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**Equality in the Federal Public Service
The Intersections of Identity:
Visible Minority, Immigrant Women and Multiple (Dis)Advantage**

by

Timna Atarah Gorber B.A.

A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of

Master of Arts

**Department of Sociology and Anthropology
Carleton University
Ottawa, Ontario
September, 1999**

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and Research acceptance of the thesis

**“Equality in The Canadian Federal Public Service
The Intersections of Identity: Visible Minority,
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submitted by Timna A. Gorber, B.A.

in partial fulfilment of the requirements for
the degree of Master of Arts

Thesis Supervisor

Chair, Department of Sociology and Anthropology

Carleton University
September 10, 1999

ABSTRACT

This thesis analyses the employment barriers for visible minorities created by section 16(4) of the *Public Service Employment Act*. The question of whether citizenship should be a 'preference requisite' in order to work for the state will be analysed through an examination of notions of 'equality.' with reference to the *Canadian Charter of Rights and Freedoms*, the *Public Service Employment Act*, and the 1996 *Employment Equity Act*. The thesis argues that addressing barriers at the level of intersection between citizenship, race, ethnicity and gender, that 'visible minority immigrant women' are affected the most. Using a feminist approach, it is suggested that a broader, more inclusive definition of people considered equal in the Canadian context is needed. The terms 'visible minority' and 'non-citizen' are redefined to offer a more complete understanding of oppression in Canada. The removal of this discriminatory policy would be consistent with the spirit of employment equity and promote a substantive approach to equal employment.

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CHAPTER 1: INTRODUCTION

As Canada approaches the 21st century, it has the possibility of becoming one of the frontrunner societies transforming and adapting into a 'postmodern' society. (Pettigrew, 1999) As a potential leader in the race toward globalization, Canada has already taken part in the increase of temporary and long-term cross-border movement. The increase in both the immigrant and migrant worker populations has challenged Canadian policy makers to re-examine Canada's potential role in issues facing its multicultural communities. Among these considerations is the need for (re)definitions of societal inclusion and exclusion in the socio-political and economic spheres of Canadian society. In order to make that movement towards a post-modern society, Canada will have to re-evaluate the social and legal distinctions between citizens and permanent residents. Traditional definitions of 'citizenship'¹ have been questioned by feminist researchers, the result leading to an evolving definition of citizenship, broader in scope, which goes beyond simply examining one's nationality and one's 'political' rights, to include both social and economic definitions. Modern notions of 'citizenship' must include a sense of belonging and inclusion in all societal spheres, especially at the level of public space and civic participation. Furthermore, 'citizenship' should be understood as a continually changing and evolving concept, which has the ability to adapt to a particular context, rather than something which remains static and fixed. For those who came to Canada as immigrants, how 'citizenship' is defined is particularly meaningful.

¹

Many of the socially constructed categories and terminologies are problematic in usage therefore, I use the terms in single quotes to signify contested definitions. These categories have historically been either male-centered or 'gender-neutral' which is euphemistically male-centred, I do come back to specific definitions throughout the body of the thesis.

The introduction of a highly mobile, multi-lingual population of immigrants has had important effects on government policies, specifically regarding employment issues. While the employment of immigrants has effected both the private and public sector, the public sector has some specific issues it needs to address around the employment of non-citizens. With ongoing downsizing and fiscal restraint, the Canadian government has begun to show flexibility in a wide variety of areas, particularly in the way it “does business.” The internal and external demands to “reinvent” government and make it more service-oriented, less bureaucratic, and more entrepreneurial (Osborne and Gaebler, 1993) has forced policy makers to re-examine both how they run their offices, as well as how they treat their clientele. Since the changes in population toward the inclusion of a greater visible minority immigrant community, the challenge to the government is to better reflect this change. Furthermore, there has been significant movement toward a knowledge-based economy which relies heavily on its employees to share and promote intellectual capital. (Public Service Commission, Interdepartmental Knowledge Management Forum) This kind of workplace moves us beyond traditional structures and restrictions based on gender, race, (dis)ability and citizenship. The Federal Public Service’s ability to adapt to the needs of the new ‘globalized’ population will be a reflection of how much Canadians are willing to accept change, as well as demonstrate how policies, such as employment equity, can be continually evolving to meet the population’s needs. Symbolically, the removal of the preferential hiring clause in the Federal *Public Service Employment Act* could lead to less inequality for non-citizens, but also increase awareness that the rights of non-citizens are infringed.

Historically, ‘non-citizens’² have been dissuaded from working for the Federal Public Service due to two clauses in the *Public Service Employment Act*. Section 16(4)³ is the pertinent section which allows the Federal Public Service to preferentially hire Canadian citizens over non-citizens in open competitions, while section 17(4) refers to the creation of eligibility lists. This thesis argues that these clauses stand in opposition to both the spirit of the *Employment Equity Act*, which attempts to equalize employment opportunities, and to section 15 of the *Canadian Charter of Rights and Freedoms*, which protects the equality of all individuals in Canada, *not only Canadian citizens*.

The Federal Public Service introduced measures to improve the employment opportunities for certain sectors of the Canadian population with the *1986 Employment Equity Act (Bill C-62)*, and the 1996 amendments (*Bill C-64*). Employment equity was designed to “eliminate discriminatory barriers and to provide in a meaningful way equitable opportunities in employment. (Abella, 1984:7) At that time, the Public Service Commission identified four designated groups as having historically experienced employment discrimination: women, visible minorities, Aboriginal peoples and persons with disabilities. Despite limited improvement for these groups, many of the improvements occurred through changes in definition and increased self-identification.

2

Non-citizens include long-term permanent residents who have chosen not to obtain citizenship and newly arrived immigrants who have not yet met their residency requirements to become citizens. Those non-citizens residing in Canada on temporary work permits, student visas, etc., are not considered as part of the population for whom section 16 should be overturned. However, the occasional demand of employees from this category (particularly for fields in which there are not enough Canadian applicants), makes this preference policy all the more discriminatory. There is further discussion in chapter 3.

3

These ‘preferential clauses’ will be discussed in detail in both Chapters 3 and 8.

Several studies (Lum, 1995; Leck and Saunders, 1992; Jain and Hackett, 1989; Harvey and Blakely, 1993) have shown that employment equity has not reached its full potential nor achieved the equality it had set out to promote. The continued exclusion of non-citizens through the preferential clauses maintains a level of discrimination counter-productive for a liberal democracy which also promotes equal access to employment through programs such as employment equity.

There is continued debate over the extent of intervention necessary to eradicate injustice in the Canadian workforce, and whether employment equity measures should be broadened to include other groups which may also be vulnerable to discrimination. Questions about the kind of 'equality' the *Employment Equity Act* should be trying to achieve, as well as who should benefit from these interventions are crucial in attempting to decide further action to be undertaken by Federal Public Service policy makers. As a tool for promoting equality of opportunity in employment, the *Employment Equity Act* has failed to achieve justice because of its narrow scope and inability to be flexible enough to identify the need to re-evaluate those groups which should or should not be considered 'designated'⁴. Further, the inability to see beyond the categorical numbers has led to a form of hierarchical discrimination, where multiple (dis)advantage is not recognized as being an important factor in determining or addressing oppression. It is paradoxical that legislation promoting equity has a blind spot toward intersections which impede equity goals.

4

The issue of designated groups is discussed in detail in Chapter 6.

The *Employment Equity Act* is based on notions of ‘fairness’ and ‘equality,’ and yet the socially constructed measures used to achieve this are exclusionary in nature and are not ‘equal’ for all oppressed groups. The use of ‘visible minority’ or ‘women’ as categories ignores the intersections of race, ethnicity, language, citizenship, and gender necessary for a more complete understanding of discrimination and oppression. Barriers to employment, as well as employment opportunities affect people of multiple (dis)advantage differently, particularly women. Analysis beyond the numbers, at a more detailed level of intersections would be useful in explaining how to operationalize notions of ‘fairness’ and achieve substantive ‘equality.’ Despite being created for a small number of ‘designated’ groups, and achieving limited results for some of those groups, employment equity has failed to achieve the kind of equality that substantially makes a difference in results, deemed necessary in a Canadian context. Canadians have expressed their desire to eliminate discrimination, but they differ in how to ensure its eradication. (Peters, 1995) However, in theory, our commitment to equality should enable law and policy makers to create effective legislation which would address discrimination at many levels.

Key Questions

This thesis explores some of the issues surrounding citizenship, representation, equality and inclusion/exclusion of non-citizens in the Federal Public Service workforce. Primary in framing these issues is the question: *As Canada accepts more immigrants, which changes the composition of both the population and the labour market, should these changes be reflected in the Federal Public Service who serves all residents of Canada?*

This thesis provides a theoretical framework to better understand issues of discrimination and equality. It will analyse the effects of the Federal Public Service's employment policies which discriminate against 'non-citizens.' This will be accomplished by examining the multiple employment barriers non-citizens face when attempting to secure employment in the Federal Public Service. It explores the effects of the preference clauses on both men and women. I argue that by addressing barriers at the level of intersection between citizenship, race, ethnicity, and gender that it is visible minority immigrant women who are effected the most by these barriers. The question of whether citizenship should be a 'preference requisite' in order to work for the state will be analysed through an examination of notions of 'equality' and 'justice,' referring to the *Canadian Charter of Rights and Freedoms*, the *Public Service Employment Act*, and the 1996 *Employment Equity Act*.

This study will explore three main questions:

1. Are sections 16 (4) and 17 (4) of the *Public Service Employment Act* discriminatory against non-citizens?
2. Does the *Public Service Employment Act* create barriers for visible minority groups by preferentially hiring Canadian citizens?
3. Does this employment policy have differing effects on various sub-sectors of the visible minority population, especially at a the level of gender?

These questions will be examined through theoretical means, although some data-based evidence is used to strengthen the theoretical framework. The discriminatory barriers facing non-citizens are something that require further attention by policy makers and researchers. It is not within the realm of this thesis to explore all of the barriers facing

non-citizens. A deeper quantitative analysis, complementing this theoretical work, through the use of surveys and interviews is warranted in order to address these questions more completely.

Outline of the Chapters

The following chapters will explore and critique various theories addressing issues of equality, identity, employment, and citizenship. These theories will be applied to the Canadian context by analysing barriers to employment for ‘non-citizens’ in the Federal Public Service, focussing on how these issues relate to equality through employment equity. Each of the chapters examines different elements of the issues facing the employment of non-citizens in the Federal Public Service. I have attempted to bring together many different theories which, I believe, contribute to a greater understanding of discrimination for non-citizens in Canada. I was unable to find one overarching theory which could explain the barriers faced by non-citizens. Through an understanding that theory alone would not eradicate the discrimination faced by this minority group, I turned to a broader discussion of ‘equality,’ ‘citizenship,’ and ‘intersection’ theories, which led to a greater understanding of the barriers faced by non-citizens. While it is difficult to address each of the theories in different chapters because they are so interrelated, this was a necessary approach due to the uniqueness of each theory.

Chapter two outlines the approach and methodology used in this paper to address the issue of barriers in employment for non-citizens in the Federal Public Service. It discusses some of the methodological issues applicable to research on ‘visible minority,’ ‘non-citizens.’ It

also examines the strengths of both qualitative and quantitative analysis. The chapter will summarize some of the recent economic-based research on the topic of immigrants employed in the Canadian labour market. It will also look at the limitations of these quantitative-based studies and suggest that a gender-based analysis is the best approach.

Chapter three addresses the history of exclusion and discrimination faced by ‘immigrants’ in Canada. The history of citizenship in liberal theory and the concept of the ‘universal citizen’ are explored. This chapter begins by outlining the role immigrants have played in the history of the nation and gives a definition to various concepts, such as ‘non-citizen’ and ‘immigrant.’ This chapter also explores the history of exclusion non-citizens have faced in the Federal Public Service, as well as the legal protections non-citizens have under Canadian legislation.

Chapter four examines the construction of theories surrounding equality. The beginning part of the chapter explores how traditional liberal theorists constructed notions of formal and substantive equality. It outlines both the feminist and critical legal theory of how substantive ‘equality’ is not being achieved through current legal means. Traditionally, liberal thinking and understanding of equality, equity, and equal opportunity were defined using white, middle-upper class males as the norm, thus ignoring variance or difference among others seeking equality. In the Canadian context, most of our understanding of equality comes from the *Canadian Charter of Rights and Freedoms* and its interpretations by Justices of the Supreme Court of Canada. This chapter outlines how these definitions evolved over time and can be applied to the non-citizen population.

Chapter five explores the notion that people's identities are formed through a series of relational intersections of gender, class, citizenship, race, ethnicity, and other elements of one's identity. It begins by discussing the shifting discourses within feminism, which have led to an integration of various ideas about the oppression of women. Feminist research has had to acknowledge 'identity politics' and recognize that issues facing women are not homogenous and universal. Theories on 'immigration,' 'citizenship,' and 'employment' should acknowledge that these issues are deeply racialized and gendered.

Chapter six gives an analysis of the Federal Public Service workforce by examining the possibility of the Federal Public Service being considered a separate employer, distinct from the private sector, both in its mission to create public policy and employ certain types of people. The chapter then gives an overview of the history and purpose of the *Employment Equity Act* which lays the foundation for a discussion on whether substantive equality has been or can be achieved with these measures. This chapter argues that substantive equality can not be reached because of the way employment equity has been legalized and institutionalized, ignoring intersections between race, ethnicity, gender, class, and citizenship. The differences or intersections between discrimination should be the key to a greater understanding of the question of equality.

Chapter seven is dedicated to examining the issue of 'visible minority' status and employment in the Federal Public Service. The purpose of this chapter is twofold: first it explores the problematic nature of the definitions used by employment equity legislation. Although terms such as 'designated group' and 'visible minority' allow for quick

recognition and neat quantitative analysis, they obscure the kind of analysis necessary for a level of substantive equality which would address deeper, systemic issues of oppression and discrimination. The term ‘visible minority’ needs to be re-examined and the labelling and construction of who falls into which of the various categories needs to be deconstructed. Definitions and categories are re-examined and the discrepancies between the Federal Public Service definitions and the “race” question on the Census are explored. The second purpose of this chapter identifies recent demographic trends of visible minorities in the Federal Public Service, especially at the level of employment type and job mobility. It also outlines the discrimination faced by visible minorities in the public sector and lays the foundation for further necessary measures to obtain equality.

Chapter eight brings in the ‘citizenship debates’ by examining liberal theories on inclusion and exclusion in the context of nationalism and citizenship. The focus of this chapter is on the hiring practices of the Federal Public Service, which preferentially hires Canadian citizens over ‘non citizens.’ Set in a legal context, these preferential policies create a legal challenge of discrimination under the *Canadian Charter of Rights and Freedoms*. This policy is critiqued as being an additional barrier to employment equity for visible minority members.

Chapter nine includes the final discussion and conclusions about my findings. It explores the various research gaps and suggests further work to be done by both policy makers and researchers. Limitations in data and theoretical knowledge in this field have led to a very interesting discussion and analytical framework, but the claims need to be explored further

through substantive research and policy initiatives. Recommendations on the ways policy and legislation could be improved in order to achieve substantive equality are also made, starting with a more inclusive 'definition' of those who qualify for employment equity. Strategies for examining intersections and differences within constructed categories are also crucial for a deeper understanding of existing barriers and opportunities. Finally, understanding discrimination based on citizenship is also the key to achieving a more comprehensive notion of 'equality' as Canada continues to accept more immigrants.

CHAPTER 2: METHODOLOGICAL ISSUES

This chapter outlines the approach used in this paper to address the issue of barriers in employment for non-citizens in the Federal Public Service. It discusses some of the methodological issues applicable to research on ‘visible minority,’ ‘non-citizens.’ It also examines the strengths of both qualitative and quantitative analysis. The chapter will summarize some of the recent economic-based research on the topic of immigrants employed in the Canadian labour market. It will also look at the limitations of these quantitative-based studies and suggest that a gender-based analysis is the best approach.

Approaching Inequality

Despite the intense examination of the Canadian labour market at large, there has been little literature on the involvement of ‘immigrant’ or ‘non-citizen’⁵ groups working for the Federal Public Service. Much of the literature on the labour market trends of ‘immigrants’ tends to be very broad or very narrow, neither of which allows for a thorough understanding of the broader employment issues facing immigrants in Canada. Furthermore, few existing studies approach the employment of immigrants from a feminist standpoint, although several do examine women in their analysis. This thesis proposes to examine the issue of discrimination facing visible minority non-citizen employees in the Federal Public Service, adding to the literature on the employment of immigrants and non-citizens in Canada. This topic will be analysed through ‘women’s’ eyes, examining how these policies are gendered, affecting men and women differently.

5

A more detailed discussion of the definitions of ‘immigrants’ and ‘non-citizens’ will be explored in Chapter 3.

The Qualitative/Quantitative Debate

Both qualitative analysis and quantitative data-based analysis offer meaningful additions to understanding more about a particular issue in research. In the search of a methodology which would allow for detailed analysis of particular groups of visible minority immigrant women, I found myself continually pulled between the two methodologies. I wanted to be able to contribute a deeper, detailed understanding of the barriers and discrimination faced by visible minority women in the Federal Public Service and make comparisons to other populations, which would allow for macro analysis as well. This thesis combines the use of both quantitative and qualitative methodologies in order to unravel issues surrounding the (non)employment of non-citizens in the Federal Public Service. The combination of qualitative analysis, complemented by data allows for a more complete understanding of the issue at hand. The focus of this study is primarily theoretical and conceptual, though where possible, data are used to supplement and support my claims. This approach was taken because I believe, that as a researcher, 'truths' can only be understood using a myriad of methods.

Profiles of "Immigrant" Groups: A Question of Income?

Many 'mainstream' researchers have been preoccupied with how "well" immigrants have been settling into various sectors of our economy, and although necessary for historical or cross-comparison purposes, most of the quantitative studies (see de Silva and Doherty, 1996; Pendakur and Pendakur, 1996; Hiebert, 1997) focus primarily on income or occupational discrepancies between immigrant groups and Canadian-born employees in the private sector, though self-employment has recently become more of interest to researchers.

Furthermore, many of the economics-based researchers in this field often examine 'immigrants' or 'visible minorities' as an entity, ignoring the subtleties of the groups that make up these broad categories. In other words, varied members of different ethnic groups are collapsed into large aggregated categories, enabling easier, more manageable analysis, but ultimately leading to an incomplete analysis which ignores the intersections and distinctions of the people that make up these categories and rarely looks at individual discrimination or intra-category differences.

Economic-based research on the economic profiles of immigrants in the Canadian Labour Market are inconclusive⁶ in determining how "well" 'immigrants' are doing in comparison to their Canadian-born counterparts⁷. Nevertheless, when skill, education, gender, language ability and place of birth are taken into consideration, it is clear that certain groups of 'immigrants' are not as successful as others, based on income and occupational benchmarks. Boyd's work suggests that not only are there differences between Canadian-born workers and immigrant workers, the difference in occupational status and income widens further when gender is added. (Boyd, 1991a; 1991b) Pendakur and Pendakur found

6

Quantitative research has focussed on explaining whether or not there are economic discrepancies between foreign-born workers and Canadian-born workers, and if so, which factors contribute to this discrepancy. Often these studies are restrictive in nature, either focussing on selective ethnic groups or comparing broad, aggregated groups. Further restrictions are made by selecting particular age bands, immigrant cohorts, education levels, gender, Census Metropolitan Area, or occupational groups, etc. Due to the enormous cost involved in obtaining data, it would be impossible to measure everything which ultimately leads to varied results between studies.

7

For research on income discrepancies see Boyd, 1991a; Beach and Worswick, 1993; de Silva and Doherty, 1996; Pendakur and Pendakur, 1996; Hiebert, 1997; Shamsuddin, 1997. For studies on occupational concentration see Boyd, 1986; and Lautard and Guppy, 1990.

that visible minorities (as per the employment equity definition⁸) earn significantly less than their Canadian-born, white counterparts. However, visible minority women born in Canada do not seem to have lower earnings than Canadian-born white women. Visible minority immigrant women, however, do earn less than Canadian-born women. They also found that place of accreditation accounts for much of the earning differential. (1996)

Beach and Worswick explain that income differentials do not appear to hold for all immigrant women, but definitely do for those with higher education. They found that any initial gaps in earnings in comparison with Canadian-born women are likely to be consistent throughout an immigrant woman's career. (1993)

Hiebert determined that women gain considerable employment income from educational attainment and that the relationship between ethnicity and occupation is stronger for women than men, indicating a double jeopardy for women of colour. (1997)

Gender-based Analysis: Critiquing the Economic Approach

Until recently, much of the research done on the labour market focussed on 'the gender-neutral employee,' in which researchers analysed issues from either a male-centred or a 'gender-neutral' standpoint. Feminist researchers have pointed out that quantitative methodologies on immigrants and refugees are gender-biased, even if conducted by women. (Abdo, 1998:48)

Many studies generally do not examine the position of women 'immigrants' as different from men, or simply add women as an additional variable, rather than premise the argument from a gendered perspective. Beach and Worswick, 1993;

8

Footnote 27 in chapter 6 gives the definition of who is included in the visible minority definitions under employment equity.

Worswick, 1996, and Shamsuddin, 1997 all study married immigrant women, viewing their earning potentials as a function of their married relationship. Pendakur and Pendakur, 1996; Boyd, 1991, and Hiebert, 1997 come closer by including women in their analysis, but can be criticized for not making women the primary focus of their research. "... a gender analysis of immigration and other social policies goes beyond identifying gaps in the literature and other analysis, although of course these are necessary additions. Doing gender analysis calls for a radical re-examination of sexist, racist and class-based (among other) assumptions and biases that have become "natural" in how we think about society." (Hebert, 1998:19)

Existing quantitative studies fall short of an adequate explanation of oppression because of their failure to address these intersections, and subsequent categorization, especially at the level of race and gender. Examining the labour market participation rates of immigrant women is viewed by feminists as not being the right focus. In order to understand the issues facing immigrant women, researchers should be focussing on the conditions of these women's integration into the labour force. (Abdo, 1998:44) It is not enough to simply determine if immigrant women are in the paid labour market or not. A deeper analysis of where they are working, their working conditions, and employment status is crucial in gaining information on their ability to gain equality in employment opportunities. Economic and demographic-based studies need to expand their comprehension of the issues by examining them from a racialized and gendered perspective. The kind of job, the sector, and the level all make important distinctions when considering access to equal employment.

