

RECASTING EQUITY

A Conceptual Framework

A PROMPT Discussion Paper
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Policy Roundtable Mobilizing Professions and Trades

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Policy Roundtable Mobilizing Professions and Trades

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Foreword

Over the years as more and more highly skilled professionals have come to Canada under the point system introduced in 1967, they have been increasingly faced with systemic barriers cutting off their access to the professions in Canada. One of these barriers has been the regulation of professions in Ontario. It was as a consequence of these systemic barriers that a number of immigrant community, service delivery associations and informal groups came into existence.

When the Policy Roundtable Mobilizing Professions and Trades (PROMPT) was formed in 2003 by the Council of Agencies Serving South Asians it created a vehicle through which immigrant associations and community groups could engage collectively in the development of policy solutions to address and challenge the systemic barriers immigrants face in participating in the labour market.

Over twenty groups are now actively engaged in this initiative. For more information about PROMPT see our website at www.promptinfo.ca. Participants engaged in PROMPT include such diverse associations and groups as:

- **The Association for Access to the Professions of Planning and Architecture – AAPPA** hopes to connect, cooperate and collaborate with individuals and organizations for the utilization of rich and varied experiences of Internationally Trained Professional (ITP) Planners, Architects, Designers and Technologists for the purpose of empowering AAPPA members to gain a strong foothold in the Canadian professional work environment.
- **The Association of International Physicians and Surgeons of Ontario – AIPSO** is a non-profit, independent professional association that represents internationally-trained physicians and surgeons seeking access to the Ontario health care system.
- **The Black Business & Professional Association - BBPA** advances the Black community by facilitating the delivery of programs that support business, professional and community economic development
- **The Canadian Association of Latin American Professionals Tradespeople and Entrepreneurs - CALAPTE** assists, collaborates and empowers Latin American professionals, tradespeople and entrepreneurs
- **The Chinese Professionals Association of Canada - CPAC** is a national organization serving and advocating for the interests of its members and the Chinese community
- **The Council for Access to the Profession of Engineering - CAPE** aspires to become a premium organization to represent the interests of internationally trained engineering graduates in Ontario.
- **The Council of Agencies Serving South Asians - CASSA** is an umbrella organization of agencies, groups, and individuals serving the South Asian Community; its goal is to empower the South Asian community
- **MOHANDS - the Canadian Society of Iranian Engineers and Architects** - is a non-political, non-religious and non-profit organization, which serves Iranian Engineers and Architects in Canada

Equity, as conceptualized from an immigrant perspective, was a priority identified by PROMPT. This study attempts to formulate this.

Acknowledgments

Recasting Equity could not have been written without the significant and valuable contributions of the following people. A deep debt of gratitude is owed to each and every one of them.

The roundtable participants on PROMPT gave generously of their time, input and encouragement on the project. The pursuit of equality goes beyond the personal interest of every member – if not already present, this pursuit has quickly and considerably expanded to become a shared vision for all humanity.

The Working Group members - Paulette Senior from the Black Business & Professional Association, Jane Cullingworth of the Policy Roundtable Mobilizing Professions and Trades, Joan Atlin and Uday Shankardass from the Association of Physicians and Surgeons of Ontario, Uzma Shakir from the Council of Agencies Serving South Asians, Elizabeth McIsaac from the Maytree Foundation, Gurmeet Bambrah from the Council of Access to the Profession of Engineering and Pramila Aggarwal from Toronto Organizing for Fair Employment – committed numerous hours to identifying ideas and concepts for inclusion in this paper. Their personal dedication to the principle of equity was inspiring.

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Uzma Shakir continually and openly goes beyond her personal faith in the ability of immigrants to contribute to Canada to equitably creating and preserving space for a laboratory of innovative ideas for and many times, by immigrants.

Finally, PROMPT would like to acknowledge our funder, Canadian Heritage through the Voluntary Sector Initiative, for helping build our capacity to bring about greater social and economic inclusion of immigrant professionals and tradespeople. A very special mention must be made of Marcelle Gibson, our Program Officer, who continues to provide exceptional support and commitment to PROMPT. Marcelle's personal guidance and dedication have been and continue to be instrumental in turning an idea into a reality. Thank you to Canadian Heritage and Marcelle Gibson for your very special effort in helping us seek out the capacity to contribute to Canada in our chosen fields and making Canada a better home for all through that effort.

Executive Summary

At present, over 200,000 people arrive annually in Canada in the firm expectation of making it home. They represent the transnational movements of people, ideas, production, investment and authority that characterize a globalized world. In this transnational flow, gains in rights in some areas are often offset by risks to rights in others in an interaction between the two political traditions of citizenship and human rights. Reconciliation of these two traditions, this paper argues, can be obtained by a broadening of focus of policy-makers to global democratic governance as it affects immigrants to Canada. The case-analysis of skilled immigrants to Canada, as described in this paper, forms the basis for achieving a model of human-centred governance for Canada that lends itself to globalization.

Skilled immigrants to Canada identify themselves as part of a global flow, a context which has not been formally grounded in policy debates. For Canada to globalize at the national and local levels, democratic governance structures for this real context of identity and existence of skilled immigrants need to be acknowledged. At the same time, there needs to be recognition that skilled immigrants are in Canada as part of a national strategy to modernize its workforce within a global context. Yet, paradoxically, the experience of immigrants in recent decades has been that of under employment and un-employment, as well as poverty, created in large part by the de-legitimation of their skills, values, and experience.

Canada can justifiably and proudly boast of its progressive legislation. It has, however, compromised its ability to provide its immigrants with the equality due to them as members of its society and failed in its capacity to optimize on the benefits to the nation from the equitable participation of immigrants in the labour force. It has done so by not incorporating its own rationale for its immigration policy within the wider, global context in which immigration takes place. Canada has further compounded the situation by not ensuring the legislative flow of the principle of equality from federal to provincial levels and by not meaningfully instituting rights, equality and equity legislations within its mainstream institutions.

Canada, through its experiment in diversity, has arrived at a new plateau of development. To take its place of pride on the global stage, Canadians need to take into account new international realities - realities that have arrived crucially through immigrants who seek their place of equality within the mainstream through the consideration of a model of human-centered governance

1. Immigration and Citizenship

Immigrants to Canada are responding in large numbers to an immigration policy that is driven by two imperatives; the first being the economic interest and population replacement needs of Canada and the second being in meeting universal, moral obligations towards displaced peoples. Since 1967, economic immigrants have come to Canada either on the basis of investment interest or on the basis of skills, experience and training acquired elsewhere in the world. These categories are defined by Citizenship and Immigration Canada as Business Class Immigration and Skilled Worker Class Immigration respectively (1)¹. Of late, there has been a change in the immigration application system awarding points in favour of skills, education and work-related experience of applicants. National policy has undergone a paradigm shift over the last twenty years, towards the creation of a knowledge-based economy within which context economic immigrants have been wooed to Canada (2).

