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## **Standing Committee on the Status of Women**

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**EVIDENCE**

**Thursday, May 14, 2009**

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**Chair**

**The Honourable Hedy Fry**

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## Standing Committee on the Status of Women

Thursday, May 14, 2009

• (1110)

[English]

**The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)):** Order. Good morning, everyone.

I would like to thank the witnesses very much for coming this morning. As you know, we're speaking to the study of the Public Sector Equitable Compensation Act. We have put together about four weeks in which to look at this issue.

Usually when witnesses come—I want to thank you for coming on what I know was relatively short notice—they have ten minutes to present. There are three groups here.

Those of you from the Communications, Energy and Paperworkers Union can decide among yourselves how you will do your ten minutes. Then we have the Canadian Labour Congress for ten minutes, followed by Marie-Thérèse Chicha, here as an individual, for ten minutes.

That will be 30 minutes, and after that there will be questioning from the members. That goes in a particular order. I would like to remind you and also remind the members that the timeline for questioning includes the time for the answers.

Thank you very much. I shall begin with Ms. Pageau.

**Ms. Gisèle Pageau (Human Rights Director, Communications, Energy and Paperworkers Union of Canada):** Thank you.

The Communications, Energy and Paperworkers Union of Canada appreciates the opportunity to address the standing committee on this issue.

The CEP is one of Canada's largest sector unions, representing 130,000 workers in a wide range of occupations across Canada, including occupations in both the private and broader public sectors, such as media workers, workers in the chemical and energy sectors, pulp and paper workers, and telecommunication workers.

The CEP has a long-standing record of defending the human rights of its members and has an especially strong interest in pay equity matters. We are the first union to undertake joint union-management pay equity initiatives in several of Canada's private and publicly owned telephone companies, one of which took 15 years to conclude.

The CEP is grateful for this opportunity to present some comments to the standing committee, with the goal of achieving an equitable wage structure for both men and women in Canadian workplaces, and to explain to you just how inequitable and

discriminatory the current act is and how it does absolutely nothing to achieve pay equity.

Sex and gender-based pay inequity is a human rights issue. It is the result of systemic discrimination and societal perception of the value of work traditionally performed by women. Consequently, to consider pay equity a labour issue to be dealt with at the bargaining table is not only detrimental; it's also an inaccurate characterization of the nature of pay inequity. Pay equity must remain a human rights issue and must not form part of a collective bargaining scheme.

There are number of reasons why characterization of pay equity as simply an aspect of labour or employment law should be avoided. First, to characterize it as such undermines Canada's international commitment to human rights, including equal pay for work of equal value. In a labour context, human rights are paramount, and parties cannot legally contract out of human rights obligations. Forcing pay equity into collective bargaining processes and out of the process of human rights risks the erosion, or bargaining away, of whatever pay equity gains have been made by women. The rights of disadvantaged groups and minorities should never be subject to the whims of the majority.

Secondly, the inclusion of pay equity as an issue to be negotiated through collective bargaining ignores the systemic and encompassing nature of pay inequity. The systemic discrimination is reflected not just in the organization of workplaces, but also in the structure and the strength of bargaining units and unions. Bargaining units that are predominantly female may invite the replication of patterns and perceptions, or gender segregation, and the undervaluing of work. This lends itself to an inherent, though sometimes unconscious, power imbalance at the bargaining table, thereby undermining the principles that pay equity attempts to promote.

The CEP advocates a comprehensive and collaborative model of pay equity legislations for all workplaces, whether private or public. While the CEP believes that individuals should have a mechanism available to them whereby complaints can be initiated, the CEP acknowledges that a complaint-based system alone cannot ensure compliance with pay equity. Instead, the CEP envisions a more proactive pay equity scheme. This would include a positive duty on employers to review organizational wage structures and to remedy gender-biased pay practices.

The CEP also believes, however, an audit system would help to ensure adherence to a more proactive approach to pay equity. Audits must be conducted thoroughly and consistently to ensure a seamless continuity of pay equity throughout the federal sphere. In addition, employers must provide realistic and tangible timelines for the implementation of equitable wage structures and payouts for past discriminatory practices.

It is the view of the CEP that pay equity is not a one-time remedy, but rather that it must be examined frequently in the workplace. This is to ensure that employers are complying with pay equity regardless of the economic and social climate, which may serve to inadvertently, yet adversely, affect ongoing pay equity initiatives.

The idea is that concepts of pay equity are not stagnant, and fluctuate with ever-changing notions of equality and emerging trends in the workplaces.

The CEP advocates for greater participation of unions to ensure that the goal of pay equity is attained in the workplace. It should be noted that increased union participation cannot be equated with the union's responsibility for a compensation perspective. The employers pay wages, and are solely responsible for non-discriminatory compensation practices. The inherent power imbalance within the employer-union relationship, and the fact that ultimately employers hold the purse strings, precludes unions from liability for pay equity. This is consistent with union advocacy for equitable wage structures. Furthermore, the thrust with the current legislation, which holds employers solely responsible for discriminatory wage differences, should not be altered.

Finally, our own CEP telephone operators lived through 15 years of game-playing by their employers as a result of inadequate legislation. The CEP fought long and hard to bring pay equity to 4,700 telephone operators, of whom about 18% died before ever seeing a dime.

We all know what needs to be done. As you are all aware, the pay equity task force has exhaustively studied this issue. Several years ago, almost 200 people gave oral presentations. There were 60 written submissions from groups across the country. There were five round tables with multi-stakeholder groups, and the task force looked at proactive pay equity legislation in a number of jurisdictions in Canada to identify best practices. This government does not need to reinvent the wheel on this issue.

Instead of implementing this appalling and regressive act, I call on the Government of Canada to step up to the plate and do what is right and long overdue for the women of Canada, and that is to simply implement the recommendations of the pay equity task force.

*Merci.*

•(1115)

**The Chair:** Thank you. Very efficient; you have three minutes left. That's great. We'll save them. Barbara will probably want to take 13....

No, I'm just kidding, Barbara. Go ahead.

**Ms. Barbara Byers (Executive Vice-President, Canadian Labour Congress):** Okay. Thank you.

The Canadian Labour Congress is pleased to make a presentation to this Standing Committee on the Status of Women concerning the government's Public Sector Equitable Compensation Act.

