

# **Status report on pay equity in Canada**

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## **Introduction**

Last May 2 and 3, 2007, the National Association of Women and the Law, in cooperation with the Canadian Labour Congress and the other members of the Pay Equity Network, held a Canada-wide meeting on recent developments in pay equity. Activists from labour organizations and women's groups of Québec and several other regions of Canada attended this exceptional and inspiring meeting.

On May 2, participants made presentations on the state of their local struggles for pay equity, on recent developments in case law and research and on progress made in our attempts to ensure the adoption of provincial and federal legislation on pay equity. On May 3, we set up lobbying teams to meet with federal opposition party leaders and a representative of Labour Minister Jean-Pierre Blackburn, who did not have the time to meet with us... We apprised them of recent developments and we argued for the adoption of proactive federal legislation on pay equity.

We would especially like to thank the following persons who generously gave their time and expertise and helped make this event a success: Marie France Benoit, CNTU, Sherri Cameron, CUPE Airline Division, Annick Desjardins, CUPE, Fay Faraday, (Cavaluzzo Hayes Shilton McIntyre & Cornish, LLP), Sue Genge, CLC, Carole Gingras, Fédération des travailleurs et travailleuses du Québec, Ruth Rose, CIAFT, Chris Jones, PSAC, Aina Kagis, Saskatchewan Pay Equity Coalition and CUPE, Gisèle Pageau, Communications, Energy and Paperworkers Union (CEP), Johanne Perron, Pay Equity Coalition, NB, Daniel Raunet, SCRC, Fiona Sampson, Women's Legal Education and Action fund (LEAF), and Carrol-Ann Sceviour, Ontario Pay Equity Coalition and OFL.

In the following pages, you will find a summary of our discussions and a statement of the reasons why a proactive federal Pay Equity Act should be adopted.

### **1) The present federal system is as ineffective as always**

The *Canadian Human Rights Act* (hereinafter called "the Act") makes it illegal 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 criterion to assess the value of the work is "the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed". (Section 11).

When an employer refuses to pay "equal wages for work of equal value", it is up to the workers to lodge a complaint with the Canadian Human Rights Commission (CHRC) if they work in a sector under federal jurisdiction. The Commission then launches a pay equity investigation and, if it cannot bring the parties to settle the complaint out of court, it refers the case to the Canadian Human Rights Tribunal for investigation and decision.



However, the Act does not clearly explain the nature of the obligations of employers, nor the consequences of their non-compliance. It does not provide adequate instructions with respect to acceptable standards and methods to establish pay equity. This type of vague legislation encourages and extends costly legal proceedings that women, and especially poor women, non-unionized women or women of colour, do not have the means to institute. The process as a whole is too long, too costly and causes a great deal of frustration, especially for non-unionized women.

Unions have tried to use the process in order to obtain pay equity and have been faced with employers willing to spend years fighting in court. The courts challenge the ambiguous terms of the Act, such as “establishment”, instead of reviewing the merits of the case. Complaints lodged with the CHRC by female workers against Canada Post, Air Canada, the Canadian Broadcasting Corporation and Bell Canada clearly illustrate the deficiencies of the present system.

### Canada Post

Unionized clerical employees working for Canada Post provide one of the most striking illustrations of the system’s shortcomings. Over 21 years after lodging a complaint with the Canadian Human Rights Tribunal, they still have not obtained a settlement.

The complaint was lodged by clerical workers, represented by the Public Service Alliance of Canada (PSAC) at Canada Post who wanted to compare their job requirements, responsibilities, efforts and working conditions with those of the letter carriers. It took 8 years to carry out the investigation required by the Canadian Human Rights Commission since Canada Post refused to cooperate. In 1992, the case was referred to the Canadian Human Rights Tribunal and it took another 10 years for the Tribunal to investigate and hold its hearings. Since each side fought to contradict the figures provided by the other, it was very difficult to prove that there was a wage gap. Finally, the Tribunal took 27 months to hand down its decision. Fortunately, it was in favour of the complainants. Although the Tribunal determined that Canada Post had acted against the Act by not paying clerical employees wages equal to those of the letter carriers, the clerical workers were only entitled to half the amount claimed on the grounds that the wage gap had been overestimated. This was not only a half victory but also a short-lived one since Canada Post immediately appealed the decision. The case will therefore be heard by the Federal Court in November 2007. In one year, if the case has still not been settled, the union will highlight the 25<sup>th</sup> anniversary of this complaint! Many former employees are now dead and any compensation will be paid to their estate, if the case is ever settled...



