Job Quotas Repeal Act a Plague for Community

By Dr. Lorne Foster

The parchment ink was hardly dry on *The Employment Equity Act* of 1993 – which was designed as a set of practices to accommodate the ethno-racial diversity and enhance the rich texture of the Canadian mosaic in the workplace – when it was legislatively abolished by *The Job Quotas Repeal Act,* and the Harris Conservatives "Commonsense Revolution."

Enough time has past to reflectively recount the abridged chronology of events and social change that has followed.

After the Royal Assent of *The Job Quotas Repeal Act* in Ontario on December 14, 1995, the Alliance for Employment Equity, a group representing hundreds of community and labour groups who support mandatory measures to eliminate discrimination in employment, immediately filed suit, arguing that the government had a positive duty under the equality provisions of the Charter or Rights and Freedoms to enact employment equity legislation. In the alternative, they argued that, even if it had no positive duty to enact the legislation, the government was obliged to leave existing employment equity legislation in place. Finally, they contended, the repeal of the legislation had resulted in a "poisoned environment" which contravened their Charter rights.

No Constitutional Duty

On December 9, 1999, at the end of the judicial due process, the Supreme Court of Canada confirmed two prior lower court decisions and dismissed the application by the Alliance for Employment Equity, holding that there was "no constitutional duty" on the government to enact laws in a certain area. The application of the Charter was confined to government "action as opposed to inaction". The court determined that societal discrimination was not of the government's creation and the government was not under a Charter obligation to address it. Nor was there a right under the Charter to force the government to retain intact previously enacted legislation. As to the poisoned atmosphere argument, any distinction that may have arisen following the repeal of the Employment Equity Act was indistinguishable from that which existed prior to its enactment. Such distinction was not legislative, but societal and the repeal of the Act did nothing to alter its intrinsic character.

Upon its vaunted legal victory, the provincial government described the exercise of its prerogative not to provide remedies for racial inequality, as "rebalancing labour laws" (righting the ship, so to speak, on *reverse discrimination* by minorities); and, as a clear-cut sanction and opportunity to "stimulate job creation" (denuded, of course, of racial considerations).

In this connection, it was recently reported that more than 600,000 new jobs have been created in Ontario since 1995. The government's racially denuded jobs and growth plan, which was centred around the repeal of the so-called "job quotas laws" (aka –

employment equity), resulted in a record 265,000 jobs being created between February 1997 and February 1998 – purported to be the fastest annual growth in Ontario's history.

Falling Below Poverty Line

Now let's consider some of the un-denuded social facts. A recent government study confirmed that Canadian-born Black males earn 16% less on average than Canadian Born White males of British origin with the same level of education and socialization in Canada. Further, the income divergence between Blacks and Whites increases proportionally in relation to increased levels of formal education. Meanwhile, as compared to the general population, there are now twice as many Blacks who fall below Statistics Canada's low-income-cutoff -poverty-line. In addition, the unemployment rate for Blacks in this country is now higher than it is in the United States, where Black unemployment is double that of the whole nation. On top of all of this, for Black youth in Canada, ages 16 to 24, unemployment hovers at 25 percent for males, one of every four. Moreover, for same age group, homicide is the leading cause of death with numbers since 1996 in Ontario continuing to escalate exponentially, while the frequency of suicide is also on the rise.

Any sociologist worth his or her salt will tell you unequivocally that *The Job Quotas Repeal Act* is the "bubonic plague" of the Black community.

Rat Flea Torment

But there is more. The rat flea torment of *The Job Quotas Repeal Act* is not contained in the Black community. Last year, for instance, Statistics Canada reported that the cost of keeping a prisoner behind bars was $67,160 a year – or $184 a day in 1999 – with nearly 75% of the money spent on custodial services, while the remainder was spent on community supervision programs, administration costs and parole boards. Since there are now five times as many Black men incarcerated as there are White men in relation to their respective population in this country, the cost to the general public of not having Black people in the workforce is very high.

On the other hand, it is also axiomatic that one of the most significant job-growth areas and innovations in "job creation" that has come out of the Common Sense Revolution in the last seven years is privately-run *Superjails* (on the model of the shiny new one in Penetanguishene). While Black men learn to live between emasculation and incarceration – reverberating between hell and the cell, rage and the cage – the Common Sense Revolution has at least had enough economic common sense to recognize Black torment as the source of a potential growth industry.

However, when the elation of the seven-year victory party of the Job Quotas Repeal Act is finally over, it will be time for all good people in this country to start to do the math on right and wrong, as well as the math on job starts and prison enrolment – beginning with the fundamental inhumanity of a government that has legal jurisdiction over matters in which it is morally, politically and socially bankrupt.

Author's Note: For more information about the Black Coalition for the Advancement of Ethno-Racial Harmony and the "Repeal the Repeal" Campaign call 416-785-4966.