We are very concerned about the implications of this legislation for workers in the public sector and indeed for the future of pay equity in Canada. The CLC has been involved with the pay equity issue for many years. We were full participants in the consultations conducted by the pay equity task force that led to the very thorough recommendations presented in May 2004. As this committee is fully aware, the task force presented a series of measures that would have transformed the federal pay equity regime and made it more effective and fair for women working in the federal sector. This committee made a number of recommendations, very important recommendations, in your 2005 report, *Moving Forward on the Pay Equity Task Force Recommendations*.

It is unfortunate in the extreme that the government has chosen to ignore the recommendations of both the pay equity task force and the Standing Committee on the Status of Women.

The government claims that "the current pay equity system in the federal public service is broken". We agree, but we would argue that the federal pay equity law needs to be fixed by adopting pay equity legislation on the Ontario or Quebec models. The equitable compensation act is nothing like the other pay equity laws in this country. Making pay equity a matter for collective bargaining will not work, and in fact Gisèle, I think, has pointed that out very clearly.

In fact, our unions support effective proactive pay equity legislation because for years we've been unable to bargain pay equity in collective agreements. Only two years ago, library workers in several cities in British Columbia went on strike over pay equity issues. B.C. is one of the only remaining Canadian jurisdictions that does not have legislation in place to enforce pay equity, and yet the federal Conservatives want to throw us back into this kind of regime with essentially no proactive pay equity law.

The government argues that women face lengthy delays in getting pay equity settlements because of divisive court proceedings. Delays certainly have been a major concern, but in general women have been forced to wait years under the current system because employers fight against pay equity plans and take the unions, who represent their members' pay equity claims, to court. The federal pay equity settlement was delayed for years as the federal government fought the Public Service Alliance of Canada through the courts in an attempt to avoid providing pay equity to federal workers. The union finally won in court.

In addition, many of the longest battles for pay equity through legal proceedings have involved private sector workers and their unions facing employers who drag them through the courts to stop pay equity. For example, you've heard from Gisèle about Bell Canada and the Communications, Energy and Paperworkers Union's 15-year battle. Air Canada and the Canadian Union of Public Employees, 17 years; Canada Post and the Public Service Alliance of Canada, 25 years. But the equitable compensation act only applies to federal government employees. Federally regulated private sector employees, where all these delays occurred, will continue under the old pay equity regime.

Now, how does this exactly make sense?

The government proposes its legislation as proactive pay equity, but simply calling something proactive does not make it so. Proactive pay equity legislation requires employers to examine their compensation systems to ensure that they are paying equal pay for work of equal value. In proactive pay equity legislation, individual complaints are not the trigger to challenge pay and equity. Rather, the approach is systemic.

Let me explain that a little bit further. Proactive laws place the responsibility for eliminating discriminatory wages on employers. Proactive laws ensure union involvement in negotiating pay equity in processes separate from regular collective bargaining. Proactive laws require comparison on the basis of skills, effort, and responsibilities required, and the working conditions under which the work is conducted. Proactive laws do not introduce market forces as a factor for consideration, as does the Conservatives' act. Proactive laws require employers to set aside separate funds—usually about 1% of payroll per year—for pay equity settlements.

● (1120)

Proactive laws establish an expert pay equity body, which is responsible for assisting parties and resolving disputes. None—*none*—of these features are in the equitable compensation act.

Conservative MPs have repeatedly told us that their legislation “addresses the key recommendations of the 2004 report by setting out a proactive and collaborative system”. That's taken from the *Ottawa Citizen* of March 7 of this year.

In fact, what the equitable compensation act mandates is the complete opposite of what the task force recommended.

It's important to know what the recommendations really are. One of those recommendations is as follows:

Though there are arguments in favour of placing pay equity legislation in the category of either labour legislation or human rights legislation, we have concluded that it should be characterized as human rights legislation....The problem of wage discrimination arises, however, because they are women, not because they are workers. We believe that characterizing a pay equity statute as human rights legislation reflects this fact.

That's from page 150 of the pay equity task force's final report from 2004.

The equitable compensation act makes pay equity a labour law. The review body is the Public Service Labour Relations Board, a labour law body with no expertise in pay equity. For these reasons among others, the CLC—along with pay equity and equality advocates across the country—is very concerned, and we view the

Conservatives' legislation as actually an attack on pay equity and on women's human right to work without wage discrimination.

We've distributed copies of *Pay Inequity: Canadian Labour Congress Analysis of the Public Sector Equitable Compensation Act* for your review. The analysis includes a critique of the requirements in the act to refer to market conditions when doing equitable compensation review, as well as a more in-depth analysis of our concerns about the role of and the penalties against unions for defending their members' rights for equality. We've also distributed the presentation we made to the finance committee in February of this year on the inequitable compensation act.

We urge this committee to continue to press the government for real, proactive pay equity legislation based squarely on the recommendations of the pay equity task force report.

Thank you. *Merci beaucoup.*

● (1125)

**The Chair:** Thank you very much, Barbara.

Gosh, there are two minutes to spare.

**Ms. Barbara Byers:** We think there's been enough talk. We need some action.

**The Chair:** Ms. Chicha.

[*Translation*]

**Ms. Marie-Thérèse Chicha (Professor, School of Industrial Relations, University of Montreal, As an Individual):** I would like to begin by thanking the Committee for inviting me to share my thoughts on the Public Sector Equitable Compensation Act.

My name is Marie-Thérèse Chicha, and I am a professor at the School of Industrial Relations at the University of Montreal. I chaired the Committee which prepared the draft bill which eventually led to the Pay Equity Act in Quebec. I also had the honour of being a member of the Federal Task Force which produced the report entitled: “Pay Equity: A New Approach to a Fundamental Right”. I am appearing before the Committee today as an individual, and thus I am not representing the University of Montreal. I am also an expert on equality issues, and specifically, pay equity, for the International Labour Organization in Geneva.

My objective this morning is to review some of the salient aspects of the Public Sector Equitable Compensation Act, in relation to wage discrimination issue and the intended objective.