## Air Canada

In 1991, Air Canada flight attendants, represented by the Canadian Union of Public Employees (CUPE), lodged a complaint alleging that the airline was not paying them fairly as compared with the wages of the pilots and mechanics. It took 15 years to get to the first step of the process because Air Canada claimed that the groups of employees compared were not working within the same “establishment” as defined in the Act.

The Commission decided to hear the complaint and agreed with the union on the meaning of “establishment” but Air Canada objected. The Commission then referred the complaint to the Canadian Human Rights Tribunal. The decision was not in favour of the workers. The Tribunal agreed with Air Canada that the complainants were not working in the same “establishment” as the group to which they were being compared, which included the airplane pilots. This was like saying that the pilots and flight attendants do not work in the same place! The union appealed the decision and the Supreme Court of Canada finally found in favour of the complainants. It took 15 years to get a decision according to which flight attendants and pilots work in the same “establishment”, and this was only the beginning of the process to arrive at pay equity.

Further to this decision, the parties took part in a conciliation process that failed. The union is now attempting to have the case referred to the Tribunal. However, Air Canada claims that the Commission does not have power under law to refer the case since an investigation on the value of the jobs or the salaries has not yet been carried out. The process is suspended and employees cannot hope to settle the dispute before quite a while.

In the meantime, former employees who are among the complainants need this money. Through a survey, the union has confirmed that some of the women involved live in low-rent housing and that wage adjustments for pay equity would not be a luxury for them.

The fact that Air Canada went bankrupt did not help this fight. If the Air Canada union eventually wins, the twelve first years will not be counted in the calculation of pay equity payments because of the bankruptcy. Payments will only cover the period from 2003 or 2004.

## Canadian Broadcasting Corporation

CUPE, representing CBC production assistants lodged a complaint on April 30, 1999 in order to challenge the wage inequity as compared with camera technicians working for the same institution. The Commission, who had not obtained any cooperation from the CBC, referred the case to the Tribunal. The Canadian Broadcasting Corporation challenged the decision before the Federal Court, stating that it had been deprived of its right to procedural fairness. CBC won. In 2005, the Federal Court ordered the Commission to carry out a new investigation. Back to square one, the case is still



outstanding. The main argument against the workers is that the occupational groups compared are not represented by the same union and are therefore not comparable. These various cases clearly show that the issue of the “establishment” is at the heart of the struggles for pay equity.

### Bell Canada

In 2006, after over 14 years of fighting for pay equity, the 4,766 Bell Canada operators in Québec and Ontario obtained a settlement of over 104 million dollars.

After several unsuccessful attempts to negotiate with Bell Canada, the Communications, Energy and Paperworkers Union of Canada (CEP) lodged a pay equity complaint with the Canadian Human Rights Commission on behalf of Bell operators in 1992. The Commission referred the complaint to the Canadian Human Rights Tribunal, which was not a success. After many challenges from Bell, the case was heard by the Supreme Court, which finally rejected Bell’s arguments.

Further to these disappointing developments, the parties agreed, upon the recommendation of the Commission, to go through a mediation process in order to try to settle the complaint. Thanks to this process, the parties finally reached an agreement in 2006.

The ratification of this agreement required meetings in 30 Québec and Ontario cities. Since most telephone operators entitled to compensation were either laid off or retired, the process to reach them and pay them compensation was quite emotional: most women thought that they would never see justice served. It took a great deal of ingenuity to find all the operators concerned (or their estate if they were deceased). Pay equity centres were set up so that former employees could phone them in order to receive their payment. The exercise required a humongous publicity campaign, which also served to make the public aware of the pay equity issue.

