and Skills Development Canada, with data from the 1987 annual report used as the benchmark year to allow for a full first year of reporting. Instead of using EEA data from every annual report from 1987 to 2009 for their analysis, the researchers chose six reference points which they hypothesized would best reflect the effectiveness of the EEA. After 1987, the researchers chose to use the EEA's annual report from 1996, which was the year the EEA was revised and strengthened, 2001 and 2006 to "reflect recent labour market availability rates from the Canadian census," as well as 2008 and 2009 to reflect the most current data available at the time (Ng et al., 2014, p. 54).

To extend the research by Ng et al. (2014), this paper will also evaluate the effects of the EEA from 2009 to 2021 by comparing the occupational representation of designated group members relative to their rates of availability in the labour market. Furthermore, the analysis will also focus on the effects of EEA on designated groups in professional, management, and senior management occupations. While the analysis will also utilize data from the annual EEA reports published by Employment and Social Development Canada (previously Human Resources and Skills Development Canada), the benchmark year will be 2009 so to best reflect the changes in this 13-year period. This analysis will use the years of 2011, 2016, and 2021, which are all Canadian census years, and thus effectively reflect labour market availability rates as well as the most current data available on employment equity. To provide a description of the figures that will be presented, a statistic which reads '3.0% representation' signifies that the corresponding equity group holds 3.0% of the total positions, while '4.0% availability' means that based on qualifications, 4.0% of the corresponding equity group are eligible to work in those positions.

Part 3: Data Analysis

Women

In the study by Ng et al. (2014), it was determined that while marginal, the EEA had helped women achieved increased representation in the labour force, with representation increasing from 40.9% in 1987 to 42.5% in 2009. Overall, however, women were still underrepresented in federally regulated workplaces during each of the four years the authors assessed. Moreover, while the representation of women in federally regulated workplaces grew markedly from 40.9% in 1987 to 47.0% in 2001, this growth would be followed by a drop off, with the representation of women falling to 42.7% in 2006 and to 42.5% in 2009 while availability remained relatively stable (Ng et al., 2014). According to the data collected for this paper, this trend has continued in the federally regulated labour market, with the representation of women reaching an all-time low in 2021 at 39.3%, while again, availability levels remain the same as they were in 2006 (Employment and Social Development Canada, 2023).

When considering the representation of women in management and professional occupational groups, there is a mix of positive and negative results (see Table 1). On the positive side, it seems as if the EEA has had a positive effect on senior management positions. Since the introduction of the EEA, the representation of women in senior management positions has continued to grow steadily, with women in 2021 holding 30.3% of senior management positions compared to 22.3% in 2009 and only 14.9% in 1996 (Employment and Social Development Canada, 2023; Ng et al., 2014). Additionally, the representation of women in middle management positions is now the highest since 2001 and has also exceeded availability in each of the four years assessed from 2009 to 2021. It does not appear however that the EEA has had a significant effect on increasing representation for women in professional services, with the percentage of women in professional service positions seeing a continual decline in each year assessed since the peak of 46.3% in 2006.

Table 1. Representation and availability of women in federally regulated workforce. Data sourced from Employment and Social Development Canada (2013, 2018, 2023) and Human Resources and Skills Development Canada (2011).

	2009	2011	2016	2021
Overall representation in the labour market (%)	42.3	41.2	40.7	39.3
Overall availability in the labour market (%)	47.9	48.2	48.2	48.2
Representation in senior management (%)	22.3	23.5	26.4	30.3
Availability in senior management (%)	24.2	27.4	27.6	27.6
Representation in middle management (%)	41.8	42.4	42.1	42.6
Availability in middle management (%)	39.1	38.9	39.4	39.4
Representation in professional services (%)	45.7	45.0	44.6	44.3
Availability in professional services (%)	54.2	55.0	55.0	55.0

