

MODULE 2

Pay Equity: A Fundamental Human Right

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Suzanne Bouclin and Patricia Harewood put together the workshop manual under the direction of Andr e C t  at the National Association of Women and the Law (NAWL).

Bonnie Diamond, Rachel Cox, Sue Genge, Nicole Adani, Jeannette Lang and H l ne L vesque provided editorial assistance. Roxana Oru  and Pam Mayhew provided logistical support.

Claudine Vivier translated the material.

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A Popular Legal Education and Consultation Series

MODULE 2

Pay Equity: A Fundamental Human Right

Presented by the National Association of Women and the Law (NAWL) in collaboration with the Canadian Labour Congress (CLC).

“Pay equity^a legislation must break the cycle of systemic discrimination by providing a framework to challenge systemic assumptions and practices that lead to the under-valuing and under-compensating of women's work.”

***Legislative checklist for Substantive Pay Equality, 2003
Mary Cornish, Elizabeth Shilton and Fay Faraday
<http://www.cavalluzzo.com/publications/index.html>***

Governments must ensure the full and practical realization of the right to equal pay for work of equal value.

*See the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Articles 2, 24
<http://www.un.org/womenwatch/daw/cedaw/>*

MODULE 2

TABLE OF CONTENTS

1.	The Right to Equal Pay for Work of Equal Value	1
1.1	Introduction	1
1.2	Workshop goals and limitations	2
1.3	What is pay equity?	2
1.4	Pay equity is about women's equality	4
2.	The Federal Pay Equity System	5
2.1	Pay equity and the CHRA.....	5
2.2	How does the law define pay equity?	5
2.3	Who does pay equity exclude?	7
2.4	The <i>Bell Canada</i> case	7
2.5	Problems with the current pay equity model	8
3.	Pay Equity is a Fundamental Human Right	9
3.1	How the Canadian Charter of Rights and Freedoms applies	9
3.2	Canada's international obligations	9
4.	Towards a Pro-active, Stand Alone Pay Equity Law	11
4.1	Demands of the World March of Women	11
4.2	NAWL and CLC recommendations	11
4.3	The making of the Task Force on Pay Equity (TFOPE)	12
4.4	Key recommendations of the Task Force on Pay Equity	13

5.	The Pan-Canadian Pay Equity Campaign	14
5.1	The Pay Equity Network (PEN)	14
5.2	A Valentine’s Day action and lobbying MP’s	14
5.3	How to make pay equity count in your community	15

6. Conclusion: Pay Equity Now - Women’s Equality is Worth It!! 16

Handouts 18

No. 1 -	10 Highest Paying and Lowest Paying Jobs in Canada	19
No. 2 -	Pay Equity for Farah?.....	22
No.3 -	Commonly Overlooked Features of Work	23
No. 4 -	The struggle of the Bell Canada workers	26
No. 5 -	NAWL’s Recommendations to Improve Pay Equity	28
No. 6 -	Key Recommendations of the Task Force on Pay Equity	29
No. 7 -	Pay Equity is Good for the Economy	31

1. The Equal Pay for Work of Equal Value

1.1 Introduction

When asked, most people say - of course, they support equal pay for work of equal value. Most people also think that equal pay exists in Canada. They couldn't be more wrong. According to the federal government's Pay Equity Task Force, on average, women still make only 71% of the male wage. The wage gap for women of colour is 64% and for Aboriginal women is an appalling 46%. Clearly, the problem of wage discrimination continues to be a major concern for equality-seeking people in this country.

This workshop will examine why systemic pay inequity happens, how the federal pay equity system operates and what you can do now to help reduce women's social and economic inequality by fighting for real pay equity.

The National Association of Women and the Law (NAWL) and the Canadian Labour Congress (CLC) are members of the Pay Equity Network (PEN). PEN recently launched a campaign to convince the federal government to adopt a new pay equity law which will be more effective in eliminating wage discrimination. This workshop is part of the ongoing campaign.

NAWL is a national non-profit women's organization. We promote the equality rights of women through legal education, research and law reform.