Gender-based wage discrimination refers to the practice of not giving equal pay for work of equal value based on gender. That principle is enshrined in Convention No. 100 of the International Labour Organization, which was adopted in 1950. Therefore, this principle has been recognized internationally for some 59 years now. This is not a new issue, and one might expect, since the problem has been around for 59 years — and perhaps even longer — that it would have been resolved by now.

However, what we are seeing is that there still exists a significant wage gap between men and women at this time. The 2006 census showed that the wage gap between men and women ranged from 72 per cent to 85 per cent, depending on age, and that this percentage is changing very slowly.

So, that is a very surprising result, given the enormous progress made by women in terms of their educational level and uninterrupted attachment to the labour market, factors which tended to penalize them previously but should no longer be in play.

So, why does there continue to be a wage gap? It is certainly due, in large part, to wage discrimination between so-called female-dominated and male-dominated jobs.

I think it would be useful to provide a quick overview of the causes of wage discrimination, in order to have a clear understanding of the need for well articulated, very specific legislation that directly addresses the problem.

The main cause of this gap is the invisibility of women's work. Assessment methods and compensation systems underestimate the different features of female jobs. For example, there is a belief that women's work involves no physical effort, no risk and no danger. As a result, in terms of assessing and setting compensation for women, such factors are not considered.

It is also believed that the underlying requirements of female jobs, such as caring for children, empathy and good interpersonal skills are innate factors. As a result, they are not considered for the purposes of compensation.

All of these different factors mean that female jobs are undervalued and, by that very fact, undercompensated. They are undervalued because the evaluation methods used in the corporate world are methods that were designed primarily for male-dominated jobs. They involve upward responsibility or working with very sophisticated or heavy equipment, such as trucks, dollies, and so on. These evaluation methods do not consider the special characteristics of female-type jobs.

Obviously, if the evaluation methods on which compensation systems are based are inherently biased—

• (1130)

[English]

**The Chair:** Excuse me, Madame Chicha. We will resume your report when we resolve the distraction at the back of the room.

Thank you.

Please resume.

[Translation]

**Ms. Marie-Thérèse Chicha:** I will summarize what I just said. The visibility of the specific characteristics of female work has an effect on the evaluation methods used by employers. These evaluation methods, on which compensation systems are based, will therefore result in wages which are discriminatory and which are lower. Pay equity was designed to resolve that specific problem.

What is the best model for achieving pay equity? A number of models have been tried. At the international level, Canada is considered to be a laboratory for the various pay equity models that exist. We started out with a complaint-based model, which is the current model and which was, in any case, the model used to develop the Canadian Human Rights Act.

As my colleagues have just pointed out, that model has been a source of dispute. When complaints were filed, settlements would only be achieved some 15 or 20 years later. Many people never saw any money at all, because they had already died by the time the case was settled in court. In fact, it was an ineffective model which ultimately did not do people justice. It was also extremely costly. You may recall that the court case involving the Public Service Alliance of Canada cost between \$3 and \$4 billion, including the back pay that was owed.

In light of the enormous costs of the complaint-based model, a number of jurisdictions have adopted what is known as the proactive model. Manitoba was the first to do so, followed by Ontario, which also extended it to the private sector, whereas in Manitoba, it covered the public and parapublic sectors. Quebec then did the same, and also extended it to the private sector. Quebec used the Ontario model and improved it using—

Let us just say that it is a proactive model. The federal task force that I sat on considered that model to be the most effective for achieving pay equity. I will start by describing its main components and then compare it to what is proposed under the current act.

Here are the main points. In a proactive model, pay equity is an obligation for all employers and it is their responsibility to enforce pay equity in the workplace. That is the first feature. Unlike the reactive model, which is complaint-based, the proactive model does not wait until a complaint has been filed to ensure that pay equity is achieved.

The second feature has to do with a specific timeline. When a complaint is lodged, we do not want to wait 20, 25 or 30 years for pay equity to become a reality. As recommended by the Task Force, a proactive model provides for a three-year timeframe for the work to be completed—in order to determine what wage gaps exist, for example—and three years to then pay compensation to the individuals who have been discriminated against.

The third feature is that the Task Force laid out a step-by-step program. That program included determining the predominance of different jobs—in other words, which male and female jobs should be compared and what the best method of evaluating them would be. The evaluation method must always include four factors, as we just saw: qualifications, responsibilities, the conditions in which the work is carried out and effort. I won't go into detail with respect to all of the steps, because you have all of this in your copy of the Task Force report.

Another important feature is the joint participation of workers, their representative and the employer in what is called a pay equity committee. The two parties get together to develop a program: they determine the best applicable method of evaluation in that specific workplace, the method to be used for comparing wages, and so forth. This is not a negotiation; it is work carried out by both parties jointly on the pay equity committee.

The employer has an obligation to provide all the necessary information to committee members, to allow them to carry out their work. That means information on wages, and all the necessary data in order to measure the wage gap and correct it. That is an important obligation.

• (1135)

The Task Force also recommended the creation of an independent entity, to be called the Pay Equity Commission.

I will just quickly run through the primary differences. One major difference is that in the Act, achieving pay equity is rolled into the collective bargaining process. However, a fundamental right cannot be included in the collective bargaining process because, when negotiations occur, there are necessarily compromises to be made. For example, you cannot say that you're going to reduce wage discrimination by 5 per cent and leave it at 95 per cent because, in exchange, workers will have a shorter work week. That would be as ridiculous as maintaining a certain level of discrimination against visible minorities in the workplace, in exchange for a shorter work week, for instance.

A fundamental right, an equality right, cannot be subject to compromise. If it is part of the collective bargaining process, that will lead to endless conflict and we will find ourselves right back at square one, with disputes lasting 10 or 20 years.

One of the advantages of pay equity, as mentioned in relation to the proactive model, is that it allows you to avoid disputes. This model, which sets out all the benefits of pay equity, is discussed in one of the documents that have been distributed to you.

I would be happy to answer any questions you may have.

[English]

**The Chair:** Thank you very much, Madame Chicha, for this document. While you were speaking, I've been thumbing through it. It looks as if it's going to be an excellent tool for this committee to use as we look at the issue. You've broken it down so excellently into all its components as to why pay equity is important.