After 14 years of struggle, the compensation amount reached \$35,000 per person (including a \$6,000 non-taxable settlement for moral damages). The highest payments were of \$15,000 for pay equity adjustment and of \$19,000 for retroactive pension adjustment. Pensions, from the date of settlement and for the rest of the lives of the operators, were increased by between \$10 and over \$200 per month in some cases. These payments make a real difference in the quality of life of the women involved, as witnessed by the numerous letters of thanks that the union has received. Whether they used it to repay some debts or to take a well-deserved vacation, this money was not too much for these women who have suffered from discrimination all their lives.

Most former employees have now received compensation; the last payment was made in February 2007. However, some were impossible to reach. This is why there remains an undistributed amount of close to \$300,000 which Bell refuses to remit to the union as



provided for in the settlement agreement. The union, who thought it had settled the issue once and for all, is therefore in court again fighting to see to it that this money does not go back to the employer but to the union which, if it cannot reach the workers involved, will use it for activities in the human rights field. Who knows how long this last lap will take?

### Abuse of public funds

It is quite obvious not only that the present system based on individual pay equity complaints is totally ineffective but that it also involves inordinately high legal costs: Bell Canada spent between 5 and 8 million dollars to avoid settling the complaint of the operators. Bell Canada even used the interest on the money owed to the operators to pay the fees of its lawyers. In the case of Canada Post, it is estimated that the Corporation has spent over 2 million dollars per year to fight the clerical workers who lodged a complaint in 1983! It may therefore be concluded that, for the moment, the large legal firms representing the employers are the ones who benefit the most from the present system under the *Canadian Human Rights Act*. How can these Crown Corporations justify the use of hundreds of thousands of tax dollars to go to court and use stalling tactics?

### Need for a proactive Act

Under the present system, an employer is not required to take specific measures to promote pay equity within its establishment: it only has to wait until legal action is taken against it and it can then use a plethora of dilatory avenues and specious arguments to slow the process down and discourage the workers. The burden of real and effective implementation of pay equity is unjustly placed upon the party with the less means, i.e. individual workers. It should be placed upon employers or independent organisations.

In fact, the present system is so weak that the United Nations Committee on the Elimination of Discrimination Against Women urged the government of Canada, in 2003, to take appropriate measures to accelerate the implementation of pay equity.

In 2004, the Pay Equity Task Force concluded that the present system is ineffective and should be replaced by a proactive act requiring employers to take measures to ensure that all employees receive equal pay for work of equal value. Ten years ago, Québec adopted such a proactive act. A review of this first decade unequivocally indicates that the approach was a success.

## **2) The success of the proactive approach: review of the Québec experience**

In 1997, the *Pay Equity Act* came into effect in Québec. This Act was adopted unanimously by the National Assembly on November 21, 1996. The employers who



come under this Act must implement pay equity within their businesses and demonstrate that there is no wage inequity for “predominantly female” job classes.

#### A few characteristics of the Québec Act

The Quebec act is proactive and applies to enterprises with 10 employees; it provides different obligations which increase with the size of the enterprise. An enterprise with 10 to 49 employees must identify predominantly female and predominantly male job classes within the enterprise and determine the required adjustments. Enterprises with 50 to 99 employees must set up a pay equity program. This requires identifying predominantly female and predominantly male job classes within the enterprise, developing an evaluation method, estimating wage gaps and the required wage adjustments and setting a procedure for the payment of these adjustments. Enterprises with more than 100 employees must also set up a pay equity committee to establish a complete pay equity program.

Enterprises have four years to implement pay equity. Once this exercise is completed, an employer must post the results in visible and easily accessible locations, including information on the rights and recourses of employees. Lastly, an employer must then sustain pay equity and prevent the reintroduction of discrimination as a result of the creation of new job classes or the renewal of collective agreements.

#### Very favourable results

In the fall of 2006, the government of Québec issued a report on 10 years of application of the Québec Pay Equity Act<sup>1</sup>. This report is very positive. Indeed, ten years after the Act was adopted, not a single enterprise has closed because of a pay equity exercise. One out of two businesses (47%) said that it had completed the pay equity exercise. The proportion is lower among small businesses (44% for businesses with between 10 and 49 employees versus 56% for businesses with over 100 employees). One third of all businesses paid less than \$1,000 to carry out their pay equity exercise and a total of 70% of businesses paid less than \$5,000 in indirect costs of all sorts in order to comply with the Act (excluding the cost of adjustments as such). In 70% of cases, the impact on the payroll of the private business was lower than 1.5%.