We recognize that women experience inequality, including wage discrimination, differently. Women's differing experiences of systemic inequality are due to differences related to race, class, sexual orientation, disability, age, language and other factors.

We work collectively and in coalition with other groups to eliminate barriers to women's equality.

1.2 Workshop goals and expectations

Our objectives for the workshop are:

- I To hear from you about how systemic wage discrimination affects you.
- II To review the federal laws which apply to pay equity.
- III To identify the weaknesses of the current federal pay equity system.
- IV To involve you in an exciting Pan-Canadian pay equity campaign.

This workshop will not address provincial pay equity legislation in any detail. Instead, we will focus on the current federal pay equity system. We will examine how the system fails a diversity of women.

We will rely on your knowledge and expertise to help us make any comparisons between provincial/territorial and federal pay equity regimes.

We want to celebrate the tremendous expertise in the room. Some of you have fought individual or union-led pay equity cases and we encourage you to share these experiences with us. Together, we can paint a picture of the courageous and resilient voices of the pay equity struggle in Canada.

1.3 What is pay equity

Pay equity is the right to **equal pay for work of equal value** regardless of one's gender, race, disability or identity as an Aboriginal person.

Women in Canada have been working for years to win equal pay at work.

By the end of the 19th century, the public and policy makers in Canada viewed certain jobs as socially acceptable for women (e.g., teaching, social work, nursing, and domestic work).

Women's wages were considered to be part of the "family wage" governments promoted through policy. These wages were viewed as supplemental, or PIN money, within the "typical heterosexual nuclear family." Men's wages were viewed as the real "bread and butter."

In 1951, Ontario women won the right to **equal pay for equal work** — for doing the same job as a man; between 1952 and 1975 all other provinces followed suit. An examination of the data relating to the 10 highest and lowest paying occupations in Canada, however, shows us that for the same job, women are still often paid less than men.

Handout No. 1: 10 Highest Paying and Lowest Paying Jobs

Women quickly realized that equal pay for equal work did not solve the problem of the wage gap between male and female workers, because of occupational segregation. Women tend to work in different jobs than men and be paid less for their work.

Just as occupational segregation has affected women as a group, people of colour, people with disabilities and Aboriginal peoples are also affected by occupational segregation. Men and women from these groups tend to do certain kinds of jobs... and be paid less for their work. Women from these groups are at the very bottom of the heap in terms of recognition of the value of their work.

Women evolved the concept of **equal pay for work of equal value**. Advocates argue that if the work performed is of equal value, then the pay received for that work should be equal. Different types of work can be compared on the basis of the skills, effort, and responsibility required and the working conditions under which the job is performed. These four factors measure the value of the job in the context of the enterprise in

which the work is performed. If two jobs are of equal value, then equal pay should result.

1.4 Pay equity is about women's equality

Women have been fighting for pay equity for a very long time. Many feminists see pay equity as one way of improving women's equality.

More women than men experience pay inequity because "women's work" – work women have traditionally done – is generally undervalued and underpaid.

Work done by racialized men, men with disabilities and Aboriginal men is undervalued and underpaid. Still, work typically done by women who belong to these groups is often **particularly** undervalued and underpaid.

Pay inequity entrenches a woman's poverty throughout her life cycle - lower salaries translate into lower pensions contributing to the increasing feminization of poverty.

In some cases, pay inequity results in greater economic dependence on men.

Economic dependence makes it more difficult for women in abusive situations to escape, especially those most vulnerable (e.g., new immigrant women, physically or mentally disabled women).

2. The Federal Pay Equity System

2.1 Pay equity and the CHRA

At the federal level, pay equity for women is found in section 11(1) of the *Canadian Human Rights Act* - a human rights law with a special status.

The *Canadian Human Rights Act* (CHRA) applies to about 10% of the workforce in Canada who are employed in areas of federal jurisdiction. It covers federal government employees and workers in the private sector in areas such as telecommunications, transportation, banking, railways and postal services. Employees in the private sector work for organizations like Air Canada, Bell Canada, CN Rail, and Canada Post.