Feminist research on the topic of gender, citizenship, and ethnicity has been very valuable in redefining the issues, but does not go far enough; it has re-analysed the way in which categories are constructed and examined the issues from a female standpoint, focussing on the intersections and individual nature of identity. However, many feminist researchers, (Ng, 1987; Calliste, 1996) tend to focus on the qualitative, individual nature of 'race,' 'ethnicity,' and 'discrimination,' examining situations from the perspective of the individuals involved and often studying specific working environments. Arguably, more detailed analysis could be done if the focus was not only on the differences between women, but also between and within specific ethnic groups. An examination of the qualitative differences of group members goes much further than a solely quantitative analysis in determining a sense of justice and equality. However, research at the micro-individual level, with analysis focussing on individuals or particular sub-populations, is often not very useful at understanding the macro implications, or similarities between groups.

Access to Information

My work as a policy and research analyst for both the Public Service Commission and Health Canada has given me a unique perspective from which to conduct my research. Although combining the government realm with academia has begun to become more common, it too is somewhat unique. It was through this government connection that I was able to conduct informal interviews with several key government agencies and representative employees of the Federal Public Service, including the Treasury Board Secretariat, the Public Service Commission, the Status of Women, the Canadian Human

Rights Commission and the Public Service Alliance of Canada.

To date, there has not been any formal investigation into the participation rates of either immigrants or of non-citizens within federal government agencies. Nor has there been a detailed study of visible minority employees who are also immigrants. Although there has been a Federal Court case in which three non-citizen women are challenging the *Public Service Employment Act's* policies on hiring and eligibility lists, the investigators have also failed in being able to produce quantitative data on the number of non-citizens effected by the policies. This type of analysis would help to further substantiate the position of the plaintiffs.

Throughout my research, it became apparent that it would not be possible to access the kind of quantitative information on visible minority, non-citizens working for the Federal Public Service that I was seeking. The available data would not allow for comparisons across or within categories, especially at the level of citizenship. Furthermore, I was continually 'sidetracked' in my attempts to access information about citizenship in the Federal Public Service. Although I had been working for the Public Service Commission and was working with various data sets the available variables were limited to age, gender, and aspects of job mobility. Although citizenship status and education are collected in the Public Service Commission data bases, this data is not available for analysis. I did not go through a formal access to information request, I was informally advised by the Treasury Board Secretariat, the Public Service Commission and the Human Rights Commission that this type of information would not be available. I contacted several government agencies

asking for information about both immigrants and non-citizens (non)employed in the Federal Public Service. However, I was unable to make a single contact who was able to offer any data-based information and I was continually told that this information was not compiled, nor was it accessible. Despite the interest in this topic from a policy perspective and even at the Supreme Court level, the inability to access quantitative data on various elements of the Federal Public Service is alarming.

CHAPTER 3: HISTORY OF INEQUALITY FOR NON-CITIZENS

This chapter addresses the history of exclusion and discrimination faced by 'immigrants' in Canada, with a specific focus on the Federal Public Service. The history of citizenship in liberal theory and the concept of the 'universal citizen' are explored. This chapter begins by outlining the role immigrants have played in the history of the nation and gives a definition to various concepts, such as 'non-citizen' and 'immigrant.' This chapter also explores the history of exclusion non-citizens have faced in the Federal Public Service, as well as the legal protections non-citizens have under Canadian legislation.

The History of Citizenship: The Liberal Democratic Approach

'Citizenship,' as we know it, is a fairly new concept in the history of the world, and it has developed into a system used to include and exclude people for various socio-political reasons. T.H. Marshall was one of the first to provide an adequate definition of citizenship widely used by social scientists: "Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed." (Marshall, 1950:28-9) Marshall's concept examines citizenship from the perspective of rights and duties as bestowed upon the individual. Marion Iris Young calls the equality of political rights for citizens "universal citizenship." (1998:263) She claims that traditional notions of citizenship for all imply a "universality of citizenship in the sense that citizenship status transcends particularity and difference." (1998:263) Traditional notions of citizenship also assume that everyone who has citizenship is equal and has equal access to rights and obligations. However, Marshall has been critiqued for speaking to the social and political obligations of white men, and

therefore not being inclusive of ethnic groups and women who do not have equal access to rights and responsibilities and who are further disadvantaged because the conception of equality is based on men.

The Role of Immigrants in Nation Building

The construction of Canada as a nation of immigrants (Nayer and Crepeau, 1995), has had important socio-political effects on Canada both as a nation and as a country. Defining who should be allowed to come into Canada, as well as who belongs to 'our nation' have been continually evolving concepts since the first legally encoded notions of Canadian 'citizenship.'⁹ Canadian immigrants have played a large role in nation building, and in the cultural, economic, and political forces historically shaping the character and differential rights of immigrants. (Stasiulis, 1997b:143) There is a growing heterogeneity of international migration, where the transformation in populations, cultures, and communities is primarily happening in Canada's 'global' cities.

Canada allows many new immigrants to come to our shores every year. How they come and under which capacity differs from person to person and from group to group. Of the 28.8 million people in Canada in 1996, almost 5 million (17.4 %) were immigrants, of whom 1 million arrived between 1991 and 1996. (Statistics Canada, 1998) Although many misconceive 'immigrants' to be reflective of all those people who are 'foreign-born',

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In Canada, the first *Canadian Citizenship Act* came into effect in January 1947. Prior to this, people living in this country were considered British subjects residing in Canada. The passage of this Act signified that Canada was at last a full-fledged and equal member of the community of nations. (Citizenship and Immigration Canada, 1997b)

'immigrants' are, in fact, differentiated by many things, primarily their immigration and citizenship statuses. When someone first comes to Canada, they are classified by their immigration status which defines the 'class' of immigrant that person is ascribed to, such as refugee or family class. Canada has an extensive family reunification program, as well as a relatively high refugee acceptance rate. In 1997, the majority of immigrants came in under the skilled worker category (47.9%), seconded by family reunification which accounted for 28.3% of new immigrants. Those constituting the 'other' category are primarily live-in-caregivers¹⁰ and those in other specialized programs. The 1998 and 1999 plans show similar patterns. (Citizenship and Immigration Canada, 1998b, 1997a, 1996) These divisions are important in understanding rights and abilities, because often these are differentiated based on someone's 'immigrant' and 'citizenship' status, in addition to other intersections such as ethnicity and gender. Many 'immigrants' who enter under the family class are considered dependents of the 'head of the household' (usually male), thus limiting their welfare benefits, access to social and language programs, etc.

Those people considered 'immigrants' can further be classified by their citizenship status; citizens by naturalization and non-citizens. 'Non-citizens' fall into many categories: those here on temporary employment-visas, students, or those with Minister's permits (non-permanent residents, accounted for 166,715 people in 1996 (of whom, 54,755 were in the labour force) - less than 1% of people enumerated in the Census) (Statistics Canada, 1997); new immigrants and refugees (the majority of whom have gained permanent resident

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See Stasiulis and Bakan (1997) for a description of the situation of foreign domestic workers in Canada. They have argued extensively that Canada's immigration policies have created indentured labourers of domestic workers.

status); and those immigrants with long term residency status who have decided not to pursue Canadian citizenship (also permanent residents).

Immigrants to Canada are also differentiated by ethnicity. Recently, the pool of immigrants has been shifting from a primarily European background to an Asian and Middle Eastern one.¹¹ This has created a further division of the immigrant population by race/ethnicity status. In 1981, 67% of the 'immigrant' population were of European origin; by 1996 this number dropped to 47%, while the share of Asian and Middle Eastern immigrants grew to 31%. This shift in sending countries has raised the number of people considered 'visible minorities' in Canada. In 1991, 9% of Canadians aged 15 and over were members of a visible minority group, of these, 78% were immigrants and two-thirds were recent immigrants¹². (Kelly, 1995) This increase in the visible minority immigrant population has served to divide the visible minority community in Canada, where only 29% of the visible minority population are Canadian-born. (Statistics Canada, 1998)

Employment Discrimination Against Immigrants

Not all Canadian residents, nor even all Canadian citizens have equal chances of employment. Many people are excluded from entering the labour market at all, either by choice or by necessity. Feminist theorists have shown the exclusion of women from the Canadian labour market, despite their equal right, as citizens, to apply and enter the labour

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The shift in sending countries was the result of Canada's acceptance of more immigrants overall. The top ten sending countries in 1996 were Hong Kong, India, China, Taiwan, the Philippines, Pakistan, Sri Lanka, USA, Great Britain and Iran. These countries accounted for 44% of all immigration to Canada in 1996. (Citizenship and Immigration Canada, 1998a)

¹² Recent immigrants are those who arrived between 1991 and 1996.

market. While immigrants face discrimination in many areas of life in Canada, probably one of the most prevalent is in the labour market, in which immigrants' roles are both racialized and gendered. Feminist theories have pointed to the ways in which both gendered and racialized discourses emerged in shaping the mode of incorporation of migrants and immigrants into the Canadian labour market. Immigrants continue to be integrated into the labour market on a two or three-tiered labour system. As the studies in chapter 2 showed, immigrants face low-wages, low or no benefits, occupational segregation and unprotected jobs divided by class, gender, and ethnicity. Many 'immigrants' are first let into Canada as students or as migrant labour, in order to fill sectors of the economy in which they are needed. The annual immigration plan shows that the number of employment authorizations¹³ in 1997 was 102,737 with an additional 97,393 student authorizations, compared to 215,844 total immigrant and refugee applicants. The number of allocated employment visas and student visas have continued to increase yearly (Citizenship and Immigration Canada, 1998b), allowing Canada to be more restrictive in its initial consideration of permanent resident applicants. By allowing potential immigrants in as migrant labour and students, the state has greater control over who is later accepted as immigrants. 'Western first world' states are increasingly policing access of migrants to first world citizenship, thus the commodification of immigrants as vehicles for capital transfer and economic skills is on the rise. These divisions are overlaid by hierarchies in citizen status, which governs access to political, civil and social rights, including protection offered by labour legislation and employment equity.

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This excludes employment authorizations issued to spouses who apply for landing in Canada, refugee claimants, foreign students, and their spouses.

History of Exclusion in the Federal Public Service

The Federal Public Service has been struggling with issues of 'citizenship' and 'exclusion' for a long time.¹⁴ Previous exclusionary policies against married women¹⁵ were initially changed and eventually repealed. Other policies, such as the ones outlined in the *Federal Public Service Employment Act* - section 16 (4) and section 17 (4), which allow the Federal Public Service to preferentially hire Canadian citizens over non-citizens¹⁶, as well as Veterans over non-Veterans, have withstood criticism and recommendations for abolishment. Section 16, subsection 4 states:

Where, in the case of an open competition, the Commission is of the opinion that there are sufficient qualified applicants who are (a) persons in receipt of a pension by reason of war service as defined in Schedule II, (b) persons who do not come within paragraph (a) and who are veterans as defined in Schedule II or widows or widowers of veterans as defined in Schedule II, or (c) persons who are Canadian citizens who do not come within paragraph (a) or (b), to enable the Commission to establish an eligibility list in accordance with this Act, the Commission may confine its selection of qualified candidates under subsection (1) to the applicants who come within paragraph (a) paragraphs (a) and (b) or paragraphs (a), (b) and (c).
Amended 1992, c. 54, s. 13. (Public Service Commission, 1985, emphasis mine)

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A nationality-based requirement for admission to what was the Civil Service of Canada first appeared in *The Civil Service Amendment Act, 1908*, S.C. 1908, c. 15.

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In 1951, the Civil Service Commission lifted its restrictions against married women for clerk positions. For a detailed review of the role of women in the Public Service, see the ongoing work of the Social Sciences and Humanities Research Council funded project on Privatization, Feminization and the Law with the Feminist Legal Institute of Osgoode Hall Law School, 1998-99.

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The preferential hiring policies of the Federal Public Service have a different impact on each of these various immigrant sub-groups. However, it is likely that the majority of 'non-citizens' who are employed, or who seek employment in the Federal Public Service, come from the permanent resident population. Of those permanent residents who apply for Federal Public Service jobs, it is unknown how many of them are long-term residents of Canada.

While it is both sections 16(4) and 17(4)¹⁷ that restrict employment opportunities for non-citizens, it is section 16 which outlines the restrictions on hiring for open competitions and is therefore primary in this discussion. Although non-Canadian citizens are able to apply for Federal Public Service jobs through open competitions, the likelihood of being hired is small in occupations where there are a large number of qualified Canadian citizens. There has always been¹⁸ an exception for certain occupational positions which purposely recruit applicants from outside of Canada (such as computer scientists and engineers). It is estimated that less than 1% of all Federal Public Service employees are non-citizens.¹⁹

Reasons for the continued application of this preferential policy will be explored further in chapter 8. Although the Federal Public Service is not the only employer to discriminate against non-citizens, the federally-regulated private sector, also subject to the *Employment Equity Act*, does not have such restrictions on employment. Furthermore, the definition in the *Employment Equity Act* for the Canadian workforce is “all persons in Canada of

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17(4) applies the same condition of preference for the establishment of eligibility lists. *17 (4)(c) persons who come within paragraph 16(4)(c) and who are qualified shall be placed, in order of merit, after any candidates mentioned in either paragraph (a) or (b) of this subsection.* (Public Service Commission, 1985, emphasis mine)

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Although the policies remained the same throughout World War II's 'brain drain,' the way they were applied seemed to be more relaxed as the Canadian government attempted to hire scientists and researchers from abroad. Anecdotally, citizenship does not seem to matter under these circumstances.

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Lavoie v. Canada [1995] outlined that in 1989 there were about 227,545 members of the Federal Public Service universe (42.6% of the entire Canadian Public Service) to which the *Public Service Employment Act* applied. Of these, 20-25% of appointments were through the means of an open competition. In 1989, there were 9,963 appointments to the Federal Public Service and in the National Capital Region in 1992-3, only about 12 non-citizens were *referred* in open competition.

working age who are willing and able to work.” (Canada, 1995) A further clarification states in section 5(b)(ii) “those segments of the Canadian workforce that are identifiable by qualification, eligibility, or geography, and from which the employer may reasonably be expected to draw employees.” None of these clarifications specifies a restriction to the Canadian citizen population. Therefore, the rights of non-citizens are protected both under the *Employment Equity Act* and the *Canadian Charter of Rights and Freedoms*. It is clear that the Canadian workforce includes those permanent residents who have obtained employment authorizations. That their right to employment opportunities in the Federal Public Service is restricted by employment policies is discriminatory.

Legal Protections for Non-Citizens

Non-citizens form a minority group within Canada for whom legal protection is limited. Although non-citizens do not have many rights or obligations to Canada, most have made some commitment to live and reside here, and many seek employment as permanent residents. Some Canadian laws protect many minority groups from discrimination, including non-citizens. As will be explained further in chapter 4, the *Canadian Charter of Rights and Freedoms* has been extended to protect the rights of non-citizens. However, those disadvantaged by “multiple minority status and those most clearly in need of *positive, specified* human-rights protections - are those whose human rights are most seriously violated through omission.” (Kallen, 1990: 95) Although the laws can be applied to protect non-citizens, it is necessary to enact further legal protection of their rights. As is the case for all discrimination claims, the burden of proof rests on the plaintiffs to prove that they have been discriminated against.

Two main legal battles have characterized the non-citizen debate in the Canadian courts. The first, *Andrews v. Law Society of British Columbia*, [1989] established the benchmark for using the *Canadian Charter of Rights and Freedoms* as a tool for gaining equality for non-citizens. In this case, it was successfully argued that a non-citizen was being discriminated against by not being allowed to practice law in British Columbia. Although instrumental in gaining the means to argue discrimination against non-citizens, the *Andrews* case was based on the claims of a British, white, male lawyer. Other cases, which have not involved such 'comparative' defendants have yet to establish that they are being discriminated against.

The second legal case is *Lavoie v. Canada* [1995] in which three non-citizen women have been trying to get the courts to repeal section 16(4) of the *Public Service Employment Act*. The plaintiffs are looking to establish that the preference clause is discriminatory, they want to be allowed to compete for positions on the basis of merit. (*Lavoie v. Canada* Appeal, [1999]) The decision of both the Federal Courts and the Federal Courts of Appeal has been to uphold the right of the Federal Public Service to preferentially hire citizens over non-citizens. Although some of the justice agreed that non-citizens are in fact being discriminated against under section 15 of the *Canadian Charter of Rights and Freedoms*, the court justices determined that this discrimination is saved by section 1 of the Charter which allows for reasonable discrimination if it can reasonably be justified in a free and democratic society.

In the future, Canada may be faced with redefining and broadening views of citizenship.

To undertake the responsibility of accepting new immigrants and refugees means that the Canadian government should also recognize necessary socio-political circumstances which would help these people not only continue, but excel in their lives in a new country; meaning that there needs to be equal employment opportunities and security available to non-citizens.

CHAPTER 4: EQUALITY AND NON-CITIZENS

If we should start telling the truth...it would mean that we expose ourselves to the fate of human beings who, unprotected by any specific law or political convention, are nothing but human beings. I can hardly imagine an attitude more dangerous, since we actually live in a world in which human beings as such have ceased to exist for quite awhile.

(Hannah Arendt, 1943:65)

This chapter examines the construction of theories surrounding issues of equality. The beginning part of the chapter explores how traditional liberal theorists developed notions of formal legal and substantive equality. It then outlines both the feminist and critical legal theories of how substantive 'equality' is not being achieved through current legal means. Traditionally, liberal thinking and understanding of equality, equity, and equal opportunity were defined using white, middle-upper class males as the norm, thus ignoring the variance or difference among others seeking justice. The second part of this chapter examines equality as defined in the Canadian context. Most of our understanding of equality comes from the entrenchment of equality rights in the *Canadian Charter of Rights and Freedoms* and its interpretations by Justices of the Supreme Court of Canada. Understanding equality means going beyond the legal definitions by examining how inequality affects the lives of people. This chapter further outlines how the legal definitions evolved over time and how they are applied to the non-citizen population.

Defining Equality

A discussion on how public policy should change to become more inclusive, equitable and fair needs to begin with an understanding of what these terms mean and how they are defined by different theorists. Liberal theorists, such as Rawls (1971), Dworkin, (1981)

and Kymlicka (1989), have attempted to put distinct measures and limits on what constitutes equality, while defining the parameters of what equality means in a liberal democratic nation. In liberal theory, the basis for equality proclaims that all humans deserve to be equal and everyone should have access to the things necessary to make us all equal human beings. Classical liberal theory has been responsible for the idea that all people have equal moral worth and deserve equal concern and respect because they are autonomous agents. (Koggel, 1998:42) Liberal democratic nations, however, promote a kind of society in which some people prosper and others fail. These hierarchies are based on socially-imposed categorizations which propose that some people are more deserving, or have worked harder to achieve their 'just' rewards. "The social inequalities we see around us are artificial hierarchies created by a world that wishes to have ranks." (Foster, 1983:15) The reinforcement of these rankings maintains a power balance which is beneficial to a few elite.

Koggel describes how elusive the term 'equality' can actually be: "Equality for all people" prescribes treating all people equally. This raises issues of understanding what equality is, what it should look like, and whether or not everyone should have access to it.

Furthermore, it implies a number of equality claims: that all people are equal, that these equals ought to be treated equally, and that achieving a state of equality is a morally worthy goal. (Koggel, 1998:20) Legally defining a state of equality is arguably obtainable, however, ensuring its ability to achieve substantive equality may not necessarily be possible. If we assert that people are equal, we must specify in what respects they are equal and to whom they are equal. (Evans, 1983:103) Furthermore, what constitutes equality for

one individual or one group of individuals does not necessarily apply to another individual or group.

Formal Equality

Formal equality created the means for achieving a discussion of what equality is and defining some of the parameters of what equality should look like. It began the process of opening discussions for groups whose rights to equality had not been considered before. Liberal theory was responsible for developing a “powerful ideal of equality: the idea that every citizen has a right to full and equal participation in the political, economic, and cultural life of the country, without regard to race, sex, religion, physical handicap - without regard to any of the classifications which have traditionally kept people separate and behind.” (Kymlicka, 1989: 141) Much of the discussion on liberal equality focusses on the rights of an individual, presupposing that everyone has equal access to these rights. Dworkin refers to this as “equal concern and respect,” viewing the right to equality as fundamental for everyone. (1978:180) Rawls puts forth the argument that all people should have an equal right to the most extensive basic liberties, and that social and economic inequalities should be arranged so that they are to everyone’s advantage and open to all. (1971:14-15) Despite the fundamental right to full and equal participation, actual access by individuals depends heavily on many factors, most of which are outside of their legal situations. These concepts of equality examine how one individual’s right to freedom from discrimination should be considered the same as another’s. Furthermore, equality is primarily defined by a person’s access to material goods. A focus on the distribution of material goods to achieve equality of opportunity, however, “does not give adequate

attention to the ways in which equal means can still result in serious inequalities in actual freedoms enjoyed by different persons.” (Sen, 1992:80-83) There needs to be a recognition that fundamental equality has to be achieved on many levels, not just materially.

