



20TH ANNIVERSARY PAY EQUITY BACKGROUNDER (R) **January 17, 2008**

Closing the Gender Pay Gap in Ontario: Securing Justice for Women's Work

Pay Equity – A Fundamental Human Right

- ❑ Pay equity is equal pay for work of equal value, a fundamental human right guaranteed by International Labour Organization Convention 100 (ratified by Canada in 1972). Recognizing that occupational segregation has resulted in low paid female-dominated job ghettos, Convention 100 requires women's work to be paid the same as men's work where it is comparable in overall value. Subsequent international human rights standards such as the UN Convention on the Elimination of Discrimination against Women requires countries to take the necessary measures to ensure women, whether they are employed, self-employed or in disguised employment are able to earn incomes free from gender discrimination.
- ❑ The *Pay Equity Act* recognizes pay discrimination is systemic and exists throughout Ontario's workplaces. The *Act* is a legal remedy for ending such discrimination which requires that men's and women's jobs are evaluated in a non-discriminatory way by accurately identifying and valuing the skill, effort, responsibility and working conditions of those jobs and raising women's pay to that of comparably valued men's jobs.
- ❑ While there remains much to do, it is important to recognize and build on the achievements to date. Ontario's proactive pay equity law with specialized enforcement machinery through the Commission and Tribunal, along with proactive responsibilities for employers and trade unions still serves as an important international model for the enforcement of ILO Convention 100.
- ❑ The successful 1996 and 2001 Charter challenges brought by public sector unions struck down the Progressive Conservative Government's 1996 repeal of the pay equity rights of over 100,000 women in predominantly female public sector workplaces. This also led to the restoring of limited public funding for the adjustments to close their pay gaps, which funding ended in 2005. See enclosed Chart Pay Equity Denied by Government

Widespread Pay Equity Non-Compliance

- ❑ Pay discrimination affects Ontario women of all ages, races and education levels, regardless of family decisions. Ontario women receive less for their work regardless of where they work in the economy, the size of their workplace or the precariousness of their work. The most vulnerable women – aboriginal woman, women of colour, racialized or immigrant women, and non-unionized women workers – face an even greater gap than the wage gap between white men and women. While the overall pay gap in 2006 is 29%,

according to Statistics Canada, racial minority women earn 36% less than men and Aboriginal women earn 54% less. Women with disabilities earn significantly less than women and men without disabilities. Women outnumber men in nine of the ten lowest-paying occupations in Canada.

- ❑ Women's discriminatory pay affects them throughout their lives from their first jobs continuing into retirement. Young women graduating from high school earn 27% less than male high school graduates. Young women graduating from university earn 16% less than male graduates but this pay gap widens as their careers progress. The median income of retired women is almost half that of older men. Gender-based pay inequities also contribute to higher poverty levels with women and their children much more likely to be living in poverty than men.

Pay Equity Has Not Been Achieved or Maintained

- ❑ Most Ontario employers, both in the private and broader public sector are ignoring their obligation to pay women fairly, the Government is failing to fully fund the pay equity adjustments owing to women in the public and broader public sector and the Pay Equity Commission and Pay Equity Hearings Tribunal which enforce the *Act* are seriously underfunded.
- ❑ The Coalition shares the Pay Equity Commission's view that there are serious enforcement issues to address. As a result, women, their families and society as a whole are suffering. As well, businesses and communities are missing out on the positive economic and social impacts – such as increased productivity, reduced turnover and less poverty – which come when workers are paid equitably. Women, their families and their communities all benefit when pay discrimination is ended. Pay equity is good for business. Pay inequity is not.
- ❑ Pay equity plans under the *Act* implemented in the early to mid-1990's did address much of the pay gap which existed in 1988 for mostly unionized workers. But the task of bringing pay equity to Ontario's women is far from finished.
 - a. Many non-unionized women never received *Pay Equity Act* adjustments because their employers ignored their obligations and they did not have a union to fight for them.
 - b. Many new employers since 1988 opened their doors but did not do so with equitable wages as required under the *Act*.
 - c. Women's jobs have changed dramatically since 1988 but pay equity plans and employers' compensation practices have not been changed to reflect this and to ensure that pay equity is maintained.
 - d. Pay equity adjustments remain owing to hundreds of thousands of women doing publicly funded public service jobs who have either not yet achieved pay equity in the first place or, having initially achieved pay equity, have since seen the pay gap wide again between them and comparable men's work.

