

WORKING PAPER 15: HOW TO INCREASE EQUITY AND REDUCE DISCRIMINATION*†

1. Key challenge & overview

Racialized workers and newcomers are more likely to be in precarious employment.

Racialized workers, newcomers and women are more likely to work in precarious jobs and/ or have lower incomes. In addition, those in precarious employment are often treated inequitably based on their employment status. Although racialized workers and women are covered by legislation that prohibits discrimination, evidence shows that discrimination is still occurring in the GTHA labour market. Further, those in precarious employment are not covered by legislation that prohibits discrimination based on employment status. **Thus, policy options cover anti-discrimination efforts, research, employment equity and equity for precarious workers.**

2. Evidence from PEPSO

PEPSO's *It's More Than Poverty* report[‡] suggests that gender, race, and newcomer status all influence experiences of employment. Differences in employment status and annual income may be the result of discrimination. **The report indicates that racialized workers and recent newcomers were more likely to be employed in precarious jobs.** White workers reported a higher average annual income (\$63,310) than racialized workers (52,813).¹ It is important to note that Aboriginal peoples in Canada face significant challenges related to income and employment.² While data on Aboriginal ancestry was collected in the PEPSO study, the sample size was insufficient for analysis. Men and women were equally likely to be working in precarious jobs, but the overall average annual income of women (\$55,712) was significantly lower than the annual income for men (\$64,363).^{§ 3}

While discrimination can lead to higher levels of precarious employment for some populations, once in those precarious jobs, workers may additionally find themselves facing differential treatment because of the type and status of their employment. Specifically, temp agency, part-time, contract, and sub-contracted workers do not have access to the same wages, benefits, and working conditions as those in full-time permanent positions. **For example, PEPSO's report revealed that those who are in precarious employment earn 46% less than those who are in secure employment. They also have limited career prospects and are less likely to be satisfied with their job.**

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† This Policy Options Working Paper is one in a series of 16 working papers that explore the range of policy options that have been proposed to reduce or mitigate the impacts of precarious employment. Each of these papers must be read in tandem with the paper titled "PEPSO Policy Options Working Papers: Introduction". The full reference list is contained in a separate bibliography document.

‡ PEPSO's *It's More than Poverty* report refers to the report that was published in February 2013 that was based on the main survey conducted by PEPSO. In these working papers this report will be called the PEPSO report or the PEPSO survey. This is only appropriate for these working papers as there are other PEPSO reports that will be published by the six case studies.

§ On average, women worked approximately five fewer hours per week than men.

3. Context/current situation

PEPSO's report suggests that discrimination may be influencing wages and/ or access to secure employment for women, racialized men and women, and newcomers. In Ontario, there are a number of systems that are intended to address discrimination in the workforce:

- Federally, these include the *Canadian Human Rights Act*, the *Employment Equity Act*, and the *Public Service Equitable Compensation Act*.
- Provincially, these include the Ontario Human Rights Code and the *Pay Equity Act*.

The ***Canadian Human Rights Act*** prohibits discrimination on the basis of one or more of 11 grounds of discrimination, including sex, national or ethnic origin, race and sexual orientation. This protection applies to those who are employed by, or who receive services from, the federal government, or companies regulated by the federal government.⁴ Section 11 of the *Canadian Human Rights Act* also prohibits differences in wages between men and women who are performing work of equal value in the same establishment.⁵

The federal ***Employment Equity Act*** requires proactive measures to remove barriers to employment and address historic inequities for four designated groups: women, Aboriginal peoples, persons with disabilities, and members of visible minorities.⁶ Included here is data collection and annual reporting on representation. This Act applies to federally regulated industries, Crown corporations, and the federal public service. It also covers federal contractors, though recent changes have removed this requirement for some companies that receive federal contracts.⁷

The ***Public Service Equitable Compensation Act*** was introduced by the Government of Canada in 2009 to ensure equal pay for work of equal value within the federal public sector. Under the Act, equitable compensation should be addressed as part of collective bargaining (for unionized employees), rather than through the complaints based system of the *Canadian Human Rights Act*. There are several notable differences between the *Canadian Human Rights Act* and the *Public Service Equitable Compensation Act*:⁸