The *Canadian Human Rights Act* does not apply to workers in the provincial jurisdiction. Some provinces like Ontario and Quebec have proactive laws covering private and public sectors; some have proactive laws for the public sector only, like New Brunswick and Prince Edward Island and some like British Columbia and Saskatchewan have no pay equity legislation at all.

2.2 How does the law define pay equity?

The *Canadian Human Rights Act* defines pay equity at section 11 in the following way:

11 (1) 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.

(2) In assessing the value of work performed by employees employed in the same establishment, the

criterion to be applied 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.

This is an odd definition indeed, since the expression “pay equity” is not actually used in the *Canadian Human Rights Act*, and surely this is an indication that something was wrong with the current pay equity legislation.

The criteria used to evaluate jobs when comparing job classes predominantly occupied by women to those predominantly occupied by men are:

- 1) skill;
- 2) effort;
- 3) responsibility; and
- 4) similar working conditions

The Equal Wage Guidelines set out the framework for comparing female-dominated and male-dominated jobs based on these four criteria. In particular, the Guidelines clarify that intellectual as well as physical effort must be taken into account in assessing the value of work. Both physical and psychological features of working conditions must also be considered, including noise, isolation, physical danger, health hazards and stress.

For details on the complaint process at the Canadian Human Rights Commission, visit the Commission’s website at http://www.chrc-ccdp.ca/complaints/complaint_process-

Handout No. 2: Pay Equity for Farah?

Handout No.3: Commonly Overlooked Features of Work

2.3 Who does pay equity exclude?

The pay equity provisions of the *Canadian Human Rights Act* only prohibit differences in wages for work of equal value between *men* and *women*. They do not prohibit race-based or disability-based pay inequity.

Consequently, pay equity does not apply to people of colour, persons living with a disability and Aboriginal persons. Yet there is a significant wage gap for these workers: surely this underinclusion of the federal pay equity provisions is discriminatory!

We can learn from our experience fighting sex-based wage discrimination how to effectively remedy *all* aspects of wage discrimination. If we don't take into account race and disability-based wage discrimination, women of colour, women with disabilities and Aboriginal women will never be paid fair and equal wages.

As we shall see later, the federal government's Pay Equity Task Force suggests that the *Canadian Charter of Rights and Freedoms* mandates equal protection from wage discrimination for all people protected by the Charter's equality guarantee, not just women.

2.4 A Case Study: *Bell Canada v.s. Communications, Energy, Paperworkers Union*

The *Bell Canada* case highlights some of the problems with the human rights complaints based system.

After nine years of litigation, Bell Canada’s telephone workers — most of whom are women — continue to experience sex-based wage discrimination in the workplace every day.

Handout No. 4: Bell Women Workers

2.5 The problems with the current pay equity model

There are many problems with the current complaints-based system, under the *Canadian Human Rights Act*:

- < It takes too long for a complaint to be investigated by the Commission or adjudicated by the Tribunal. This frustrates complainants.
- < It is complaints-based and not systemic. Solutions can apply only to one segment of a workforce and not be applied system-wide.
- < The victim of sex discrimination is disproportionately responsible for challenging sex-based wage discrimination and promoting equality.
- < Individual women who file a complaint are more vulnerable because they usually have less money and fewer resources.
- < The *Act* does not protect all workers in the federal jurisdiction. It is especially difficult to access for women in non-unionized workplaces.
- < It is a reactive, not a pro-active model.
- < Vague language leads to combative and lengthy litigation over the meaning of words like “establishment” and “occupational group.”
- < The formal process is financially and emotionally costly.
- < There is a huge cost to society (in terms of productivity, morale, social cohesion).
- < The current federal pay equity system is not working for women.

3. Pay equity is a Fundamental Human Right

3.1 How the *Canadian Charter of Rights and Freedoms* applies

As we have seen in Module 1, constitutional equality rights are enshrined in s.15 of the *Canadian Charter of Rights and Freedoms*. In addition, Section 28 of the *Charter* guarantees the same rights and freedoms for women and men.