To their great surprise, employers found that pay equity exercises have many beneficial effects: improvement of the work environment and labour relations, greater fairness within the enterprise, better knowledge of the various jobs allowing an update of wage policies, increased productivity, etc. Since the Québec Act required that they set up a transparent process, for instance by posting the results of the exercise in visible and accessible locations, employees could take part in the process and therefore felt much

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<sup>1</sup> Rapport du ministre du Travail sur la mise en oeuvre de la Loi sur l'équité salariale (Québec, Commission de l'équité salariale, 2006), on line: <http://www.ces.gouv.qc.ca/publications/rapp-2006.pdf>



more valued. These numerous positive impacts certainly changed the attitude of many employers towards pay equity since 82% of private enterprises (out of approximately 45,000 governed by the Québec law) stated that they would not have carried out a pay equity exercise if they had not been required to do so by the legislation.

After completing the pay equity exercise, 43% of employers felt that it had positive effects. In total, 28% of employees belonging to predominantly female job classes received pay adjustments. The average pay adjustment rate in private enterprises was 6.5%. In fact, according to a survey mentioned in the report, 55% of female workers said that they had received a pay adjustment of \$0.50 per hour or more. The average adjustment was of 3.9% for unionized employees and 6.4% for non-unionized employees. The law therefore had positive effects especially on non-unionized workers. It should be noted that the law also had a major benefit in reducing the wage gap between men and women from 16.1% in 1997 to 13.9 % in 2004 (according to the average hourly wage).

The Québec results were quite positive and well received by the public. Enthusiasm with respect to the Québec system should be a source of inspiration for the federal government.

### **3) The International Labour Office finds that the proactive model is the best**

In 1951, the International Labour Organization adopted the Equal Remuneration Convention, No. 100, which is one of the most widely ratified ILO conventions. However, throughout the world, the average income of women remains considerably lower than that of men. That is why the International Labour Office recently asked Québec based Professor Marie-Thérèse Chicha, to perform an assessment of the various equal pay promotion policies. The results of this assessment were made public in 2006 in a report entitled *A comparative analysis of promoting pay equity: models and impacts* (ILO, Geneva, 2006).

The ILO report compared three types of proactive pay equity systems in six jurisdictions: the model associating equal opportunities with equal results and requiring employers to carry out a pay equity exercise (Québec and Sweden); the model focusing more on equal opportunities and attempting to encourage the voluntary participation of employers (United Kingdom and the Netherlands); and finally the model based on the adoption of general legislation on gender-related discrimination including equal pay (France and Switzerland).

The report concludes that the results of the voluntary model used in the United Kingdom are so unsatisfactory that the Equal Opportunities Commission has stated that “voluntarism has proved a failure”<sup>2</sup>. The report finds that the French model entails a “low

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<sup>2</sup> Marie Thérèse Chicha, *A comparative analysis of promoting pay equity: models and impacts*, ILO, Geneva, 2006, p. 17.



level of compliance” which is due to scant criteria for carrying out a meaningful assessment of the situation<sup>3</sup>.

The ILO expert considers the Québec model as the reference “as its means and goals correspond to those of pay equity as described in the previous chapter”.<sup>4</sup> The model includes “a structured, sequential and precise approach, containing the key elements for identifying pay discrimination”<sup>5</sup>. Professor Chicha notes two conditions necessary to ensure the success of pay equity systems: the obligatory nature of the legislation, which is the only way to reach a significant level of compliance, and the support of a specialized body such as a Pay Equity Commission. The ILO concluded that it is necessary to have a proactive law forcing employers to set up mechanisms in order to ensure pay equity. It is also necessary to create a specialized commission on pay equity to ensure that employers meet their obligations. There must be clear standards and assessment methods, an involvement of employees and unions in the process leading to pay equity and the development of pay equity plans adapted to the needs of each workplace.

The ILO report sums up as follows the key elements for success that a proactive law should put in place: set up pay equity plans, analyze the pay systems, adjust wages as required, ensure good cooperation between employers and employees in establishing the pay equity plans and create specialized tribunals. We can only repeat how important it is to involve the employees in the job evaluation process and in all steps of the pay equity exercise. When this done, as it is under the proactive laws of Québec and Sweden, there is an improvement in the organizational culture that is not witnessed in the two other models.

