

Colour of Poverty |  | **Colour of Change**



**JOINT SUBMISSION TO THE FEDERAL EMPLOYMENT EQUITY ACT
REVIEW TASK FORCE**

By

Colour of Poverty – Colour of Change

South Asian Legal Clinic of Ontario

OCASI – Ontario Council of Agencies Serving Immigrants

April 28, 2022

Introduction

The South Asian Legal Clinic of Ontario (SALCO), OCASI – Ontario Council of Agencies Serving Immigrants, and our coalition of partners - the Colour of Poverty – Colour of Change (COP-COC) thank the Employment Equity Action Review Task Force for the opportunity to consult on its review of the *Employment Equity Act*.

Colour of Poverty – Colour of Change (COP-COC) is a community initiative based in the province of Ontario, Canada, made up of individuals and organizations working to build community-based capacity to address the growing racialization of poverty and the resulting increased levels of social exclusion and marginalization of racialized communities (both Indigenous Peoples and peoples of colour) across Ontario.

The **South Asian Legal Clinic of Ontario (SALCO)** is a not-for-profit organization established to enhance access to justice for low-income South Asians in Ontario and in Canada. Since 1999, SALCO has been working to serve the growing needs of South Asians in a culturally and linguistically sensitive manner. As a specialty clinic funded by Legal Aid Ontario, SALCO provides advice, brief services and/or legal representation in various areas of poverty law and work on law reform and systemic advocacy to address the impact of systemic racism and discrimination and to improve the lives of the racialized communities that it works with.

OCASI - Ontario Council of Agencies Serving Immigrants is the umbrella organization for immigrant and refugee-serving organizations in Ontario and the collective voice of the sector in the province. Formed in 1978, OCASI has 240 member organizations across Ontario. OCASI's mission is to achieve equality, access and full participation for immigrants and refugees in every aspect of Canadian life. OCASI has long advocated for an expansion of Employment Equity, including the definition and implementation so that Black and racialized workers are intentionally included.

Advocates from across Canada, including our organizations, have been calling for a number of years for the expansion of designated groups, as well the intentional and full implementation of the Act. We have shared our concerns about the gaps in the existing act, as well as inconsistent application, which can exacerbate the disproportionate labour market disadvantage experienced primarily by Black and racialized residents, and residents born outside Canada. These concerns are significant in view of changing demographics in Canada that has seen more Black and racialized people, and more non-citizens enter the labour market; and more importantly in light of the systemic barriers to labour market entry and over-representation of Indigenous, Black and racialized people and non-citizens in low-paying, unstable and low-status jobs in which their rights as workers are not fully protected. Equally important is the need to intentionally and fully implement the Employment Equity Act, as evidenced by the shocking revelations from federal public service employees documented in the May 2021 report, titled "*IRCC Anti-Racism Employee Focus Groups: Final report*". The report includes narratives of the abhorrent treatment of Black and racialized employees by managers and supervisors at Immigration, Refugees and Citizenship Canada (IRCC). It also records complaints about discrimination and racial bias in hiring and promotion within the department.

I. Expansion of “Designated Groups”

The current *Employment Equity Act* is only applicable to the following “designated groups”, defined in the legislation as:

- Women
- Aboriginal peoples
- persons with disabilities
- members of visible minorities

The current definition leaves out large groups of people who face racism, discrimination and inequity in employment. Many of those groups have since been recognized in Canada as having faced significant systemic discrimination and should be included if the list of designated groups covered by the *Employment Equity Act*.

Recommendation:

- 1. Include 2SLGBTQ+ people. The federal government is already working towards a National LGBTQ2 Action Plan in recognition of the continuing discrimination faced by these communities. It is critical that the Employment Equity Act be amended to align with that commitment.*
- 2. Include people with different types of immigration status up to and including citizenship to ensure employment equity and non-discrimination based on immigration status. This recognizes the growing population of workers covered under the Act who hold varying government-issued authorizations to work, and the particular systemic barriers to employment faced by non-citizens.*
- 3. Include members of faith-based communities. Faith-based discrimination in employment continues to be a serious issue for federally regulated employees. Over the past several years a number of reports and legal cases have raised issues of Anti-Black racism and Islamophobia, including the 2021 report of racism at IRCC mentioned earlier in this submission. This review provides a timely opportunity to amend that Employment Equity Act to enhance protections for racialized workers, and workers who experience multiple and intersecting vulnerabilities due to factors in addition to race and ethnicity.*

II. Replace “Visible Minority” with updated categories

The use of the term “visible minorities” brings together many different groups under one category and serves to hide distinct forms of racism and discrimination faced by a number of communities like anti-Black racism and Islamophobia. In 2012, the United Nations Committee

on the Elimination of Racial Discrimination in its [Concluding Observations of its review of Canada](#) repeated a recommendation it first made in February 2007 that that the term could homogenize experiences of different ethnic groups. The Committee wrote, “Its lack of precision may pose a barrier to effectively addressing the socioeconomic gaps of different ethnic groups”, and that Canada should consider the implications of “use of the term “visible minorities” in referring to “persons, other than Aboriginal peoples, who are non-Caucasian in race and non-white in colour” (Employment Equity Act, 1995), so as to address more precisely the socio-economic gaps between different ethnic groups.”

The term also ignores that reality that in many places in Canada these communities are no longer a “minority”. At its core, the term “visible minority” constructs the identity of racialized people in relation to the dominant white population. Using that description situates whiteness as the reference standard and the norm by which all people are judged and reinforces foundational systemic racism.

The use of the term in the *Employment Equity Act* is the constraint often cited by Statistics Canada in its persistent use of ‘visible minority’ in the collection of Census data and data for the Labour Force survey.

Recommendation:

1. *Remove the term “visible minority” from the Employment Equity Act;*
2. *Use the term “racialized people” as a designated group; and*
3. *Specifically name Black people to recognize the specific impact of racism and discrimination on Black people in Canada.*

III. Federal Contractors

The current *Act* does not include federal contractors, who are currently government by the federal contractor program. Instead of incorporating employment equity obligations in a program, federal contractors should be subject to the *Employment Equity Act*. This legislative obligation will ensure that federal contractors are **legally** required in contracts to ensure employment equity, that employees in these workplaces can access the same enforcements mechanisms, and that federal contractors have data gathering and sharing commitments akin to employers that are included in the *Act*.

Recommendation:

1. Reinstated mandatory compliance with employment equity for federal contractors.

IV. Resources and Enforcement

A common concern about the efficacy of the *Employment Equity Act* is that the enforcement mechanism for violations is not strong enough, leaving employees without a realistic pathway to assert rights related to employment equity.

Recommendation:

1. *The Canadian Human Rights Commission is must be meaningfully resourced to ensure access to justice for complainants and a robust enforcement of the Act.*

V. Expanding Employment Equity

While the *Employment Equity Act* currently relates to certain federally regulated employees, the Canadian government can expand the *Act* to make a commitment to work with provinces and territories across Canada to implement sister legislation across the country to apply to workers who do not fall under the jurisdiction of the *Act*, and makeup the majority of workers in Canada. As with other portfolios (ex: child care), that federal government should take leadership on ensuring employment equity across all Canadian jurisdictions.

Recommendation:

1. *Provide a positive obligation through the Act that requires Canada to use available opportunities to encourage the creation of employment equity legislation in provincial / territorial jurisdictions and to report on measures taken to expand employment equity (ex: attaching conditions to relevant transfer payments).*