The Supreme Court of Canada has adopted the notion of **substantive equality** instead of **formal equality**. The Court has confirmed that s.15 has a remedial role to play to achieve substantive equality for disadvantaged groups and individuals.

In December 2004, the fact that the Supreme Court of Canada has handed down an extremely disappointing decision for Newfoundland-and-Labrador health care workers in the *NAPE* case. However, the Court did at least acknowledge that the provincial government's decision not to proceed with pay equity adjustments was indeed discriminatory and a violation of section 15 equality rights.

Hopefully, creative feminist lawyers will be able to persuade the courts in a near future that governments must reform their human rights legislation in such a way as to effectively remedy pay inequity, in order to comply with their constitutional equality rights obligations.

3.2 Canada's international obligations

International human rights law also requires that Canada respect, maintain and actively promote pay equity. Indeed, Canada is bound by the international conventions it has signed and ratified including the following:

- *Convention on the Elimination of All Forms of Discrimination against Women* (Ar. 11, ratified in 1981).
- *Convention on the Elimination of All Forms of Racial Discrimination* (ratified in 1970).
- *International Covenant on Social, Economic and Cultural Rights* (Ar. 7, ratified in 1976).
- *Equal Remuneration Convention* (Ar. 2.1, ratified in 1972).

The Beijing Declaration and Platform for Action also recommit Canada to address employment discrimination and the root causes of women's poverty.

These conventions, especially the *Convention on the Elimination of All Forms of Discrimination against Women*, require state signatories to:

- Play a pro-active role to eliminate employment discrimination.
- Enforce pay equity by implementing plans, programs or other administrative measures.

States such as Canada are accountable to their citizens and the international bodies that oversee the implementation of these conventions.

Dissatisfied with Canada's recent track record on women's equality, in January 2003, the UN Committee on the Elimination of All Forms of Discrimination against Women called on the Canadian government to:

- a) speed up its process by taking appropriate action to implement pay equity; and
- b) redress the historic disadvantage experienced by Aboriginal women and domestic workers.

4. Towards a Pro-active Stand Alone Pay Equity Law

4.1 Demands of the World March of Women

In 2000, the World March of Women in Canada included pay equity as one of thirteen urgent demands to the federal government. The proactive strategy to eliminate violence and poverty against women included demands that the federal government provide affordable housing, a national childcare program, a livable national minimum wage and human rights protection for all domestic workers. On pay equity, the Women's March demanded that the federal government adopt proactive pay equity legislation.

4.2 NAWL and CLC recommendations

NAWL presented a brief to the Task Force on Pay Equity in December 2002. The brief included several recommendations to improve the federal pay equity regime. Key recommendations are included in the following handout.

Handout No. 11: NAWL's Recommendations to Improve Pay Equity

Several other organizations, including the CLC, made similar recommendations. Among equality-seeking groups, it is clear that pay equity is still on the agenda and there is a strong consensus in favour of mandatory proactive pay equity legislation.

4.3 The making of the Task Force on Pay Equity

The Task Force on Pay Equity was set up in 2001 to review the current federal pay equity regime and to make recommendations to improve it. The Task Force was:

- A direct response to effective lobbying and feedback from women's groups, unions, other equity-seeking groups.
- The federal government's response to the demand for a proactive pay equity law made by the Women's March.

The Task Force involved:

- Extensive consultation with key stakeholders (women's organizations, unions, employers, academics, etc.).
 - Thirteen days of public hearings in 8 cities across the country.
 - Written and oral submissions. Over fifty written submissions were made to the Task Force from individuals and groups. Unions, women's groups, employers' organizations and academics submitted their reports.
- Production of a final report released in May 2004

You can access a copy of the Report in English or French at:
<http://www.justice.gc.ca/en/payeqsal>

4.4 Key Recommendations of the Task Force on Pay Equity

The final report consists of 113 detailed recommendations to improve the federal pay equity system.

