



The Federal government MUST take action!

The Importance of Federal Pay Equity Legislation for Women's Equality

Thirty years ago, the federal government passed a law making it illegal to discriminate against women in the workplace. Yet pay equity is still illusory for women, and recent studies show that the wage gap is actually increasing. Women need action from our government to ensure that our fundamental human right to pay equity is finally respected. We call on the federal government to adopt pro-active pay equity legislation now!

Background

In 1977, Parliament adopted the Canadian Human Rights Act. This law applies to all persons working in federally regulated workplaces, such as the banks, the telecommunications companies, trains and airplanes, and of course the federal public sector. Roughly 10% of Canadian workers are covered by this legislation.

The Canadian Human Rights Act prohibits discrimination based on sex, race, ethnic origin, sexual orientation and other grounds of discrimination. In particular, the CHRA Act prohibits discrimination in employment, and it specifically provides in section 11(1) that, "it is a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value." The Act further states that the criterion to be applied when assessing the value of work is "the skill, effort, and responsibility required in the performance of the work and the conditions under which it is performed."

The Canadian Human Rights Act provides for a "complaints-based" process: it is up to the woman who is the victim of pay discrimination to gather her evidence and to file a complaint before the Canadian Human Rights Commission. Unfortunately, it takes years, often decades for the Commission to process a complaint, and for a tribunal to reach a decision on a pay equity complaint. Employers usually use procedural tactics to

delay the proceedings and to discourage complainants. This complaints-based system is simply not working for women!

An ineffective system

PSAC women know all about the problems with the current system. The union filed a complaint against Treasury Board on behalf of six female-dominated groups in 1984.

A joint union/management equal pay study followed over the next four years. When Treasury Board failed to fully implement the study results, the union filed another complaint with the Human Rights Commission. It took nine more years that included extensive Tribunal hearings, employer legal challenges and an appeal of the Tribunal decision to the Federal Court before Treasury Board agreed to a settlement. Members finally started receiving cheques in the year 2000.

The PSAC complaint against Canada Post dates back to 1983 and it still has not been resolved. A Tribunal decision was finally issued in October 2005 after 415 days of Tribunal hearings and court challenges. The transcript of the hearings alone exceeds 44,000 pages. Within minutes of the Tribunal decision being released, Canada Post filed for judicial review. The Federal Court (Trial Division) overturned the Tribunal decision and PSAC has had to file an appeal to the Federal Court of Appeal. This case is certainly not over yet after 25 years! And these are just two examples.

Despite the fact that it has been 30 years since the Canadian Human Rights Act was adopted in Parliament, women working full time still earn on average 70.5 per cent of the male wage. The situation is even worse for women of colour who earn only 64 cents on the male dollar and Aboriginal women, who earn an appalling 46 cents on the male dollar. Clearly the current legislative framework is simply not working.

The situation is so bad that in 2003, the United Nations Committee against Discrimination against Women commented very negatively on Canada's track record on pay equity, and recommended that the federal government take concrete measures to improve the situation.

Pay Equity Task Force report

The ineffectiveness of the federal complaints-based law led the World March of Women 2000 in Canada to identify the adoption of proactive federal pay equity legislation as a priority demand. Women mobilizing had an impact. In 2001, the federal Minister of Justice appointed a Pay Equity Task Force to examine the problems with the current system, and to develop solutions.

The Pay Equity Task Force spent three years doing extensive research on the issue, consulting with unions, women's groups and human rights groups across the country, holding roundtables with unions and employers to understand the problems and explore the solutions that were developed in other jurisdictions, in particular in Ontario and in Québec.

In May 2004, the Task Force issued its report entitled "*Pay Equity: a Fundamental Human Right*," recommending:

- The adoption of a new proactive pay equity law.
- The expansion of pay equity coverage to include women **and** Aboriginal workers, workers with disabilities, and workers of colour.
- All employees in the federal jurisdiction be covered by new pay equity legislation, including non-unionized employees, part-time, casual, seasonal and temporary workers.
- The new law include workers and their unions in developing pay equity studies and in maintaining pay equity over time.
- A Commission be set up to assist employers, employees and union and an expert Tribunal be established to quickly decide disputes between the parties

Determined to see the implementation of these excellent recommendations, the National Association of Women and the Law, in collaboration with the CLC, PSAC and other union affiliates and women's organizations, created the Pay Equity Network (PEN) in the fall of 2004. On Valentines Day in 2005, we sent every MP a huge heart, with the slogan "Pay Equity: at the Heart of Women's Equality." We held a press conference on the first anniversary of the Pay Equity Task Force Report.

In May 2005, the Standing Committee on the Status of Women issued a report calling on the federal government to table a bill on pay equity. In the fall of 2005, the Liberal Ministers of Labour and Justice promised the Standing Committee that they would table draft pay equity legislation by spring 2006.

... and then we had an election in January 2006.

Current federal inaction on pay equity

In 1998, when Stephen Harper was the head of the National Citizen's Coalition, he declared that *"For tax payers, pay equity is a rip-off. And it has nothing to do with gender. Both men and women taxpayers will pay additional money to both men and women in the civil service. That why the federal government should scrap its ridiculous pay equity law."* Therefore, it was no surprise that after the Conservatives won the election in January 2006, the government did a complete about-face in its approach to pay equity.

Soon after the new Parliament was convened, the Standing Committee on the Status of Women adopted another motion requesting that the federal government take action on pay equity. In September 2006, the Harper government flatly announced that it would not implement the recommendations of the Pay Equity Task Force, in its reply to the Standing Committee.

The Harper government is of the opinion that the provisions on pay equity in the Canadian Human Rights Act are sufficient, and that new legislation is not necessary. Instead of adopting proactive legislation, the government promised to increase inspections of workplaces, to assist parties in mediating any disagreements and to provide education to employers and employees in the federal jurisdiction.

In fact, all of these practices have been in place for over 25 years now. We know from bitter experience that they don't work. As long as there is no law to compel employers to review their pay practices and remove discriminatory wages, it just won't happen.

Without proactive pay equity legislation, the pay gap will simply continue to widen.

Women want action now!

The Harper government says that women are equal and don't need federal pay equity legislation. The government needs to wake up to the reality of women's economic inequality.

Don't let politicians tell you that women have reached equality when women still only make 70% of men's wages.

Contact your Member of Parliament and ask

- what he or she doing to ensure that women's rights to pay equity are being enforced; and
- what action he or she will take to push for the implementation of the Pay Equity Task Force recommendations, and support the adoption of a federal pay equity law.

The Public Service Alliance of Canada is deeply committed to ensuring that pay equity become a reality not only for our members, but for all women across Canada.

Let us know what response you receive from your MP.

Write to us at: cotea@psac.com
or call Andrée Côté,
PSAC Women's and Human Rights Officer
(613) 560-4328

Prepared by the Public Service Alliance of Canada