Formal equality premises that “likes should be treated alike.” (Segers, 1983:87) Formal equality has been defined in male terms, and assumes able bodied, white, *citizen* men to be the norm against which all others are compared. This form of equality uses ‘otherness’ to continue justifying the inequality of the sexes or ‘races.’ (Boch and James, 1992:3) Formal equality requires that visible minorities be paid the same as whites (or women to men) for the *same* job, rather than for comparable jobs. Therefore, formal equality does not examine why there are differences in job opportunities for non-able-bodied, visible minority women. Instead it examines the differences in pay between women and men who work in the same field and more specifically in the same job. Furthermore, formal equality discourse has continued to oppress women by pretending that male-centred definitions of reality (in the workplace, home, educational institution, etc.) are gender/racially neutral. The application of gender/racially neutral parameters suggest that everyone be treated the same and that differences should not matter when examining a theory of equality. Formal equality removes the legal barriers without examining the equality of outcomes or results for individuals.

Substantive Equality: Achieving Results in Equality of Opportunity

Critics of formal equality argue that because people are different, the measures used to achieve equality need to be applied differently based on the situation and the individual.

Therefore, in order for inequalities to be adequately addressed, these differences and distinctions need to be recognized. Substantive equality focuses on the results of equality; “justice means that treating individuals as equals may sometimes mean that we must treat them differently.” (Segers, 1983:87) It examines the equality of results, rather than the equality of rights. Substantive equality requires equality of opportunity measures to help those who have been historically disadvantaged. The introduction of human rights and employment equity legislation aims at achieving substantive equality by ensuring that equality is met by prohibiting discrimination in employment.

Employment equity²⁰ (or affirmative action) has been considered the prototype of substantive equality theory. Formal equality theorists view employment equity measures as an interference in the ability of each individual’s formal right to compete. Substantive theorists, however, view these measures as removing the formal barriers and promoting equality from a results oriented perspective. (Koggel, 1998:210) However, employment equity measures are not without their limitations. The measures presuppose a certain basic equal footing when applying for employment opportunities. In other words, the merit principle demands that job qualifications are met, while competitions ensure that the competitors start from the same place educationally and experience-wise. Often, qualifications are both gendered and racist and substantive equality does not allow for

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A more detailed portrayal of employment equity is considered in chapter 6. That chapter focusses on the 1996 *Employment Equity Act* and its application to the Federal Public Service. The limits to achieving substantive equality and eliminating systemic barriers is further explained there. The differences between the term “affirmative” action and employment equity are not discussed in this thesis. Canadian employment equity legislation is the focus, although in some cases affirmative action is referred to due to its use in the American literature.

changes in these systemic inequalities, “...affirmative action is insufficient to the achievement of genuine human equality.... [it] illustrates the limitations of state and institutional attempts to create equality in a society where inequalities are primarily the result of structural characteristics inherent in an advanced capitalistic economy.” (Foster, Segers, et. al. 1983:3) Employment equity has perhaps opened up opportunities for some; however, these policies are completely ineffective at eradicating injustice caused to those who cannot even get a job or who are not in employment sectors affected by the legislation. Substantive theorists continue to ignore particular social relations that result in inequalities for many people. (Koggel, 1998:129) Substantive equality is rarely able to get beyond the surface to remove the systematic discrimination which remains in our institutions and legal systems and is unable to remove the racism and sexism inherent in the laws themselves.

Formal equality theorists defend the removal of rules and laws that prohibit some people from having equal opportunities. They suggest that the removal of these laws is enough in being able to obtain equality. Substantive equality theorists on the other hand argue that the commitment for equal concern and respect requires positive measures in the form of differential treatment for those whose unequal starting positions result in unfair disadvantages and unequal opportunities. (Koggel, 1998:168) This difference in approach is meant to achieve equality where the legal removal of discrimination can not achieve it. However, substantive equality alone, as shown by employment equity measures, is also limited in the kind of equality it can achieve.

The Politics of Inclusion/Exclusion

The inclusion/exclusion debate also needs to be addressed when discussing equality measures. Giddens describes the differences between inclusion and exclusion as being the difference between equality and inequality. (1998:102) In this case, “inclusion refers in its broadest sense to citizenship to the civil and political rights and obligations that all members of a society should have, not just formally, but as a reality of their lives.” (1998:102-3) Equality, or citizenship, must also refer to life opportunities and to involvement in public space. On the other hand, exclusion exists in two forms: one is the exclusion of those at the bottom, cut off from the mainstream of opportunities society has to offer and the other is the voluntary exclusion of those at the top. (1998:103) Although this inclusion/exclusion dichotomy is a useful way to examine equality/inequality, inequality should be levelled on a continuum and should reflect situational and relational changes. Giddens argues that exclusion is not about gradations of inequality, but about mechanisms that act to detach groups of people from the social mainstream. (Giddens, 1998: 104) Exclusion, however, is not an all-or-nothing concept; some groups may feel included in certain circumstances, while being excluded in others. In the case of non-citizens living in Canada, this exclusion can be felt for generations. There may be situations when a group of non-citizens feels included in a process or as part of a public space. It is likely, however, that this group, which has few socio-political rights in Canada, remains excluded from most aspects of society.

The Equality of Minority Groups

Liberal equality theory has focussed on equality for individuals and has left little room for

achieving equality at a group level. Approaching equality from the group perspective suggests that cultural groups deserve a place at the bargaining table, not only as a collective of individuals but in their own right as individuals. Will Kymlicka puts forth the notion that providing citizens with an appropriate cultural structure is as important in a just society as protecting liberties and creating conditions of fair equality of opportunity. (Kymlicka, 1989) Elaborating on Rawls' notion of treating people with equal concern and respect, Kymlicka believes that expanding and enriching the cultural space in which people live is important and therefore equal citizenship rights should be supplemented with special group rights for minority cultures. (Kymlicka, 1989)

Kymlicka argues that there may be a need for differential citizenship rights in multi-cultural states, in order to pay equal respect to people as members of cultural communities. This entails compensating minority cultures for their disadvantage by recognizing the group's rights. (1989) Kymlicka goes beyond the liberal notions of equality to compensate those who are disadvantaged. The criticism of Kymlicka's arguments, however, is that it requires the 'lucky majority' to compensate the 'unlucky minority.' (Cooper, 1993) Furthermore, reliance on the majority to provide resources to the minority on an egalitarian ideal means that the majority would likely be more willing to help minorities within its own political boundaries, therefore it may view helping those 'external others' as charity rather than duty or obligation. (Cooper, 1993)

Feminist Alternatives: 'Equality and 'Difference'

Theories of democratic liberalism exclude women from full equality. Although Rawls acknowledges gender, he never sees it as a factor that can result in disadvantage and unequal opportunities. (Koggel, 1998:95) Simply adding women to the liberal debate, and including them in formal equality does not result in a kind of equality which produces equal results for women. Equality necessitates more than a gender-neutral solution and it must include the recognition of difference. Reference to a gender-neutral solution further oppresses women "by denying women the full complement of rights and privileges accorded to men, and more insidiously, by taking for granted a conception of citizenship which excludes all that is traditionally female." (Boch and James, 1992: 48) Gender-neutral considerations are particularly discriminatory for visible minority women, who face racism as well as sexism. In order for women to gain equality, they must obtain it with an acknowledgement of their difference both from men and from each other. However, even feminist discourse on equality must go further.

Feminist discourse has been "shaped by an intense and controversial debate surrounding the conceptual couple 'equality' and 'difference'." (Boch and James, 1992:1) This discourse primarily aims at deconstructing the traditional meanings of these terms, and attempts to reconstruct new, woman-centred senses of equality and difference. It also attempts to devise new relationships between equality and difference. (Boch and James, 1992:3) One of the areas most recently explored by feminist discourse has been the sameness and difference *between* women. Women's liberation has been about both the right to be equal, and therefore, having equal opportunities, equal distribution of resources,

and equal access to employment opportunities, as well as the right to be different. Feminists have argued that identifying differences in people assumes particular standards of comparison. These standards of comparison have generally been fundamentally sexist and racist. Furthermore, they are entrenched in social practices and have become so taken for granted that they are viewed as universal and true. (Koggel, 1998:57-8) In order to move toward a greater theory of equality, unstated assumptions behind socio-political theory need to be questioned in order to make it more inclusive of those generally subsumed under white, male, able-bodied citizen norms. However, the incorporation of women into equality theory leads to a demand for inclusion of 'other' perspectives. "Only when the perspectives of the disadvantaged are included in current structures, can conditions for equality be obtained." (Koggel, 1998:240) All people should be considered equal and be able to access rights; how to obtain this equality and justice is still uncertain. In many cases, it continues to be left to the individuals who feel they are discriminated against to prove that they are in fact being discriminated against.

Rejecting definitions

Feminist thinkers such as Majury (1993), and Boch and James (1992) criticize traditional liberal thinkers' attempts at defining equality. They propose that these theories are exclusionary and ineffective for gaining the kind of substantive equality necessary to make a difference in the lives of those facing inequality. Their critique rests on a process of creating definitions and theory without being able to successfully apply them. "The current debate is taking place almost exclusively on the terrain of the meaning of equality." (Majury, 1993:272) The general interest in obtaining formal legal equality has meant little

in obtaining equality based on results. Understanding equality means acknowledging that a single all-encompassing theory or definition will not be the answer to the inequality faced by people. Majury suggests that in order to eradicate inequality, the specific needs and problems that women experience must be looked at rather than relying on a legal definition of equality. This requires identifying the method(s) that can be employed toward the desired solution. (1993:269)

Furthermore, although there are obvious distinctions between several schools of thought on equality, it is more accurate to describe them as intertwining and fluid. “Concepts or practices of justice cannot tell us how to move from an unjust context to a just one. Justice and domination are not binary opposites, so that the overcoming of relations of domination will not necessarily bring about justice.” (Flax, 1992: 200) As explained by Koggel, ‘equality’ is a relational concept (1998:13). This gives different meanings to those who are ‘equal,’ who have gained ‘equality,’ and those who hope to achieve it. Equality and justice are relational and they lie on a continuum and need to be applied differently to different situations. Majury refuses to commit to a single model of equality, arguing that “none of the existing equality models seemed adequate to address all, or even most, of the situations of women’s inequalities...” (1993:266) An overarching theory or model will not be able to eradicate inequality for all who are discriminated against. This assumes that all women require the same processes in order to overcome barriers, which homogenizes women and ignores the differences between them.

Equality in the Canadian Context

The Canadian system has brought debates about notions of equality that are very different from those of the United States. The Canadian sense of values are based on a deep sense of justice and equality. A study conducted by the Canadian Policy Research Networks has described a set of recurring Canadian values based on an examination of numerous national opinion polls taken over the past fifteen years and input from extended discussion groups in eight Canadian cities. Among the identified values are: self-reliance, compassion leading to collective responsibility, investment - particularly in children as the future generation, democracy, freedom, equality, and fiscal responsibility. (Peters, 1995) This sense of equality has been entrenched in laws and policies that are meant to protect equality for those living in Canada.

Within the Canadian state, the Supreme Court has taken the lead in identifying definitions of equality, recognizing the limitations of both formal and substantive equality. The 1982 *Canadian Charter of Rights and Freedoms*, is the primary legal instrument used to define and discuss notions of equality. The Charter was part of the foundation which entrenched equality as part of the dominant discourse in Canada. (Koggel, 1998:216) The purpose of equality rights (Section 15) in the Charter, is to eliminate discrimination which “occurs where, for example, a person, because of a personal characteristic, suffers disadvantages or is denied opportunities available to other members of society.” (Canadian Heritage) The specific legislation outlines two things:

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

- (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (Canada, 1985)

Section 15 makes it clear that all forms of discrimination are prohibited and the equality provisions have come to be interpreted as the deciding factor in many discrimination cases. The Charter protects both individuals and groups from discrimination, including discrimination in employment by race, colour, national or ethnic origin, ancestry or place of origin, gender, and language. The importance of the Charter is that it also provides the foundation for on-going discussions and re-definition of equality.

The Charter also helps to promote equality through other pieces of legislation and policy. Human Rights legislation further outline the restrictions on discrimination in employment situations. In most Canadian jurisdictions, discrimination against someone for their race or colour, religion, physical or mental disability, age, sex, national or ethnic origin, ancestry or place of origin, or language²¹ is prohibited under Human Rights Legislation. (Canadian Human Rights Commission, 1998a) These laws work in conjunction with both the Charter and the *Employment Equity Act* to prohibit discrimination.

The Charter protects employment equity programs by allowing certain laws and programs that favour disadvantaged individuals or groups. In terms of promoting employment equity and affirmative action programs, the Charter 15(2) has provided good support. Bayefsky explains, “The Charter explicitly provides for the legitimacy of affirmative action

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For a full account of prohibited grounds of discrimination see Canadian Human Rights Commission, 1998b.

programs... The goal in such cases must be the amelioration of actual conditions, not only an equal chance to strive for success. The aim is sufficient to reduce present inequalities so as to erase handicaps in the competition.” (Bayefsky, 1986:111) The entrenchment of equality in the Charter strengthens employment equity measures. Without the Charter, employment equity would not have the legal support necessary for carrying out its mandate.

However, one of the main failures of employment equity legislation, as guided by the Charter, has been its failure to change with the times and become more inclusive of other groups needing help. In order to achieve true substantive equality and eliminate discrimination, there needs to be a re-examination of the entire system. Koggel’s relational theory calls for a critical examination of the exclusionary effects of current workplace designs, hierarchical structures, an understanding of what constitutes talent and ability, and criteria of merit and qualifications on those who have been and continue to be disadvantaged. (Koggel, 1998:243) Employment equity has changed the way traditional workplaces operate, by opening employment up to some disadvantaged groups. Ongoing searches for justice, however, demand that these reconstructed spaces be re-evaluated again, to become more inclusive. Furthermore, these measures have to be flexible and able to change to accommodate all oppressed groups, rather than be limited in scope. Employment equity opportunities should not be limited to certain designated groups. In this regard, critiquing the current system, although put in place to help a limited number of designated groups, seems relevant.

Limitations of 'Equality' for Non-Citizens

Charles Taylor suggests that democracy has ushered in a politics of equal recognition, which has now returned in the form of demands for the equal status of all cultures and both genders. (Taylor, 1994:27) Withholding equal recognition to some can be a form of oppression, according to Taylor, and he states that the existence of “first-class” and “second-class” citizens must be avoided at all costs. (Taylor, 1994:36-7) The Federal Public Service has created a situation of first and second class ‘citizens’ by putting restrictions on the employment of certain sectors of Canadian society. First generation immigrants, especially those who have not yet become citizens, are particularly vulnerable. Furthermore, immigrant women are the most limited in job opportunities, in both the private and public sectors. Unrepresented politically, their voices are often unheard in political forum, thus their rights are rarely considered. Even in equality discourse, citizens of a state are the primary subjects of consideration. For everyone in Canada to have an equal right to all aspects of society, non-citizens deserve that protection as well.

Immigrant ethnic groups have come to form a ‘third group’ within Canadian society; a group for whom constitutional provisions do not really exist. Although the *Canadian Charter of Rights and Freedoms* has been used as an egalitarian human-rights instrument, its application in protecting the rights of non-citizens has been limited. Like all legislation, the Charter has limitations and some critics suggest that it “can be seen to perpetuate and further legitimate long institutionalized status inequalities between and among different ethnic and non-ethnic populations in Canada.” (Kallen, 1990:87) The Charter reinforces the hierarchical nature of rights, protecting some more than others.

The question has arisen regarding whether or not the Charter, can in fact, protect non-citizens in Canada. Equality, however, is not only restricted to those considered Canadian-citizens. The notion of a greater global equality of 'human beings' exists in Canada:

In order for political economy to be useful in resisting inequality, it must analytically address the complex categories of identity and affiliation which are the effects as well as the determinants of ever more intricate configurations of power and inequality in Canada and globally. (Stasiulis, 1997b:160)

Feelings of protection do not stop at the Canadian border, Canadians do feel that equality and justice must exist on a global scale.

The Supreme Court ruling in *Andrews v. Law Society of British Columbia*, [1989], successfully argued that the Charter can and should be applied to everyone living or residing on Canadian soil, rather than be limited to Canadian citizens. The Charter can be used by non-citizens with regard to fundamental freedoms, legal rights and, perhaps most importantly, the right to equality²². (Nayer and Crepeau, 1995) "Since citizenship is only a non-discriminatory basis of distinction when that distinction is considered to be justifiable in a free and democratic society, the right to equality before the law leads inevitably to a convergence of the legal condition of the citizen and the non-citizen on Canadian soil." (Nayer and Crepeau, 1995) If the rights of non-citizens are protected under the *Canadian Charter of Rights and Freedoms*, then it is discriminatory for employers, including the Federal Public Service to have a preferential hiring policy against non-citizens.

Beyond the protections of the Charter, other policies and agreements have also offered non-

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There are sections of the Charter which can only be applied to Canadian citizens - the sections on the right to vote (Section 3) and minority language education (Section 23) for example. (Canada, 1985: *The Canadian Charter of Rights and Freedoms*)

citizens protection. The 1992 *Charlottetown Accord* proposed that “Canadians are committed to racial and ethnic equality in a society that includes citizens from many lands who have contributed, and continue to contribute, to the building of a strong Canada that reflects its cultural and racial diversity.” (Canada, 1992: Section I(1)(“2e)) However, this interpretation of the Accord led to great controversy, and spread concern to first and second generation immigrants, based on the apparent entrenchment of a ‘hierarchy of rights’ attached to particular ascriptive statuses. Furthermore, there was a widespread feeling that those proposals were a form of ‘elite accommodation.’ (McLellan, and Richmond, 1994: 663) Although the *Charlottetown Accord* was ultimately rejected, these considerations continue to be an issue for Canadians. Despite obtaining some protections under Canadian legislation, non-citizens continue to be a group facing discrimination in many areas. The categorizations of non-citizen/citizen, immigrant/non-immigrant, visible minority/not visible minority, woman/man are deeply racialized and gendered, which continues to promote a hierarchy of rights within Canadian society.

CHAPTER 5: INTERSECTIONS OF RACE, ETHNICITY, GENDER AND CITIZENSHIP

Whenever such thinking prevails, we are merely in the business of juggling with traditional categories, privileging women rather than men, or some women at the expense of others, without changing the power structures behind such constructions. Such logic is homogenizing and universalist, built on the principle of exclusion and the tyranny of the familiar.

(Gunew and Yeatman, 1993:xiii)

This chapter explores the notion that people's identities are formed through a series of relational intersections of gender, class, citizenship, race, ethnicity, and other elements of one's identity. It begins by discussing the shifting discourses within feminism, which have led to an integration of various ideas about the oppression of women. Feminist research has had to acknowledge 'identity politics' and recognize that issues facing women are not homogenous and universal. Furthermore, theories on 'immigration,' 'citizenship,' and 'employment' should also acknowledge that these discourses are deeply racialized and gendered.

Shifting Discourses and The Politics of Difference

Sociological methodology which begins from the standpoint of the oppressed, rather than from a defined sociological category has taken shape in feminist sociological writings. This shift in discourse has been the result of feminist critiques of the 'male-streamed' orientation of traditional sociological theories, as well as on modern Western liberal thinking.

Feminism questioned the voice of traditional political discourse and argued that it turned out to be white, middle-class, and male.

Traditional sociologists attempted to examine data and knowledge as unbiased, scientific observers. Feminism challenged notions that there could be 'objective,' 'genderless' knowledge and put forth the idea that 'all is political' and that all 'knowledge' should be re-examined and re-framed from a more diverse, gendered perspective. This kind of re-analysis allows researchers to claim their biases and situate themselves in their research, acknowledging their position and understandings. Feminism has transformed theory into praxis, where researchers are asked to acknowledge the socially constructed nature of society and take a political stand to support their claims. A key to understanding how society is constructed is acknowledging that research cannot and should not be 'unbiased,' but must be situationally located instead. The result is research that incorporates the understanding that all knowledge is situated and all universalizing terms and generalizing categories are socially constructed. (Jhappan, 1996:20)

The first wave of feminism identified the differences between men and women and claimed that the world is fundamentally a gendered place. This analysis brought forth complete redefinition of how to conduct research and understand ideology. Women's roles in the home and in the workplace were considered from the standpoint of women, rather than from that of men or as 'ungendered' subjects. The discovery of inequality in role definition and in opportunities, combined with political action, changed both the number of women entering the workforce and the roles that they play within the workforce.

Although feminist activists were able to examine the differences between men and women,

they have been ill-equipped to handle challenges from within the feminist movement.²³

'Women of colour'²⁴ challenged 'white women's' assumptions of a universal patriarchy stating that patriarchy is not a universal concept of primary importance to all women.

There has been a reluctance on the part of 'white feminism' to acknowledge and recognize that the struggles of 'women of colour' are different from those traditionally put forth by mainstream feminism. Although feminist scholarship has begun to incorporate class and gender struggles into their disciplines, there is still a tendency to "resist acknowledgment that the world is a fundamentally racialized place where privileges and burdens are dispensed according to the ranking of racial/ethnic groups." (Jhappan, 1996:18)

Furthermore, notions of nationhood and citizenship are yet to be extensively examined as areas of struggle for some branches of feminism, although there has been some inclusion of citizenship discourse in the work of anti-racist and postmodern theories. The feminist movement has been resisting the fragmentation caused by the 'politics of difference,' (Gunew and Yeatman, 1993) while trying to understand the necessary role of acknowledging differences between women, not only the differences between women and men. This has required the creation of critical theory around issues considered important by all branches of feminism and a re-framing of these issues from a relational view of how

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I recognize that there are many strains of feminism that examine these issues in various ways. I want to resist homogenizing these various critiques into a single feminist standpoint. I also want to recognize the work of anti-racist feminists in this debate. There has been a lot of substantial research done by these researchers that has helped to focus and understand issues of race and ethnicity. They have been at the forefront of challenging 'mainstream' feminism and universalism.