If the federal government were to adopt the recommendations of the Task Force, it would go a long way to reducing the wage discrimination experienced by women and workers of colour, Aboriginal workers and workers with a disability and would also contribute to eliminating the overall wage gap.

Handout No. 12: Key Recommendation of the Task Force on Pay Equity

5. The Pan-Canadian Pay Equity Campaign

5.1 The Pay Equity Network (PEN)

The CLC, NAWL and number of women's groups and coalitions formed the Pay Equity Network to pressure the federal government to implement the Pay Equity Task Force's recommendations immediately.

Members of the Pay Equity Network:

- Canadian Labour Congress (CLC)
- Canadian Research Institute for the Advancement of Women (CRIA)
- Conseil d'intervention pour l'accès des femmes au travail (CIAFT)
- Coalition for Pay Equity, Nouveau-Brunswick
- Feminist Alliance for International Action (FAFIA)
- 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

5.2 Valentine's Day action and lobbying MP's

In February 2005, PEN launched its official pay equity campaign on Valentine's Day with a Call To Action. The goal is to press the federal government to implement the recommendations of the Task Force immediately and to adopt a new pay equity law.

A Valentine's Day card was sent to every Member of Parliament and Senator to point out that pay equity is at the heart of women's equality. Over 200 women's organizations, labour unions and community organizations have signed onto the Call to Action demanding federal government action. PEN continues to collect your signatures!

5.3 How to make pay equity count in your community

If you are not already doing so, there are many ways you and/or your organization can help PEN lobby for a new pay equity law. You may even have other creative suggestions to add to this list.

Sign onto our PEN campaign.

- 1) Meet with your MP and have her/him sign an MP pledge to support proactive pay equity legislation based on the Task Force's recommendations. Check the NAWL web site (www.nawl.ca) for where you can get a copy of our MP pledge.
- 2) Organize your own information meeting using these training materials. Use the questionnaire and Pay Equity Myths to get women talking!
- 3) Write about a women's pay equity struggle in your local community newspaper.

6. CONCLUSION : Pay Equity now!

Today, we are living in a time where equality is under threat from several fronts: right-wing organizations, neo-liberal policies and the alarming impact of globalization (e.g., North American Free Trade Agreement).

Even the Supreme Court of Canada recently demonstrated that women in Canada still cannot take hard-won women's equality rights guarantees for granted.

In October 2004, in *NAPE v. Newfoundland*, the Supreme Court determined that the government of Newfoundland was justified under the *Charter* in paying women health care workers discriminatory wages because of a "fiscal crisis" caused by reduced federal transfer payments and a budget deficit.

That is why....

- Persistent political mobilization is still necessary to keep governments accountable and to reverse the trend of women's deepening poverty, to reduce the equality deficit.
- We must keep pay equity on the federal political agenda
- Education and mobilization around pay equity law reform must send the following key messages:
 - f The federal government has a legal domestic and international obligation to play a proactive role in eliminating systemic and historic discrimination against women and other disadvantaged groups.

Women are not prepared to bear the burden of budget deficits. We have paid the price already in lost wages, lower benefits, less educational and social opportunities for our families and children. Now is the time for pay equity!

- Pay equity is a fundamental human right and it benefits all.
- Pay equity is not the **magic solution** to women's equality but it is one necessary step to achieving real equality for all women in Canada.

Along with a national childcare program, a living minimum wage, effective anti-discrimination and employment equity laws, pay equity can go a long way to achieving real equality for the full diversity of women in Canada.

HANDOUTS

Handout No. 1

10 Highest Paying and Lowest Paying Jobs in Canada

Women have been impacted differently by pay inequity because all women do not experience the same kind of discrimination.

Factors such as class, race, ethnicity, and disability make some women experience a greater degree of pay inequity than others (e.g., the wage gap between Aboriginal women and white men is greater than the wage gap between white women and white men).