Now we will begin the questions, starting with Ms. Neville, for seven minutes.

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** Thank you.

Let me thank all of you for being here today. It's very much appreciated.

I think I'm probably the only remnant here of the former status of women committee that looked at pay equity. I think my memory is failing, but did any of you appear before the committee when we dealt with pay equity before?

**Ms. Barbara Byers:** No, at that point our officer responsible for our women's department would have been Marie Clarke Walker, who's the other executive vice-president, so she would have appeared. Sue Genge from our women's department certainly did, and Penni Richmond.

**Hon. Anita Neville:** You're probably aware, then, that there was a different government at the time and there was a commitment made by the government of the day to come back with a model for a proactive pay equity scheme. It was brought forward by then Minister of Labour Joe Fontana and then Minister of Justice Irwin Cotler. There was a commitment to do a consultation with the stakeholders based on their draft legislation.

Are you aware of that commitment?

**Ms. Barbara Byers:** Yes. I was there, at that meeting.

**Hon. Anita Neville:** You were. Okay. Unfortunately, our time ran out a little early, and we were not able to do it. I've asked, actually, if we can find copies of that legislation—I know it was drafted—to look at it as a model.

I have lots of questions. All of you referenced provincial jurisdictions and programs in place. The minister, in introducing this piece of legislation, has referenced provincial jurisdictions, to my mind somewhat out of context. I am wondering if there is any provincial program you would hold up as the model that a federal program should be based on, and what the most important components of that would be.

• (1140)

**Ms. Barbara Byers:** The two models we have referenced in our presentation and in the past are Quebec and Ontario. I know our sisters in those provinces would say the legislation still isn't there yet, but it's a long way from what women had before and it's a really long way from this piece of legislation. This legislation does not in any way resemble either the Quebec, Ontario, or Manitoba models, quite frankly.

**Hon. Anita Neville:** What are the most distinguishing features of those models?

**Ms. Barbara Byers:** For Marie-Thérèse, Gisèle, and I, the question of pay equity is dealt with away from the normal bargaining table. Certainly it's in negotiations, but it's not part of the normal bargaining. The union has access to all of the information about the pay scales, pay inequities, and all that sort of stuff. The employer is responsible for closing the wage gap. It's not left as a dual responsibility so that somehow the union is supposed to help pay for it.

There are timelines, and there is a pay equity commission that continues to look at this. There's a whole list of things that we gave in our presentation. The set-aside of money is critically important. You can't just put the money in and say, "We're going to the bargaining table, and this amount of money will go for the settlement. And by the way, pay equity has to come out of that." It doesn't work that way.

**Ms. Gisèle Pageau:** There's also access to experts. You can't send pay equity to a body that knows absolutely nothing about it. That's a very serious issue. At least with proactive legislation it goes to an expert.

I want to make a quick comment about our sisters in Quebec.

Within the last couple of years, the Quebec government has done a study on their pay equity legislation. It's been implemented for a period of 10 years. One of the big concerns was that employers were saying, "If we implement pay equity, businesses are going to close and people will be out of work, so we might as well pay women a little less and keep them employed." The study in Quebec found the exact opposite. Businesses did not close. It also found that if employers were not forced to implement pay equity, 85% of employers would not do it.

Those are very serious issues. I would recommend that our sisters from Quebec share that, because it's a very good study.

**Ms. Barbara Byers:** Another thing is that you cannot say this is proactive legislation, because it isn't initiated that way. It has to be initiated by individuals. Tell me one woman, even one woman in this room, who would go through 25 years of trying to fight for that kind of increase. They don't have the resources, the time—all of those sorts of things. This is not proactive.

**The Chair:** I think Ms. Chicha wants to answer.

**Hon. Anita Neville:** I wanted to follow up, but go ahead.

[Translation]

**Ms. Marie-Thérèse Chicha:** The model recommended in the Task Force report reflects what was done in both Ontario and Quebec, and the mistakes that were made. So, it goes even further than the system that was implemented in Quebec and Ontario. Another important characteristic of the proactive approach is that it is extremely systematic. The evaluation method must be analyzed to ensure that it is not sexist. The application tools are also considered. In other words, this method is extremely detailed.

[English]

**Hon. Anita Neville:** Can I ask a quick question before I'm cut off?

You talked about 25 years, Ms. Byers. The minister, in presenting his legislation, said that's exactly what we're trying to avoid, the 25-year....

Can you comment on that—

**The Chair:** I'm sorry, Ms. Neville, your time's up.

**Ms. Barbara Byers:** I'll figure out a way to come back to it.

• (1145)

**The Chair:** Johanne Deschamps.

[Translation]

**Ms. Johanne Deschamps (Laurentides—Labelle, BQ):** Thank you, Madam Chair.

Thank you very much for being here again to discuss an issue which may, one day—perhaps soon—be resolved if we are given the means and the tools that enable us to do that. Along the same lines as what my colleague, Ms. Neville, was saying, I would like quote you what the government said about the former system. It said at the time that: "The current complaint-based pay equity system has resulted in a lengthy, costly and contentious process which does not reflect the realities of the Canadian labour market".

I would like to know how the new system improves that, if it does, and if it would have been easier to implement a system like the one in Ontario and Quebec. There was nothing preventing us from doing that here.

I am going to ask the "killer question". Why did the government not rely on the many recommendations that your organization made repeatedly? Do you know the reason? Is the new legislation, as currently drafted, not inconsistent with the Government of Canada's international obligations and commitments?

**Ms. Marie-Thérèse Chicha:** You have asked a lot of questions. You are really asking how exactly this model does not jibe with the realities of the labour market. My interpretation of that statement is that the labour market, unfortunately, is still characterized by extensive discrimination against women in terms of wages, and in other areas as well. As a result, a complaint-based process will certainly not resolve such an extensive and persistent problem. If we were talking about a one-time issue in a specific workplace that was limited in time, it might be possible to use the complaint-based method. However, as we all know, this is something that is very common in workplaces, and it is also a problem that has been around for a long time and that we have been unsuccessful in addressing. This model simply is not suited to dealing with the realities of the labour market. I don't know whether that answers your question.