Visible Minorities

According to the Ng et al. (2014) study, while the establishment of the EEA seemed to be most effective for visible minorities, with their “representation largely keeping pace with their growth in the labour market,” visible minorities continued to be severely underrepresented in senior management positions (Ng et al., 2014, p. 58). The representation of visible minorities over the past 12 years has not just kept pace with their growth in the labour market, but has increasingly exceeded it, with their representation in 2021 reaching 27.4% relative to their availability of 21.3% (Employment and Social Development Canada, 2023). When taking into consideration that in 1987, the representation of visible minorities in the overall labour force was 5.0%, compared to an availability of 6.3%, it is apparent that the EEA has had a long-term positive effect on increasing the representation of visible minorities (Ng et al., 2014). As a sub-effect, it is possible that the EEA’s positive influence on increasing representation could have led to an increase in immigration to Canada, resulting in a rise in the population of visible minorities. As more people from abroad become aware that the federally regulated labour market in Canada is accessible to visible minorities, it is possible that Canada could have become a more desirable location for immigrants.

On the topic of representation in senior management, visible minorities continued to remain underrepresented in 2009, 2011, and 2016, but for the first time in 2021 broke this trend by holding 14.4% senior management roles relative to an availability of 11.5% (see Table 2). The representation of visible minorities in middle management and in professional services has also surged over the last 12 years, thus suggesting that as time has passed, the EEA has contributed to the proportionately high representation of visible minorities in management and professional occupational groups.

Indigenous Peoples

As observed by Ng et al. (2014), the EEA did not seem to have a significantly positive effect on Indigenous peoples, with their representation constantly lagging behind their labour market availability for each year the researchers assessed. In reference to the data collected for this study, this trend was observed as having continued, with the representation of Indigenous workers in the federally regulated labour market found to be lower than their availability in each year assessed between 2009 and 2021. More concerning is that at 2.4%, the representation of Indigenous workers in 2021 is the same as it was in 2006, suggesting that the EEA has not had a positive impact on Indigenous peoples.

Table 2. Representation and availability of visible minorities in federally regulated workforce. Data sourced from Employment and Social Development Canada (2013, 2018, 2023) and Human Resources and Skills Development Canada (2011).

	2009	2011	2016	2021
Overall representation in the labour market (%)	17.1	18.2	22.2	27.4
Overall availability in the labour market (%)	15.3	17.8	21.3	21.3
Representation in senior management (%)	6.1	6.7	9.1	14.4
Availability in senior management (%)	8.7	10.1	11.5	11.5
Representation in middle management (%)	14.0	16.1	23.1	30.6
Availability in middle management (%)	14.0	15.0	17.6	17.6
Representation in professional services (%)	24.6	25.8	30.7	37.7
Availability in professional services (%)	16.5	19.9	23.2	23.2

While Indigenous peoples remain underrepresented in senior management, middle management, and professional services, their figures have continued to grow in each year assessed since 2009 (see Table 3). As of 2021, Indigenous representation in senior management positions is now 1.3%, which is over 4 times as high as the figure of 0.3% recorded in 1996. Similarly, Indigenous representation in middle management and professional services in 2021 is almost two times as high as 1996 figures. It is important to note that these increases in representation over the past two and a half decades have been accompanied by an almost doubling of the overall availability of Indigenous workers in the overall labour market, thus reducing the likelihood that the EEA has had a significant impact on increasing the representation of Indigenous peoples in management and professional occupational groups.

Table 3. Representation and availability of Indigenous Peoples in federally regulated workforce. Data sourced from Employment and Social Development Canada (2013, 2018, 2023) and Human Resources and Skills Development Canada (2011).

	2009	2011	2016	2021
Overall representation in the labour market (%)	1.9	2.0	2.3	2.4
Overall availability in the labour market (%)	3.1	3.5	4.0	4.0
Representation in senior management (%)	0.8	0.8	1.0	1.3
Availability in senior management (%)	2.4	2.9	3.2	3.2
Representation in middle management (%)	1.1	1.2	1.3	1.4
Availability in middle management (%)	1.9	2.2	2.7	2.7
Representation in professional services (%)	1.0	1.0	1.3	1.3
Availability in professional services (%)	1.8	2.1	2.4	2.4

People with disabilities

Ng et al. (2014) found that people with disabilities are the equity seeking group which experience “the most significant gaps in their representation in the workforce,” with people with disabilities representing only 3.2% of the overall federally regulated labour force in 2009 relative to their availability of 4.8%. Moreover, Ng et al. (2014) found that people with disabilities are also underrepresented in management and professional occupational groups, suggesting that the EAA did not provide an observed advantage to people with disabilities during that time. Unfortunately, these trends have per-

sisted over the past 12 years, with people with disabilities experiencing underrepresentation in the labour market for each of the four years assessed, as well as recording the lowest representation amongst equity seeking groups from 2009 to 2021 (see Table 4).

