

Pay Equity Information and Action Sheet

Pay Equity: A Basic Human Right

I. What is pay equity?

Pay equity is the right to equal pay for work of equal value. A woman has the right to be paid just as much as a man for work that requires a similar level of skill, effort and responsibility and is performed in similar working conditions.

II. Is pay equity still necessary?

On average, women still earn less than men regardless of their occupation, age or education. Today, a woman earns 72.5 cents for every dollar that a man earns. For Aboriginal women, women of colour and racialized or new immigrant women, the wage gap between their earnings and the earnings of white men is even greater than the wage gap between white men and white women.

Historically, work that women have traditionally done has not been considered as valuable as “men’s work”. Taking care of children and elders, performing clerical tasks, cleaning houses and offices and teaching are examples of work that is undervalued and underpaid. This devaluing of “women’s work” can be explained by many factors including systemic discrimination, racism, the lack of women in political positions and occupational segregation.

Pay inequity hurts women and their families. It makes women and children more vulnerable to poverty. In Canada, more women than men live in poverty and the majority of single-parent households are headed by a woman living on a low income.

Since pay inequity contributes to poverty, it can have devastating health and social consequences: poor nutrition, inadequate housing, poor concentration and performance at school, social isolation. Pay inequity is also related to economic dependence, which affects a woman’s ability to leave an abusive relationship. Women bringing home lower paycheques also receive lower retirement incomes.

Too often, senior women live hand-to-mouth until the end of their lives.

Pay equity legislation helps to compensate women for this historic and systemic discrimination. Effective pay equity laws are a critical tool in advancing equality rights for all women and other historically-disadvantaged groups. Along with anti-discrimination and employment equity laws, increased minimum wages and community advocacy, pay equity can help achieve real equality for all women in Canada.

III. Pay equity is a human right

Pay equity is a human right protected by the *Canadian Human Rights Act*. The current law prohibits differences in wages between female and male employees who work in the same establishment and perform work of “equal value”. The law applies to employees in the federal public sector and businesses under the federal jurisdiction, such as banks, CN Rail, Bell and Canada Post. Skill, effort, responsibility and working conditions are the factors which are examined to determine the value of a particular type of work.

Pay equity is also constitutionally protected by the equality provisions of the *Canadian Charter of Rights and Freedoms*.

Several provinces have specific laws on pay equity which apply only to the provincial public sector, like Manitoba and PEI. Some, like British Columbia and Saskatchewan remain without any specific pay equity laws. Ontario and Quebec are the leaders in pro-active pay equity laws which cover almost all public and private sector employees. Women’s groups and unions in provinces such as New Brunswick, Saskatchewan and Alberta continue to demand that their governments introduce proactive pay equity laws to cover all workers.

Pay equity has been recognized internationally as a fundamental human right through a number of international conventions:

- *Convention on the Elimination of All Forms of Discrimination against Women*
- *International Convention on Social, Economic and Cultural Rights*
- *Equal Remuneration Convention* (International Labour Organization No. 100)

A more recent commitment to end pay inequity is found in the *Beijing Declaration and Platform for Action*.

Canada has an additional responsibility to ensure that pay equity is respected because it has ratified all of these international agreements.

IV. Problems with the current pay equity law

The federal pay equity law does not work. It is only activated if someone complains. Proactive laws require the employer to take action to ensure that all employees receive equal pay for work of equal value.

Currently, to win equal pay an employee must bring forward a pay equity complaint to the Canadian Human Rights Commission (CHRC). The Commission investigates and if it cannot solve the problem, decides whether or not to refer the file to the Canadian Human Rights tribunal for adjudication.

This all takes an enormous amount of time and resources – which individual women do not have. The entire process is too long, too costly and extremely frustrating, especially for non-unionized women. Unions have tried to use this process to win pay equity and have faced employers who are prepared to spend years in court fighting about unclear terms in the legislation, such as “establishment” or “occupational group” rather than focusing on the merits of the case. One of the many examples of the shortfalls of the pay equity system is the case of unionized clerical workers at Canada Post. These employees have now waited over twenty-one years to have their complaint settled by the Canadian Human Rights Tribunal.

The responsibility to make pay equity work effectively is unfairly placed on the shoulders of the more vulnerable party – individual women workers rather than on employers or independent agencies.

The current legislation is not clear about the nature of employers’ obligations and consequences of non-compliance with the pay equity obligations. It does not provide enough guidance on acceptable standards and methods for achieving pay equity. Instead, vague legislation encourages and prolongs costly litigation which women, especially non-unionized women, women of colour and poor

women simply cannot afford. Consequently, the model fails to ensure that the average woman worker will see her pay equity complaint resolved and actually be paid equal pay for work of equal value.

In fact, our current pay equity system is so weak that the United Nations Committee on the Elimination of Discrimination against Women has called on the Canadian government to take appropriate action and accelerate the implementation of equal pay for work of equal value.

V. The appointment of the task force on pay equity

Women's groups and trade unions have pushed for years for the government to improve the federal pay equity system. The Canadian Women's March 2000, led by twenty-three national women's organizations demanded that the federal government adopt proactive pay equity legislation as part of a comprehensive strategy to end poverty and violence against women.

The federal government finally recognized the need to take action. In June 2001, the Task Force on Pay Equity under the direction of the Minister of Justice and the Minister of Labour was appointed. The Task Force was to review the current pay equity framework and make recommendations to improve the system. The Task Force consulted stakeholders including employees, employers, trade unions, researchers and pay equity experts. Extensive consultations took place across the country to collect information about what pay equity initiatives are needed and to identify new approaches.

VI. Recommendations for change: A pro-active model

In a thorough Report, the Task Force presented the government with over one hundred recommendations to improve pay equity. Here are some key highlights.

Adopt a new pay equity law

The federal government should develop a new pro-active 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 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, 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 negotiable

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.

Sustain 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 pay equity law.

This Commission would provide education and assistance to employers, unions and employees, review complaints, 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.

VII. Let the federal government know you care!

To advance women's equality, the Pay Equity Network was formed to pressure the federal government to act now to implement the Pay Equity Task Force's recommendations. It is now time to take positive action to eliminate the wage inequities that women and workers of colour, Aboriginal workers and workers with a disability experience in federally-regulated workplaces. We ask you to join us in our campaign to ensure that the federal government makes pay equity a reality for women in Canada.

What you can do?

Here are some ways you can keep the issue of pay equity on the public agenda:

- Add your organization's name to the attached Call for Action: The Time for Pay Equity is Now! Together, we can put pressure on the federal government to implement the recommendations made by the *Pay Equity Task Force*.
- Speak to your local MPs to win their support to make pay equity a reality.
- Talk about pay equity issues within your organization, your workplace and your community.

Members of the Pay Equity Network include:

Canadian Labour Congress (CLC)
Canadian Research Institute for the Advancement of Women (CRIAOW)
Conseil d'intervention pour l'accès des femmes au travail (CIAFT)
Coalition for Pay Equity, Nouveau-Brunswick
National Association of Women and the Law (NAWL)
National Organization of Immigrant and Visible Minority Women of Canada (NOIVMWC)
Ontario Pay Equity Coalition
Saskatchewan Pay Equity Coalition
Women's Legal Education and Action Fund (LEAF)
Women's Network, PEI

This document was written and produced by the Canadian Labour Congress and the National Association of Women and the Law.

To read the full report with recommendations, visit

www.justice.gc.ca/payeqsal.html

Briefs submitted to the Task Force are also available at this site.