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The term 'women of colour' has come to refer to the unity of non-white women as a political phenomenon against the oppression of white supremacy and racism, attempting to recognize that the particular experiences of non-white women are far from monolithic. Mama describes the diversity of 'Black women' as representing a "diversity of origin and variations in geographical, historical and cultural reference points." (Mama, 1984: 25)

‘gender,’ ‘race,’ ‘ethnicity,’ ‘citizenship,’ ‘nationality,’ and ‘class,’ as well as ‘age’ and ‘sexual orientation’ intersect to constitute identity.

Essentialism and Intersections

One of the struggles within feminism has been to determine the line between essentialism and constructionism. Essentialism argues that our differences are based on biological or natural features and that research is able to reach absolute ‘truths.’ Feminism moved the differences between men and women beyond simply the biological, arguing that the term ‘woman’ does not exist as irreducible (biological) essences beyond language. Therefore, ‘women’ are not only essentially (biologically) different from ‘men,’ they are constructed as such by society. Therefore, the role of women in the home, as well as in the workplace depends heavily on her roles, as defined by society. This is also evident in the way that the role of ‘white women’ as compared to ‘women of colour’ has been constructed quite differently. It is not only gender-based discrimination which effects ‘women of colour’, but racially-based discrimination as well. Roxanna Ng’s work demonstrates how immigrant women are considered to possess a distinctive kind of ‘ability,’ with certain skills and qualifications attached to perceptions of their labour. (1987: 275) These skills and qualifications are linked to ideas on the kind of work ‘immigrant women’ are able to do, and is always a consideration of their potential work ability, even in the public sphere. This construction of the kind of work immigrant women can do needs to be examined when considering a theory of discrimination for women, especially for visible minority, immigrant women.

Examining essentialism from the point of view of oppression means that one form of oppression is the main, or only form of oppression. This ignores the effects of other types of discrimination, especially as they intersect with the primary form. The introduction of the 'essentialist' debate in contemporary feminism has been primarily about race and gender. (Williams, 1998; Jhappan, 1996) Gender essentialism assumes the importance of gender as the primary struggle. "It suggests that there is an essential or universal experience of being a woman and thereby obscures differences that exist between women." (Kline, 1991:39) Race essentialism, on the other hand, assumes that "there is an international hierarchy of oppression in which race ranks above gender, and hence racism needs to be tackled before sexism." (Jhappan, 1996:28-9) Neither of these positions has been able to effectively give a critical analysis of oppression because neither one is able to account for discrimination which falls outside of its respective debates or for discrimination that is intersected.

Jhappan has come to a position of 'strategic essentialism,' tackling the debate between gender essentialist and racial essentialist viewpoints. She rejects the notion that racism should supercede sexism as the primary struggle for feminists, and recognizes that neither gender essentialism nor race essentialism are complete on their own. (1996) Strategic essentialism recognizes the construction of identities as being paramount in understanding oppression. This allows for a constant shifting between the bases on which claims are made. (Williams, 1998:181) Strategic essentialism enables the actor to move between various identities and deal with situations from the vantage point that best suits the context. Strategic essentialism then, "sees identity as a function of context and allows us to stress

one or several aspects of our identities according to the axis of oppression at issue in particular situations, without necessarily tying individuals to a specific identity for all time and all purposes.” (Jhappan, 1996:52) This position constructs the ‘other’²⁵ based on the relationship to the oppressor and to other oppressed groups. Therefore, the ‘other’ is a continually changing, fluid portrayal, rather than a constant, stable one.

Taking the differences between women into account also means that the definition of ‘women’ has to be relational to other definitions, such as ‘men’ but also to other ‘women’. Without a discussion of relational theory, the fundamental power structures are left intact, simply shifting the debate from one category to another. (Gunew and Yeatman, 1993:xiii) Relational theory takes a position of shifting definitions and roles as constructed in relation to others. Therefore, a person’s identity primarily depends on who one is being compared to and for what purpose. Recognition of difference, and allowing for a person’s identity to be seen as fluid and changing, forces a reevaluation of how discrimination and oppression are defined and how to achieve equality. Discrimination is rarely based on one element of a person’s identity. Therefore, considering the multifaceted nature of someone’s identity when creating employment equity policies, meant to eliminate discrimination, is crucial.

Critiquing the Feminist Standpoint: Gendering Immigration

Feminist scholarship has criticized the methodology and focus of much of the ‘male-stream’ research on the topic of immigration and citizenship. Issues of immigration,

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The ‘other’ generally refers to *all* non-oppressors and is not necessarily based on skin colour. For the purpose of this paper, the ‘other’ specifically refers to non-citizens.

citizenship and integration, and race and ethnicity are particular areas of research that historically have been theorized from either a male, or 'gender-neutral' point of view. Feminist scholars have begun demanding that these processes be re-examined from a gendered perspective, using an approach which goes beyond simply adding women into the equation. The methodological approach of such an analysis begins by premising gender as the primary variable. It examines the issues and experiences from the perspective of women, versus simply examining how women fare in a 'man's world.' However, for issues of immigration and citizenship, theorizing needs to be racialized, not only gendered. There also needs to be recognition that women of colour, especially immigrant and non-citizen women, face discrimination on several levels, not only because of their status as women.

(Re)Defining 'Immigrant Women'

Feminist researchers have explored how definitions and understanding of identity become particularly important when discussing employment equity, especially as it concerns the category 'visible minority,' and further when looking at the situation of 'non-citizens.' Although this was not always the case, the term referring to 'immigrant women' now carries the connotation of 'women of colour' from 'third world' countries. The term 'immigrant' brings notions of citizenship, ethnicity, and nationality to the forefront within Canada. People of colour are usually constructed as 'immigrants' or at the very least, descendants of immigrants. Even those with long term residency within Canada are still considered 'immigrants.' Furthermore, someone's 'immigrant' status carries connotations of external citizenship and loyalty, especially for immigrants of colour.

The fact that not all immigrant women are visible minorities, nor are all visible minorities “foreign-born,” is often ignored. The formation of identity includes class, colour, ethnicity, sex, sexuality, and religion. Therefore, the constructed boundaries of race, gender, class and sexuality need to intersect to make visible the various nuances of each category, otherwise the usefulness of each becomes lost in a hierarchicalization of oppressions. (Khayatt, 1994:10) “The assumptions implicit in the categories of ‘immigrant woman,’ ‘woman of colour,’ and ‘visible minority’ conceal real differences in experience and do not account for nor distinguish between the various levels of oppression. They assume a homogeneity of background amongst all people who fall into those various groupings.” (Khayatt, 1994: 8) The general assumption, that all visible minorities are oppressed, also ignores the reality that there are varying levels of oppression within the visible minority category and that not all women are equally oppressed.

Immigrant ‘Women of Colour’ in the Labour Market

Immigration has typically been understood as a male motivated phenomenon, where it is the head of the household (usually male) who makes the decision to move to a new country. Immigration policies are sexist and racist, in that they often designate one member of the family as the ‘independent immigrant,’ while the other (usually the wife) is considered the ‘dependent.’ The ascription of a ‘dependent status’ often creates further barriers for these women. One such example is that the access to federally sponsored language classes is blocked for women holding a ‘dependent status.’ (Abdo, 1998:43) This can contribute to their segregation in the labour market, especially at the level of the federal government, if they do not acquire the language skills necessary to obtain decent jobs. In

addition, immigration can often lower the status of some women, by not acknowledging education from outside North America as being legitimate. Both of these issues are relevant in maintaining a division of labour for 'immigrant women of colour'. The labour force uses a woman's identity to further justify a division of labour, particularly in the public sector, where citizenship status reinforces exclusion.

Examining the case of non-citizen women under strategic essentialism shows a need to explore why or how peoples' citizenship effects their identity and opportunities. Strategic essentialism links gender discrimination to both racial, and in this case, citizenship-based discrimination. Citizenship or nationhood are only partial fragments of someone's identity, nevertheless, they can become a large part of someone's oppression, especially when combined with other elements such as language, race/ethnicity and gender. In examining how employment equity policies may help visible minority women, issues of citizenship must be accounted for. Public policy makers need to address how a person's citizenship effects job opportunities, especially in the public domain. If visible minority women face barriers to employment in the private sector, which does not have a citizenship preference, then the barriers caused by this preference in the public sector will have a relational effect on the ability for these women to secure employment.

CHAPTER 6: EMPLOYMENT EQUITY IN THE FEDERAL PUBLIC SERVICE

A vital challenge...is preserving the essence of a professional and politically neutral Public Service. The hallmark of that professionalism is the ability to give the government of the day the best possible advice without fear or favour, based on objective and impartial reflection on the long-term public good, to loyally carry out the orders of the democratically elected government, to obey the law and to act with probity in the public interest.

*Ruth Hubbard, Mary Gusella and Ginette Stewart,
President and Commissioners (Public Service Commission, 1996a)*

This chapter gives an analysis of the Federal Public Service workforce by examining the possibility of the Federal Public Service being considered a separate employer, distinct from the private sector, both in its mission to create public policy and employ certain types of people. The chapter then gives an overview of the history and purpose of the *Employment Equity Act* which lays the foundation for a discussion on whether substantive equality has been or can be achieved with these measures. This chapter argues that substantive equality can not be reached because of the way employment equity has been legalized and institutionalized, ignoring intersections between race, ethnicity, gender, class, and citizenship. The differences or intersections between discrimination should be the key to a greater understanding of the question of equality.

The Public Service

The Canadian Public Service²⁶ employed 2.6 million people, or approximately 19% of the employed labour force, at the federal, provincial, and municipal levels in 1995. Of these,

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The Canadian Public Service includes provincial, territorial, and municipal levels of public servants as well as federal. For the purposes of this paper, the Federal Public Service includes only those employees subject to the *Employment Equity Act*.

207,977 were employed by the Federal Public Service, with 68% of them employed in the National Capital Region. (Public Service Commission, 1996a) The role of the Federal Public Service is to create public policy and provide analysis and advice to the government, while ultimately providing services to the Canadian public. The public sector is viewed very differently from the private sector, both in the kind of work it does and the type of employees it employs. Rosemary Warskett proposes that 'civil servants' are a social category, constructed differently, both materially and ideologically from other workers. (1997:30) The kinds of people who choose careers in the Federal Public Service do so for many reasons, ranging from a need to contribute to the public good to a desire to gain employment with stable hours and benefits. Conversely, those who choose careers elsewhere do so due to perceived employment advancement opportunities, challenging work, and competitive salaries. The creation of a unique corporate culture has often been a challenge to proponents of employment equity who want to change the existence of this particular type of workforce.

Civil servants play a role in creating policy and promoting the hegemonic discourses of the state. "The value of serving in the public interest and of supporting parliamentary democracy will always remain central to the public sector." (Public Service Commission, 1996a) The mandate of the Federal Public Service is to serve the public in a fair and unbiased way. This differs from the private sector where loyalty often lies with the company's owners, or stock holders rather than with the public. For the Federal Public Service, the clientele is perceived to be everyone in Canada. Therefore, if the representation of women and ethnic groups, as seen in the composition of the Canadian public, is not

reflected in the public service who serves them, further mistrust in the government will be created. This mistrust is recognized by the government as being counterproductive to working efficiently and rendering government policy ineffective. Furthermore, without a representative workforce, government policies will not reflect the views and needs of all members of Canadian society.

Historically, jobs in the Federal Public Service were seen as stable, well-paying and permanent. However, with fiscal restraints and budget cuts, the Federal Public Service has had to re-examine its employment strategies and priorities. One of the areas of change has been within the pay-structure. There has also been a movement towards a contingent work force, with the majority of new recruits being students, casual workers and temporary workers on contract. As a result, many of those hired under employment equity, or the most recently hired, have been hired into this contingent workforce. Although the use of a contingent workforce allows the Public Service to have flexibility in deciding on human resources, there are concerns that employment equity measures have come at the expense of employment security. (Canada, 1990 V.1:86) This has had a specifically large impact on the job security of women and ethnic minorities, with visible minority women being affected the most.

Employment Equity Legislation: History and Purpose

‘Affirmative action’ programs were first introduced in 1983 by the Treasury Board of Canada, though they only covered women, persons with disabilities and Aboriginal people until 1985, when visible minorities were added. (Jain, 1988:15) The purpose of the original

program was to “recruit, promote and retain qualified employees on the basis of merit by removing barriers in employment practices and by putting in place positive policies and programs.” (The Treasury Board Secretariat, 1994) These programs were strengthened with the introduction of the 1986 Act and the 1996 amendments. In 1996, the purpose of the federal *Employment Equity Act*, (*Bill C-64*) was to:

achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfilment of that goal, to correct the conditions of disadvantage in employment experienced by women, Aboriginal peoples, persons with disabilities and members of visible minorities²⁷ by giving effect to the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of difference. (Canada, 1995)

The 1996 *Employment Equity Act* (*Bill C-64*) revisions were made in order to extend employment equity coverage²⁸ and to strengthen the capacity to ensure compliance by allowing the Canadian Human Rights Commission to conduct audits of the various employers subject to the *Employment Equity Act*. These changes were necessary to ensure

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Aboriginal people include Status Indians, Non-Status Indians, Inuit, and Metis. Members of visible minority groups are persons because of their race or colour, are in a visible minority in Canada. For purposes of employment equity, groups of primary focus are: Black, Chinese, Japanese, Korean, Filipino, South Asian (Indo-Pakistani), Visible Minority West Asian or North African, South East Asian (Burmese, Cambodian, Laotian, Thai, Vietnamese, etc.), Oceania (Melanesian, Micronesian, Polynesian), Visible Minority Latin American, or any combination of the above visible minority groups. Persons with disabilities include those persons who, for the purposes of employment, consider themselves or believe that a potential employer would likely consider them, disadvantaged by reason of any persistent physical, mental, psychiatric, learning, or sensory impairment. (The Treasury Board Secretariat, 1994)

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The Employment Equity Act applies to (a) federally-regulated private sector employers; (b) the portions of the public service of Canada set out in Part I of Schedule 1 to the *Public Service Staff Relations Act*; (c) Part II Schedule I to the *Public Service Staff Relations Act* that employ 100 or more employees; (d) such other portion of the public sector employing 100 or more employees, including the non-uniformed members of the Canadian Forces and the Royal Canadian Mounted Police. (Canada, 1995)

substantive equality as a more effective standard to achieve the designed purpose of reducing inequalities in the work place. (Nehmé, 1996) Employment equity measures are meant to get beyond the formal legal measures used to simply change the legislation. They are an attempt to ameliorate the conditions by acknowledging that different individuals, or groups of individuals begin at different starting points and that this needs to be accounted for when addressing inequality. Over time, employment equity is meant to eradicate systemic discrimination by providing an entirely different way of thinking.

The current federal *Employment Equity Act* applied to approximately 412 employers in 1998, of which 65 employers were Federal Public Service departments and agencies, covering about 179,831 employees, 3,333 federally-regulated private sector organizations and Crown corporations, and 14 public-sector separate federal agencies with 100 or more employees, covering 99,721 employees. (Canadian Human Rights Commission, 1999)

Other government employers, who are not covered by the *Employment Equity Act*, made up about 100,000 employees, and although some may follow employment equity guidelines voluntarily, they are not legally required to. The federal *Employment Equity Act* covers approximately 7% of the total Canadian working population, with about 5% in the federally-regulated sector and an additional 2% in the Federal Public Service. (Public Service Commission, 1995)

Although the Treasury Board Secretariat is considered “the employer” for employment equity purposes, the Public Service Commission remains responsible for maintaining a liaison on broad policy issues. (Canadian Human Rights Commission, 1999) The Public

Service Commission is usually responsible for doing preliminary workforce analysis and informing the Treasury Board Secretariat of individual findings. It calculates availability rates for the Federal Public Service at both the national and regional levels, and provides a consultative role to departments. The Treasury Board Secretariat and the Public Service Commission have until now been the main source of data for the Federal Public Service, with designated group members being identified through self-identification questionnaires that ask employees to state if they are members of designated groups.²⁹ (The Treasury Board Secretariat, 1994) Individual departments are primarily responsible for fulfilling their obligations under the *Employment Equity Act*. The goal of employment equity is to increase internal workforce representation of designated groups to match their external availability in the labour market. The expectation is for employers to make reasonable efforts in implementing their employment equity plans. In the case that reasonable effort is not being made, the Canadian Human Rights Commission has the ability to conduct audits and request compliance.

Women Under Employment Equity

The Canadian Human Rights Commission has been able to establish continuing shortfalls

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Self-identification remains the primary source for identifying members of designated groups; however, beyond the four categories, little information on detailed identity is formally collected on any employees. If more detailed information were to be collected, it may be difficult to get members of the designated groups to self-identify. There is already a general agreement in the Public Service human resource community that some members of designated groups choose not to self-identify. (The Treasury Board Secretariat, 1994) This issue has been addressed on several levels, with campaigns and questionnaire 'blitzes' in an attempt to increase self-identification. However, the fear of repercussion is still a reason many people do not self-identify. Many people cite the shortcomings of self-identification methods as the primary reason why representation rates are not matching availability. It has been suggested that the Federal Public Service has in fact reached labour market availability for some designated groups, but that the self-identification numbers simply don't reflect the actual numbers.

in employment equity for members of all designated groups. (1997) However, research has shown that equity for white/non-disabled women has been more successful than for visible minorities, people with disabilities or Aboriginal peoples. The data has shown that white/non-disabled women have attained overall target representation levels, though they are still under-represented in select occupational groups. (Public Service Commission, 1998b) The Canadian Human Rights Commission's 1998 Annual Report showed women representing 50.5% of the Federal Public Service's workforce compared to 42% in 1987. This compares well to their labour market availability of 46.4%. Also, women's hiring rates were high, at 59.9%. (1999) Nevertheless, even if the designated groups' participation is increasing within the Federal Public Service, pay levels and occupational status continue to be a large hurdle. "Able-bodied men continue to hold the majority of full-time, better paying jobs...[women] only hold about 23% of all executive jobs and they're also paid less...they are also still concentrated in the low-paying clerical and secretarial ranks...about 84% of these low paying jobs (i.e. Administrative Support) are held by women." (Ottawa Citizen, 1997) In addition women's representation in the full-time, permanent workforce continues to remain low; 27% of all men who were hired received permanent positions, while only 13% of women did so. (Canadian Human Rights Commission, 1999)

Limitations to the Employment Equity Approach

Although in its eleven year legacy, employment equity has made some limited improvements for the employment situation of the four designated groups, there is much debate over whether these improvements have been horizontally and vertically universal

and if they have reached substantive levels. The overall employment of designated group members for both the federally-regulated sector, as well as the Federal Public Service, has continued to increase over time. However, the question of micro-level representation across occupations and industries, as well as equal representation within the designated group remains. Furthermore, there are questions of how flexible these policies should be in changing the definitions, numerical goals, and including other oppressed groups.

The laws themselves have some serious problems in helping women to obtain equality. The laws are narrow in definition and address equality at a superficial level, ignoring the underlying systematic barriers affecting those who are discriminated against. In their creation, assumptions were made on the type of measures necessary to achieve equality and that Canadians had a genuine concern for addressing equality issues. “The implicit rationale was that there is a general social concern with equity and fairness in Canada.” (Lum, 1995:48) In *Exploring Canadian Values*, Peters did find that Canadians support an equal opportunity approach to public policy and hiring and are strongly opposed to anything that may be interpreted as discriminatory. (1995:48) However, while they “subscribe to the philosophy of equal opportunity, they also believe that the merit principle should prevail.” (1995:49) While notions of quotas remain contentious among Canadians, the belief that “most groups in most situations should be treated equally, but that groups in special situations deserved different treatment” prevailed. (1995:49) Nevertheless, that Canadians are concerned with equity does not address the fact that we continue to be ill-equipped in understanding exactly what equality should look like.

As stated in Chapter 4, notions of equality in the labour market are linked to society's ideas surrounding what constitutes fair and equal employment. Canadians have a perception of equality quite specific and unique to their socio-political situation, as demonstrated by the entrenchment of equality rights in the *Canadian Charter of Rights and Freedoms*.

Certainly one of the major problems with equality, the way it is currently constructed, is the "norm" upon which the ideology is built. Employment equity continues to use white males against which to measure equality. "Women continue to be under-represented in key occupational groups, to be clustered in low-paying occupational groups, and to earn on average less than their male counterparts. Using this norm to determine employers' equity objectives will not produce employment equity." (Lum, 1995:61) Equality needs to be based on the level of individual intersections and oppression, as well as difference. "In order to create equality, we must use different strategies since people are not an amorphous mass." (Fry, 1998:5) This means that individual barriers need to be addressed, not simply the assumed barriers of a group. Therefore, employment equity needs to examine the differences not only between groups, but also within groups. Furthermore, equality must be achieved based on the differences between groups. Equality for visible minority women means building the praxis on their difference from both non-visible minority men and women, as well as from visible minority men. Therefore, visible minority women's employment realities and barriers must be accounted for separately from the others.

Employment equity legislation primarily focuses on the removal of legal barriers, thus obtaining some form of formal-legal equality. "While the removal of legal barriers is necessary and can begin to change employment practices, it is not sufficient for addressing

the systemic and systematic effects of a history of entrenched discrimination.” (Koggel, 1998:213) Obtaining formal-legal equality will not remove the systematic barriers created for visible minority women. This is because two main assumptions lay the foundation for the *Employment Equity Act*. The first is the narrowly defined view that the unequal treatment of qualified people is identified as the main problem. The second assumption suggests that removing barriers is essential for starting the process. “Equal opportunity alone will not redress the cumulative effects of past discrimination: corrective and supportive measures are crucial.” (Lum, 1995:71) Offering equal opportunities for those ‘qualified people’ does not change discriminatory employment policies such as section 16(4) of the *Public Service Employment Act*. Nor does it help those not considered ‘qualified.’ Many of the qualifications required for Federal Public Service positions are not job-specific but were introduced to eliminate competitors. “Discrimination is underestimated when job qualifications are themselves discriminatory, or when there is discriminatory access to qualifications.” (Reitz, 1990:155) The requirement of citizenship for employment with the Federal Public Service is a discriminatory job qualification in its own right. Furthermore, some of the requirements for certain jobs exclude those who may otherwise have all the necessary knowledge and skill for the job. Employment equity legislation is unable to address these forms of discrimination.