When considering representation in management and professional occupational groups, people with disabilities are underrepresented in senior management, middle management, and professional services. Although this same trend was observed in the Ng et al. (2014) study, the difference this time around is that when assessing the statistics from 2021, people with disabilities are closer than they have ever been before at achieving proportionally equal representation in senior management and middle management. As of 2021, people with disabilities hold 4.2% of senior management positions relative to their availability of 5.0%, and work in 4.8% of middle management jobs relative to their availability of 5.0% (Employment and Social Development Canada, 2023).

Table 4. Representation and availability of people with disabilities in federally regulated workforce. Data sourced from Employment and Social Development Canada (2013, 2018, 2023) and Human Resources and Skills Development Canada (2011).

	2009	2011	2016	2021
Overall representation in the labour market (%)	2.7	2.6	3.3	4.4
Overall availability in the labour market (%)	4.9	4.9	9.1	9.1
Representation in senior management (%)	2.2	2.4	3.1	4.2
Availability in senior management (%)	3.2	4.3	5.0	5.0
Representation in middle management (%)	2.6	2.6	3.5	4.8
Availability in middle management (%)	3.2	4.3	5.0	5.0
Representation in professional services (%)	2.3	2.2	3.3	4.9
Availability in professional services (%)	4.5	3.8	8.9	8.9

Part 4: Discussion

In their seminal research on the effect of the EEA from 1987 to 2009, Ng et al. (2014) concluded their paper with two remarks. In assessment of how these conclusions stand up a decade after the paper's publication, it is worth considering the insights provided by the data gathered for this paper's research.

First, the authors noted that while women and visible minorities have appeared to benefit from the EEA, they had yet to break through the glass ceiling and achieve fair representation in management and professional occupational groups. For women, the image which the data provides is certainly ambiguous. While women were increasingly underrepresented in the overall labour force from 2009 to 2021, the representation of women in senior and middle management roles has grown to exceed availability rates in the same period. Accordingly, in stark contrast from the conclusion drawn by Ng et al. (2014), it seems that in the last 12 years the EEA has enabled women to break through the glass ceiling and achieve adequate representation in management positions, while simultaneously providing less of a benefit to the average female worker. When considering the findings for visible minorities, it is evident that from 2009 to 2021, the EEA has continued to have a positive effect on the representation of visible minorities in the overall labour market. Furthermore, it appears as if the EEA has helped visible minorities break through the glass ceiling, as by 2021, visible minorities had achieved proportionally high representation in senior management, middle management, and professional services.

Second, the authors remarked that additional commitment would have to be required by employers to increase the representation of Indigenous workers as well as people with disabilities. Unfortunately, this

conclusion is largely aligned with the results of this paper's research, with both Indigenous peoples and people with disabilities continuing to be underrepresented in the overall labour market in each year assessed from 2009 to 2021. In a similar vein, Indigenous peoples and people with disabilities have also failed to achieve equal representation in management and professional occupational groups, with both groups found to be underrepresented in senior management, middle management, and professional services for the four years assessed from 2009 to 2021.

Part 5: Conclusion

This paper, which assessed the effects of the *Employment Equity Act* from 2009 to 2021, held the objective of furthering the research conducted by Ng et al. (2014), which analysed the effects of the EEA from 1987 to 2009. This paper contends that while the EEA has increased the representation of visible minorities in the Canadian labour force and has enabled women to increase their representation in management positions, it has fallen short in achieving proportional representation in the federally regulated labour force for women, Indigenous peoples, and people with disabilities. Going forward, it would be useful for additional research on this topic to examine existing strategies that have been used to encourage and increase employment equity in other jurisdictions. While the EEA is a solid framework for the governance of employment equity in the federally regulated workforce, it would be productive to consider carrot and stick policies that could supplement the EEA and ultimately encourage employers to further diversify their workplaces.

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