**Ms. Johanne Deschamps:** The government is introducing a new concept in this legislation. Previously the term used was "pay equity", but it has introduced the concept of equitable compensation. People do not seem to be familiar with this new concept. It is completely unheard of in Canadian laws and even international laws.

How should we interpret this new concept? The term "pay equity" is no longer used. It has been replaced by this unknown concept.

**Ms. Marie-Thérèse Chicha:** That is actually a reflection of the whole problem with this legislation. It is not aimed at eliminating wage discrimination. Indeed, if you read the entire text from cover to cover, you will see that nowhere does it mention wage discrimination and nowhere is there any comparison between female and male jobs. What is discrimination, really? Any form of discrimination is always based on a comparison between two groups. But this Act, in terms of its structure and the language it uses, does not even refer to that problem.



**Ms. Gisèle Pageau:** This new legislation will in no way shorten the process. It puts women in a position where they have to negotiate pay equity at the bargaining table. That is the major problem. Unions may be put in a position where they will have to choose between pay equity and, possibly, specific benefits. How can the two be reconciled? This is a very regressive piece of legislation. I see nothing positive in it to enhance the achievement of pay equity.

**Ms. Johanne Deschamps:** Why did they not copy the Quebec and Ontario models?

**Ms. Gisèle Pageau:** That's a good question. I have no idea, because the answers with respect to pay equity are in the study that was carried out only four year ago.

**Ms. Johanne Deschamps:** Could it be to muzzle—

• (1150)

**Ms. Gisèle Pageau:** There is no other one.

[English]

**The Chair:** You're doing fine. You have another two minutes.

[Translation]

**Ms. Johanne Deschamps:** Really? Then, I will let you continue, Ms. Byers.

[English]

**Ms. Barbara Byers:** I want to go back to this idea of, you know.... In some respects, we're lucky that this doesn't refer to pay equity, because it's not. We should be really clear that it is not. It's probably more about *inequitable*.

On the question of individual women having the resources to be able to fight a case all the way through against their employer... This is not about the employer and the union sitting down and figuring out where the inequities are. This is about an individual person, or a group of women, having to take that on. That's not easily done. How many women, in any of the cases that we've quoted this morning, would have been able to stick with it? That's one thing.

The other thing is that the offensive part of this—there are many offensive parts—is the comparisons to the market. Isn't the market what got us into this problem in the first place? The market doesn't look at the value of a job. They say, if this group of workers over here is being paid poorly, then why would we pay this group of workers who do similar jobs over here any better? We're going to go out and say workers in the federal sector have this wage rate. The comparison is not with men and the value of comparable jobs done by men. The comparison is with women in the private sector—non-union, in all likelihood—who are paid less. Shouldn't the solution be bringing up those other women's wages rather than driving everybody else's down?

I mean, why is it being done? Obviously I'm not privy to....

**The Chair:** No, you can finish your sentence.

**Ms. Barbara Byers:** The fact is that this is an attack on women's economic equality. People say that there's not discrimination anymore. Well, women see the discrimination in their paycheques every time they take them home. They can see that discrimination, and it's for them and their families.

**The Chair:** Thank you very much.

Ms. Davidson.

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Thank you, Madam Chair.

Thanks very much to each of the presenters here this morning. It's certainly valuable for us to hear the input from the different areas.

We know that the government has introduced this new Public Sector Equitable Compensation Act. Of course, that's what we're discussing this morning. I want to make it very clear that the Conservative government does respect the principle of equal pay for equal work.

**The Chair:** Order, please. It's difficult to hear Ms. Davidson.

Go ahead. I can hear you now.

**Mrs. Patricia Davidson:** As I was saying, the government does respect the principle of equal pay for work of equal value. That certainly is much respected by this government. That's the main reason why we took this action to update this outdated complaint-based pay equity regime.

We have heard from people that, in many cases, women waited 15 years or more. We've heard that from you this morning. We want to get away from that. We want to stop that.

This was the act that we felt was going to give improvements for women. We're looking for accountability. The employer and the union would both have accountability to see that this happens, instead of just the employer.

I agree; what woman has the resources to go through 25 years of divisive court action against their employer? This act is to get away from these types of things.

We've heard a lot of different comments here this morning, and Ms. Chicha, you've said that the existing model is inefficient and expensive. The complaint-based model is not going to work. We have introduced what we feel is a proactive model. Certainly the working group did recommend a proactive model.

Can you just make some comments on some of the statements I've made here this morning? Do you think this is going to make a more timely decision-making process? Is it going to make that possible for women so they are not going to have to go through such lengthy individual processes that are so costly to them?

• (1155)

[Translation]

**Ms. Marie-Thérèse Chicha:** As I understand it, you are asking me whether the model proposed in the Public Sector Equitable Compensation Act will correct the problems associated with the complaint-based model, since it is considered to be a proactive model.

I have two comments. First of all, the starting point for the Federal Equity Task Force was that same realization—in other words, that the complaint-based model doesn't work. So, we agree on the fact that this model is ineffective. The government is proposing a proactive model. However, there are a number of differences—two major ones, I'd say—between a proactive model and what this legislation contains.

First of all, a proactive model is a detailed, specific model which eliminates one of the reasons for the time involved and the cost of dealing with these complaints, which is confusion about the terms and exactly what pay equity means. In a proactive model—Section 130 of the Quebec statute, for example, details all the different steps to be followed in order to, as much as possible, avoid disputes about interpretation and, therefore, delays and escalating costs. However, that does not seem to be the case with the current act, which sets out no specific criteria and, in certain cases, only creates confusion with respect to certain data. Therefore, this model may be considered proactive, but it does not attain the desired outcome, in the sense that it does not help to avoid the problems of interpretation or the confusion I described. There is a tremendous lack of clarity in this statute.

Second, a proactive model is not based on the collective bargaining process. This model is, however. In that respect, it will not improve things, because a fundamental right, by its very essence, is not negotiable.

[English]

**Mrs. Patricia Davidson:** So you think that the inclusion of the union responsibility will slow things down? Is that what I'm hearing?  
[Translation]

**Ms. Marie-Thérèse Chicha:** Wages are the responsibility of the employer. The person who pays the wages is the employer. Therefore, you cannot say that the union or the workers are responsible for the wages that are paid. In proactive legislation, that work is done jointly. Why is it done jointly? In order to ensure that it is objective, valid and reflects the workplace. However, joint work does not mean joint responsibility. Responsibility is something different.