Policy makers have attempted to formulate policy which would examine some of the issues surrounding the discrimination of certain sectors of Canadian society. However, the *Employment Equity Act* still does not reach far enough in obtaining the kind of substantive equality which would result in changes of the systematic barriers and ideologies.

Employment equity only affects less than 7% of the entire Canadian workforce; furthermore, it focuses on four specific groups, ignoring oppression and discrimination faced by others. Policies should be flexible and ever-changing in order to address new concerns and inequalities. Discrimination exists on many levels and transcends the arbitrary categories assigned by policy makers. In order to fight it whole-heartedly, discrimination must be addressed at all levels of Canadian society.

CHAPTER 7: 'VISIBLE MINORITIES' AND MULTIPLE (DIS)ADVANTAGE

Why is it necessary to have employment equity programs for women, the disabled, Native Canadians and the so-called 'visible minorities?' Does the definition of so many Canadians as 'visible minorities' obscure the real problems of injustice and racism in Canadian society? Does the targeting of such diverse peoples as one group result in equity, or does it create a 'hierarchy of the oppressed?' Who are truly the most disadvantaged people in Canadian society?

(Simms, 1993: 347)

This chapter is dedicated to examining the issue of 'visible minority' status and employment in the Federal Public Service. The purpose of this chapter is twofold: first, it explores the problematic nature of the definitions used by employment equity legislation. Although terms such as 'designated group' and 'visible minority' allow for quick recognition and neat quantitative analysis, they obscure the kind of analysis necessary for a level of substantive equality which would address deeper, systemic issues of oppression and discrimination. The term 'visible minority' needs to be re-examined and the labelling and construction of who is ascribed into the various categories needs to be deconstructed. Definitions and categories are re-examined and the discrepancies between the Federal Public Service definitions and the "race" question on the Census are explored. The second purpose of this chapter is to identify recent demographic trends of visible minorities in the Federal Public Service, especially at the level of employment type, and job mobility. It also outlines the discrimination faced by visible minorities in the public sector and lays the foundation for further necessary measures to obtain equality.

Deconstructing the Term 'Visible Minority'

The term 'visible minority' emerged in government use in the mid-eighties as a substitute

for the term 'race' and has been described as a "politically motivated construct comprised of twelve distinct ethnic groups which include persons of Asian, South or Central American or African descent." (Pendakur and Pendakur, 1996:2) This construct is primarily used to identify those who would be covered under the *Employment Equity Act*, and does not include those of Aboriginal descent since they are considered a separate entity under the *Employment Equity Act*. (Pendakur and Pendakur, 1996:2) The employment equity operational definition of 'visible minority' is made through the analysis of a combination of ethnic origin, place of birth, and mother tongue questions from the Census in order to determine labour market availability. Further use of the Public Service's self-identification questionnaires determines representation of the designated group in the internal labour force.

Feminist researchers, particularly those considered part of a 'visible minority' group, have been fighting to change the operational definitions of the categories to better reflect Canadian reality. (Simms, 1993:346) The construction of the four "designated group" categories, combined with the way in which analysis is conducted (quantitatively, with a focus on numerical results), demonstrates how the terminology is inflexible in recognizing the intersections between and within various groups. These categories have been constructed to mask individual or even group differences, while the task of aggregating and averaging gives the appearance that generally, 'visible minorities' are becoming more represented in the Federal Public Service. Some feminist theorists view party / state discourse and policies in Canada as hegemonic, and that they "at best, reflect biculturalism and, at worst, Anglo-conformity." (Stasiulis, 1995:203) Some state policies have

acknowledged the role necessary to eradicate racism in a pluralist society, though the full commitment may not always be there. Furthermore, the measures necessary to eradicate injustice are severely underestimated. Gunew, is sceptical of a system attempting to improve the situation of designated groups without changing Canada's value system and fundamental structures. "The dismantling of hegemonic categories is facilitated by the proliferation of difference rather than the setting up of binary oppositions that can merely be reversed, leaving the structures of power intact." (1993:1) Employment equity policies have simply changed those who make up the elite power structure of the government.

The term 'visible minority' is problematic since it includes so many groups of people, from many different birth places and social situations, thus it is impossible to operationalize equal employment opportunities for everyone considered a 'visible minority.' 'Visible minority' reflects on the normative standards to which we as a society subscribe. The terminology itself is problematic, as it assumes white is not a colour, and establishes it as the norm against which all other skin colours are distinguished.³⁰ (Kline, 1991: 54) 'Visible minority' has tremendous political implications and may not, in fact, capture what policy makers are trying to understand. Furthermore, labelling someone a 'visible minority' is oppressing to those to whom the label is applied. As Glenda Simms explains: "[we] find the 'visible minority' label demeaning, anonymous, and psychologically distressing."

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My experience and position as a white middle-class, Canadian-born and educated woman gives me a different perspective from that of someone with different 'intersections.' I have benefitted under employment equity, and feel the responsibility to share my critiques of this system, rather than leave the battles solely to those facing oppression to fight on their own. White women working for the government need to recognize our privilege and help others to gain the "equality" we currently enjoy, while continually fighting for more substantive equality.

(1993: 346) She questions the validity of needing labels and categories as necessary for finding justice. Although critical of the current system of labelling 'visible minorities,' while Simms does not offer concrete alternatives she feels that it is important for society to "concentrate on less exotic definitions and more on solutions to the social and economic inequalities that cause so many Canadians to seek redress for historic wrongs." (1993:347)

The use of the term 'visible minority' is recognized as being problematic, no clear alternative exists and this label has a precise definition useful for the analysis of census data. (Boyd, 1991a) This poses an analytical problem, as the only lens we have to examine this issue with is the one outlined by employment equity definitions in legislation.

Therefore, a combination of methods must be used in order to get at the larger picture.

Policy makers must redefine the boundaries in order to better reflect the oppressions felt by individuals and groups.

The Hierarchicalization of Oppression

The term 'visible minority' extends employment opportunities to a percentage of people for whom this "help" is deemed necessary. This help is blatantly not given to others and is thus discriminatory. Categorization can serve to reinforce stereotypes and create further ghettoisation for some groups who may not feel they should be a part of the 'visible minority' category or who have achieved relative success without employment equity. As indicated in Chapter 6, employment equity tends to be successful for those who are already 'qualified.' As a result, it is not able to help those for whom employment opportunities are the most needed.

Policy makers have relied on assumptions that everyone falling into each designated group has been equally oppressed and that all deserve opportunities equal in value, ignoring the different starting places for various individuals and groups. For example, the inequalities of opportunity under employment equity facing a non-citizen, visible minority woman from a third world country who has little formal (recognized) education, needs to be considered differently from a visible minority, middle-upper class Canadian woman with a Masters degree from a Canadian university.³¹ Currently, employment equity practices consider these two women as either equally oppressed under the category of 'women' or perhaps consider them a 'visible minority' who is as equally oppressed as her male counterpart. Arguably, employment equity measures have begun to remove barriers and change some attitudes; however, it has been unable to bring justice for everyone, especially for those with multiple (dis)advantage. "To try to deal with multiple discrimination as its components, or worse as only one of its components, is to decontextualize that discrimination and to distort and deny the experience of the complainant." (Majury, 1991:418) As examined in Chapter 5, examining inequality at the level of intersections is crucial for getting at the depth necessary for addressing discrimination.

One of the alternatives proposed by feminist researchers is to examine how each of the sub-groups of 'visible minorities' is doing individually under employment equity. This would also allow for intra-group comparisons, showing whether or not certain groups of women

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I realize that this tradition of assuming characteristics for example purposes continues to homogenize categories of women, however I want to point out how intersections should be considered by policy makers. These examples should not be taken as an assumption that all 'visible minority women' are 'uneducated' and from the 'third world,' or that all 'Canadian-born' women have access to higher education.

visible minorities were at a greater disadvantage than others. Furthermore, comparisons between foreign-born and Canadian-born visible minorities could be made to see if citizenship and nationality create additional barriers. Policy makers generally oppose this consideration, however, arguing that a deconstruction of the category “visible minority” into smaller groups would create a situation of hierarchicalization among ethnic groups. (The Treasury Board Secretariat, informal interview, 1999) There is a perceived notion that designated group members are vying for a limited number of jobs, which further serves to divide those attempting to find employment within the Federal Public Service.

The *Employment Equity Act* does not examine (dis)advantage from the perspective of intersections between race, ethnicity, citizenship, and gender. It also does not consider the heterogeneity within a specific ‘designated group category,’ such as the various ethnic groups which comprise the visible minority category. The categorization of designated groups, which ultimately leads to the hierarchicalization of oppression, precludes notions of intersections and / or the belonging to multiple groups. As a policy, the *Employment Equity Act* has defined the groups that are to be considered oppressed, therefore excluding other groups who may also deserve equal access to employment. In doing so, there are no distinctions between ‘white women’ and ‘women of colour,’ nor are there distinctions between visible minority groups or visible minority men and women. The fact that the *Employment Equity Act* ignores these gaps, renders it ineffective at obtaining substantive equality. The shortcomings of definitions and cross-sections under the *Employment Equity Act*, specifically by relying on the construction of categories, is limiting, rendering the policy non-inclusive, hegemonic, and available to help those who do not necessarily need

the most help.

The “Race” Question: The Problem with Self-Identification

Definitions of who is considered a member of a ‘visible minority’ have changed significantly from one Census to another.³² In the 1996 Census, question 17 asked “to which ethnic or cultural group(s) did this person’s ancestors belong?” (Statistics Canada, 1996) Instead of pre-listed categories, blank spaces were provided for respondents to fill in. However, this was the first time that ‘Canadian’ was included as an example, which resulted in a major change in the way people reported their ethnic origins.³³ This question contrasts with question 19, which asked “Is this person...?” (fill in the appropriate ethnic/cultural group). (Statistics Canada, 1996) From this variable, 11.2% of the population reported themselves to be members of a visible minority group. The inclusion of question 19 was meant to provide information on the numbers and characteristics of persons who are members of a visible minority, as defined by the *Employment Equity Act*. (Statistics Canada, 1998) There are significant differences between the people who report themselves to be a member of the visible minority group in the ‘race question - no. 19’ versus those who reported themselves as members of what would be considered a visible minority group in the ‘ancestry question - no. 17.’ Examining oppression as an element of

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The changes in these questions over time has made inter-Census comparable analysis difficult at best, especially in the case of visible minorities and Aboriginal peoples. Statistics Canada cautions comparisons between the 1991 and 1996 Census. (Statistics Canada, 1998)

³³

5.3 million people (19% of the total population) reported their only ethnic origin as Canadian, while a further 3.5 million (12%) reported Canadian and other. This contrasts to the 1991 Census where the corresponding responses were 3% and 1% respectively. (Statistics Canada, 1998)

someone's identity, and in particular the intersections of that identity, makes the difference between questions 17 and 19 important.

Visible Minorities in the Federal Public Service

There seems to be a perception that employment equity programs give women of colour the decisive edge in the competition for jobs, though there is precious little evidence of them working in that way in practice... employment equity policies more often mean that white women or men of colour will be hired over women of colour...

(Jhappan, 1996: 56)

This part of the chapter examines the barriers facing visible minorities employed in the Federal Public Service. Due to data limitations, it does not address the various levels of discrimination faced by long-term immigrants employed with the Federal Public Service, nor is it able to examine the effects of discrimination on the non-citizen population. It does however, point to the fact that visible minorities face challenges in employment, which combined with theories of intersections, point to deeper and more complex challenges for visible minority women, especially those who are also non-citizens or immigrants to Canada.

Representation of Visible Minorities in Canadian Society

The lack of representation of visible minorities within the Federal Public Service reflects the lack of representation in all levels of government, including elected and appointed officials. Jerome Black's Toronto-based study found in comparing the participating four categories of minority groups, that it was immigration status rather than ethnicity that accounted for lower levels of political activity. (Black, 1991) Stasiulis argues that it is not accurate to ascribe immigration status as the limitation, considering the number of ethnic

groups with a longstanding presence in Canadian society and that under-representation shows the deep racism and barriers that exist within Canadian politics. (1995:201) This raises an important point: although citizenship status is not the sole factor, or even the most important one for determining discrimination for visible minorities within the political structure, it is an additional factor, which further serves as a barrier for these groups. Despite deeply-rooted discrimination toward Canadian-born visible minorities, immigrants face a set of additional challenges, based on issues of nationality, citizenship, language, and ethnicity. This makes them particularly vulnerable in facing discrimination for Public Service jobs. Discrimination and racism exist against all visible minorities; this is compounded when other elements and intersections, such as immigration, citizenship status, and ethnic group are taken into account. Non-citizens face discrimination in employment, regardless of the citizenship preference entrenched in section 16(4) of the *Public Service Employment Act*. The policy further adds to their oppression, although the removal of the policy alone will not eradicate the injustice felt by non-citizens in the Canadian labour market.

A participant at a roundtable discussion on visible minorities hosted by the Pearson Shoyama Institute stated that “given the substantial influx of visible minority immigrants to Canada in the last five years, one could say the federal record is dismal and requires further examination.” (1998) The Federal Public Service has had a discouraging record of employing visible minorities. The figures indicate an “employment equity crisis in the federal public sector.” (Pearson Shoyama Institute, 1998) In the 1996 Census, representation of visible minorities increased from 9.1% to 10.2% of the Canadian labour

market, although those considered *available* to work for the Federal Public Service represented only 8.7%.³⁴ (See Table 1)

Table 1: 1986, 1991 and 1996 Representation of Visible Minorities in the Canadian Population, Labour Market Availability and Workforce Representation in the Federal Public Service and the Federally-Regulated Sector				
	Visible Minority Representation in the Canadian Population	Labour Market Availability of Visible Minorities*	Representation of Visible Minorities in the Federal Public Service**	Federally-Regulated Private Sector³⁵
1986	6.3%	6.3%	2.7%***	5.0%***
1991	9.4%	9.1%	4.1%	7.6%
1996	11.2%	10.2%	4.8%	9.2%

Source: Statistics Canada 1986, 1991a, 1996 Census; Public Service and the Treasury Board Secretariat Annual and Special Reports; *HRDC Annual Reports on Employment Equity, (Samuel, 1997); and Gorber, 1999.

*Labour market availability includes those aged 15 and over who worked sometime in 1985 or 1986 for the 1986 Census, 1990 or 1991 for the 1991 Census, and 1995 or 1996 for the 1996 Census.

**Representation in the Federal Public Service only includes those workers considered indeterminate and term employees of six months and over for 1987. 1991 and 1996 numbers are for all employees, including casuals and terms.

*** 1987 data were used in cases where 1986 data were unavailable.

Although visible minority members constituted 11.2% of the Canadian population in 1996, for employment equity purposes, the comparison is made between the internal workforce representation and the labour market availability of the designated group. Visible minority members represented only 4.8% of the total Federal Public Service compared to a labour market availability of 8.7%. The representation of visible minorities in the Federal Public

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The labour market availability data for visible minorities as based on those eligible to work is 10.2%, which is the number applied to the federally-regulated sector. A re-interpretation by the Treasury Board Secretariat for use in its internal labour market has reduced the availability of visible minorities able to work for the Federal Public Service to 8.7%. This number excludes the non-citizen population.

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The federally regulated private sector constitutes of those employers with more than 100 employees on or in connection with a federal work, undertaking, or business as defined in section 2 of the *Canadian Labour Code* and include any corporation established to perform function or duty on behalf of the government of Canada that employs one hundred or more employees. (Canada, 1995) The federally-regulated private sector as defined here is subject to the *Employment Equity Act* and primarily includes companies within the banking, communication, and transportation industries.

Service has been well below their labour market availability, suggesting that the talents of this population are underutilised. Despite attempts at reducing the gap between representation and availability through employment equity measures, the Federal Public Service continues to be unsuccessful. The inability to secure a commitment at the highest levels of the Federal Public Service has meant little change in the corporate culture of the Federal Public Service. This means that hiring practices and recognition of external experience and qualifications reinforce the same kind of culture that has always existed in the Federal Public Service. In comparison, the federally-regulated sector, which does not require Canadian citizenship status, is much closer to reaching overall labour market availability for visible minorities (9.2% versus 10.2% labour market availability).

The decision by the Treasury Board Secretariat to drop non-citizens out of the availability data³⁶ used to determine the proportion of the designated group population available to work for the Federal Public Service has a disproportionate effect on the visible minority community since such a large proportion of the non-citizen population is also visible minorities. (See Table 2) This change in policy resulted in dropping 5.3% of the population previously considered in the calculation of availability estimates for employment equity purposes, of which more than half are visible minorities. The result of excluding non-citizens in the availability calculations makes a 25% reduction for visible minorities from

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Labour market availability is the primary benchmark from which the Federal Public Service measures whether under-representation exists for the Federal Public Service by comparing the availability of designated group members in 363 National Occupational Classifications related to occupations found in the Federal Public Service. Availability estimates determine the numbers of people from each designated group available in various occupational positions within the Canadian labour market. It acts as the benchmark to which employers under the Act must compare their employment equity data to. (Nehmé, 1997)

10.2% to 8.7%. (Boxhill, 1998:2) The 8.7% rate is also lower than the 9.1% used in 1991. (Public Service Alliance of Canada, 1999a)

Table 2: Representation of Canadian Citizens and Non-Canadian Citizens in the Canadian Labour Market. 1996 Census, Population 15 and Over who worked in 1995, All Occupations*				
	Total Canadian Population	%	Visible Minority Population	%
Total	15,547,115	100%	1,593,635	10.3%
Total Citizen	14,728,995	94.7%	1,179,295	7.6%
Total Non-Citizen	818,120	5.3%	414,340	2.7%

Source: Statistics Canada, 1996 Census

* See Appendix 1, Table 8 for a breakdown by gender

Although in practice, this decision would seem to reflect the actual population eligible for employment; it also has the effect of reducing the numerical targets, giving the appearance of “doing better” for the Federal Public Service employers. The exclusion of this population from the availability data reduces the gap between labour market availability and number of actual employees, giving the perception that the Federal Public Service is much closer in reaching its employment equity goals for visible minorities. Some policy makers have argued that visible minority representation falls short of labour market availability regardless, and therefore the difference does not matter. As a policy, however, on both an occupational level and as a future consideration, this change makes a very big difference, especially for the visible minority community. As the visible minority immigrant population continues to increase, the availability data must reflect these changes.

The decision to re-adjust availability data is particularly disconcerting considering the time lag in analysing the Census data (the 1996 data has just finished being analysed and availability estimates have just been released in 1999). This time lag means that the calculated availability data is no longer accurate, especially for the new immigrant

population. By the time the Census information is released, the majority of the permanent resident population will have become citizens. Therefore, it could be argued that the inclusion of this group, both in availability data and in the hiring practices of the Federal Public Service, would help the Federal Public Service meet its employment equity goals, especially in certain occupations. Furthermore, the decision to drop non-citizens from the availability data has been a contentious issue between the Federal Public Service and the federally-regulated sector. The Federal Public Service is seen as being hypocritical and unfair in its decision. While the rates for the federally-regulated sector continue to remain reflective of the Canadian population, the Federal Public Service has deflected its responsibility for Canada's permanent residents.

Key Government Initiatives

There have been ongoing studies, research, and committees conducted by the Federal Public Service addressing the barriers facing visible minority group members. The Treasury Board Secretariat first asked the Public Service Commission to implement special measures aimed at facilitating the self-identification of visible minorities, and the monitoring of the recruitment, referral, appointment, and training processes in 1985. (Samuel, 1997) Several government departments, non-governmental organizations, and unions³⁷ have also formulated their own initiatives, such as conducting internal surveys, creating committees, and writing reports, to try to increase the representation of visible

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The department of Canadian Heritage, Citizenship and Immigration Canada, and Health Canada have all implemented different measures to try to gain a better understanding, as well as to try to increase the representation of visible minorities in their respective departments. For a summary see Samuel, 1997.

minorities in the Federal Public Service. Few of these committees to date, however, have examined the effect of citizenship on employment opportunities. The 1979 *Report of the Special Committee on the Review of Personnel Management and the Merit Principle* did make specific recommendations to repeal the 16(4) policy. (Canada, 1979:86) Despite those recommendations, the Federal Public Service is yet to act on them. The creation of a Visible Minority Task Force in 1999, comprised of high profile former Federal Public Service employees, representatives from the private sector, academia and visible minority organizations, shows the Federal Public Service's concern about the current lack of representation of visible minority members. Marcel Masse, president of the Treasury Board Secretariat, made a further commitment to increase the number of visible minorities in the Federal Public Service from 10,000 to 16,000 over the next seven years. (The Globe and Mail, 1999) The Task Force is expected to make concrete suggestions on how to improve the employment of visible minorities in the Federal Public Service. It has been suggested that the issue of citizenship be examined by the Task Force. (Informal correspondence with a Task Force member)

Current Government Research on Visible Minorities

Leck and Saunders' (1992) study found in their examination of the *Employment Equity Act*, that Employment equity policies have differential effects on women from different ethnic groups. They determined that there is a difference both between occupational groups and among women with and without 'dual status,' meaning belonging to more than one designated group. Employment equity policies were related to a more representative hiring of visible minorities in middle management, professional, semi-professional, and clerical

positions; areas that were typically male dominated. Women without dual status were increasingly hired in more manual and supervisory positions, thus in non-traditional fields and into jobs which would allow for movement into higher positions. The researchers offered two possibilities for the unequal treatment between women: first, that organizations decide to prioritize employment equity policies based on what is perceived to be “do-able” or which cost the least to implement, and second, that possible employers perceive non-dual status women as fulfilling the category “women” as a designated group, while men are those considered as part of fulfilling the categories ‘persons with disabilities’ or ‘visible minorities.’ (1992:203-20)

John Samuel and Associates’ (1997) study on the status of visible minorities in the Public Service examined 14 different departments within the federal government, and conducted focus groups with executives (particularly Assistant Deputy Ministers and Director Generals), visible and non-visible minority employees, both current and past, and public servants with staffing/managing responsibilities (over 2000 individuals participated). This study concluded that visible minorities are not doing well at various levels of the Federal Public Service, in comparison to the federally regulated sector. “Both visible minority employees and Federal Public Service managers, including EXs, [executive category] expressed the view that racial discrimination against visible minorities is prevalent in the Public Service.” (Samuel, 1997) This study points to the lack of accreditation given to foreign education, feelings of exclusion from the Federal Public Service’s ‘corporate culture,’ and biased interview practices as being primary barriers for visible minorities. (1997) It was suggested that the only way for employment equity goals to be reached

would be for commitment for a new diversity strategy at the highest levels of authority. These barriers must be removed to ensure that real merit is recognized and rewarded.