At present, over 200,000 people arrive in Canada annually with the expectation of making it their home. They are a part of an increasing transnational flow of “people, production, investment, information, ideas and authority” (3). This characterizes globalization of a world driven more and more by choice, expediency and necessity. In placing themselves within this historical flow, new immigrants to Canada, while availing themselves of new rights, place other rights at risk. Some gains in social, religious or political freedoms are offset by others that come under threat. Examples of rights abrogated or at risk of compromise include:

- The right of representation by politicians in their country of destination (i.e. not enjoying the right to vote until they become citizens);
- The right to economic participation (created by poor acceptance of credentials and recognition of work experience);
- The right to choose one’s economic contribution (as a direct consequence of the former lack of recognition);
- The right to employment in the federal public service (until they become citizens); and
- The right to mobility

Rights available to immigrants as citizens of their countries of origin, become extra-jurisdictional, perhaps even unavailable, during the period of their permanent residency or transition to formal citizenship in Canada. Internationally, there is growing awareness that globalization of the world economy, even as it creates new possibilities for global democratization, is a problematic transformation that places both individuals and countries at risk. Boyce describes globalization as “an uneven process, in which the integration of markets has outpaced the integration of governance, and governance for the protection of capital has outpaced governance for the protection of human well-being” (4).

¹ Numbers in brackets refer to listings in the Bibliography.

2. Globalization and Immigration

One of the more obvious and spectacular benefits of globalization has been the increased and freer transnational flow of people across borders. Countries, such as Canada, reap this benefit through immigration policies that woo a wealth of expertise of skilled immigrants from the international supply of labour. How this move may have impacted the prospects of other groups of immigrants to Canada, for example, the less skilled, educated or financially resourced, highlights the uneven consequences of globalization. This paper argues that in Canada today, even skilled immigrants, who most likely would have been the beneficiaries of globalization, have ended up paying tremendous personal, social and economic costs; this in addition to groups already at risk the world over, such as refugees, migrant workers and non-status individuals. At the heart of this failure lies a vacuum in global democratic governance - policy that should equitably support all human aspirations.

As is happening in other countries as well, the global flow of people has created an interaction between “the two traditions of rights: citizenship and human rights” (3). For immigrants to Canada, this change is first experienced when political identity shifts from citizenship of country of origin to permanent residency or conditional citizenship of country of destination. As the transition takes place, so too do the claims and privileges that immigrants can make of the country of destination to which they now claim political and social membership – one of many examples of unfortunate political conditions resulting from globalization, aptly captured in the phrase “citizenship gap” (5).

In this context, democracy too has to take on a global perspective. Democracy is as Boyce states “... (not) simply a question of institutional architecture – elections, laws and organizational structures. It is also a question of how political power is distributed within society. Formal democratization involves the growth of institutions that foster voice and accountability... For democracy to flourish, institutions must ensure that ordinary citizens can voice their demands and that decision-makers can be held accountable to those who are affected by their decisions... democratization is a historic process that takes generations. At the national level it remains incomplete more than two centuries after the French Revolution proclaimed the goals of *liberté, égalité, fraternité*. At the global level, it is just beginning”. (4)

Given the ‘experiment’ in diversity that Canada has undertaken through its immigration policy since confederation in 1867, it hosts people from nearly all parts of the world within its conditional and ordinary citizenry. By virtue of this ‘experiment’, Canada finds itself in a unique position of needing to globalize its workforce and citizenry, as well as outlook and institutions at national, provincial and institutional levels. This will lead the way in the evolution of global democracy, founded on the protection of human well-being.

3. The Changing Nature of Immigration and Canada under Globalization

According to Michael Szonyi (6) the 2001 Canadian Census shows that there are over one million Canadians of Chinese descent and just under a million of South Asian descent, each making up about 3% of our total population. In seeking to investigate how these new immigrants affect Canada’s place in the world, Szonyi, suggests that we must move away from the usual questions about immigration; like what is the net impact of immigration on the Canadian economy, and whether immigrants consume less or more than their fair share of Canadian social services. Szonyi’s contention is that in the past, due to their small numbers, low social standing, lack of

geographic concentration, and to some extent, disenfranchisement from the political process, previous waves of Asian immigration to Canada had negligible impact on Canada's external relations.

According to Szonyi, the situation at present is different. New questions are in order. More than 75% of new immigrants in the 1990s settled in three major metropolitan areas (Toronto, Vancouver and Montreal), and were comprised of significant numbers of highly educated and skilled professionals. These new immigrants face less overt discrimination and have greater scope for political participation than their historical counterparts. Furthermore, the world having changed rather dramatically with the emergence of the information age, cheaper telephone airtime charges and easier travel, the forces of globalization facilitate immigrant ties to their homelands. Combined with financial deregulation easing investment movement, multiculturalism and globalization, these changes result in disconnects in the public understanding of the immigration and settlement process. The popularly perceived and understood notion of integration into Canadian society is thought by many to involve a renunciation of ties to the homeland, a notion that is undeniably backward looking and not connected to the new realities of a globalized economy.

To an immigrant on the move, the forces of globalization in the world that may usher in a more just international order, coupled with legislative realities such as multiculturalism in Canada today, do not create a contradiction of expectations between their ties to their homeland and their loyalty to Canada. Many new immigrants see themselves as not just multicultural or bi-national, but global citizens, part of a new reality. Increasingly in Canada's policies, new instruments and flexible approaches are also evolving to issues of citizenship, as exemplified by Canada's articulation of its foreign policy, defined through Canada's Innovation Strategy (10) - Canada in the World - which identifies the three pillars of Canadian foreign policy as economics ("the promotion of prosperity and employment"), politics and security ("protection of our security within a stable global framework") and culture ("projection of Canadian values and culture"). (7)

Stephen Clarkson contends that in postmodern globalization, the state exists on many levels, including the more recently established continental and global levels. Governance is performed not only on public levels but in the economic marketplace and in society, both within nations and trans-nationally, because power has been fragmented and reconstituted in many different centres.² Although Canada as confederated and constituted continues to recognize three levels of Government; Federal, Provincial and Municipal government, as stated above, substantial changes have taken place in "the functions and structures of the Canadian state from the activist, generous practices of the Pearson and Trudeau governments to the leaner and, yes, meaner stances of neo-liberal politics so that the state shapes have shifted in response to a changing global system". (8) It would appear that there is a disconnect between multi-leveled governance structures, within

² Clarkson addresses this challenge as follows:

- *Structurally* he argues that these functions have been performed in a state structure with a disaggregated but interconnected and interactive architecture that operates on five levels, from the traditional local (municipal) and sub-national (provincial) tiers through the federal and on to the more recently established continental and global levels.
- *Chronologically* he asks how the Canadian state has evolved into a five-tier model over the years since the social-democratic paradigm held sway during the prime ministerships of Lester Pearson and Pierre Trudeau (1963-1984), under the neoliberal prime ministerships of Brian Mulroney and Jean Chrétien (1984 onwards)
- *Functionally*, he identifies the ways in which state performance of principal tasks has altered over this same quarter-century.

which immigration is supposed to fit and Canada's policy response to its immigrants at levels beyond its recognized three-tiered structure.