[English]

**Ms. Barbara Byers:** I just want to add something.

I am completely...not “confused”, but to my mind, there's just no logical reason for this. We had a pay equity commission that spent two to three years hearing hundreds of presentations, with all sorts of other submissions and all of that sort of stuff. They came out with, quite frankly, a document that made people around the world say, “Man, these folks in Canada spent a lot of time studying. They know what needs to be done.”

Then you come out with a law that is just completely contrary to all of that. How would we ever suppose that this was actually going to move things ahead? We've already had the direction pointed for us; it's for all of us.

**Mrs. Patricia Davidson:** So you would agree, strictly speaking, with the recommendations made in that report?

**Ms. Barbara Byers:** The pay equity task force report? Yes.

Again, as Marie-Thérèse has said, it will take the best of the Ontario and Quebec models and improve on them from the experiences we've had there. But you can't in any way say that this will deal with equal pay for work of equal value or help the process along.

**The Chair:** Thank you very much.

We'll go to Ms. Mathysen.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** Thank you very much.

Thank you so much for being here. The expertise you bring and the clarity of your presentation, I think, will help this committee very much.

I have a number of questions. I'd like to start rather simply.

Is the PSECA proactive pay equity?

**Ms. Barbara Byers:** No.

**Ms. Irene Mathysen:** Should it be repealed?

• (1200)

**Ms. Barbara Byers:** Yes.

**Ms. Irene Mathysen:** Okay.

We've talked a lot about the complaints-based model. It failed because it was protracted. There was an imbalance of power inasmuch as those bringing forth the complaints may not have had the monetary or legal expertise to help them proceed. What would the system, in terms of pay equity at the bargaining table, look like under the PSECA? They want it to be part of collective bargaining. What would that look like? If pay equity became part of collective bargaining under this new law, what would it look like?

**Ms. Gisèle Pageau:** It would look like chaos. What would happen is that you would have bargaining units going to the table trying to figure out how to manage a fundamental human right. When they're putting their packages together, they're going to have to ask their members to decide whether pay equity is more important than how we divide the pie. When it comes time to bargain, the employer has  $x$  number of dollars. At the end of the day, bargaining means deciding how you divide it. How can you divide a fundamental human right? You can't bargain a fundamental right. It means people will be going on strike for a human right, and there's no logic to it.

I hear the Conservative government saying this is proactive. But I have yet to see how that is defined in their minds, or how bringing it to the bargaining table could be helpful.

**Ms. Irene Mathysen:** Thank you.

Ms. Byers, you talked about the pay equity models in Ontario and Quebec, and you said that it should be adopted by the federal government. Can you elaborate on how these models would better serve women?

**Ms. Barbara Byers:** When you're dealing with pay equity as the issue, you're going to be bringing in people who are experts in that kind of bargaining, who are focused on it, and who are going to be dealing with getting rid of the gender-based discriminations that exist in many classifications. I've hung around pay equity stuff for a long time, and it took me a while to figure out the effort piece. I could never get my head around it.

Think about it this way: if a man on a construction site goes and picks up two 50-pound bags of cement and hauls them off to whatever he's doing, that's considered to be "effort". A woman who works in a grocery store picks up hundreds of five- to ten-pound bags of groceries in the course of a day, but it's not seen as "effort". Same thing with a woman who works on a keyboard, whose hands are constantly moving, and who may get carpal tunnel syndrome—that's not seen as "effort", because I guess she didn't sweat or grunt and those sorts of things.

The reality is that you have to go at these things and take out the gender biases, and that takes expertise and help. So that helps.

The other part of it is that the union, from our perspective, has the responsibility of going out and talking to their members about this. The union would have access to all of the information that would be necessary. But it needs to be done separately, because you'll get into negotiations and the employer will eventually give you a "final offer", and then you will have to choose between continuing to talk about pay equity or workboots or some health and safety issue. That's what will happen.

In the federal sector, the interesting thing is: how is the union responsible when there are legislated wages and wage freezes imposed? How can the union be responsible for negotiating something when they don't have the ability to negotiate it?

There are all sorts of things. Women will not benefit from what's in front of us now. They will benefit if we actually take the advice of the people who worked for a long time on this.

• (1205)

**Ms. Irene Mathysen:** You used the word "benefit", and Ms. Pageau, you said Quebec discovered that proactive pay equity actually benefited everyone. Can you elaborate on that?

**Ms. Gisèle Pageau:** We tend to forget that women pay taxes too. If you put more money in their pockets, how can that not be a good thing? Employers are finding that the rate of people staying in jobs that are well paid is greater, so you don't have this high turnover all the time, and you don't have the retraining that you have to do for lower-paying jobs, or where there are inequities. Not one employer in Quebec closed its doors because of proactive pay equity legislation. It's a win-win for everybody—for women, for employers, and certainly for the government, who likes to pick up on those taxes.

**The Chair:** We have ended that round, I'm sorry, Madame Chicha, but we will be going into a second round.

Actually, we will have time—yay—for a third round. If everyone wanted three minutes for the third round, we'd be able to do that as well. So line up your names for the third round, if you wish.

Lise, five minutes.

[*Translation*]

**Mrs. Lise Zarac (LaSalle—Émard, Lib.):** Thank you, Madam Chair.

When the government tabled its budget, at the beginning of the year, it said it had consulted Canadians. In your presentation, Ms. Pageau, you mentioned extensive involvement—200 people made oral presentations, 60 submitted written briefs, and so on.

You also say that you find this legislation to be appalling and regressive. I take from this that you believe the government did not listen to you. You probably are thinking that you made good suggestions, but that the government paid no attention to them. Later on, if we have enough time, I would be interested in knowing how you reacted when you learned that pay equity would be dealt with in a federal budget bill. After that, I will put the same question to all of you.