Workforce Representation

The Federal Public Service workforce is currently the smallest it has been during the last decade, with the nature of work having changed considerably during this time. The overall population of the Federal Public Service declined 19.8% from 1991 to 1998, (240,534 employees to 194,728). (See Table 3) Fiscal restraint, downsizing, and reduced budgets have forced departments to decrease the overall number of full-time, indeterminate employees and also forced the Federal Public Service to staff a contingent workforce instead. This shift toward a contingent workforce has also been in response to the introduction of new technologies and wide-spread multi-skilling. These factors have significantly affected the types of jobs performed by employees, mainly increasing the demand for skills such as policy analysis and computer specialization while decreasing the need for clerical work. (Nehmé, 1998) This shift affects women the most, as they make up the largest percentage of the part-time labour market, as well as term, casual, and other forms of employment. Furthermore, women are also the most highly concentrated in clerical work.

Table 3: Indeterminate and Other Employment for Visible Minority and Non Visible Minority Group Members, 1991 and 1998

	1991	%	1998	%
Total Federal Public Service*	240,534	100%	194,728	100%
Non-Visible Minority				
Indeterminate	191,072	79.4%	151,659	77.9%
Term and Other**	39,648	16.5%	33,781	17.3%
Visible Minority				
Indeterminate	8,004	3.3%	8,073	4.1%
Term and Other	1,810	0.8%	1,215	0.6%

Source: (Gorber, 1999)

* The Total Federal Public Service includes all employees, including casual employees. The Treasury Board Secretariat of Canada's Annual reports do not include this population.

***"Other employees" includes casuals and students for 1998. The Public Service Commission data only began capturing casuals as of 1994 and student employment in 1998.

The downsizing initiative affected most government departments and organizations, especially during the Program Review Period.³⁸ As a result of Program Review, the Federal Public Service has been forced to change the way it "does business." Cost-recovery methods, as well as a new orientation towards client-based services have been combined with a move towards a restructuring of the entire organization.

The effects of downsizing have had a disproportionate effect on non-visible minority employees, although their overall representation (%) in the Federal Public Service workforce did not fluctuate much, with a continued representation of 95.2% of overall employment in 1998 compared to 95.9% in 1991. The representation of indeterminate visible minority employees increased 0.8% from 8,004 employees to 8,073 between

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The "Program Review Period" extended from April 1, 1995 to March 31st, 1998. Program Review, announced in the 1994 budget, involved a comprehensive review of federal government programs and services. The government introduced two departure incentive packages in 1995 - the Early Retirement Incentive and the Early Departure Incentive. These programs were introduced to help departments and agencies to manage downsizing. (The Treasury Board Secretariat, 1998b)

1991 and 1998. Term and other employment decreased 0.2% from 1,810 to 1,215 employees during the same period. It is likely that some of those term and other employees became indeterminate, but this data set is not able to show this movement. (Appendix 1, Table 9 shows the representation of visible minority men and women by employment status)

As of March 31st, 1998 visible minority women constituted 48.7% of the overall visible minority population, up from 46.8% in 1991. Despite a close to equal split between visible minority men and women in employment, there is a continued concentration of visible minority women in the contingent workforce. Visible minority women made up 47.1% of the indeterminate visible minority category compared to 52.9% for men, while filling 59.5% of the term and other positions. (See Table 4)

Table 4: Employment Status of Visible Minority Women and Men in the Federal Public Service, 1998		
	Visible Minority Women	Visible Minority Men
Total Employment	48.7%	51.3%
Indeterminate Employment	47.1%	52.9%
Term and Other Employment	59.5%	40.5%

Source: (Gorber, 1999)

Downsizing has had a considerable effect on perceived notions of stability thought to be offered by Federal Public Service jobs. The hiring freeze on indeterminate employment was combined with a loss of long term security and was coupled with a concentration in recruitment at the clerical level. (Samuel, 1997) These factors have not made the Federal Public Service an employer of choice for the brightest and best visible minority university graduates. (Samuel, 1997) Furthermore, downsizing also had the effect of stripping away

not only the 45 and over category, but also the under-35 category. The consequence was the loss of talent both at the senior levels and the loss of those with potentially bright futures in the Federal Public Service. Downsizing also acted as a deterrent for potential graduates who may have otherwise looked to the Federal Public Service as a source of employment. For visible minorities, there is a strong lack of role models and mentors available in the senior manager ranks.

Employee Characteristics: Age, Language and Regional Distributions

The Public Service, like the rest of the Canadian labour market, has been facing an overall ageing of its workforce. This is of particular concern to human resource managers, as the 'baby boomers' reach retirement age. In 1998, the visible minority employees tended to be slightly younger than their non-visible minority counterparts, especially women. 12.9% of visible minority women were under 30, compared to 9.5% of visible minority men. At the other end, 6.8% of visible minority men were in the 60 and over category, compared to 2.4% for non-visible minority men. (See Appendix 1, Table 10 for an age profile by gender) It is possible that visible minority men did not take as great advantage of the retirement packages offered during Program Review as did their non-visible minority counterparts.

The small number of under-30 employees is particularly problematic for the Federal Public Service because it shows a lack of a good potential pool for corporate renewal in the future, especially within the visible minority community. Furthermore, the low number of employees in the under-30 category shows either a lack of recruitment or the inability to

retain younger employees. The ageing of the population will require a renewed workforce able to promote the future of the Federal Public Service and this will require an increase in the number of young visible minority employees in order to reflect the Canadian population.

One of the key barriers facing visible minorities in the Federal Public Service is the perceived lack of bilingualism. However, this population is extremely varied, and language ability may depend heavily on ethnic origin, and regional location in Canada, as well as age. As of March 31st 1998, 70.2% of the overall Federal Public Service population was Anglophone, versus 29.5% Francophone. More of the non-visible minority population (30.6%) had French as a first language than the visible minority population (8.5%). Furthermore, more women (17.2% non-visible minority, and 4.0% visible minority) had French as a first language than men (13.3% non-visible minority and 4.5% visible minority). (See Appendix 1, Table 11) The ability to speak and understand many languages is an area of human capital which is not given enough recognition by the Federal Public Service. The initiatives within the Federal Public Service on language have focussed on the French/English dichotomy. There has been little or no recognition of the potential need to expand our “corporate” knowledge in the area of language. In a globalized world, the ability to speak many languages is going to become an important skill, one that should be recognized by the Federal Public Service.

Regional concentrations in both the residential locations of visible minorities and the location of Federal Public Service jobs are concurrent. In 1998, the majority of Federal

Public Service employment was found in Ontario (41.6%), Quebec (22.0%) and British Columbia (10.1%), regions with large visible minority populations. Ontario has the largest number of visible minority employees at 2.4%, followed by British Columbia, 1.0% and Quebec, 0.6%. There are few differences in the regional distribution between men and women; (See Appendix 1, Table 12) although, two-thirds of all employees in a visible minority group work outside of the National Capital Region. (Public Service Alliance of Canada, 1999) Therefore, when discussing initiatives to improve the employment equity for visible minority members, the focus should be on these three provinces. These are also the largest settlement areas for new immigrants, with nearly three-quarters of recent immigrants living in Toronto, Montreal or Vancouver. (Statistics Canada, 1997) For Federal Public Service offices, however, Ottawa, Montreal, and Vancouver tend to be the locations of the vast majority of employment opportunities.

Occupational Concentration

As of 1998, the highest concentration of visible minorities in the Federal Public Service workforce was in the Administrative and Foreign Service category (36.0%), followed by Administrative Support (28.8%). (See Appendix 1, Table 13) Excluding the “other”³⁹ category, the smallest group of Federal Public Service employees are the Executives (1.5%). Occupational concentrations based on designated group status and gender still exist in the Federal Public Service. Women are highly concentrated in the Administrative Support category, holding 83% of the jobs in this category (non-visible minority women

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Other refers to any occupation which can not be classified in the other 6 occupational categories.

79.3% and visible minority women 3.7%). In comparison, the Executive category is primarily made up of non-visible minority men, who hold 73.7% of all executive positions (versus 2.0% for visible minority men, 23.7% for non-visible minority women and only 0.6% for visible minority women). It is disconcerting that there is such small representation of visible minority women in senior executive positions. This leaves younger visible minority women with few role models and mentors who occupy higher level positions in the Federal Public Service. This lack of leadership may dissuade many young visible minority women from entering or remaining in the Federal Public Service.

The scientific and professional category is also male dominated. (67.5%, consisting of 60.5% non-visible minority and 7.0% visible minority) Although women are beginning to gain places in this category, visible minority women are still extremely under-represented (2.5% versus 30.0% non-visible minority). This category has the second highest representation of visible minority women following administrative support. The scientific and professional category (constituting doctors, lawyers, research scientists, sociologists, economists, biologists, etc.) has reasonable compensation for the government, and relative prestige within the government. Salaries, however, are low in comparison to the private sector and this is often the cause of high departure rates amongst this particular community. Furthermore, it is less likely that employees from this occupational category go on to senior executive positions within the government. Therefore, it is possible that visible minorities are being streamlined into positions from which they would not move into higher managerial and policy positions.

Job Mobility

The Federal Public Service is a closed employer, with much of the job mobility occurring through “closed competitions” where the opportunities to apply for jobs are open only to those already employed by the Federal Public Service. In 1998, only 18.8% of all appointment activity was conducted through the use of “open competitions” where applications were open to the ‘public.’ (Public Service Commission, 1998a) This type of employment strategy, combined with the internal ‘corporate culture’ which still focuses on the ‘old boys network’ has often been a barrier to those ‘outside’ the Federal Public Service: “[there is] a certain level of discomfort with the workplace environment and the feeling that networking, kinship and social ties play a major role in hiring and promotion.” (Samuel, 1997) Since the introduction of employment equity measures, some of these issues have been addressed and efforts are being made to make the Federal Public Service more accountable and open to all Canadians. However, this type of system has created a hierarchical division between those who “get in” and those who are on the ‘outside.’ For most white women, there is limited mobility within the organization, because they have been able to work their way ‘in.’ For visible minority women,⁴⁰ however, the fundamental barrier is getting into the Federal Public Service in the first place.⁴¹ If there are barriers to obtaining employment within the Federal Public Service and most of the competitions are

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This is also a problem for Aboriginal women and women with disabilities and is not necessarily restricted to women.

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This is an issue for anyone interested in working for the Federal Public Service, considering such a small percentage of jobs are open to the public. Even then there are other restrictions on applications, such as the residence requirement of living within a 60 kilometer radius of the job location.

closed, members of visible minority groups will never be able to substantively increase their representation in the Federal Public Service. Visible minority women are particularly at risk of not being able to compete for Federal Public Service jobs. This further limits their participation in the Canadian labour market in general. The quantitative studies cited in chapter 2 have shown that visible minority immigrant women constitute a large part of the secondary labour force, and they face many barriers prohibiting free movement into the Federal Public Service.

There has been a steady decline in overall appointment transactions in the Federal Public Service since 1991. Appointment activity includes promotions, external recruitment, and transfers. In fact, the number of appointment transactions decreased 14.2%, from over 106,809 transactions to 91,684 in 1998. (See Appendix 1. Table 14) The reduction in appointment activity has had the largest impact on the indeterminate population, with the share of indeterminate appointments for non-visible minority women dropping from 24.8% of all appointments in 1991 to only 13.4% in 1998. Non-visible minority men's appointments went from 22.8% to 12.6% during the same time period. Conversely, term appointments were on the rise; non-visible minority women had an increase in term appointments from 30.4% in 1991 to 45.9% in 1998, while non-visible minority men had an increase from 16.7% to 23.1% in 1998. The appointment activity for the visible minority population has followed a similar pattern, though the increases and decreases are marginal in comparison. Indeterminate appointments for visible minority women dropped from 1.3% in 1991 to 0.8% in 1998, while visible minority men's went from 1.2% to 0.9%. Conversely, term appointments went from 1.6% to 1.7% for visible minority women and

1.0% to 1.1% for visible minority men. (See Appendix 1, Table 15) Exactly how many of the indeterminate promotions were appointments from term positions is unknown.

As of March 31st, 1998, approximately 12% of all positions within the Federal Public Service were “Acting” positions, while the rest (88.0%) were substantive in nature. Most of the employees in acting positions were non-visible minorities, with men accounting for 4.4% and women 6.7%. Visible minority men accounted for only 0.2%, while visible minority women had 0.3% of acting positions at that time. (Public Service Commission, 1998a) The effects of acting are seen as twofold in the Federal Public Service; they enable someone to get experience at a higher level, but they also allow managers an option of not actively promoting that person. Historically, many women have been offered acting positions at the expense of substantive promotions. Because visible minority women occupy such a small percentage of the acting positions, they are not being offered the chance to gain valuable experience at a higher level.

Recruitment into the Federal Public Service is an important way of increasing designated group representation because such a large proportion of appointment activity is conducted through closed competitions. In the 1998 fiscal year, only 18.8% of all appointment activity was conducted through open competitions. (Public Service Commission, 1998a:44) While the majority of new recruits comes in under open competitions (74.2%), promotions and transfers (6.7% and 26.4% respectively) use a smaller amount of open competitions to decide on mobility. 100% of term reappointments and acting appointments are decided through closed competition. Therefore, if visible minorities are not recruited at a high rate,

they will never have the chance to move up through the Federal Public Service hierarchy. Non-visible minority women, on the other hand, continue to be recruited at high levels, which makes their position within the Federal Public Service relatively better than for visible minority women. Once in the system, they become eligible to compete through closed competitions.

Recruitment made up 24.5% of all appointment activity in 1998, an increase from 11.0% in 1991. (See Appendix 1, Table 16) However, the share of recruitment is still primarily for term positions rather than indeterminate ones. In 1991, there were 6,227 indeterminate external recruits, (53.2% of total recruitment) of which 457 (3.9%) were visible minorities. In 1998, only 2,634 employees were externally recruited into indeterminate employment (11.7% of total recruitment). Of those, 161 (0.7%) were visible minorities. (See Appendix 1, Table 17) Overall, visible minority groups do not enjoy a large share of recruitment activity; “restrictions on external recruitment are insufficiently flexible to provide increased employment opportunities for visible minorities.” (Samuel, 1997)

For rejuvenation purposes, the Federal Public Service must consider a change in image that would coincide and reflect changes in the composition of the Canadian population. By creating an environment open to new ideas and a variety of people, the Federal Public Service will be able to create a vibrant, creative, and more knowledgeable federal workforce.

Addressing the Barriers

This chapter focussed on the current employment situation of visible minorities in the Federal Public Service. It concurred with results similar to those found by both Leck and Saunders' (1992) and Samuel's (1997) studies, suggesting that although employment equity policies have provided some limited benefits for visible minorities, they have been unable to reach their full potential under employment equity measures.

One potential area of recruitment in order to fill the vacancies created by an ageing workforce would be to actively recruit the permanent resident population. This would also provide a pool of visible minority candidates. However in order to be able to successfully recruit more visible minorities, many of the other barriers they face in the Federal Public Service would need to be addressed.

This analysis provides a good start in understanding the employment situation of visible minorities in the Federal Public Service and is unique in that it has been able to examine the experience of visible minority women separately from that of visible minority men, something which has been rarely looked at by the Federal Public Service. Unfortunately, however, the data does not capture some elements of the employment situation which are crucial in understanding the potential barriers faced by visible minority women. One such area is the exploration of human capital, for example experience gained by visible minorities is often not recognized by the Federal Public Service, especially in the area of multi-language ability, education and relevant non-Canadian work experience. In order to have a more complete understanding of how citizenship and gender have an impact on

someone's employment opportunities, a more detailed level of analysis would have to be undertaken.

Limitations to the Quantitative Approach used by Employment Equity

Historically, measures of success for the *Employment Equity Act* have relied on numerical goals and timetables. Employers are expected to maintain policies on recruitment and promotions based on the availability of designated groups in the labour market. Because success is measured quantitatively, often the need to quantify this phenomenon supercedes other considerations. However, "the most effective way to produce sustainable progress is to move beyond the numbers and to incorporate the philosophy of employment equity into the human resources management practices." (The Treasury Board Secretariat, 1993)

Changes in numerical goals over time are supposed to reflect the changes in the Canadian labour market, as well as changes in the composition of the population, however, these changes have not always reflected those in Canadian society. In the quest toward achieving substantive equality, there needs to be analysis beyond numbers and a greater understanding of how barriers affect people's lives. "Public policy affects the lives of very real people whose lives can be altered by what governments do, or what you, as researchers, advise us to do or inform us with statistics." (Fry, 1998:8)

CHAPTER 8: THE CITIZENSHIP DEBATES

Like the slogan of equality, citizenship is a plastic term which can be used in a variety of ways to mean a variety of things. As a broad umbrella term which can incorporate the demands of diverse movements and associations, it inevitably contains conflicting and contradictory claims and discourses.

(Silverman, 1992:126)

This chapter brings in the 'citizenship debates' by examining three things: liberal theories on inclusion and exclusion in the context of citizenship, the number of immigrants and permanent residents working for the federal government industries according to the Census, and the discriminatory hiring practices of the Federal Public Service, which preferentially hires Canadian citizens over 'non-citizens.' Set in a legal context, these preferential policies create a legal challenge of discrimination under the *Canadian Charter of Rights and Freedoms*. This policy is critiqued as being an additional barrier to employment equity for visible minority members.

Bringing Citizenship into the Debate

Social theories generally ignore elements of 'otherness' outside of their particular debates, focussing instead on specific issues of discrimination. In order to address a more complete notion of equality and justice, the exclusion of non-citizens from these equality debates should be explored. As this chapter explains, neither feminist nor race/ethnicity discourses have adequately dealt with issues of citizenship and equality.

Traditional citizenship theories base citizenship on white male notions of interaction. They conclude that those who could / should be allowed to achieve citizenship conform to their rules in which the 'universal citizen' is considered male, white, middle-class, and well

educated. These theories assume equal access and participation of all citizens, ignoring discrepancies and differences between and within groups and individuals. Like theories of equality, 'citizens' are considered to all have an equal starting place, with equal access to rights and responsibilities.

Citizenship has been absent from much of feminist writings, "the failure of white feminists to define immigration and citizenship issues as 'women's issues' is linked to the inadequate theorization of the state within white feminist writings." (Stasiulis, 1990:286) When citizenship theory is included, it often ignores the intersection of citizenship with issues of race and ethnicity. "Certainly it has been easier for women who do not experience race or class oppression to focus exclusively on gender. Although some socialist feminists focus on class and gender, they tend to dismiss race or they make a point of acknowledging that race is important and then proceed to offer an analysis in which race is not considered." (hooks, 1984: 14) Even black feminism has yet to incorporate the issue of citizenship into its discourse. Those who do not experience oppression based on citizenship status are able to focus on other forms of oppression as being the primary, or in many cases the only form of discrimination. Race/ethnicity takes precedence and one's citizenship status is ignored as an element of oppression. As argued in chapter 5, oppression is not compartmental, it is intertwined and continually evolving. It is clear that oppression and discrimination due to national origin, nationality, and citizenship also need to be addressed by considering the results of intersections in discrimination. Especially as the changing demographics of new immigrants indicate the strong presence of many considered 'visible minorities,' issues of discrimination based on citizenship must be considered both racialized and gendered and

included in both feminist and liberal theory.

The tendency to overlook the rights of non-citizens is not only problematic in academic circles, it is often belittled or ignored in public policy and legislation. Some have argued that the rights of non-citizens do not play a role in the broader analysis of Canadian public policy, “relative to citizens, non-citizens are a group lacking in political power and as such vulnerable to having their interests overlooked and their rights to equal concern and respect violated.” (*Andrews v. Law Society of British Columbia*, [1989]) However, the application of equality rights in the case provides the precedence for application of equality for all non-citizens. This ruling opened up the possibility of non-citizens being able to obtain a more legally equal access to their rights within Canada.

As citizenship theory continues to evolve into an age of post-modernism, there is the tendency to go beyond national borders in definition. ‘Citizenship rights’ have evolved into ‘human rights’ which know no national boundaries. Pierre Pettigrew, Minister of Human Resources Development Canada is hopeful of a Canadian future which upholds universal principles and human rights.

To the democracy that dreamed first of direct participation and then of equitable representation of social interests, there is now being added a democracy of guarantees, protective of the freedoms, diversity, and dignity of human beings. And it is human beings who, more deeply than citizens or workers, are defining their rights to be full subjects. (Pettigrew, 1999:57)

This concept of the ‘common good’ is being transposed into an international arena, transcending Canadian borders. Notions of justice and equality must extend beyond the

boundaries of Canada in order to be substantive. However, Pettigrew notes that these ideals are just ideals, “theoretically the answer is philosophical and varies according to a person’s values, in practice, answers and behaviours are ambiguous and individuals support neither ultra-liberalism nor distributive justice.”(Pettigrew, 1999:57) Although Canadians may support an overall notion of the ‘universal citizen’ who is equal to all other ‘citizens,’ they would likely not agree that equality for the entire world is feasible, or even desirable.