#### **4) Women everywhere are mobilizing for proactive legislation**

Respect for the fair value of the work of women and the fight for pay equity is a very important concern in public opinion. For instance, a CROP-La Presse survey carried out in 2005 indicated that pay equity was the chief concern for the population of Québec towards reaching equality between men and women. A recent survey by the Ontario Federation of Labour showed that pay equity ranked second in a list of specific priorities for those surveyed. It is therefore not surprising that fights for an effective recognition of the right to pay equity are being waged throughout Québec and the rest of Canada.

For example, in New Brunswick, the Coalition for Pay Equity has made the issue a public priority in that province since the 2000 World March of Women. Thanks to the pressures and campaigns led by the Coalition, the Conservative government of Bernard Lord agreed to hold a round table discussion on the issue and tabled an action plan on pay

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<sup>3</sup> *Ibid.* à la p. 25.

<sup>4</sup> *Ibid.* à la p.9.

<sup>5</sup> *Ibid.*, p. 26.



equity. Discussions on pay equity also covered related issues such as volunteer work, social attitudes, sharing of domestic chores and access to child care, which is very limited in New Brunswick. The Coalition then managed to make pay equity one of the stakes of the 2006 provincial election. During the election campaign, the Liberal Party committed to adopt a pay equity act which would apply to the public sector and to gather the stakeholders to discuss legislation that would eventually apply to the private sector. However, since its election, the Liberal government seems to hesitate about which process to follow: it speaks of job assessments and voluntary measures but not about a specific framework or access to information. The Coalition is therefore maintaining pressure on the provincial government for the adoption of a proactive pay equity law.

In Québec, as we have already mentioned, the *Pay Equity Act* is a great success. However, it does allow for “exceptions” when employers claim to have assessment programs in place. The government and 200 businesses have thus been excluded from the application of the law and there is no information available to evaluate the success of their systems. Action must be taken to bridge such gaps in the law. That being said, it should be noted that in the Québec model, discussions between women’s groups and unions are effective and that it is thanks to such solidarity and coalition-building and mobilization work that women have obtained a law that is cited as a model on the international scene.

In the same vein, pay equity legislation would never have been adopted in Ontario without the determined work of the Ontario Pay Equity Coalition, composed of women’s groups and unions. The Coalition took advantage of favourable political conditions to create an alliance between opposition parties at Queen’s Park and that is how, in 1987, Ontario adopted a proactive law, the *Pay Equity Act* creating a Pay Equity Commission and a Pay Equity Hearings Tribunal. This year marks the 20<sup>th</sup> anniversary of the adoption of that law.

The law applied to the public sector and to private businesses with 10 employees or more. However, it did not apply to workplaces where only women work since there were no male workers for comparison purposes. The Coalition developed a solution to this problem, i.e. a “proxy” method of comparison with other organisations under which female dominated jobs in a predominantly female workplace are compared with female dominated jobs in another establishment with comparable male jobs. (For example, a community child care centre could use a municipal child care centre as a proxy employer.)

In 1995, the Harris government attempted to abolish the *Pay Equity Act* but the Coalition mobilized and managed to stop the Conservative government. The Harris government nonetheless withdrew provincial funding for the proxy comparison method from the system. This decision was challenged in court: it was argued that it infringed upon equality rights guaranteed by the *Canadian Charter of Rights and Freedoms*. The courts agreed and a settlement was later reached.



The Coalition is now preparing for the next provincial election. It is getting ready to develop new strategies through round table discussions and conferences in order to advance the cause of female workers and maintain what has already been gained, especially in the present context of business mergers and restructuring. While fighting for equal pay, the Coalition is also demanding that the minimum wage be raised to \$10 since this is an important strategy to improve the situation of a very large number of female workers.

Lastly, pay equity is also a major issue in Saskatchewan. Since 1991, when the NDP was elected, a coalition for pay equity has been set up. Although there is still no legislation on pay equity, the government did adopt, in 1997, a policy applying to the government, Crown corporations and public commissions. In 1999, this policy was extended to include health care workers who now have a pay equity plan. The coalition continues to apply pressure, notably in the community sector, for extension of the policy to child care centres, group homes and centres for marginalized persons, for instance. The coalition has performed assessments by comparing these jobs to government jobs and has found wide wage gaps. A report was produced and sixty women lodged complaints for pay equity on International Women's Day in 2001.