4. Globalization and the Canadian Response

Canada perceives globalization as the convergence of world economies, technologies and cultures into a single marketplace (9) that has already taken place in the last century and the country is now looking to move beyond to the standardization of labour markets, wages, production processes, trade relations and technology flows. (10).

This vision, based on the understanding that economic competitiveness and social well-being are built on modernizing Canada's traditional labour policy, recognizes that economic growth is driven by innovation in which the contribution of know-how is measured as value-added to the gross domestic product.³ In reality however, there are many paradoxes to this stated vision.

For instance:

- It is expected that those with better education are more likely to find jobs yet internationally trained professionals, with levels of education higher than those generally existing in the Canadian mainstream are faced with poverty, under-employment and unemployment.
- Canada perceives a shortage of human capital so that even while productivity has increased drastically, knowledge-based workers are becoming scarce so that there are not enough graduates to meet rising demand in the labour market for certain skills. In reality, however, until the change in the points system for immigration last year, skilled workers were encouraged to immigrate on a skills-demand anticipation basis.
- While there is a strong movement of students towards disciplines such as civil and other engineering disciplines, internationally trained engineering graduates, as well as graduates from Canadian universities in these disciplines, are finding it increasingly difficult to find employment in their fields of study.
- In the global market, those countries that capitalize on the knowledge of other languages have a competitive edge over those that do not. Yet Canadian employers on the whole have not yet taken full advantage of the multilingual capacities of our immigrants, including their command of international languages, technical experience and skills. Employers will often emphasize only English or French language skills in their human resource practices when they have the opportunity to capitalize on a whole world's worth of languages, right at their doorstep; and
- While Canadians see immigration as a positive factor, contributing to skills in the Canadian economy and replenishing its declining population, many immigrants are either under-employed or un-employed and are frustrated.

³ The measure of immigrant contribution to economic growth of Canada is by contribution or cost to the gross domestic product (GDP). This may well be a false sense of growth, in so far as it has not measured the capacity to increase the GDP if skilled immigrants work in the professions they were trained for or in areas where they can apply their skills and contribute.

Perhaps the time has come for Canada to move beyond economic competitiveness and social well-being that rely heavily on human capital strategies as the basis for its efforts in modernizing its traditional labour policy. Canada needs instead to devise policies that examine the need for post-global and modern institutions, focusing on the international dimension of labour, especially the development of supranational frameworks to develop a labour policy most suited to the globalized world. (11)

Globalization and the Immigrant Response

Immigrants to Canada, whether conditional or formal citizens, frustrated by these paradoxes, are now strongly motivated to articulate a different perspective of their presence in Canada. In terms of human rights, they recognize that their innate attributes and qualities are not being recognized. From the perspective of their economic capabilities, skilled immigrants possess the ability to drive Canada's economy and professional development for a shared, globalized world. Their knowledge recognizes no national boundaries, especially not in the post-global, technologically -connected age, making them possessors of shared knowledge and skills with the Canadian workforce. Furthermore, immigrants are possessors of knowledge and skills developed in other parts of the world yet relevant to the needs of an interconnected and interdependent world, a microcosm of which, Canada has managed to capture within its own borders by virtue of its unique experiment in diversity and immigration.

Also not recognized through its point-based immigration system are the attributes of personal courage, resilience, resolve and adaptability that immigrants display through the very act of immigration, attributes that speak both to their strengths as people, and their capacity to contribute to the Canadian and global community and economic well-being. Neither does it acknowledge that skilled immigrants on the global move represent a 'global' consciousness and the potential for being the conscience of the world's people. It is a consciousness that may place them at odds with the 'nation-state' consciousness of a people – creating, in addition to two classes of citizenship already experienced, two parallel dimensions of population identity within one country. A good illustration of this 'clash' of perspectives is the genuine bafflement with which new immigrants to the country commonly greet the expression "Canadian experience" as a job requirement. Besides the fact that the requirement is discriminatory and illegal, it makes little sense in the globalized world. Another is the idea of 'self-sufficiency' expressed by local institutions as a policy value in terms of limiting access to some professions. It has been publicly suggested, and implied through practices, that the Canadian-born and educated should have first rights to professions. (12)

Immigrants seek the recognition, equal to the native-born population, that they have paid their dues in acquiring their skills, training and experience, except those dues were paid elsewhere in the world, of which Canada is a beneficiary. There appears to be an implicit hierarchy of rights and privileges in Canada, with regards to the right to professional and economic access and participation which goes against the spirit of equality and equity or fair play on national and global terms, as well as with the universality of entitlement to rights.

The ‘equality of opportunity’⁴ new immigrants expect in employment and access to professions and trades, is not a demand for equality within the existing regulatory bodies and hiring practices, which are stuck in Canada’s pre-globalized past. What they expect is their rightful place of citizenship within the democratic vision of the new globalized world. They expect to participate in the process in which institutions of the 21st century will evolve in Canada to help it lead in the governance and globalization processes, contributing to a true knowledge-based economy rather than propping up an old economy and structure that only pays lip service to the demands of a global economy.

It becomes increasingly obvious that there are two perspectives on the understanding and vision for globalization and the development of a knowledge-based economy for Canada, both existing independently of each other. Only one is publicly acknowledged and given voice. In this vision for Canada, as set out by many modernization-of-labour strategies and economic policy documents, the role of skilled immigrants is not synthesized or mainstreamed with that of the native-born population. Instead, the place of immigrants is unnecessarily seen as a problem, a perspective created by the very limitation of the capacity of existing institutions to acknowledge, accredit and appreciate the skills and attributes of immigrants and indeed, of immigration itself.

This paper represents the voice of the other vision – based on human-centred governance, globalized at national and local levels.

5. Barriers to Accessing the Labour Market and Professions and Trades

As a result of the implementation of the point-system in immigration that occurred in 1967, which aimed to remove historic discriminatory practices of recruiting primarily from Britain, US and Europe, a dramatic change in immigration patterns to Canada took place from a small number of source countries where people were mainly white, to a vast range of countries at different stages of development where populations are mainly people of color as illustrated by Figure 1 (13).