Critiquing Citizenship Theory: Diversity and Difference

Citizenship can be seen as a fixed concept which protects a nation against ‘outsiders’ but it can also be contemplated as an ever-shifting concept, relational to the country or state that utilizes it, and to a specific time period. Traditional citizenship literature often focuses on the inclusionary features rather than exclusionary ones. Increasingly, however, some feminist and post-modern thinkers have problematised the exclusionary nature of citizenship. Radical contemporary writings have challenged traditional liberal thinkers by portraying citizenship as a force for exclusion, which creates non or partial citizens. (Lister, 1997b:36) Citizenship defines bounded populations, with a specific set of rights and duties, excluding ‘others’ on the grounds of nationality. (Soysal, 1994:2) Questions about who belongs, who should have rights, and what equality for these groups should look like needs to be examined in greater depth. Citizenship needs to be seen as universal and equal for all, but like theories of gender and ethnicity, the concept needs to be differentiated and relational. “Rights can be particularized to take account of the situation of specific groups both in the ‘reactive’ sense of counteracting past and present disadvantages which may undermine their position as citizens and in the ‘proactive’ sense of affirming diversity,

particularly with regard to cultural and linguistic rights.” (Lister, 1997b:41) Stasiulis and Bakan suggest that citizenship should be reconceptualized as a negotiated concept, continually changing and shifting based on socio-political, historical whims. (1997a:113) This would account for shifts in the accepting and rejecting of certain populations over time. Citizenship rights should also be seen as dynamic and differentiated, rather than abstract and universal. (Taylor, 1989)

Using the Census to Examine Federal Government Employment

In order to examine those people effected by section 16(4) of the *Public Service Employment Act*, 1996 Census data will be used to determine the number of non-citizens working for the federal government industries. Although these numbers include employees not covered under the employment equity act, they are a reasonable proxy for estimating the percentage of non-citizens working for the federal government⁴². In 1996, the Federal Public Service data showed 212,389 total employees, including casual workers and part-time employees who would be subject to the *Employment Equity Act*. The Census showed 359,015 employees working for federal government service industries, of which a part were not all subject to the *Employment Equity Act*.⁴³ Although not all employees considered

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A better understanding of those effected by section 16(4) would be found if the Federal Public Service data could be analysed. Although the Federal Public Service compiles information on non-Canadian born employees, or at least documents citizenship status, it does not release this information. Every external job application asks all applicants to state their citizenship status. This data could be combined with a person's educational background, work experience, age, gender, visible minority status, etc. The Federal Public Service could conduct detailed analysis on demographic trends of non-citizens and immigrants in its workforce. It would also be able to compare applicants to those actually accepted for positions.

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Using the 1996 Census data as a proxy for Federal Public Service employment reveals several discrepancies with the Federal Public Service data. Those considered government employees under the Census include a number of occupations and industries not under the *Public Service Employment Act* and whose employees are therefore not subject to the *Employment Equity Act*. Nevertheless, the Census data can provide a reasonable

under the Census are subject to formal employment equity policies as defined by the legislation, many employers (the uniformed employees of the Royal Canadian Mounted Police and Department of National Defence) voluntarily follow the employment equity measures in anticipation that they will eventually be subject to the Act.

A total of 39,265 immigrants⁴⁴ were working for the federal government in 1996, of which 35,885 (91.4%) had received their Canadian citizenship through naturalization.

Furthermore, 36.8% of immigrants working for the federal government were visible minorities in 1996. According to the Census, there were only 475 non-permanent residents working for the federal government. Of these, the majority (67.4%) were non-visible minorities. Thus, the number of non-citizens working for the federal government in 1996 was 1.0%. (See Table 5)

Table 5: Representation of Immigrants and Non-Permanent Residents in Federal Government Service Industries (Major Group 81), 1996		
	#	%
Non-Immigrants	318,805	88.8%
Immigrants, Naturalized Citizens	35,885	10.0%
Permanent Residents	3,380	0.9%
Non-Permanent Residents	475	0.1%
Federal Government Employees	359,020	100.0%

Source: 1996 Census of Canada, based on Tabular data

proxy for calculating the number of immigrants working for the federal government. It is also the most complete data set available on the work of immigrants in Canada.

⁴⁴

Immigrants in this case refers to those who have become naturalized citizens (35,885) and permanent residents (3,380). Non-permanent residents are not considered here.

The Census shows a total of 18,845 visible minorities⁴⁵ (5.3%) employed by the federal government using the Census Major Group 81. Of all visible minority employees, 4,080 (21.6%) were Canadian-born and 12,935 (68.6%) were immigrants who had become Canadian citizens. 1,675 (8.1%) were permanent residents and 155 (0.8%) were non-permanent residents. (See Table 6)

Table 6: % of Immigrant Employees by Visible Minority Status, Federal Government Service Industries (Major Group 81), 1996				
	Visible Minority	%	Non-Visible Minority	%
Non-Immigrants	4,080	21.6%	314,725	92.5%
Immigrants, Naturalized Citizens	12,935	68.6%	22,950	6.7%
Permanent Residents	1,520	8.1%	1,860	0.5%
Non-Permanent Residents	155	0.8%	320	0.1%
Federal Government Employees	18,850	100%	340,170	100%

Source: 1996 Census of Canada, based on Tabular data

Of the permanent residents who work for the federal government, there is a much higher representation of non-visible minority women (33.6%), visible minority (26.0%) and non-visible minority (21.4%) men versus visible minority women (18.9%). The majority of non-permanent residents working for the federal government is men (50.5% non-visible minority and 25.3% visible minority). Visible minority women (7.4%) represent a very small share of the overall federal government employment. (See Table 7) Although the Federal Public Service does not release any information on what kind of jobs are filled by non-permanent residents, it has been speculated that these people come into hi-tech and scientific research fields for which there are not enough Canadian citizens to fill the

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The gap of 8,783 employees between the 1996 Census (18,845) and the Federal Public Service number for 1996 (10,062) can be due to many factors - the difference in definitions of both visible minority and what is included in the definition of federal government, differences in reporting techniques, and the lack of self-reporting on Federal Public Service surveys.

positions. Non-citizen, visible minority women are at a considerable disadvantage here, as shown by their employment rates in comparison to men. Furthermore, other socio-economic analysis, as explained in chapter 2, of the Census show that skills sets of many immigrant women are not recognized formally by Canadian employers.

Table 7: Federal Government Service Industries (Major Group 81) Employees by Gender, 1996 (% Representation of Visible Minority and Non-Visible Minority by citizenship status)					
	All Employees	Visible Minority Women	%	Visible Minority Men	%
Non-Immigrants	318,805	1,770	0.6%	2,310	0.7%
Immigrants, Naturalized Citizens	35,885	6,055	16.9%	6,880	19.2%
Permanent Residents	3,380	640	18.9%	880	26.0%
Non-Permanent Residents	475	35	7.4%	120	25.3%
Federal Government Employees	359,020	8,540	2.4%	10,310	2.9%

Source: 1996 Census of Canada, based on Tabular data from Heritage Canada and Federal Public Service data91_98, based on Population files of the PS Commission, as of March 31st 1996

Although statistically, of those immigrants eligible to become Canadian citizens by 1996, 83% had done so (Statistics Canada, 1997), the short-term impact of a restrictive hiring policy can be devastating to the permanent resident population. For those who decide not to become citizens, this barrier could prohibit them from seeking Federal Public Service employment throughout their careers. For women, this effect can be long-lasting, as the barriers both within and without the public sector can be very prohibitive. Traditionally, many women have looked to the Federal Public Service as a form of stable career, different from the possibilities in the private sector. Immigrants, especially visible minorities, are constructed as temporary labour in the Canadian labour force; the idea that immigrants should fill long-term, stable employment is not part of the discourse on immigration.

The Continued Existence of the Preferential Clause

Section 16(4) of the *Public Service Employment Act* has been found discriminatory by the Federal Courts, but it continues to be saved by section 1 of the *Canadian Charter of Rights and Freedoms*. The Canadian Human Rights Commission and the Public Service Alliance of Canada have both openly stated their opposition to the Treasury Board Secretariat's decision to maintain the preferential clause. Ultimately, the Federal Public Service will not repeal the clause unless ordered to do so by the courts. The Treasury Board Secretariat has put forth several arguments in support of the continuation of the preference policies found in the *Public Service Employment Act*. (Best, 1999) Among these are the Federal Public Service's commitment to merit, the argument that this is only a temporary barrier, that Canadian-born or naturalized visible minority group members feel threatened by this possibility and that Federal Public Service jobs are considered to be important in the creation of public policy - and should thus be staffed by citizens. This is tied to considerations of loyalty and security as well. Each of these arguments will be examined further in this section.

The *Public Service Employment Act* requires that appointments be based on the merit principle in order to ensure that the people of Canada are served by a Federal Public Service that is highly competent, non-partisan, and representative of Canadian society. (Samuel, 1997) Policy makers continue to believe that in order to fulfill these obligations, candidates should be Canadian citizens. However, the merit principle itself is not based on citizenship requirements; it is based on notions of staffing a position by the best possible candidate, as based on experience and educational factors. If the citizenship preference

were repealed, non-citizens would have a more level playing field from which to compete. Their experience and skills could be examined on their own merit. Nevertheless, as shown by employment equity, simply removing the legal barriers may not be enough to obtain substantive equality. Many of the job-based requirements ask for qualifications that are discriminatory and often not needed, such as the requirement of a Master's degree or bilingualism. Furthermore, many of the qualifications and experience of non-citizens is not recognized because they were earned outside of Canada. "By virtue of foreign accents, differently coloured skin, foreign educational accreditation, foreign work experience, lack of business networks, and invidious discrimination, Canada's immigrants are frequently disadvantaged when seeking employment." (*Lavoie v. Canada* Appeal, [1999]) It is clear that the removal of the preference clause will not be able to address the systemic barriers which will continue to discriminate against both non-citizens and immigrants.

The barrier to non-citizens is seen as temporary because such a large percentage of the permanent resident population eventually naturalizes. Statistics Canada has shown that a large majority of new immigrants apply for citizenship as soon as they are eligible, usually 3-5 years after coming to Canada. (Statistics Canada, 1997) The initial restriction, however, is likely to lead to a much longer period of exclusion for non-citizens. A policy restricting employment could promote a feeling of disinterest that lasts throughout someone's career. Furthermore, the Federal Public Service argues that reserving jobs for Canadian citizens will encourage non-citizens to naturalize. However, there have been no concrete studies or analyses which show that non-citizens would naturalize at a higher rate because of being able to apply for Federal Public Service jobs. There needs to be greater analysis of the

reasons why 17% of non-citizens choose not to become naturalized. It is likely that the decisions are very personal and unrelated to Federal Public Service employment possibilities. Often, those who choose not to naturalize come from countries which do not allow dual citizenship, such as many European countries, Japan, etc.⁴⁶ If this is the case, then maintaining preferential hiring practices as an element of making Canadian citizenship desirable, will have no effect on this population. Some look upon the acceptance of permanent residents into Canadian society as the acceptance of potential future citizens. The majority of non-citizens eventually gain Canadian citizenship, and therefore immigration is for many the first step in becoming part of the Canadian community, a step which may ultimately lead to citizenship. The ultimate goal of selecting landed immigrants should be to select Canada's new citizens. (Citizenship and Immigration Canada, 1998a: Chapter 4) In order to foster the kind of participation expected from all members of society, the availability of resources and opportunities need to be 'equally' distributed based on need. Therefore, it is beneficial to encourage permanent residents to become full participants in all elements of Canadian society, including employment possibilities.

The suggestion that the current naturalized or Canadian-born visible minority community, which due to intense competition for jobs may find the opening up of Federal Public Service employment threatening should be analysed further. Until now, the Federal Public Service has yet to conduct concrete research which would collaborate this hypothesis.

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Janine Bailey, a Dutch citizen, was admitted to Canada in November, 1986 as a permanent resident. Although she became eligible to obtain Canadian citizenship in November, 1989, Ms. Bailey decided not to relinquish her Dutch citizenship expressing concerns about the possibility of needing to return to Holland to care for her elderly parents. (*Lavoie v. Canada*, [1995])

Fiscal restraint and downsizing have made indeterminate positions even more desirable and harder to achieve. Nevertheless, the gaps in obtaining employment equity goals demonstrates the potential for improving the representation of this population.

Furthermore, there will continue to be self-selection of those seeking federal employment possibilities. It is unlikely, even if the preference were to be removed, that a large number of non-citizens would begin applying for Federal Public Service jobs.

The state legitimizes exclusion of non-citizens from certain positions in the Federal Public Service based on notions of political and public authority. Policy makers argue that state jobs and military service are seen as exercising public authority in the form of creating public policy, and should therefore be done by citizens. The reality is that most Federal Public Service jobs are not 'top-secret' and do not require citizenship status in order to be fulfilled. Being a non-citizen does not make a person less loyal or understanding of Canadian values and culture. Although it could be conceded that certain jobs within the uppermost tier of the government structure, as well as those deemed politically sensitive should be classified for citizens only, it is not fair or relevant that these restrictions be placed on all or even the majority of jobs in the Federal Public Service. Citizenship status could be introduced on a job-based requirement system, determined by the necessary skills rather than a blank restriction. In other words, not all Federal Public Service employment is tied into policy and or promoting the state, thus restrictions on those able to perform these duties should be regulated based on re-examined job qualifications. (Informal interview with an employment equity officer at the Public Service Alliance of Canada)

This would allow for some jobs, which could justify being limited to citizens, to enact a

restriction. Furthermore, there are many positions within the Federal Public Service which could benefit from the diversity to be offered by a multicultural, multi-lingual community, such as some policy areas, international trade or language instruction for the foreign service. Opening the pool of candidates would enable the Federal Public Service to have a broader ability to employ such people.

The Conflict with the Spirit of Employment Equity

A further argument used in order to justify the continued use of the preference clause is that Canada is not the only country to do so. Most liberal democratic nations restrict public service employment. In fact, most countries exclude non-citizens outright, such as Japan and Germany. The only two countries which have no restrictions against non-citizen employment in the public service are Sweden and New Zealand. (*Lavoie v. Canada*, [1995]) However, many of the countries which have such restrictions do not have employment equity legislation as a means to improve employment opportunities. If Canada puts forth the view that equal access to employment is important, and entrenches this in our laws, then it must be applied equally to everyone in Canada. Preferential hiring policies stand in opposition with the ideals of equal access to employment, and to the fundamental spirit of the *Employment Equity Act*. The Act, meant to equalize job opportunities for all ‘Canadians,’ is limited to those considered “worthy” of equal access by limiting definitions and hiring practices. Despite being created to help four designated groups, employment equity should be flexible and help everyone in Canada obtain equal opportunities.

“The Federal Public Service will be more effective and better respected if it is staffed by

people who are broadly representative of the Canadian population.” (The Treasury Board Secretariat, 1993) In order to be truly representative of the people it serves, the Federal Public Service must include non-citizens. Permanent residents make up 5.3% of the Canadian population, and as a group, their rights deserve equal protection and their right to employment should not be restricted by discriminatory policies.

Citizenship: The Right to Participate in the State-run Labour Market

Giving preferential treatment to citizens at the expense of non-citizens only serves to exacerbate the historical disadvantage suffered by non-citizens and further alienates them from Canadian society, thereby discouraging naturalization. Western liberal democracies are moving towards decreasing the distinctions between the rights and privileges of citizens and non-citizens. (*Lavoie v. Canada*, [1995]) The exclusion of non-citizens, or preferential hiring of Canadian citizens becomes a way for the State to legitimize inequality based on citizenship, as well as the struggle to eradicate it. It becomes natural that citizens should have primary access to work in the State. (Anthias and Yuval-Davis, 1992:18)

Paul Martin Sr. told the House of Commons when introducing the first Canadian Citizenship Act: “Citizenship means more than the right to vote; more than the right to hold and transfer property; more than the right to move freely under the protection of the state; citizenship is the right to full partnership in the fortunes and future of the nation.” (Canada, 1946:510)

For individuals to be fully integrated and to become contributing members of Canadian society, they need to find employment that utilizes their skills and training... These systemic barriers in effect transform what should be

transitional underemployment into chronic underemployment. This wasted potential results in a personal loss to the individual and to the country as a whole. (Citizenship and Immigration Canada, 1998a: Chapter 4)

In Canada, policies and laws on citizenship and nationality are racialized and gendered, protecting Canadian citizens at the expense of 'non-citizens,' especially in terms of employment. The discourse surrounding 'immigration' and 'employment' further deepens this divide. Our immigration policies offer the chance for approximately 250,000 people to come to Canada annually; nevertheless, they are usually not aware that their employment opportunities will be limited upon their arrival. Furthermore, citizen privilege in working for the state sends a message to the private sector that they are required to hire new immigrants, while the government sector has no obligation to do so. It is unreasonable for the federal government to propose that these people wait 3-5 years before gaining employment in state-run industries, and that the private sector be solely responsible for hiring them during this time frame (discussions with the Canadian Human Rights Commission).

Citizenship can also be defined by the work someone does: "denying people the chance to work is far more serious than refusing them some monetary benefit or procedural right. Work, along with the family, is the primary way by which people in our society identify themselves." (*Lavoie v. Canada Appeal*, [1999]) Traditional citizenship theorists discuss how citizenship and employment are intertwined, recognizing that peoples' worth, as well as their attachment to a community requires their involvement in employment. The restriction on the employment of non-citizens disproportionately affects visible minority, immigrant women who are already greatly discriminated against in Canadian society. Many

of these women either hold low-paying jobs in sectors with little chance for advancement or have not entered the labour market at all. Equal opportunity policies can only be effective in relation to those who have actually entered the labour market. (Yuval-Davis, 1997: 21) If non-citizens are excluded from a sector of the labour market, equal opportunities legislation cannot work for them. In other words, immigrant women are not well targeted by government affirmative action programs since those programs apply to areas of the government jurisdiction from which these women are largely absent. (Abu-Laban, et.al., 1998:64)

The Inclusion of Non-Citizens

The inclusion of non-citizens in the pool able to apply for employment and meritoriously win competitions at the Federal Public Service without the barrier of 16(4) of the Public Service Employment Act would benefit Canadian society. The removal of this barrier would allow for more fair and equal treatment between citizens and non-citizens, especially in light of the values put forth by employment equity. Furthermore, if the Federal Public Service continues to ask the private sector to hire non-citizens, then it should be obliged to do so itself. This change would bring further validity to the employment equity process.

The removal of this employment barrier would also increase diversity and better reflect the recent changes in Canadian society. The increase in recruitment potential, especially for the visible minority population could bring increased diversity to an organization criticized for its inability to change and reflect the population it serves. Furthermore, the removal of this barrier also reduces the stigma of working for the Federal Public Service, and would go

a long way towards fixing tensions and mistrust between immigrant communities and the state.

Despite the argument for the removal of this employment barrier, changes will not come quickly. The fear that opening employment competitions to non-citizens will threaten job security for Canadian citizens is unfounded. The removal of the barrier is not the same as employment equity policies which seek to actively hire and promote designated groups. The removal of barriers offers a level playing field from which people can gain employment meritoriously. To this same end, other employment practices, such as the acceptance of foreign education and relevant experience also need to be re-examined in order to assess the potential of all candidates.

CHAPTER 9: OVERALL FINDINGS AND CLAIMS

This thesis has argued that in order for employment equity programs to truly examine issues of justice and equality and to improve employment opportunities for visible minorities, legislation, definitions, and government practices need to be reconceptualized. As a society, Canadians believe in equality and justice and these are entrenched in legislation such as the *Employment Equity Act* and the *Canadian Charter of Rights and Freedoms*. Therefore, the preferential hiring of citizens over non-citizens, established by clauses 16(4) and 17(4) of the *Public Service Employment Act* creates a hierarchicalization of rights within the Canadian state and further oppresses a group with few socio-political rights. *The Canadian Charter of Rights and Freedoms* was created in 1982, in order to protect everyone against discrimination, and nowhere within the Charter was it stated that some people's rights and freedoms were to be considered higher or more worthy than others. Section 15 of the Charter on Equality Rights refers to "*every individual*," therefore, as a society, we have the responsibility to protect everyone's rights, not only those considered 'citizens.'

Analytical Claims

There are several analytic challenges when looking at the issue of non-citizens working for the Federal Public Service. Neither the traditional methodologies nor those redefined through feminist and postmodern theories have been adequately able to theorize about the issue of non-citizens. Traditional methods are based on white male norms, while feminist theories and methodology have become too splintered and fragmented, often not examining discrimination from the point of view of non-citizens. Various researchers have begun to

create theories which examine different elements, but many fail to address the larger aspects of discrimination and oppression faced by this group. As a result, both the theoretical and methodological methods of approaching this topic are sparse and it has been difficult to approach this project due to those limitations.

One primary analytical problem is the way in which equality under the employment equity act is currently defined and operationalized. The focus on numbers, although somewhat practical for an initial understanding, limits the complete understanding of the issues. Furthermore, because it is the only lens available to us at the moment, it is necessarily the starting point for any analysis of non-citizens working for the Federal Public Service. Building and redefining existing theoretical and methodological constructs can lead to a more integrated framework and understanding built on intersections and the use of multiple methods. A second main analytical concern is the attempt to match practical applications of equality to supported Canadian values. Currently, the legislation and policies in place to obtain equality do not necessarily match or correspond with the values Canadians deem as important. Policy makers are not currently equipped with the ability to make the changes necessary to keep up with changes in Canadian society.