Table 1.4: Ten Lowest-Paying Occupations, Full-Year, Full-Time Workers, Canada 2000							
Occupation	Average Earnings \$	Number of Women	Women's Average Earnings \$	Number of Men	Men's Average Earnings \$	Women % of Occupation	W/M Earnings Ratio %
Babysitters, nannies and parents' helpers	15,846	25,885	15,862	785	15,310	97.1	104.3
Food counter attendants, kitchen helpers and related occupations	19,338	39,000	19,053	15,290	20,241	71.8	94.1
Food and beverage servers	18,319	42,165	17,030	12,495	22,671	77.1	75.1
Service station attendants	18,470	2,245	15,750	6,070	19,475	9.2	80.9
Bartenders	19,877	9,420	18,347	6,755	22,008	58.2	83.4
Cashiers	19,922	49,945	19,391	8,830	22,925	85.0	84.5
Harvesting labourers	20,158	1,080	18,246	1,135	21,971	48.8	83.0
Tailors, dressmakers, furriers and milliners	20,499	10,960	18,882	2,465	27,690	81.6	68.2

Sewing machine operators	20,575	28,390	19,997	2,650	26,782	91.5	74.7
Ironing, pressing and finishing occupations	20,663	2,465	19,319	1,395	23,041	63.9	83.8
Total lowest-paid occupations		185,670		57,085		76.5	
Percent of total occupations		5.3%		1.1%			
TOTAL OCCU-PATIONS	8,565,385	3,511,285	34,642	5,054,100	49,198	41.0	70.4

Source: *Pay Equity: A New Approach to a Fundamental Right*, Pay Equity Task Force Final Report (2004), <http://www.justice.gc.ca/en/payeqsal/index.html>. Adapted from Statistics Canada, *2001 Census of Population*.

Table 1.5 :
Ten Highest Paying Occupations, Full-Year, Full-Time Workers, Canada 2000

Occupation	Average Earnings \$	Number of Women	Women's Average Earnings \$	Number of Men	Men's Average Earnings \$	Women % of Occupation	W/M Earnings Ratio %
Judges	142,518	445	131,663	1,380	146,008	24.4	90.2
Specialist physicians	141,597	3,845	98,383	8,635	160,833	30.8	61.2
Senior managers - Financial, communications carriers and other business services	130,802	8,810	90,622	32,10	141,829	21.5	63.9
General practitioners and family physicians	122,463	6,780	96,958	15,260	133,789	30.8	72.5
Dentists	118,35	2,000	82,254	6,710	129,104	22.9	63.7

Senior managers - Goods production, utilities, transportation and construction	115,623	5,175	75,267	39,455	120,914	11.6	62.2
Lawyers and Quebec notaries	103,287	14,660	77,451	32,630	114,894	31.0	67.4
Senior managers - Trade, broadcasting and other services, n.e.c	101,176	6,700	67,161	30,990	108,527	17.8	61.8
Securities agents, investment dealers and traders	98,919	6,535	55,299	11,230	124,290	36.8	44.5
Petroleum engineers	96,703	435	61,057	3,935	100,633	10.0	60.7
Total highest paid occupations		55,385		182,330		23.3	
Percent of total occupations		1.6%		3.6%			
TOTAL OCCUPATIONS	8565385	3,511,285	34,642	5,054,100	49,198	41.0	70.4
Source: <i>Pay Equity: A New Approach to a Fundamental Right</i> , Pay Equity Task Force Final Report (2004) http://www.justice.gc.ca/en/payeqsal/index.html . Adapted from Statistics Canada, <i>2001 Census of Population</i> .							

Handout No. 2**Pay Equity for Farah ?**

Farah is working as a telephone operator for a national telephone company. She makes \$11.50 per hour. Her job requires grade 12 education; her duties include answering public enquiries, dealing with irate clients, operating complex computer programs and equipment, accurately processing information, maintaining records, working in confined quarters, manual dexterity, and performing multiple tasks simultaneously.

Jean-François is working in the same establishment and making \$14.50 per hour as an operational technician. His job requires grade 12 education, maintaining and repairing complex cables, working out of doors and independently.