- e. Many public sector women's jobs have been privatized, with women having to leave behind their pay equity adjusted wages. With downsizing, those public sector women's jobs that remained were given increasing responsibilities but without the appropriate pay equity adjustment required by the original plan.
- f. As well, private sector employers now employ increasingly fewer "employees" as they seek to transform their employees into independent contractors to avoid legislative employee entitlements, such as pay equity.

Three Key Requests to Start Closing the Gender Pay Gap

1. Public Sector Funding

- ❑ The pay equity adjustments that are owed to women working to provide public services to Ontarians require full funding. More than 100,000 women work in broader public sector jobs like child care, battered women's shelters and other key community service agencies, which because they are traditionally female jobs have some of the largest pay gaps in Ontario and had to use the proxy comparison method to identify their pay gaps. The Government has already identified the discriminatory pay gaps in these publicly funded jobs and in the settlement of the above-noted 2003 *Charter* challenge provided funding from 2003-2005 to close those gaps.
- ❑ With the end of the Charter settlement payments in 2005, the Liberal Government has failed to continue dedicated funding for pay equity adjustments that remain owing to close the identified gaps which on average will need to be paid up to 2011, based on annual payments of 1% of payroll. These women are far from "achieving" pay equity, and at the same time are seeing themselves fall far behind their comparators in the public sector. Based on the figure in a Government chart, produced in *Charter* litigation, as of this year, the Ontario government has failed to deliver \$369 million owing to these hard working women for delivering public services in 2006 and 2007. A further \$77.6 million is owed in 2008 and \$1.32 billion is owed from 2009-2011. The Government is now open to a further Charter challenge as result of this failure to fund. (See Pay Equity Denied by Government Chart enclosed)
- ❑ With the Government projecting a \$750 million surplus for 2007, it is clear that there are substantial monies available to pursue important public policy objectives. As well, the current surplus was created in part by not paying women delivering public services the money they were owed to close discriminatory pay gaps. This money must be factored into government budgets and paid out.

2. Increasing the Minimum Wage

- ❑ Minimum wage laws are a key pay equity measure. Women account for two-thirds of the minimum wage earners. (Statscan, 2000). Aboriginal women, immigrant and refugee women, women with disabilities and racialized women are even more likely to be working at the minimum wage. Without the benefit of a union and lacking a properly funded *Pay Equity Act* enforcement machinery to help them, their employers have ignored their obligations to make sure their women's work is paid equal to men's work of comparable

value. Low minimum wage policies ensure that women and their children remain poor. It is estimated that a single person working full-time needs an hourly wage of \$10.00 per hour just in order to reach the poverty line.

- ❑ Increasing the minimum wage will have a significant impact on closing the gender pay and reducing women's poverty. The Coalition asks that the Ontario government increase the minimum wage to \$10 per hour retroactive to 1 January 2008 as a pay equity down payment.

3. Restoration of Commission and Tribunal Funding

- ❑ The Commission and the Tribunal have had their funding and staff substantially stripped and have been unable to effectively carry out their difficult and extensive enforcement mandate. In 1992-3, under the New Democratic Party Government, the Pay Equity Commission and Tribunal employed and appointed 86 people and relied upon 28 review officers for enforcement, with a budget of only \$6.8 million. However, even this limited budget was cut by over 46 per cent by the Progressive Conservative Government when it came to power in 1995. These cutbacks also eliminated funding for the Pay Equity Legal Clinic which assisted non-unionized women to enforce their pay equity rights.
- ❑ The cutbacks continued when the Liberal Government came to power in 2003, with the Commission and Tribunal budgets being reduced a further 20 per cent since that time. By 2006, their combined budgets had fallen to just \$3.4 million – one half of the 1992-93 budget. Now, there are only 32 employees, 16 Review officers to cover the entire province, no regional offices, no research officer, and no library. The Coalition is calling for the Commission and the Tribunal to be restored to at least the 1992-93 funding level of \$6.8 million and whatever further funding is necessary to ensure vigorous *Act* enforcement and the closing of Ontario's gender pay gap.
- ❑ Without constant proactive vigilance and enforcement of Ontario's *Pay Equity Act* and the development of new measures which recognize and adapt to changing patterns of underpayment, any pay equity gains that were made in the early 1990's will be eroded. Those who never achieved pay equity will be consigned to ongoing discriminatory pay conditions. The onus is on public and private sector employers, including the Government, to show what steps they have taken and will take to ensure that women's pay is cleansed of discrimination and remains discrimination-free.

For further information:

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