The complaints were lodged against the government of Saskatchewan since it was providing the funding for these organizations. In early 2006, the Chief Commissioner of the Human Rights Commission rejected all complaints because the Commission did not have the necessary resources to carry out the job evaluations required. Thirty women lodged an appeal on the decisions before the Human Rights Tribunal; this appeal was made possible by an amendment to the *Saskatchewan Human Rights Code*. The Chairperson of the Tribunal reversed the 60 decisions of the Chief Commissioner and ordered an investigation. The Tribunal will therefore hear the complaints eventually. The process is under way but has not been completed. It is interesting to note that one of the effects of this fight is that more funding was allocated to the sector in the budget two years ago than had been for several decades. In short, Saskatchewan is far from having a pay equity act. It is feared that the government might change and that all present gains might be lost.

At the Canada-wide level, the women's movement and the labour movement have been calling for a federal pay equity act for many years. Pay equity was one of the priority demands of the Canadian Committee of the 2000 World March of Women. It is one of the successes of the Canadian component of the World March, during which over 35,000 women assembled on Parliament Hill, that the federal government set up the Pay Equity Task Force.

## **5) Recommendations of the Pay Equity Task Force for a new federal act**

The Pay Equity Task Force was established by the federal government in June 2001. This Task Force chaired by professor Beth Bilson spent over two years holding consultations,



research projects, round table discussions and symposia in which the National Association of Women and the Law and many other groups were actively involved. In 2004, the Task Force produced an excellent report entitled ***Pay Equity: A New Approach to a Fundamental Right***. This report recommends the adoption of a proactive pay equity act as well as the creation of a Pay Equity Commission and a Pay Equity Tribunal. You will find below a summary of the main recommendations of the Task Force.

#### Adopt a new pay equity law

The federal government should develop a new proactive stand-alone pay equity law. The law should meet all domestic and international obligations and should frame pay equity as a fundamental human right. The proactive components of the legislation should include an employer's obligation to review pay practices and identify gender-based wage discrimination gaps. Employers would also have a duty to develop a pay equity plan to eliminate pay inequities within a specific time frame.

#### Expand coverage of pay equity to Aboriginal people, persons with disabilities and visible minorities

Pay equity legislation should apply to Aboriginal people, persons with disabilities and visible minorities as well as women. New pay equity legislation must create mechanisms to measure and eliminate documented, systemic wage discrimination against these disadvantaged groups.

#### Protect all employees

All employees in the federal jurisdiction should be covered by new pay equity legislation, including non-unionized employees, part-time, casual, seasonal and temporary workers, employees of Parliament and federal contractors covered by the Federal Contractors Program.

#### Involve employees in pay equity plans

All employers should have the obligation to work with unions and employee representatives through a pay equity committee. The committee would be responsible for developing a pay equity plan and monitoring any progress made to eliminate the wage gap. At least half of the representatives on the committee should be women workers from predominantly female job classes.

#### Develop non-sexist evaluation methods

Evaluation methods used to review predominantly female and male job classes should be equal and free of gender bias.

#### Ensure that pay equity is not part of collective bargaining



Pay equity is a non-negotiable human right. It should not be included in the collective bargaining process. Pay equity needs to be addressed separately, to identify and remedy past pay discrimination against women and other equity groups.

#### Maintain pay equity

An employer should have an obligation to maintain pay equity once a plan has been implemented. Where there is a union, the union would share the responsibility to ensure that pay equity is being respected in the workplace.

#### Create a Pay Equity Commission

A new Canadian Pay Equity Commission should be created to administer the new pay equity law.

This Commission would provide education and assistance to employers, unions and employees, review complaints and conduct investigations and random workplace audits. It would offer advocacy services for unrepresented workers, conduct research and issue orders to ensure the law is enforced. The government should provide enough human and financial resources to allow the Commission to effectively administer the pay equity legislation.

#### Create a Pay Equity Tribunal

A new Canadian Pay Equity Hearing Tribunal would be set up to adjudicate disputes on any issues which arise in the implementation or maintenance of pay equity. It should be an expert Tribunal, knowledgeable about pay equity and equality rights.