This has led to attempts by institutions to measure the credentials and experience of new immigrants, as individuals, by the locally-developed standards of a province or country. By failing to see and accept ‘equivalence’, prescribing norms of ‘sameness’ and rejecting norms of ‘complementarity’, these institutions have not only failed to grasp the larger vision in which immigrants have an intrinsic role to play, they create ‘punitive’ outcomes by the expectation of ‘sameness’, thereby failing the human rights ‘test’ of equity or fairness.

The pervasive social practice of de-legitimization of the attributes, credentials and experience of new, skilled immigrants to Canada contributes to the deskilling of the skilled immigrant population. Conditions and practices that contribute to these are:

- Denial or delays of licensure
- Under-employment and unemployment,
- The often recommended practice of underselling of qualifications and experience in resume-writing in order to be considered for a job,

⁴ This is as opposed to the notion of equal opportunity derived from the Bill of Rights (1960), affirmative action, quotas, or employment equity, discussed in Section 8 of this paper.

- The lack of real world knowledge of the Canadian born of other parts of the globe, especially social, economic and political developments in other parts of the world; and
- The lack of capacity of institutions to recognize and acknowledge personal, social and intellectual abilities, different from their own, particularly on a cross-cultural basis

The de-legitimizing of the knowledge, skills, work-experiences and values of immigrants to Canada may not only be a response borne in ignorance, but such limiting views may also come from the narrowness of perspective that sometimes accompanies privilege. It is possibly as well, a violation of the human rights of persons. However, employers, regulatory bodies, governments and others in power all have an opportunity to reframe their perspectives in the context of the new global knowledge economy, taking a visionary approach and appreciating the skills, talent and innovative ideas that immigrants bring along with them when they settle in Canada.

The three main principles behind fundamental human rights:

- Freedom to decide and to make the crucial decisions affecting one's life destiny;
- Equality of opportunity in all life pursuits, and
- Dignity of person and respect as a human being” (14,15)

are compromised in the resulting under-employment and unemployment of many new, skilled immigrants vis-à-vis the native-born population, their comparative poverty and the resulting constriction of life choices.

Among the more common myths about immigrants circulating among the general population is that all immigrants have come to Canada for ‘a better life’. While this might be true for some immigrants, especially those who have left because of political and economic hardship, many skilled immigrants have already experienced success and satisfaction in their personal and professional lives prior to their immigration to Canada. Immigrating to Canada affords them a new life opportunity, one that may be qualitatively different. This reality of skilled immigrants has not percolated through to the consciousness of many in Canada. The perception of too many in Canada is one that draws from and is sustained by beliefs about immigrants based on outdated notions of who is coming to Canada; many Canadian-born people would be shocked to learn that the average immigrant today comes to Canada with a higher educational attainment than those born here. In the early 1900s, immigrants came here as physical labourers to help build the country and open up the west, for example. Today, immigrants come here as intellectuals, academics, professionals and tradespeople with the skills to add to the national knowledge base. Labour market practices that support non-recognition of skills of immigrants are based on an outdated perspective and reflect a misunderstanding of who is coming to Canada today. The missed opportunities for utilizing the skills and knowledge of these new, globalized immigrants, is enormous.

This persistent misunderstanding is a noxious one that results in doors remaining closed and the status quo being maintained. Not only is this detrimental to the human rights of those being shut out, but it also is damaging to individual businesses as well as the whole Canadian society, as it fails to fully capitalize on the skills, talents and values of the workforce.

Pragmatically, for Canada, de-legitimizing foreign credentials and experience is a self-destructive exercise that constricts the professional and economic development and international mobility of

both its immigrants and its native-born. For skilled immigrants, it systematically removes the necessary conditions to participate meaningfully both in the local economy and internationally, in the globalized world. On the personal level, it creates stagnation in personal careers, and worse, tragically for some, the death of their professional careers.

6. Canadian Constitution and Charter of Rights

The constitution of Canada is made up of two documents:

1) The British North America Act of 1867, renamed the Constitution Act 1867 in 1982. Immigration is covered under Constitution Act, 1867, Section 95 concurrent Powers of Legislation respecting Agriculture, Immigration etc. which states:

In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

2) Schedule B to the constitution comprising the Canadian Charter of Rights and Freedoms of 1982.

Contained within the latter document are sections pertinent to continental and global levels of governance which form the basis of the discussion in this paper on international mobility, immigration, equality, equity and employment.

Within this framework, governance structures have been instituted at the clearly constituted federal and provincial levels while municipalities have evolved as a substructure of the provinces. But continental and global governance structures, that to an extent have been made viable through the constitution of the Charter of Rights and Freedoms and international human rights instruments, are still evolving and have as yet to become established as institutions. An examination of equality and equity in the employment context will bear this out.

7. Equality and Employment Equity

At the Federal Level

Equal opportunity was used to define equality in employment for all Canadians when the first Canadian Bill of Rights was introduced in 1960. Equal opportunity was based on the idea that if discrimination were ended, all Canadians would have equal access to equal employment opportunities. (16)

In the 1970s, increased pressure from women and minority groups led all three levels of government in Canada (federal, provincial and municipal) to establish special programs to improve the employment situation of these groups. Human Rights commissions were set up in all provinces and parliament enacted the Canadian Human Rights Act. (16)

This was followed in 1978 by the federal government Affirmative Action aimed at private industry on federal contracts and by 1979 federal contractors and Crown corporations. This

program targeted Aboriginal peoples, Blacks in Nova Scotia, persons with disabilities and women. (16)

Several studies revealed in the 1980s that persons with origins in developing countries experienced higher rates of unemployment and earned less than other Canadians, and had difficulty finding work in their chosen fields (17,18).

Consequently, The Royal Commission on Equality in Employment⁵ was established in 1983 to address the lack of progress through the voluntary affirmative action programs. In 1984, Judge Abella, who headed the Federal Royal Commission to explore a means of promoting, "Equality in Employment" tabled a report that defined "employment equity" a term coined to refer to measures to eliminate discriminatory employment barriers and procedures as a "strategy to obliterate the present and the residual effects of discrimination and to open equitably the competition for employment opportunities to those arbitrarily excluded. It requires a special blend of what is necessary, what is fair, and what is workable" Presumably the same designated groups (Aboriginal peoples, Blacks in Nova Scotia, persons with disabilities and women) were the targets of this report. Also in 1984, the Parliamentary Committee on Participation of Visible Minorities in Canadian Society produced a report, *Equality Now!* This report described Canadian society as constituting a "vertical mosaic" in which some ethnic groups were, economically and socially, more privileged than others. Eighty recommendations were put forward, of which several were aimed at employment. These two reports prepared the ground for the *Employment Equity Act* of 1986 (19, 21, 22)

In 1985, 'Visible Minorities' (people of colour) became a designated group in the Public Service. Figure 1 (13), shows that the significant demographic shift in immigrant source countries from which the people of color came took place after 1985 after which year immigrants mostly comprised skilled immigrants, who were inadvertently pulled into a constitutional framework which designated them as needing special protection. This of course took them out of the mainstream, where they would have had the possibility of equality of rights due to them tested and evolved into equitable employment outcomes such as were being enjoyed by the mainstream. Instead, these skilled immigrants who came after 1985 were drawn into a web of legislation and services designed for a group that did not have the same level of skills and experience as they themselves possessed. They were paradoxically marginalized by the very policies that were designed to bring them into the mainstream.

