

15. Pay Equity

Guiding principles of pay equity:

- Pay equality is a basic human right;
- Ensure proactive obligation to achieve and maintain pay equity;
- Non-unionized women must be guaranteed access to pay equity;
- Pay equity laws should include redress for race-based wage inequities;
- Pay equity enforcement must be strengthened and funded;
- Public sector pay equity adjustments must be fully funded;
- Employment equity laws are also necessary.

Legislated pay equity is essential to ending systemic wage discrimination. It is a basic human right which, according to the Supreme Court of Canada, is on par with other constitutional rights. Human rights are not optional expenditures to be disregarded under the guise of financial restraint.

Canada is bound by international obligations committing all provinces to take proactive and effective legislative steps to achieve pay equity for women. Through the United Nations, several governments – including Canada – agreed to close wage gaps by strengthening pay equity laws. This was to be a priority step on the road to women's equality. It hasn't happened.

Real pay equity is not even close to reality in Ontario despite the *Pay Equity Act*. According to Pay Equity Commission surveys, many Ontario employers, particularly smaller businesses, still pay discriminatory wages. Recent studies show women are still paid considerably less than men, even though their education, training and skills are comparable to those of male workers. Women continue to be segregated into lower paying, less prestigious occupations.

Some women, especially those who are unionized, received pay equity adjustments. Some of these brought substantial raises in pay, phased-in over several years. Unfortunately, these are still the exception rather than the rule. Most women have not seen any pay equity adjustments.

The *Act* provides that pay equity, once achieved, must be maintained to ensure the wage gap does not re-emerge.

Unorganized women are the most economically disadvantaged and underpaid in the workforce. Without a union to enforce their rights, they worry about reprisals if they seek their rights. This should not be a concern. The fact that it is one shows how badly the *Act* is enforced. It requires employers to achieve pay equity regardless of whether an individual complaint had been lodged. Non-unionized women need strong support and assistance if they are to achieve pay equity. But after 1996, they were denied access to the Pay Equity Advocacy and Legal Clinic because the government stopped its funding. Currently, the Pay Equity Office is the only source of information and assistance for these women. Stable funding for the Clinic must be restored so that all unorganized women can respond to the legal arguments of their employer's lawyers.

As with gender, race and ethnicity, combined with occupational segregation, is a large factor contributing to pay inequity. Certain jobs are filled primarily by racial minorities and are underpaid, relative to comparable work performed by white workers. People of colour are generally subjected to lower pay, lower status and an under-valuing of their work. Several Canadian research studies show the extent of this. The May 2001 Centre for Social Justice Study, "*Canada's Creeping Economic Apartheid*" and the 2000 City of Toronto study based on the 1996 Census are two good examples. They showed that workers of colour earn lower wages than white workers of similar education and experience.

Ontario needs an effective and fully resourced Pay Equity Commission and Tribunal. Specialized, independent and expert enforcement are crucial features of this province's internationally recognized pay equity legislation. The Pay Equity Office and the Pay Equity Hearings Tribunal played a key role in establishing and maintaining pay equity in Ontario. They are no longer as effective as they should be. They were targeted for substantial cutbacks which eroded their enforcement abilities.

The Pay Equity Office can provide valuable and affordable education and advice to employers, unions and workers. It helps avoid unnecessary costs and reduces the time needed to achieve compliance. It encourages settlement rather than expensive litigation. Pay equity can only be ensured when strong enforcement mechanisms exist to back up the self-managed system, and when assistance is provided to enforce rights, particularly among vulnerable non-unionized women. The Information Hot Line is important for small employers and workers to get free advice and information to help them achieve equity. The Pay Equity Tribunal enforces the *Act* through mediation and adjudication. Its specialized expertise is not found at other tribunals or boards of arbitrations and has been recognized by the Courts.

Adequate resources must be committed to the Commission and Tribunal to ensure that pay equity is accessible and enforceable in a meaningful way. Enforcement procedures must be strengthened. There should be no move to unburden employers by leaving pay equity to "natural market forces" rather than to the force of law. Such a weakening will lead to rewarding negligent employers and penalizing law-abiding ones. It would hurt those women who stand to lose the pay equity gains they have made and the many Ontario women who have yet to see discrimination removed from their pay cheques.

Public services must be provided at non-discriminatory wages. The wage gap can't be closed without full funding. Yet In 1995 a \$500 million cap was imposed even though the government knew that \$1 billion was needed to pay all the current and future adjustments. Mr. Justice O'Leary noted in the successful *SEIU Local 204 v. Attorney General* case, public-sector agencies dependent on government funding require full pay equity funding in order to operate. The decision restored the proxy pay equity laws. The Government responded in 1999 by stopping the funding from the proxy pay equity adjustments they owed. This led to another challenge by five public-sector unions. This asks the Court to order the government to restore funding the further yearly adjustments owing to approximately 100,000 women over the next 15 years to complete their move to non-discriminatory wages. The case is still going through the system.

The Ontario government has a constitutional and political responsibility to ensure all public sector employers receive adequate funding to achieve pay equity. Public sector employers denied proper funding will have to make a choice between flouting the law or cutting services and staff. Inadequate pay equity funding will lead to decreased health care and education services.

While pay equity is important for workers of colour and women, legislation alone will not resolve all the inequities encountered in the workplace. Employment equity legislation with a joint role for unions is needed to ensure bias-free hiring, retention and promotion within the labour force.

Recommendations for A People's Charter:

- ***Recognize pay equity as a basic human right.***
- ***Ensure a proactive obligation to achieve and maintain pay equity.***
- ***Non-unionized women must be guaranteed access to pay equity.***
- ***Pay equity laws must include redress for race-based wage inequities.***
- ***Enforcement must be strengthened and fully funded.***
- ***Public sector pay equity adjustments must be fully funded.***
- ***Employment equity laws must give a full and meaningful role to unions.***