### **6) The federal government must take action**

In order to make sure that the report of the Task Force was not shelved, the National Association of Women and the Law, the Canadian Labour Congress and about ten other national and provincial organizations established the Pay Equity Network in the fall of 2004<sup>6</sup>.

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<sup>6</sup> Members of the Pay Equity Network include the Canadian Feminist Alliance for International Action (FAFIA), the Canadian Labour Congress (CLC) and the Fédération des travailleurs et travailleuses du Québec (FTQ), the Canadian Research Institute for the Advancement of Women (CRIAOW) the Conseil d'intervention pour l'accès des femmes au travail (CIAFT), the Coalition for Pay Equity, New Brunswick), the National Association of Women and the Law (NAWL), the National Association of Immigrant and Visible Minority Women of Canada (NOIVMWC), the Ontario Pay Equity Coalition, the



After producing fact sheets presenting the recommendations of the Task Force in popular terms, we launched the “Pay Equity...at the Heart of Equality” campaign. On February 14, 2005, on Saint Valentine’s Day, the Network sent postcards to all MPs in order to remind them that women suffer from wage discrimination and that it was time to act by implementing the recommendations of the Task Force. During the following months, the Network continued to lobby the federal government and the opposition parties for pay equity. The Network also appeared before the Standing Committee on the Status of Women, which submitted a motion requesting that the government respond to the recommendations of the Task Force. In the fall of 2005, the Ministers of Labour and Justice appeared before the Standing Committee to announce that they would be tabling a draft bill in the spring for consultation with the Network and the other stakeholders in the process. Unfortunately, this initiative was paralysed by the election call.

Since the Conservatives were elected in January 2006, the Network has maintained its pressure for the adoption of a federal pay equity act. In May 2006, the Standing Committee on the Status of Women reiterated its request to the federal government for a response to the recommendations of the Task Force. In September 2006, Labour Minister Jean-Pierre Blackburn stated that it was not necessary to adopt a federal law on pay equity and that the present provisions of the *Canadian Human Rights Act* were sufficient. He announced that inspectors would be hired to provide information to employers on the present act, that preventive mediation services would be developed and that cases would be referred to the Canadian Human Rights Commission. In other words, the Conservative government announced measures that have already been in place for over 20 years and that have proven completely ineffective to solve the wage discrimination problem. On September 21, 2006, representatives of the Network met with the Minister to express our dissatisfaction with this decision.

Finally, on May 3, 2007, representatives of the Pay Equity Network met with the leaders of the three opposition parties, Messrs. Dion, Duceppe and Layton. Each told us that, if elected, he would promote the adoption of a proactive federal law on pay equity as recommended by the Pay Equity Task Force.

### **7) Pay equity: a fundamental right!**

Measures presently implemented by the federal government are doomed to failure. Who pays the price of this legislative incompetence? The women who are underpaid, who do not receive a fair salary for the work they perform will undoubtedly have to pay the price of government inaction.

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Saskatchewan Pay Equity Coalition, the Women’s Legal Education and Action Fund (LEAF) and the Women’s Network, PEI.



In the NAPE case<sup>7</sup>, the Supreme Court of Canada found recently that non-provision of pay equity to female workers was a violation of women's right to equality guaranteed by Section 15 of the Charter.

As we have already mentioned, in 2003, the United Nations Committee on the Elimination of Discrimination against Women severely criticized the lack of action of the federal government with respect to pay equity. This year, the government must submit its next scheduled report to this Committee. What will it say to the United Nations in order to justify its inaction in this field? What measures does the present federal government plan to take in order to compensate women for the loss of wages that they suffer because of its inaction?

NAWL and its partners are planning a major mobilization effort for the adoption of a proactive law on pay equity. In spite of the present difficult political climate regarding women's rights, the meeting with our partners from Québec and the rest of Canada left us energized. We are ready to take action in order to remind the public that the issue of pay equity is far from settled.

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<sup>7</sup> *Newfoundland (Treasury Board) v. Newfoundland and Labrador Association of Public and Private Employees (N.A.P.E.)*, [2004]3 S.C.R. 381.