⁵ See also endnotes. It was as a result of this 1984 report of the Royal Commission that:

- Section 15 of the Charter of Rights and Freedoms on protection against discrimination came into effect. Sub section 15 (2) of this acknowledges that equality requires conditions of disadvantage to be addressed so that the argument that employment equity is 'reverse discrimination' is not legally binding
- In June 1986, the federal government introduced a bill with respect to 'employment equity' a term coined by Judge Rosalie Silberman Abella to describe a distinct Canadian process which would recognize that "systemic discrimination" was responsible for most of the inequality found in employment and for achieving equality in all aspects of employment.

Employment equity⁶ is described in the HRSDC (20) website as an on-going process used by an employer to identify and eliminate barriers in an organization's employment procedures and policies, setting up practices and policies to eliminate effects of the systemic barriers and ensure appropriate representation of the designated group members: women, people with disabilities, Aboriginal people and members of the visible minority.

A review of employment equity in 2002 showed that on the basis of the 1999 workforce data, representation of persons with disabilities and Aboriginal peoples in workforce fell below market availability while women and visible minority lagged behind in several occupational categories demonstrating a concentration in lower paying jobs. (24)

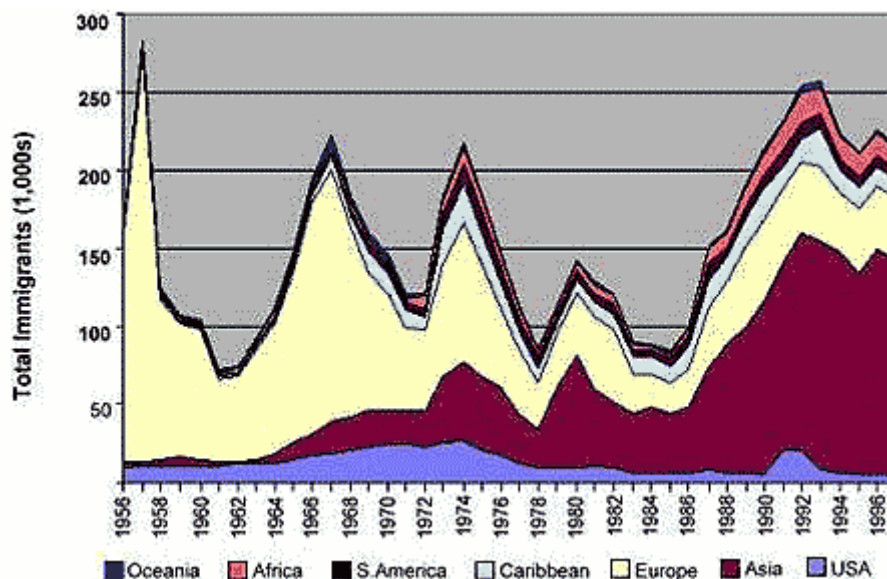


Figure 1: Source Sustainable Development Report
http://www.sustreport.org/signals/canpop_imm.html

It is noteworthy that between 1985 and 1997 (20):

- Immigration from traditional invisible minority source countries (mostly East European countries) decreased significantly around mid eighties while immigrants from non-traditional countries (mostly visible minorities) began to increase in late eighties, before which time the latter did not have a significant impact on immigration rates.
- Uncertainty, stagflation, declining productivity and growth and rising unemployment characterized Canada at this time so that the economy had to be restructured from a resource- and manufacturing-based economy into a service-based economy, calling for a

⁶ Kallen (2003) (14) describes formal equality as that which “prescribes identical treatment of all individuals regardless of their actual circumstances” and substantive equality as that which “requires that differences among social groups be acknowledged and accommodated in laws, policies, and practices to avoid adverse impacts on individual members of the group” The right of equality is often used to formally represent equality of opportunity and equality of outcomes. From a human rights perspective, this right implies “equal consideration for all”.

structural shift in the importance of knowledge and education for success. Between 1985 and 1997, immigrants from knowledge-based occupations increased as follows (25):

- 1500% for computer scientists;
 - 1000% for engineers;
 - 800% for natural scientists; and
 - 400% for managerial workers
- The majority of these highly qualified and trained immigrants chose Ontario as their home in Canada.

At the Provincial Level in Ontario

As stated by Bakan and Kobayashi (26), there exists an impasse in the effective implementation of employment equity policy with regard to the implications it holds for the advancement of visible minorities within the provincial government sector. This particular study was based on the premise that there is a recognizable gap between legislative policy designed to promote greater workplace diversity for groups that have experienced systemic oppression within Canada and the effective implementation of such policies in the workplace. It found that there are two very difficult aspects to this equity impasse:

- The policy discussion in equity contains conceptual and ideological barriers deeply embedded in historic oppressions expressed in subtle ways to identifying, understanding and normalizing equity objectives; and
- Contradictions among the objectives of different players within the Canadian public services that create frustrations, fears and bottlenecks which need to be addressed by political rather than policy initiatives. Differences at the provincial level express regional identities.

The Ontario Employment Equity Act of 1993 was short-lived – it was repealed in 1995 by the next government⁷. Ontario also has legislation for a *Pay Equity Act*, (27) which ensures that men and women receive equal pay for work of equal value. The purpose of this Act is to increase the pay of employees in classes which are predominantly female where it is determined, by the process set out in this Act, that, by reason of sex discrimination, those employees are paid less than they should be.