Does pay equity apply here?

If so, why?

Handout No. 3

Commonly Overlooked Features of Work

One of the key requirements of the gender neutral evaluation of work for pay equity is to make women's work visible. One way of making women's and men's work more visible is to include features of work that are often forgotten or overlooked. Many of these features of work are associated with work traditionally done by women. This list may give you ideas for other aspects of work that have been overlooked or undervalued in your workplace.

When filling out a job description or questionnaire:

- 4 Make sure you include any of these items that fit your job.

When developing or using a job evaluation system:

- 4 Make sure that these items are evaluated by your system.

SKILL

- analytical reasoning;
- operating and maintaining several different types of office and manufacturing equipment;
- manual dexterity required for giving injections, typing, graphic arts;
- writing correspondence for others, proofreading and editing others' work;
- establishing and maintaining manual and automated filing systems, records management and disposal;
- training and orienting new staff;
- dispensing medication to patients;
- special body co-ordination or expert use of fingers and hands;

- reading forms;
- providing personal services such as arranging vacations, handling household accounts;
- using a variety of computer software and database formats;
- creating documents;
- communicating with upset, irate or irrational people;
- handling complaints;
- innovating – developing new procedures, solutions or products;
- co-ordinating a variety of responsibilities other than “other staff or people”;
- developing or co-ordinating work schedules for others; and
- deciding the content and format of reports and presentations.

EFFORT - Mental and Physical

- adjusting to rapid changes in office or plant technology;
- concentrating for prolonged periods at computer terminals, lab benches and manufacturing equipment;
- performing complex sequences of hand-eye co-ordination;
- providing service to several people or departments, working under many simultaneous deadlines;
- frequent lifting (e.g. office supplies, retail goods, lifting or turning sick or injured adults or children);
- heavy lifting (e.g. packing goods for shipment);
- frequent lifting and bending (e.g. child-care work);
- long periods of travel and/or isolation;
- sitting for long periods of time at workstation, (e.g. while keyboarding); and
- irregular and/or multiple work demands.

RESPONSIBILITY

- planning, problem solving, setting objectives and goals;
- caring for patients, children, institutionalized people;
- protecting confidentiality;

- acting on behalf of absent supervisors;
- representing the workplace through communications with clients and the public;
- supervising staff;
- shouldering responsibility for consequences of error in the workplace;
- preventing possible damage to equipment or people;
- managing petty cash;
- training and orienting new employees;
- keeping public areas such as waiting rooms and offices organized;
- handling new or unexpected situations; and
- contacts with others - internally, externally.

WORKING CONDITIONS

- stress from open office noise, crowded conditions;
- exposure to disease and stress from caring for ill people; or physical or verbal abuse from irrational clients or patients;
- cleaning offices, stores, machinery, hospital wards;
- exposure to and disposal of body fluids;
- exposure to communicable diseases;
- exposure to dirt from office machines and supplies;
- exposure to eye strain from computer terminals; and
- adjusting to a variety of working environments continuously.

Handout No. 4

The Struggle of the Bell Workers

Facts

In 1994, the Communications, Energy and Paperworkers Union of Canada (CEP) files a complaint of systemic discrimination based on sex against Bell Canada on behalf of all members of female job-dominated classes. Almost 5,000 telephone workers are represented by the complaint.

Bell Canada and CEP had previously been involved in a joint study on the state of pay equity and wage-based systemic inequality at Bell. The study concludes that female dominated jobs of equal value at Bell Canada are paid between \$2.00 - \$5.00/hour less than male-dominated jobs. For full-time employees, this may amount to a denial of a gross \$3360.00 - \$8,400 per year. This is a significant percentage of most workers' annual budget!

However, Bell refuses to redress this systemic discrimination immediately. Instead, Bell chooses to increase salaries in small increments. Employees in female-dominated jobs are unhappy with this decision because they have been paid unfair wages for so long. Unable to resolve this pay equity issue using alternative dispute resolution, CEP files a formal human rights complaint with the Canadian Human Rights Commission.