- The new Act focuses on equitable compensation rather than pay equity, and holds unions and employers jointly accountable for equitable compensation for unionized employees.
- Any complaints must be heard by the Public Service Labour Relations Board, and not the Canadian Human Rights Commission.
- The new Act defines a female predominant job group as one with at least 70% female employees, whereas the *Canada Human Rights Act* sets thresholds that vary by size of organization (70% for groups with under 100 employees, 60% for groups between 100 and 500 employees, and 55% for groups of over 500 employees).

Provincially, the **Ontario Human Rights Code** prohibits discrimination on the basis of one or more of 15 grounds of discrimination, including sex, place of origin, race, and sexual orientation. This protection applies in employment, housing, services, contracts and unions.⁹ Ontario also has a ***Pay Equity Act***, which requires that public and private sector employers with more than 10 employees eliminate gender discrimination in wages and ensure that wages remain discrimination free.¹⁰

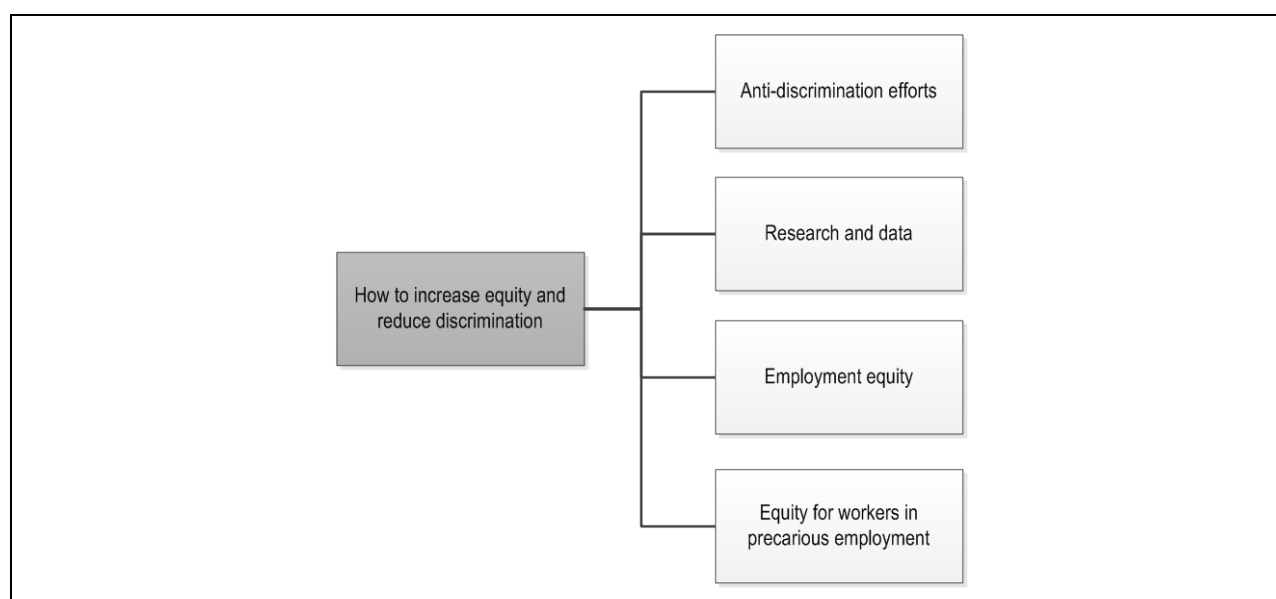
The province of Ontario was also briefly covered by a provincial employment equity act. The *Ontario Employment Equity Act* was passed in 1993, and covered provincially regulated public and private sector employers. This Act was repealed in 1995. Quebec and British Columbia are provinces that do have provincial employment equity legislation – which covers public sector employers.¹¹

The systems noted above do not specifically address discrimination by employment status. However, there is some progress in this area internationally. The European Union has a directive that prohibits discrimination for employees who are not in a standard employment relationship of full-time, permanent employment (Directive 97/ 81/ EC –

Framework agreement on part-time work¹²), and a directive that prohibits discrimination related to temporary agency work (Directive 1999/ 70/ EC – Framework agreement on fixed-term work¹³).