⁷ In the 1995 election the Conservative Party in Ontario campaigned on a platform of repealing so-called “quota” laws. Those laws were contained in the *Employment Equity Act*. Many people confused the *Pay Equity Act* with the *Employment Equity Act*. The *Employment Equity Act* had established targets for hiring that would eventually require employers’ workforces to reflect gender and racial diversity of the area they operated in. The primary obligation under the *Pay Equity Act* is to ensure that women are paid equally with men for work of equal value. The *Employment Equity Act* was repealed in 1995; the *Pay Equity Act* survived. (27)

The inclusion of visible minorities in designated groups at the federal level in 1985 had significant implications as regards highly skilled, trained and experienced new immigrants with professional backgrounds who entered Ontario after this year. They found themselves drawn into a web of institutions to address the needs of designated groups within the mainstream. At the point in history when their numbers became most significant, the Employment Equity Act in Ontario, which had designated this group as protected was repealed in any case, leaving only institutional infrastructure to contain them within the disadvantaged and marginalized groups as identified by human rights legislation. Neither were they also expressly covered as a distinct and designated group under the Pay Equity Act. They found themselves identified only with and alongside groups traditionally marginalized within mainstream society. In a position of disconnect with the mainstream host community, and relegated to a presumed position of disadvantage – dare one say of inferiority - these skilled, trained and experienced immigrants and international professionals took on an unwarranted aspect of risk for employers. Employers and institutions then began to impose inaccessible and virtually unattainable conditions such as ‘Canadian Experience’ on an otherwise talented pool of labour. In Ontario, therefore, there is the distinct possibility that paradoxically legislation meant to protect equality rights may possibly have had the double-edged effect of discouraging equity for skilled immigrants, who also happen to be visible minorities.

The Province of Ontario shies away from equity principles or pay equity for visible minorities, who remain bound only by equality driven legislation through the Ontario’s Human Rights Codes⁸, a strategy which has previously been found wanting.

Insufficient institutional and other mechanisms to support human rights protection at the juncture between conditional citizenship or permanent residency and formal citizenship within Canada, combined with the lack of enforcement mechanisms of extra-jurisdictional authorities such as the United Nations, weaken further the rights claims for conditional citizens such as newcomers to Canada. The right of newcomers to employment in their fields of training and choice are also weakened by the widespread practice of de-legitimizing and downgrading the value of knowledge, experience and credentials of skilled immigrants from specific parts of the world. Weak extra-jurisdictional authority prevents the enforcement of universal rights, morally available to all of humanity, such as Article 1 of the International Covenant on Economic, Social and Cultural Rights that “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development” (28).

8. The Case of Internationally-Educated Professionals in Canada: Lost Ground or Failed Experiment?

‘In spite of having uniquely constituted a Charter of Rights’ in 1982, Canada is showing the classic syndrome of, in Boyce’s (4) words, “the protection of capital having outpaced the governance of protection of human well-being”. Further to this, are statistics that point to Canada’s need for and reliance on skilled immigrants. It is estimated that 100% of Canada’s net labour force growth will come from immigration. Within 20 years it is estimated that Canada will be facing a labour shortage of up to 1 million workers. One third of Canada’s labour force will be retiring by the end of the decade. Approximately 60% of skilled immigrants come to Ontario. In short immigration is an economic necessity for Canada and especially for Ontario (29). Yet, as is particularly demonstrated in the case of new immigrants in general and internationally-trained

⁸ For more specific aspects of the human rights codes relevant to the present discourse see endnotes.

immigrant professionals in particular, many skilled immigrants face under-employment, un-employment, and even poverty, as evidenced by the following:

- During the 1980s and early 1990s, studies predicted an oversupply of physicians which resulted in policy development designed to limit the supply of physicians. In Ontario, the first direct response to these reports was the recommendation of the Joint Working Group on Graduates of Foreign Medical Schools in 1986 to limit access for international physicians, a policy which has a dramatic, negative impact on physicians immigrating to Ontario after 1986. Today, Ontario and provinces across Canada are experiencing critical shortages of physicians, the extent of which is expected to increase as the negative effects of limited access for international physicians, medical school seat reductions and retirements are fully realized, and are now struggling to reverse this trend. (30)
- In the period 1997-2001, 60% of all skilled immigrants identified themselves as engineers (39,145); an additional 15% (9,627) identified themselves as engineering technicians and technologists, making up a total of 75%. Preliminary findings of a recently completed survey in Ontario of 536 internationally-trained engineering graduates, technicians and technologists from forty nine countries by the Council for Access to the Profession of Engineering (CAPE) show that less than 17% are working in a field related to their expertise, over 30% are in jobs not related to their training and over 50% are currently unemployed. (29,31)

Recent newcomers (arrivals during the 1990's) have not fared as well as previous cohorts of immigrants to Canada. There is an income and employment gap between visible and non-visible minority immigrants. Poverty has increased for visible minorities in Toronto, (32). Figure 1 illustrates the shift in immigrant source regions during this period (13) highlighting clearly a shift from East – West movements of people to more global flows in the last twenty to thirty years. A contextual explanation for the poorer economic integration of recent immigrants to Canada in the last two decades may be explained on the basis of trends embedded in this country's immigration history.

Fundamental changes have taken place in world political economy and new perspectives have emerged to describe global social and economic development in this time period. These perspectives have been insufficiently captured in policy debates and policy implications here in Canada. To comprehend these changes, one would need to consider the historical basis of frameworks of development, beginning with colonial periods of history.

Colonialism flourished on an imbalance of power that viewed colonized peoples as having a distinctly inferior identity, sharply distinguishing them from the colonizers, who were mainly from the West (33). Empire building, industrialization and capital formation were seen as the tripod of development which fell mainly in the domain of the Western colonizers.

The post-colonial dichotomy of North and South, growing out of this previous basis of development and colonialism sustained some of these beliefs of the inferiority of peoples and nations through a shift to trade driven by developed countries (the North) and international aid as assistance for the developing countries (the South) being the foundation of development and industrialization of the post-WWII era. Within this inequitable framework, the 'South' largely provided the markets and raw materials, while the 'North' sold manufactured goods. In the early 1970's with the formation of Oil Producing and Exporting Countries (OPEC), limits to growth models and calls for a new international economic order through the North-South construct of the world, prescriptions to these inequities began to emerge. Many countries in the 'South' reacted by

shifting to import substitution policies and development paradigms focusing on provision of basic needs, leading to the consequence that markets for manufactured goods from the north began to shrink. The oil crisis of the 1970's had precipitated a global economic slowdown as well as stagflation and uncertainty in much of the 'North'. This combined with shrinking markets in the South in turn, led in the 1980's to East-West competition and trade wars between Western Europe (East) and North America (West). The consequence was rapid technological development in the North fuelled by the resulting East-West competition for markets combined with the rise of the 'tiger' economies in South-East Asia and the strengthening of the roles of India, China, Germany and Japan in the world. In addition, awareness of unfair terms of international trade and power imbalances between the 'North' and the 'South' that had led to a call for a New International Economic Order at the Summit Conference of Non-Aligned Nations held in Algiers in September 1973 gained heightened awareness. In the midst of these changes, a critical mass of skilled labour emerged in many developing regions of the world (34)

At the height of this East-West competition, and greater understanding about the finite nature of world's resources, an increasing realization began to creep in about the global nature of problems facing humanity (increased insecurity, population demographics, environmental degradation, food insecurity, as well as the non-sustainable nature of the bi-polar world) – all needing global solutions and institutions for human centred development (34). With the collapse of communism in Russia ending bi-polar power structures global issues took a centre stage. Economic globalization based on free trade areas (NAFTA, ASEAN, PTA, ECC, SARC etc) has become the central developmental consideration as articulated in the call for the new world order after the collapse of Russia.