You all referred to the settlement with Bell Canada. How much time did it take to achieve that settlement? I worked for Bell Canada at the time and I have a very clear recollection of the whole process. Ultimately, we accepted the offer. I was a unionized employee and was one of those who accepted the offer. And it was a negotiation. When you are trying to get someone to accept something that is hard to swallow, often you will try to tempt them with goodies. That is exactly what happened. Because most of the employees were women, pay equity was very important to them. We suffered significant losses in other areas, but because pay equity was important, we reached a settlement.

I want to come back to my colleague's question, because the Minister said that what he was proposing would not take as much time. What is your interpretation of what the Minister said?

**Ms. Gisèle Pageau:** In my opinion, it will not take much more time, because women will not be in a position to pay and to challenge their employer, since the union could be subject to a \$50,000 fine. Pay equity is supposed to be negotiated, but if things don't work out and there are complaints, well, you ladies are on your own. That's what the legislation says.

I cannot imagine how a woman earning between \$30,000 and \$50,000 a year could afford to pay for a lawyer or an expert to represent her, collect information and appear before the various courts or organizations being proposed by the Conservative government. I cannot imagine that happening.

Let us talk about what happened at Bell Canada. That is one of the reasons why the legislation doesn't work. At Bell Canada, a study was carried out. The study involved all three parties, including the employer. When the results came out, management was very proud of what had been accomplished. However, when it saw what wage increases for operators were going to cost, all of a sudden, the study wasn't worth anything anymore.

It has turned into a game in the different courts. We had no idea. Fifteen years later, we paid millions of dollars to lawyers on both sides. How can that be proactive?

• (1210)

**Mrs. Lise Zarac:** In your opinion, has the pay equity issue been resolved at Bell Canada?

**Ms. Gisèle Pageau:** No, it is not resolved. There is no pay equity at Bell Canada. There was just a settlement.

It should be noted that at Bell Canada, there were 4,700 operators; now there are less than 200. Furthermore, we only received about 70¢ on the dollar through the settlement. We had the choice of shutting the door or trying to resolve this.

We still have an agreement in place, because the management of Bell Canada says it is still willing to talk to us. However, the reality is that, with the laws that are currently in effect, there is no point.

**Mrs. Lise Zarac:** Ms. Chicha.

[English]

**The Chair:** You have 30 seconds.

[Translation]

**Ms. Marie-Thérèse Chicha:** I simply wanted to add that the situation is worse for immigrant women. They suffer from even greater wage discrimination. They certainly will not lodge a complaint on their own. They cannot afford to. So, it is doubly prejudicial in their case.

[English]

**The Chair:** Thank you.

Cathy McLeod.

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you, Madam Chair.

Thank you to the speakers for coming and presenting today.

First of all, I want to reiterate the comments of my colleague—that is, in my belief, we are all trying to achieve the same goal. We have a different lens in terms of how we're going to achieve that, but I think the Conservative government does want proactive pay equity legislation. Again, it's a different world lens that we see in terms of the way we're going to reach that particular goal and what is the best method to achieve it.

I want to talk in terms of this as proactive rather than complaint-based, and within the union negotiations. I sort of look at experience. I would disagree that there will be an ability to negotiate this away at the bargaining table. You look at joint health and safety, you look at many things that the employer and employee have joint responsibility for. This is creating a joint responsibility, it's creating the conversation with the people who need to have that conversation, the people who understand the jobs they're doing. Plus it's putting in a mechanism whereby it has to be reviewed. It has to be reviewed with the length of the contract.

I actually have sat on both sides of the table in terms of negotiations. I have a lot more faith in the negotiation process, and I'm hearing that it's an effective mechanism to accomplish this goal.

I also have a lot more faith.... I know that we talk about the Public Service Labour Relations Board not having the expertise. Well, do you know what? I think to ingrain equity into Canada, we need to be gaining expertise in all sorts of areas, and not just very small groups of people.

So in terms of the Public Service Labour Relations Board, we all need to be gaining expertise in terms of the method and the methodology. Perhaps the union has not effectively done their job at the table, so if the person to bring that forward....

I don't believe they're going to go forward without support, but to not go forward with either the employer or employee, in terms of the complaint, is appropriate, because maybe the union hasn't been doing the job and maybe the employer hasn't been doing the job.

Those are my comments. Again, I truly believe we need to ingrain equity and we need knowledge across Canada. I'd like to talk about that union-employer relationship. I think it could work.

Being as we have this legislation, why don't we talk about how we can make it work to move forward?

• (1215)

**Ms. Barbara Byers:** First off, what you need to understand is that in joint health and safety, which you raised as a reference, those are experts. That is stuff that's done away from the bargaining table. Sometimes some of those things come to the bargaining table, but it's after the experts have dealt with it. That's a reality.

On the other part of it, I want to go back to a question that was asked earlier. We've just seen how pay equity was submerged in this federal budget bill. This is exactly what can happen at the bargaining table. It becomes submerged somewhere else. There's a reality there.

If we want to advance women's wages, then we have to have separate proactive pay equity legislation that's modelled on what the task force put forward, not something that's complaint-based, not something that women take on by themselves, and not something, quite frankly, that unions are prevented from helping them with.

**The Chair:** Gisèle, you have one minute.

**Ms. Gisèle Pageau:** You made a comment that you're looking at it from a different equity lens.

**Mrs. Cathy McLeod:** Not a different equity lens, sorry, but a different lens in terms of how we can accomplish the goal.

**Ms. Gisèle Pageau:** Okay. Well, with all due respect, I think the lens is perhaps a little out of focus.

Pay equity does not belong at the bargaining table. It's a human right. It would be like bargaining a right for workers of colour. You have certain rights: you have to go in and bargain rights for workers of colour, or you have to go in and bargain rights for workers with disability. It just does not belong there.

Don't forget, the responsibility for remuneration, or your pay, belongs to the employer, not the union. We cannot control the employer when there are large budgets, in how they decide to spend their profits or whatever. The responsibility for paying employees belongs to the employer. Pay equity is simply a human right.

**Mrs. Cathy McLeod:** Yes, but so does health and safety belong to the employer.

Anyway, thank you very much.

**Ms. Barbara Byers:** The employer is responsible for providing a safe and healthy workplace.

**The Chair:** You can come back to that in a minute, Barbara.

Nicole Demers.