4. Policy options

Policy recommendations in this area focus on strengthening general anti-discrimination efforts, generating data to understand inequities and track progress, and developing or expanding employment equity initiatives. It is challenging to identify detailed policy options in this area, since many reports include a general commitment to anti-discrimination work, rather than a specific policy recommendation. Further, there are few policy recommendations that are specifically related to workers in precarious jobs. Beyond anti-discrimination and equity related policies, other policy actions that would strengthen the capacity of vulnerable workers to organize and bargain more effectively could provide relief disproportionately to these workers. Policies relating to labour relations and employment standards are addressed elsewhere in this series of papers.



4.1 Anti-discrimination efforts

Many policy recommendations highlight the need for greater anti-discrimination efforts, including a specific focus on the experiences of women and racialized populations. Recommendations include:

- **Addressing discrimination in general**, or supporting equality in the workplace, labour market, and/ or labour organizations and unions.¹⁴
- **Addressing discrimination** in the workplace, such as developing legislation requiring businesses to have anti-discrimination policies,¹⁵ mainstreaming equity compliances into workplace practices,¹⁶ and anti-racism/ anti-oppression training for business leaders and the public sector.¹⁷ One recommendation focused on developing a formal complaints process against discrimination in the workplace.¹⁸
- **Developing supports for employers to ensure diversity in recruitment**¹⁹ and programs to support the integration of newcomers in the workplace.²⁰ One recommendation suggested using anonymous job applications, which is currently being tested across Europe.²¹
- **Promoting equity**, including developing a provincial equity and anti-racism directorate,²² collecting data on workplace representation and reporting it to the province, and strengthening human rights protection and enforcement.²³ Suggestions also include addressing the racialization of poverty in poverty reduction strategies,²⁴ and initiatives to address discrimination affecting students.²⁵

4.2 Research and data

Several policy recommendations focus on the need for additional research in this field and specifically on better disaggregated data to support a more comprehensive understanding of the experiences of racialized Canadians. More data would also support the development of better programs and policies, as well as improve monitoring and evaluation. A number of recommendations focus on:

- **Collecting data** that supports disaggregated analysis in key areas – access to educational supports and programs, access to services and service outcomes, poverty and its impacts, provincial and federal data, and workplace demographics – by race and/ or ethnicity.²⁶

4.3 Employment equity

Some policy recommendations focus on the development, expansion, and/ or enforcement of employment equity initiatives, including:

- **Addressing pay and/ or employment equity**,²⁷ including provincial employment equity legislation and/ or programs/ initiatives in Ontario.²⁸
- **Improving federal initiatives**, including better enforcement of federal employment equity,²⁹ the expansion of federal employment equity,³⁰ and the repeal of the *Public Service Equitable Compensation Act*.³¹
- **Developing financial incentives for business to hire, train, retrain and promote workers** from equity-seeking groups and recent immigrants,³² and the development of corporate responsibility plans that include pay equity compliance.³³

4.4 Equity for workers in precarious jobs

There are a number of policy recommendations that focus on expanding pay, or working condition, equity to workers in precarious jobs, specifically part-time workers, temporary workers, and workers in non-traditional employment relationships. These recommendations include:

- **Addressing differential rates of pay and/ or working conditions** between full-time and part-time workers in equivalent positions,³⁴ or between temporary agency workers (and/ or temporary workers) and traditional employees in comparable jobs.³⁵
- **Addressing equity in pay and/ or working conditions**, including collective bargaining,³⁶ legislation,³⁷ amending employment standards,³⁸ and extending the principle of equal pay for work of equal value.³⁹ They also include mandatory conversion to permanent employment after a set amount of time,⁴⁰ and a bigger role for the Ontario Human Rights Tribunal and Commission in addressing the discriminatory practices of temporary agencies and employers.⁴¹

5. Questions for discussion

1. Which policy options in this paper could have the most impact on the lives of those in precarious employment?
2. Which policy options in this paper can we realistically move forward on, given the current political, economic, and social climates?
3. Which policy options are missing from this paper, but require attention?