The Commission spends two years investigating the complaint and finally refers it to the Canadian Human Rights Tribunal in the spring of 1996.

Decision?... Not yet!

Eleven years later, no final decision has yet been rendered. Telephone operators, mostly women, who have been victims of sex-based wage discrimination still have not received the money they are owed. The

company has gone through major restructuring and only 250 telephone operators remain employed at Bell.

Bell has used many different legal avenues to stall the rendering of a final decision. Many of the Tribunal's decisions have been challenged in Federal Court. Bell even requested leave to appeal to the Supreme Court of Canada. Bell has challenged the impartiality of the Tribunal, the authority of the union to file a complaint, the legislative intention of the CHRA and the Equal Wage Guidelines. In every instance, the company has lost. But it costs the union time, resources and money each time the company uses one of its delaying tactics.

Most recently, the company has forced employees to find old bills, credit card bills, records of mortgage payments and private medical records in order to challenge the pain and suffering damages that CEP claims these telephone operators have suffered.

For more information on this case and the recent "Put Bell on Hold campaign", visit at www.putbellonhold.ca.

Handout No. 5

NAWL's Recommendations to Improve Pay Equity

- Recognition that despite anti-discrimination legislation, women still face inequality in the labour market, occupational segregation and the systematic devaluation of their work.
- Recognition that racialized women and women with disabilities contend with specific patterns of wage discrimination, that need to be specifically addressed in pay equity legislation.
- Strong monitoring and enforcement mechanisms, including proactive deadlines, random inspections and the authority to award interest.
- An affirmation of the fact that pay equity is a fundamental human right, protected under the *Canadian Charter of Rights and Freedoms* and international human rights law. Recognition that pay equity is an essential mechanism for ensuring constitutional equality rights for women and other disadvantaged groups

For a summary of the recommendations, visit:
www.nawl.ca/ns/en/documents/PE_sumNAWLrec.eng.doc.

Handout No. 6

Key Recommendation of the Task Force on Pay Equity

Adopt new proactive pay equity legislation

The federal government should develop a new proactive pay equity law. The law should meet all domestic and international obligations and should frame pay equity as a fundamental human right. The legislation should include an employer's obligation to review pay practices and identify wage discrepancies based on discrimination. Employers would also have a duty to develop a pay equity plan to eliminate pay inequities within a fixed time frame.

Expand coverage to include Aboriginal people, persons with disabilities, and people of colour

Pay equity legislation should apply to Aboriginal peoples, persons with disabilities and people of colour. 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.

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.

Adopt effective mechanisms to 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.

For the complete Final Report of the Pay Equity Task Force, visit:
<http://www.justice.gc.ca/en/payeqsal/6000.html>

Handout No. 7

Pay Equity is Good for the Economy

When women and equality-seeking group members are paid what they're worth they:

- put money directly back into the economy through increased purchasing power;
- can continue to upgrade their skills and education;
- pay proportionately higher taxes on better incomes;
- can better afford to pay for child care;
- help stimulate economic growth through purchasing goods and services;
- buy the most nutritional meals and other essentials for their families;
- put their children into extracurricular activities that cost money (such as music lessons, organized sport, visits to museum, theatres, musical events);
- contribute to their own retirement and reduce the costs of seniors living in poverty; and
- pay for tuition for their children and themselves.

Employers who provide equal pay for work of equal value can expect to:

- attract and retain the best qualified workers;
- have high morale and a positive work environment;
- have high productivity;
- have low absenteeism;
- have low utilization of paid sick days and paid leave; and
- have a positive public image with their customers and the community.

Employers who don't support and comply with equal pay for work of equal value:

- create an unequal playing field and have an unfair advantage over their competitors who do pay their workers what they're worth;
- can expect higher absenteeism and staff turn-over, lower morale and lower productivity; and
- can expect women and equality-seeking group members to spend their hard earned dollars elsewhere.

(Adapted from The Business and Professional Women's Clubs of Ontario handout "Pay Equity is Good for the Economy")

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