Mathias Koenig-Archibugi (35) argues globalization has become the lens that increasing numbers of people use to view and make sense of a changing world. Economic globalization defined as the involvement of a growing number of people and countries in 'the world market' has many supporters. These supporters hold the view that increasing numbers of consumers and producers can enjoy the benefits of economic liberalization, competition and innovation. They also believe that increased transnational flows of people, ideas and communications lead to better understanding across cultural boundaries. However it has also acquired a threatening meaning for many people who fear that economic globalization exposes workers and firms to unwelcome and unfair competition from abroad and increases the risk of production activities being relocated elsewhere under increased competition. This hostility is further fuelled by the fear that cherished and distinctive ways of life will disappear as a consequence of cultural standardization (35, 36).

Skills and knowledge play a pivotal role in this new world so that the basis of seeing the innate inferiority of peoples from particular parts of the world in the past has been and continues to be demolished. The shift to knowledge-based economies by the 'developed' world, skills and knowledge based immigration policies, supported by greater technological integration, has become the recognizable economic character of globalization. The Canadian government's publication 'Canada's Innovation Strategy' is a reflection of this awareness (37) However, what have been less well-articulated are two critical concerns about globalization:

- The fear that this development will erode democratic governance, and
- The belief that it will increase inequality and injustice.

Both concerns call for a human-centred approach to global governance – one that respects the needs, rights and aspirations of all peoples (34,35,36).

9. Equity - The changing context of equity discourse

This section of the paper outlines our discussion with regard to existing legislative instruments, practices and policy definitions.

Our analysis of equity begins with the truism that everyone is different and yet the same. Superimposed on obvious differences of features and attributes such as age, gender, physical appearance, color, learning, ability and values in people, is the critical element of power differentials amongst people and nations. The latter is a consequence of the social value ascribed to attributes enumerated above, differential distributions of resources within a society, political and economic frameworks, national ideologies of superiority of peoples embedded in colonial history and its after-effects of poverty-creation and underdevelopment among others. This complex cocktail of power-dynamics raises implications for all Canadians that need to be taken into account in policy development and institutional practices. Equity takes into account and balances out constituent elements that cannot be changed such as skin-color or country-of-origin that favour or discriminate against a particular country of training or education. In Canada, a greater understanding of changes that have taken place in international reality in the last half-century would go a significant way towards understanding the need for principled and philosophical motivations for equity. Our humanity affords us a universal understanding of the equality of consideration due to every human being.

We believe that Canada, by virtue of its anti-discriminatory immigration policy since 1967, has, for some time, arrived at a new plateau of development, created through the intensification of diversity within its population. It is in a unique and favourable position of being able to lead the world by instituting democratic change in governance for a global world - change that will serve to enhance the well-being of the peoples of the world within its borders. If it succeeds, it would have much to offer the world. If it fails, it fails the world, the nation and its skilled immigrant population.

In their trans-global move to Canada, new immigrants to Ontario, face a period of transition during which they fall through a “citizenship gap” described earlier. Through this deficit of full membership of society, they encounter a shortfall of necessary protections for their universally entitled, moral rights such as the “freedom to decide and to make the crucial decisions affecting one’s life destiny” by being forced to subscribe to an assumed position of disadvantage through their presumed membership to a designated group.

It is our position that this has come about largely because of the inability of many employers, to recognize the worth and promise of skills, attributes, experiences and values of new immigrants. In large part this is due to a denial of the full value of diversity itself and immigrant differences from Canadian norms. It is, as well, a failure to acknowledge and trust in the aims of an immigration policy calculated to advance Canada’s development to a knowledge-based economy that can take on global competition and the denial of the potential of its new citizens to be part of that evolution. At the heart of this is Canada’s failure to live up to its moral obligation to humanity, represented by the diverse peoples of the world who make up its immigrants.

Recent, skilled immigrants to Canada strongly believe in their ability to contribute to Canada, because of shared skills and knowledge and not despite, but especially because of, the diversity of their attributes and experiences. They have, by the act of immigration and continually after, expressed their willingness to be a part of Canada, a place they continually find themselves negotiating for.

Too many institutions in Canada are still embedded in pre-global mode, looking for conformity to their own familiar norms and standards. They shortchange themselves and Canada of the opportunity for change and growth when they depreciate the abilities, ideas and contributions of immigrants. At the same time, they fail to take responsibility for the ways in which they sustain inequity by their practices and their responsibility for immigrants, particularly their accountability for the de-skilling of skilled immigrants, their under-employment and unemployment, their poverty and the deterioration in the quality of their lives.

While rights, equality and equity legislations have led to the constitution of instruments that together were intended to enhance the well-being of all Canada's peoples and put into effect the move to globalization, failure to institute these meaningfully has meant that Canada is now not ready for the 21st century. Skilled immigrants have been the first casualties of this failure of process, reflecting what Boyce (4) has described as "governance for the protection of capital" outpacing "governance for the protection of human wellbeing" - this despite the fact that skilled immigrants have the capacity to link the pre and post-globalized world through a knowledge-based economy.

Some examples will illustrate these self-defeating practices. Canada today accepts goods from all over the world, from chips to microchips, produced to national or international standards elsewhere, and certified through processes such as the International Organization for Standardizations (ISO) certifications. These are goods Canadians accept and enjoy in their homes. Yet it is unable to accept the same people from these countries who come to produce or use these goods in Canada, or to apply the same tools in Canada. Thus, an engineer who produces televisions in Asia and has economic collaborations with Canadian contractors is not recognized in Canada. These are the paradoxes that come from the mindsets, consciousness and consequently, practice of people and institutions not moving into the globalized era. Yet another example to illustrate the general lack of readiness for the global world is that, where increasing the range of other languages within a country is seen as a positive factor of production in other parts of the world, Canadian employers often focus exclusively on facility in one of the two official languages, English or French, in Canada. This compromises Canada's competitive edge in the global economy.

This appalling failure to rise up to the challenge of new international realities, in instituting what has been constituted through legislative instruments has led to the creation of new institutions, such as credential recognition on an individual, case-by-case basis, through evaluation networks, that are often perceived as creatures of confusion and disconnects.

The structure of regulation has become ever more labyrinthine, as more professions are drawn into an already massive and unwieldy legal framework.⁹ Regulation has become its own worst enemy, insulating professional organizations into a thickly woven cocoon of legislation that prevents its own development. To add to all the confusion in the labour market, the term "Canadian experience" is continually utilized, when in truth, no one can identify, describe or define its constituent elements.