Conceptual Insights and Theoretical Claims

The concepts of justice, equality and citizenship are not easily understood or defined. There in lies one of the key challenges in attempting to find consensus on this debate. Therefore, the definitions and concepts need to be redefined and reconceptualized to account for the gendered, racialized way the world is organized. Based on Koggel's

proposal of the need for a relational theory, equality and citizenship should be considered ever-shifting and flexible in order to accommodate intersections. The shift in Canada's immigration patterns to accept an increasingly larger visible minority population requires a definition of equality which includes them. As a result, employment policies need to be adaptable and inclusive.

Equality as protected in Canada by the Charter of Rights and Freedoms is not restricted to Canadian citizens only. In order for equality to be a meaningful term, the focus needs to be broadened to include all those living in Canada. Our nation's feelings toward social justice traditionally do not stop at the limit of those living in our nation, hence the evolution and protection of human rights. Therefore, if we, as a society, have agreed that opportunity in employment needs to be equalized and opportunities need to be broadened to all, then non citizens should be included.

Citizenship status is based on two primary factors: legal and social. Feminists have been able to demonstrate how their social citizenship has been limited due to their inability to equally access public space or employment opportunities. The legal restrictions placed on non-citizens once they arrive in Canada also serve to limit their social and public participation. Definitions of those constituting the immigrant category must also be clarified in the research; currently, all immigrants are considered part of one broad category, even if they have become naturalized citizens. In addition, the majority of people in Canada considered non-citizens by the Federal Public Service are, in fact, permanent residents, of which more than 80% will eventually become Canadian citizens.

Conceptually, the way in which employment equity is defined, through the use of ‘visible minorities’ and ‘designated groups’ ignores the real oppression faced by the individuals and groups encompassed by these terms. Belonging to a designated group as defined by the *Employment Equity Act* can further stigmatize someone and reduces his or her ability to be perceived outside of a defined box. Furthermore, these terms serve to compartmentalize oppression, not allowing for multi-level understanding. This inclusionary/exclusionary boundary, between those eligible for employment equity opportunities and those who are not eligible, does not necessarily reduce or limit discrimination. Employment equity policies should be re-examined to determine how intersections affect oppression, as well as how to eliminate discrimination for all groups. Therefore, discriminatory hiring practices should be removed from the employment policies of the Federal Public Service.

Methodological Claims

Methodologically, researchers are ill-equipped to address the issue of non-citizen employment in the Federal Public Service. In order to obtain more substantive analysis, there are several methodological issues which must first be addressed. First, several issues of definition and categorization must be re-analysed. The differentiation between and within ethnic groups needs to be addressed not only at the policy level, but also in the quantitative methodology which determines how ‘visible minorities’ are doing under employment equity. The assumption that all ‘visible minorities’ fare equally under employment equity needs to be challenged. Analysis at the level of intersections between and within designated groups needs to be considered, as current number-based analysis only serves to mask inequalities. Furthermore, methodological approaches must be

sensitive to the realization that visible minority women fare differently than visible minority men in employment opportunities. Simply adding women into the equation will not produce the necessary analysis needed to understand discrimination; specific gender-based analysis is required. Furthermore, the Treasury Board Secretariat's decision to drop non-citizens from the labour market availability data gives the illusion of having improved the employment situation of visible minorities in the Federal Public Service, without having changed anything except a definition. It has been shown that in order to truly reflect the changing nature of citizenship status, that non-citizens should remain a part of the Federal Public Service availability data. By the time the Census can be analysed, many of those 'non-citizens' will have become Canadian citizens, thus rendering the Treasury Board Secretariat's decision ineffective at capturing the number of visible minorities eligible to work for the Federal Public Service.

Consensus and further reconciliation between the Public Service data and the Canadian Census is needed in order to facilitate further data analysis of those who are affected by employment equity. Currently, the only available data set to do this is the internal data of the Public Service Commission, which is deeply flawed and inconsistent from year to year. Furthermore, it relies on self-identification as the means of determining its designated group populations. A redefinition of the government industry code in the Census would allow for a much broader analysis in which other elements, such as citizenship status and education could be examined in combination with the population working for the Federal Public Service.

From a quantitative point of view, there needs to some reconciliation between the Census, or other employment surveys, and the data necessary for employment equity analysis. In order to make the Census more relevant for employment equity policy makers, several questions could be reformulated. The 1996 Census was able to include a question on visible minority status; the next step would be to match the definition of federal employment to employees covered by the *Employment Equity Act*. Further questions that should be included are how immigrants came to Canada (as refugees, business class, family class, etc.). The Census does not contain information on job mobility, making it difficult to examine issues of promotions and separations, especially over time. Furthermore, the Census is untimely for analytical purposes, usually being released three to four years after being collected. Therefore, if the Federal Public Service plans to use the Census data as the benchmark, allowances need to be made, especially in terms of new immigrants, who will likely have gained citizenship in the time necessary to release the Census. Conversely, Federal Public Service data allows for analysis at an individual level, permitting an examination of job mobility regarding recruitment, promotions, retention and separations, as well as demographic factors such as age profiles and salaries over time. Furthermore, the numbers used for calculating the representation levels for the designated groups in the Federal Public Service rely on self-reporting surveys which are often inconsistent and do not cover the entire Federal Public Service universe. This data is difficult to analyse and does not include information specifically on the immigrant population, or educational levels.

The Treasury Board Secretariat and the Public Service Commission collect data on the

legal citizenship status of those applying for jobs in the Public Service. However, this data is not available for analysis, nor have these organizations released any findings from it. Accessing new information on the Federal Public Service continues to be difficult, while released information does not give a complete picture.

Policy Claims

Current Canadian government policies towards the integration of new immigrants into our society have been too restrictive and promote further inequality along both gender and racial lines. As a result, immigration policies designate many immigrant women as dependents on their husbands. This alone limits their access to language and employment opportunities. Furthermore, the lack of recognized dual citizenship with many countries forces many women to remain permanent residents rather than become Canadian citizens, which also limits their contributions to Canadian society.

Employment equity laws are too narrow in definition, helping only a few 'designated groups' and primarily helping those who need it the least, creating a hierarchicalization of oppression. The shortcomings of definitions and cross-sections under the *Employment Equity Act*, specifically by relying on the construction of categories, is limiting, rendering the policy non-inclusive, hegemonic, and helping those who do not necessarily need it the most. The data analysis done in this thesis shows that white women have been among those who have benefited the most under employment equity. Hiring policies based on formal education obtained in Canada and nationality, combined with 'an old boys club' mentality further alienates and restricts employment for visible minority immigrant women.

Labour market studies have shown that the employment practices in the private sector are also gendered and racialized. Current visible minority representation still does not meet the legal numerical targets put in place by the *Employment Equity Act*. The restrictions in employment possibilities in the Federal Public Service further ghettoize immigrant women and force them onto the lowest rungs of employment opportunities. Section 16(4) of the *Public Service Employment Act* which preferentially screens non-citizens out of potential employment opportunities for the government is both racialized and gendered. The majority of non-citizens, especially immigrants who arrived within the last ten years, are visible minorities. Ghettoisation in the private sector for immigrant women makes them more vulnerable to experiencing discrimination in the public sector. Furthermore, the changing nature of the labour market, especially within the Federal Public Service, has been shifting toward part-time or contract work with few or no benefits and no security. Studies have shown that it is primarily women and visible minorities who are concentrated in these positions. As a result, employment equity is seen to have come at the expense of employment security. The entire Public Service philosophy about its workforce needs to be challenged.

There has been a reluctance by federal government policy makers to adequately deal with the issue of citizenship, especially in light of the *Lavoie v. Canada* court case brought before the Federal Courts. Although it has been suggested by several government studies, including the 1979 report (Canada, 1979:86), that the employment clause be repealed, the Federal Public Service has refused to act on the recommendation. The Federal Public Service's argument has thus far rested on the fact that it is within its rights to have

preferential hiring policies against non-citizens, based on notions of loyalty and security (Informal interview with the Treasury Board Secretariat staff).

Although the Federal Courts have decided that this employment clause is in fact discriminatory, it has been determined that this discrimination can be saved by section 1 of the *Canadian Charter of Rights and Freedoms*. It is likely that the defendants in the Lavoie case will appeal the Federal Court of Appeal's ruling and the decision will be brought before the Supreme Court. Ultimately, the Federal Public Service will likely refuse to take any action unless ordered by the Supreme Court to do so. Ultimately, neither the courts nor the policies and legislation meant to achieve equality and justice can achieve substantive equality for everyone in Canadian society. The price of equality appears to come at the expense of others, and in this case it is primarily visible minority immigrant women.

Finally, attempts to change policies within the Federal Public Service progress slowly. Changes are introduced slowly and sometimes the effects may not be noticed for years. If this is a concern for the non-citizen community then they will need to come forward to ensure their voices are heard on this issue. Conversely, the Federal Public Service could conduct greater consultations with non-citizen and visible minority groups to examine some of these issues in greater depth.

Research Gaps and Further Study

This thesis provided an analytical framework for understanding more about the

discrimination faced by non-citizens in the Federal Public Service. It was not within the realm of this thesis to explore all of the issues facing the (non)employment of non-citizens. Many issues remain unresolved and require further attention by the Federal Public Service. Further research needs to be explored in order to determine the extent to which barriers to employment for visible minorities may be further explained by citizenship status. A deeper quantitative analysis through the use of surveys and interviews is warranted in order to get a more complete understanding of the discrimination facing non-citizens. Many of the claims of this thesis should be further examined through more comprehensive research means.

There is a need to determine how many people these policies effect and to what extent. This type of analysis should focus on Federal Public Service employees as defined by the *Employment Equity Act*. There is also a need to examine the long-term effects of employment restrictions on non-citizens. Further research could explore the career trends, employment patterns, barriers created by non-acceptance of accreditation, job mobility and satisfaction of non-citizens. There also needs to be analysis done on career and job mobility of naturalized citizens, especially within the Federal Public Service. The Treasury Board Secretariat's conclusions on maintaining the citizenship preference should be verified. Two main questions need to be addressed further: do non-citizens join the Public Service once they have obtained citizenship? Conversely, do these early-on restrictions play a role in the future career choices of non-citizens?

Furthermore, research on designated groups needs to be gendered; until now most research

conducted by the Federal Public Service considers women as a separate designated group, ignoring how intersections of identity may formulate different issues amongst women. The limitations created by considering employment equity initiatives using solely quantitative methods further compound issues of understanding. Forcing designated groups to be categorically defined creates unrealistic compartmental data zones, which precludes the possibility for overlap and intersections. Quantitative research needs to be supplemented by more in-depth, on-going theoretical and qualitative analysis.

Also, a more detailed analysis of the 'immigrant' population needs to be explored. Differences between new immigrants, non-citizens, permanent residents, as well as refugees, family and business class immigrants, etc. need to be considered. Furthermore, a more detailed analysis of the reasons why some people choose not to become citizens would further explain intersections in choices and freedoms. The requisite of citizenship status to work for the state is not a compelling reason for why immigrants choose to naturalize or not. If immigrants are considered a valuable part of Canadian society, a part that deserves justice and equality, regardless of citizenship status, then researchers need to be committed to examining the issues pertinent to this community.

The gaps in the research on immigration and employment equity within the Federal Public Service are telling of a system somewhat committed to change, but also show how the policy makers underestimate the degree to which changes must be made. The lack of policy initiatives, as well as available data, makes it difficult to examine the most pressing issues facing this broad community. The secretiveness of this issue also creates problems

for researchers, and until now, few resources have been put towards exploring it, even in the Federal Public Service.

Attempting to Achieve ‘Equality’

There are many possible recommendations for improving the employment situation for visible minority women in the Federal Public Service. Some have been outlined by think-tanks, policy makers and the women themselves. Like many things in the government, there has been no lack of conferences, committees, and studies examining various details of this issue. However, these studies are not extensive enough, nor do they consider the issue of intersections in identity. Most importantly, however, the recommendations put forth by these committees and studies have yet to be fully implemented and incorporated into the policies of the Federal Public Service.

Canada, as a liberal democracy entering into a globalized world, should be prepared to change existing government employment practices to allow non-citizens to work for the state. Non-citizens should not have preferential treatment in being hired, nor should they be preferentially excluded. Non-citizens are not precluded from working in the private sector, and therefore, they should have the same opportunity to work for the state, especially in positions that do not require security clearance and special state protection. Most permanent residents apply for citizenship within 5 years and the citizenship requirement imposed by sections 16(4) and 17(4) are not compelling enough reasons to entice those who have not chosen to obtain citizenship to do so. Many of those labelled ‘non-citizens’ are, in fact, long term residents of Canada, who for a variety of reasons have

not applied for citizenship. Because of the relatively easy process of gaining Canadian citizenship, the decision for someone not to naturalize must be extremely complex.

Withholding job opportunities at the Public Service will not necessarily help to encourage these people to become naturalized.

Cutbacks and downsizing in government agencies has meant the potential loss of jobs for all employees, especially the most recently hired and most often those hired under employment equity. During this period, the government was not able to consider opening its doors to those considered 'foreign.' However, with the current change of increased employment, there is the potential to remove the citizenship barrier. In order to remove all of the barriers surrounding the employment of immigrants, several other elements need to be considered; including the recognition of foreign earned qualifications, as well as the recognition of the multiple (dis)advantages faced by visible minority immigrant women. These changes could be coupled with changes in legislation and employment policies, and a broadened notion of those considered eligible for employment equity. However, although removing the restrictive policies would begin to address some of the discrimination faced by non-citizens, it alone will not achieve substantive equality.

Furthermore, the inclusion of non-citizens in the hiring practices of the Federal Public Service would help in achieving employment equity goals, given the changing demographic nature of the Canadian labour market. The influx of visible minority immigrants to Canada is a great source of recruitment potential for the government. The time lag of waiting for these workers to gain citizenship, combined with other employment

barriers, may deter potential recruits from looking to the Public Service for employment later in their careers. Given the changing nature of the Canadian population, as well as the changing nature of employment in Canada, the Federal Public Service should be encouraging more visible minorities and more immigrants to join the Public Service, rather than turning them away.

Conclusion

This thesis examined a population of the Canadian workforce discouraged from obtaining employment with the Federal Public Service. It has demonstrated that sections 16(4) and 17(4) of the *Public Service Employment Act* do, in fact, discriminate against non-citizens and that they create further barriers for the visible minority population. Furthermore, these policies have a differential effect on visible minority women who have historically been disadvantaged all aspects of the Canadian labour market.

The issue of citizenship and federal government employment requires further attention by both Federal Public Service policy makers, as well as by those who currently study issues surrounding immigrants in the Canadian labour market. Specifically, the employment policies of the Canadian Federal Public Service with regards to non-citizens were examined as a critique of the Federal Public Service's commitment to the spirit of employment equity and society's notions of equality under the *Canadian Charter of Rights and Freedoms*. Within the 'visible minority' category exists a variety of subgroups that have been practically '(in)visible' within the Federal Public Service. Although there has been some general interest in studying the impact of immigrants within the Canadian labour market at

large, there has been little research, or policy formation about their inclusion as federal employees. Academic theories, as well as government policies surrounding notions of equality, citizenship, and employment need to be recast and made more inclusive. Issues of immigration need to be considered racialized and gendered, and the intersections of identity for persons and groups should be considered in order to build better praxis. This study has shown shortcomings in legislation, policy and data as related to the preferential hiring of citizens over non-citizens in the federal government. The 1996 *Employment Equity Act* has not been able to eradicate injustices for all people. Although never proposing to be able to do so, the spirit of employment equity demands a more flexible definition, with an ability to address oppression at many levels, not only the prescribed ones to date, and ultimately demands that substantive equality be met. The construction of 'non-citizens' as 'other' ultimately just reformulates the hegemonic, racialized, gendered discourses of the state, and therefore continues to justify a hierarchicalization of oppression.

APPENDIX 1: TABLES

Table 8: Representation of Citizens and Non-Canadian Citizens in the Canadian Labour Market 1996 Census, Population 15 and Over who worked in 1995, Both Sexes, All Occupations

	Canadian Labour Market	%	Visible Minorities	%
Total Population	15,547,115	100.0%	1,593,635	10.3%
Total Citizen				
Citizen Women	6,825,305	43.9%	554,175	3.6%
Citizen Men	7,903,685	50.8%	625,120	4.0%
Total Non-Citizen				
Non-Citizen Women	389,615	2.5%	195,695	1.3%
Non-Citizen Men	428,505	2.8%	218,645	1.4%

Source: Statistics Canada, 1996 Census

Table 9: Representation of Visible Minority Women and Men in the Federal Public Service

	Visible Minority Women		Visible Minority Men	
	1991	1998	1991	1998
Indeterminate	3,511	3,801	4,493	4,272
Representation	1.5%	2.0%	1.9%	2.2%
Term and Other	1082	723	728	492
Representation	0.4%	0.4%	0.3%	0.3%
Total Employment	4,593	4,524	5,221	4,764
Representation*	1.9%	2.3%	2.2%	2.4%

Source: (Gorber, 1999)

* Representation is defined as the percentage of visible minority members in the Federal Public Service Workforce (based on 240,534 total employees for 1991 and 194,728 total employees for 1998).

Table 10: Age Profile of Non-Visible Minority and Visible Minority Employees, 1998

	Non-Visible Minority		Visible Minority		Federal Public Service
	Women	Men	Women	Men	Both Sexes
< 30	12.7%	9.7%	12.9%	9.5%	11.2%
31-40	34.3%	27.0%	32.2%	26.4%	30.7%
41-50	40.2%	43.0%	36.2%	33.6%	41.3%
51-60	11.4%	17.8%	16.6%	23.5%	14.9%
60 +	1.4%	2.4%	2.2%	6.8%	2.0%
All Ages	100%	100%	100%	100%	100%

Source: (Gorber, 1999)

Table 11: Distribution of First Official Languages, Visible Minority Employees, 1998

	Visible Minority Women	Visible Minority Men	Federal Public Service
English	44.5%	46.7%	70.2%
French	4.0%	4.5%	29.5%
Unknown*	0.2%	0.1%	0.3%

Source: (Gorber, 1999)

* unknown means that the information was missing from the data set.

Table 12: Regional Distribution of Visible minority Employees, by Gender, 1998

	Visible Minority Women	Visible Minority Men	Federal Public Service
Ontario	1.2%	1.2%	41.6%
Quebec	0.3%	0.3%	22.0%
British Columbia	0.5%	0.5%	10.1%
Alberta	0.1%	0.2%	6.0%
Nova Scotia	0.1%	0.1%	5.1%
Manitoba	0.1%	0.1%	4.4%
New Brunswick	0.0%	0.0%	3.1%
Saskatchewan	0.0%	0.0%	2.6%
Newfoundland	0.0%	0.0%	2.5%
Prince Edward Island	0.0%	0.0%	1.4%
External to Canada	0.0%	0.0%	0.7%
Yukon	0.0%	0.0%	0.3%
Northwest Territories	0.0%	0.0%	0.3%
Total	2.3%	2.4%	100%

Source: (Gorber, 1999)

Table 13: Representation of Non-Visible Minority and Visible Minority in the Top Occupational Categories, 1998

	Non - Visible Minority		Visible Minority	
	Women	Men	Women	Men
Executive	23.7%	73.7%	0.6%	2.0%
Scientific & Professional	30.0%	60.5%	2.5%	7.0%
Admin. & Foreign Service	48.3%	47.0%	2.2%	2.5%
Technical	24.0%	72.7%	0.9%	2.3%
Administrative Support	79.3%	16.0%	3.7%	0.9%
Operational	14.6%	83.4%	0.4%	1.6%
Other	51.8%	43.1%	1.9%	3.2%
Total	48.4%	46.8%	2.3%	2.4%

Source: (Gorber, 1999)

Table 14: Appointment of Non-Visible Minority and Visible Minority Employees in the Federal Public Service, 1991 and 1998					
	Total Appointments*	Non-Visible Minority		Visible Minority	
		Women	Men	Women	Men
1991	106,809	58,972	42,174	3,052	2,377
%	100%	55.2%	39.5%	2.9%	2.2%
1998	91,684	54,374	32,706	2,264	1,781
%	100%	59.3%	35.7%	2.5%	1.9%

Source: (Gorber, 1999)

*These numbers exclude any acting appointments, which make up about 20,000 transactions a year.

Table 15: Indeterminate, Term and Other Appointment of Non-Visible Minority and Visible Minority Employees in the Federal Public Service, 1991 and 1998				
	1991	%	1998	%
Total Appointments*	106,809	100%	91,684	100%
Non-Visible Minority				
Indeterminate	50,810	47.6%	23,876	26.0%
Term and Other	50,336	47.1%	63,204	68.9%
Visible Minority				
Indeterminate	2,655	2.5%	1,510	1.6%
Term and Other	2,774	2.6%	2,535	2.8%

Source: (Gorber, 1999)

*These numbers exclude any acting appointments, which make up about 20,000 transactions a year.

Table 16: External Recruitment of Non-Visible Minority and Visible Minority Employees in the Federal Public Service, 1991 and 1998					
	Total External Recruitments	Non-Visible Minority		Visible Minority	
		Women	Men	Women	Men
1991	11,711	5,258	5,612	354	403
%	100%	44.9%	47.9%	3.0%	3.4%
1998	22,452	1,3181	8,171	354	282
%	100%	58.7%	36.4%	1.6%	1.3%

Source: (Gorber, 1999)

Table 17: Indeterminate, Term and Other External Recruitment of Non-Visible Minority and Visible Minority Employees in the Federal Public Service, 1991 and 1998

	1991	%	1998	%
Total External Recruitment	11,711	100%	22,452	100%
Non-Visible Minorities				
Indeterminate	5,770	49.3%	2,473	11.0%
Term and Other	5,100	43.5%	18,879	84.1%
Visible Minorities				
Indeterminate	457	3.9%	161	0.7%
Term and Other	300	2.6%	475	2.1%

Source: (Gorber, 1999)

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