6. Endnotes

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- ¹ Calculation based on PEPSO data
 - ² Canadian Centre for Policy Alternatives, 2010b; Statistics Canada, 2011b
 - ³ Lewchuk et al (forthcoming)
 - ⁴ Canadian Human Rights Commission, 2013
 - ⁵ Government of Canada, 2013a
 - ⁶ Government of Canada, 2013b
 - ⁷ Government of Canada, 2014a (the federal EAA covers 12% of the labour force)
 - ⁸ Government of Canada, 2013c
 - ⁹ Ontario Human Rights Commission, n.d.
 - ¹⁰ Government of Ontario, 2013c
 - ¹¹ Government of Quebec, 2014
 - ¹² Council of the European Union, 1997
 - ¹³ Council of the European Union, 1999
 - ¹⁴ African Canadian Legal Clinic 1, n.d.; African Canadian Legal Clinic 2, n.d.; Das Gupta, 2006; Goldring & Landholt, 2012; New Democratic Party, 2013; Ng et al, 2013; TD Economics, 2013B
 - ¹⁵ Access Alliance, 2013
 - ¹⁶ Canadian Centre for Policy Alternatives Ontario, 2012
 - ¹⁷ Access Alliance, 2011
 - ¹⁸ Access Alliance, 2011
 - ¹⁹ CivicAction, 2011b
 - ²⁰ Manitoba Hydro, 2013
 - ²¹ Society for Human Resource Management, 2013
 - ²² 25 in 5, 2009; Access Alliance 2011; Colour of Poverty, 2013
 - ²³ Colour of Poverty, 2013
 - ²⁴ 25 in 5, 2010; African Canadian Legal Clinic 3, n.d.
 - ²⁵ People for Education, 2013
 - ²⁶ 25 in 5, 2009; African Canadian Legal Clinic 1, n.d.; CivicAction, 2011a; Colour of Poverty, 2013; Manitoba Hydro, 2013; People for Education, 2013; Wellesley, 2011b
 - ²⁷ 25 in 5, 2009; 25 in 5, 2010; African Canadian Legal Clinic 2, n.d.; Broadbent Institute, 2012; Canadian Centre for Policy Alternatives Ontario, 2012; Healthy Debate, 2013; New Democratic Party, 2013; Ontario Campaign 2000, 2012
 - ²⁸ 25 in 5, 2009; Access Alliance, 2011; African Canadian Legal Clinic 2, n.d.; Colour of Poverty, 2013; Ng et al, 2013
 - ²⁹ Access Alliance, 2011
 - ³⁰ Access Alliance, 2013; Colour of Poverty, 2013
 - ³¹ Canadian Centre for Policy Alternatives, 2013
 - ³² Canadian Centre for Policy Alternatives, 2013
 - ³³ Canadian Centre for Policy Alternatives Ontario, 2012
 - ³⁴ Arthurs (Human Resources and Skills Development Canada), 2006; Bernstein, 2006; International Labour Organization, 2011a; Jackson, 2006a; Law Commission of Ontario, 2012; Ng et al, 2013; Upjohn Institute, 2012
 - ³⁵ 25 in 5, 2009; Bernstein, 2006; Canadian Centre for Policy Alternatives, 2013; International Labour Organization, 2011a; International Labour Organization, 2013; Ng et al, 2013; Wellesley, 2011a; Workers' Action Centre & Employment Standards Work Group, 2005; Workers' Action Centre & Parkdale Community Legal Services, 2008; Workers' Action Centre & Parkdale Community Legal Services, 2009
 - ³⁶ International Labour Organization, 2013
 - ³⁷ Jackson, 2006
 - ³⁸ Ng et al, 2013
 - ³⁹ Workers' Action Centre & Employment Standards Work Group, 2005
 - ⁴⁰ International Labour Organization, 2011a
 - ⁴¹ Ng et al, 2013