⁹ +An example of this is how engineering and law connect in Canada. International Organizations such as FIDIC, having global outreach, have established conditions of contract, arbitration and conflict resolution for engineering projects. Some countries such as Britain have done the same through engineering institutions e.g. The Engineering Council member Institutions so that these set of legal instruments can be instituted in other countries and parts of the world making these countries internationally mobile. Canada by taking engineering as well as professions into the main body of law through regulation and other such instruments has isolated the application of its engineering practice as set out in Canada in other countries.

For there to be equity, there must be a commitment to democratic ideals for immigrants. The flip-flop of positions at the provincial level in its equity legislation, and the lack of legislative flow of the principle of equality from federal to provincial levels as enacted in employment equity acts, fails to acknowledge the problem. This lies not in the constitution of these positions or the instruments themselves, but in the instituting or implementation of the ideal of equality within the labour market and occupational regulation.

Our definition of equity is a vigilant, on-going, dynamic process that recognizes:

- *Diversity of peoples, their common humanity, intrinsic worth and dignity, and;*
- *Differential relations of power and material circumstances between groups in society whether through historical, present or evolving circumstances that require interventions to rebalance.*

This definition balances out the above considerations, to restore equality through the continual instituting of mainstreaming processes, within a democratic vision for a globalized world.

The immigrant position is that there is only one place for them within Canada – within the mainstream of all economic and social institutions of the country. The focus should be on instituting or implementing equity and equality within these mainstream institutions. Mainstream funds should be put to creating the necessary investments for instituting equality of opportunity for skilled immigrants - that lend themselves to immigrants helping themselves. A reversal of mindset and strategy is called for – one that assumes the right of skilled immigrants to full labour-market participation and their right to contribute to building a knowledge-based economy in Canada.

10. Canada – In the Face of a New Reality

What this paper suggests is that against this global backdrop of fundamentally changed frameworks of international development, the weakened protections through conditional citizenry for the increasingly diverse skilled immigrant flows of people from around the world to Canada has brought to the fore latent North-South and East-west trends embedded in the historical past of Canada and other nations. This includes beliefs that sustain colonialism, the East-West competition and its aftermath of global redevelopment and resolutions of ‘developing’ nations towards more equitable changes in the power-dynamics of international institutions. Unresolved issues at the international level compound the vulnerable status of skilled immigrants on the global wave towards knowledge-based societies.

A new international reality with decentralized and reconstituted economic centres of power poses its own challenges to the labour market integration of people on the global move towards knowledge-driven economies. A particular challenge for Canada is instituting the reality of shifting from the historical economic and non-globalized frameworks of the last fifty years, to the new human-centred and knowledge-driven framework of today. This is insufficiently reflected in broad policies and has barely been engaged in the labour-market practices of Canada. Yesterday’s exporters are today’s importers and today’s immigrants are tomorrow’s knowledge-drivers as a result of this changing reality. So far, Canada has been bypassed by this paradigm shift. That the immigrants Canada has deliberately wooed in the last two decades are individuals from this more evolved paradigm shift in human development at the international level is little understood.

Skilled immigrants often wonder on what basis Canada's home-grown labour force, including employers claim superiority. Whether it is on economic or other human social developmental terms, international reality no longer admits room for foundations and notions of superiority and inferiority, all of which are part of a political dynamic with roots in colonial and pre-cold war eras. The challenge for Canada is to evolve structures based on the reality that the old frameworks of North and South or East and West have been replaced by a new international matrix of globalization. The public debates on Canadian experience and Canadian standards as barriers to labour market integration stem from outdated political realities. Any dynamic that seeks to project explicit or implicit notions of superiority and inferiority as a political theory, seeking to continue the inequities that cater only to the needs of a few is a product of the past. The failure and incapacity to understand the knowledge and skills of immigrants to propel Canada's move towards globalization and a knowledge-based economy test Canada's claims of being a leader in this sector, in the world.

What has been revealed in Canada today is the urgent need for a new, and as yet, unrecognized realism for wider sharing of power between the native-born and immigrant populations. Economic globalization requires the recognition of the centrality of human aspirations and goals for the optimization of human capital. (34)

The discussion contained in this paper offers an immigrant perspective on positions that have to be adopted to rise to the challenge posed by this new realism. By virtue of its "experiment in diversity" Canada is in a powerful position to evolve institutional structures based on its unique constitution to meet this global challenge and lead the way in instituting governance for the "protection of human well-being" in the context of a globalized world.

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END NOTES *(Additional background to footnotes)*

5. The Employment Equity Act of 1986:

“The purpose of this Act is 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 fulfillment of that goal, to correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities and members of visible minorities 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 differences”

The act referred to the principle of fairness in employment. “The purpose of an employment equity program is to ensure that all equally qualified individuals have equal access to positions and that their qualifications are assessed in relation to the requirements of the position. The program seeks to eliminate any recruitment, selection, promotion, or training practices that have the effect of being discriminatory and to provide a workplace where individuals are treated with respect” (14).

In October 1996, The Second Employment Equity Act came into force. This focused on clarifying and enforcing employer obligations and covered private sector employers under federal jurisdiction as well as almost all employees of the federal government. Section 44(1) of this Act called for a review of the Employment Equity act in five years after it came into force and at the end of every five years thereafter.

The first Employment Equity Act Review carried out in 2001 showed that:

Based on 1999 workforce data, representation of persons with disabilities and Aboriginal peoples in workforce fell below market availability while women and visible minority lagged behind in several occupational categories demonstrating a concentration in lower paying jobs.

The Canadian Human Rights Commission had not had the opportunity to audit all employers in the federal jurisdiction to evaluate if they had implemented or were planning to implement policies and practices to ensure a welcoming environment for all Canadians.

8. Canadian Charter of Rights and Freedoms – Section 15

Probably the best-known and best-loved section of the Canadian Charter of Rights and Freedoms, constituted in 1982, is Section 15 on Equality Rights. It states “(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 based on race, national or ethnic origin, color, religion, sex, age or mental or physical disability.” Section (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, color, religion, sex, age or mental or physical disability.” The section identifies specific, enumerated grounds for prohibitions against discrimination, but a reference is made to prohibition on analogous grounds as well. Grounds not identified are immigration status, country of training or education – as instances of diversity or minoritization.

Relevant to the discourse on Access to Professions and Trades as well, is section 6 on Mobility Rights.

- (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - a) to move to and take up residence in any province; and
 - b) to pursue the gaining of a livelihood in any province.
- (3) The rights specified in subsection (2) are subject to
 - a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and
 - b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.
- (4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.”