[*Translation*]

**Ms. Nicole Demers (Laval, BQ):** Thank you, Madam Chair.

Ladies, I would like to thank you for being here today.

I have been listening to comments made on both sides of the table. I know Ms. Davidson; she is an honest person. I think she is sincere when she says that her government is doing this to ensure that women achieve pay equity. At the same time, I wonder how the current could have been transformed to the point where that would seem to be true. If the government had really been sincere about pay equity, it would have given women the opportunity to defend themselves, it would not have abolished the Court Challenges Program and it would not be imposing a \$50,000 fine on the unions when a woman has to defend herself when she is unsuccessful in achieving what she is entitled to through negotiations.

Were you consulted when the government decided to include this bill in the budget legislation? Have you heard of any individuals or organizations that were? What prompted the government to respond in this way to what is such an obvious problem? Working at a school of industrial relations does not mean you are left-wing or right-wing. It is simply a matter of logic.

I think my colleagues are sincere. They believe that their government is also acting in good faith.

**Ms. Gisèle Pageau:** The unions were not consulted before this bill was drafted. It's quite simple: if the government is sincere about wanting to ensure there is pay equity, all it has to do is read the study and the report that were issued, and look at the results of the consultations that took place. They will provide all the answers that it needs. Then it can do exactly what the recommendations suggest. There are about 115 of them, and they answer all the questions raised by your Conservative colleagues.

• (1220)

**Ms. Nicole Demers:** Why do you think the government wanted to segregate people working for the public service from people working for federally-regulated private companies? Does that mean the government does not want these individuals to achieve pay equity?

In your opinion, pay equity should apply in the public service. Does that mean there is no desire to ensure that others have pay equity?

[*English*]

**Ms. Barbara Byers:** I guess now we'll have two systems that don't work for women.

Gisèle will still deal in the federal private sector with...because nothing has been done to improve that system. Nothing's been done to make sure it meets the requirements of the task force.

Quite frankly, we'll have a way to keep public sector wages down, and there are a lot of women employed in the federal public sector, we know that. There are certainly some business groups who have lobbied to try to keep public sector wages down, because obviously it's competition with them. If you're a woman working in a private sector, non-union environment and you don't get very much in wages, don't get any benefits, if you have an opportunity for a better job in the federal sector, obviously you're going to go there.

Quite frankly, I think this law is mean-spirited toward women who work for the government. I don't mean the government in terms of political parties, I mean the government, the people who try to provide services on a day-to-day basis. It's just mean. It's penalizing women through their paycheques.

**The Chair:** Ms. Byers, there's a half minute left.

[*Translation*]

**Ms. Nicole Demers:** I am very upset. I don't know how to get through to my colleagues in terms of convincing them that we have a valid viewpoint. I only want what women are entitled to, which is pay equity. I introduced it in 1998, with my colleagues at the Coopérative de soutien à domicile, when the legislation came into effect in Quebec. We did a comparison of the work done by women providing housekeeping services to that of men doing heavy work, to ensure that, in relation to the work done, the wages given were equitable and equal. That was some 11 years ago.

[*English*]

**The Chair:** That was a statement, Ms. Demers.

Ms. Mathysen.

**Ms. Irene Mathysen:** Thank you, Madam Chair.

I've been listening very intently, and Ms. Byers, you talked about the resistance to pay equity as being mean-spirited. It's also very expensive. In your brief, you talked about the federal pay equity settlement being delayed—in the case of Canada Post, by 25 years.

Do you have any idea of what the monetary cost of fighting that battle was for the union? Do you have any sense of what it probably cost the federal government, the taxpayers, to fight that prolonged battle?

**Ms. Barbara Byers:** I don't have those specific figures, but surely we could find them.

There would be a huge expense, obviously, to the taxpayers and to the unions. Gisèle would certainly know from the Bell Canada case.

In our office, one of the executive assistants to our president was an EA at the time. She had come out of the old Communication Workers of Canada and was on the stand for 18 months. That's no small amount of money for lawyers.

So it's a huge cost. It's a huge cost for the union. It's a huge cost for the taxpayer who's paying for the employer to stop this. Or, quite frankly, if you have your service with Bell Canada, you're paying for them to fight it.

But think about what the cost is for each of those women. It's sinful. It's absolutely sinful that those women weren't going to get paid. And as Gisèle said, many of them died. How long do we have to wait?

• (1225)

**Ms. Irene Mathysen:** Yes, that's right. My next question was going to be what was the emotional cost, because that protracted battle must have really played upon individuals.

**Ms. Gisèle Pageau:** The emotional cost was unbelievable.

I can tell you first-hand how many calls I would get from operators who were ill, or who were living below the poverty level because they were still waiting for the pay equity adjustments to their pensions. I had spouses call and say, "My wife died, but please keep me informed."

As for the actual financial costs, I can tell you, and I make no bones about this, the cost of achieving pay equity at Bell for the union was well over \$5 million.

Let me put it into perspective. I'm at the hearings, and I don't make lawyers' wages. I had one lawyer, sometimes two. Bell Canada, every day, had five to seven lawyers, who were much more expensive than my lawyer. It was estimated that Bell Canada spent anywhere between \$3 million to \$5 million a year on legal costs.

Bell Canada purposely dragged this on, as Ms. Byers just mentioned. Our key witness was under cross-examination for 18 months. That's 18 months on the witness stand while not being able to speak to anybody about the case. Think of what that did to her and how it looked.

So the system is completely broken. The women of Bell Canada, the ones who were left living, yes, they received some moneys and their pensions were adjusted. However, out of the 4,700, about 18% were gone. We did manage to negotiate that Bell Canada would not retain that money. It did go into the women's estates. However, it was the operators' money, not the estates' money.

**Ms. Irene Mathysen:** So to avoid that pain, we need the pay equity task force report of 2004. That's all we need.

**Ms. Gisèle Pageau:** That's all we need. It's all done. It's ready. Just do it. It's so simple. It boggles our minds why it's not being done, because it's simple. The work has been done.

**The Chair:** Thank you very much.

Ms. Hoepfner.

**Ms. Candice Hoepfner (Portage—Lisgar, CPC):** Thank you very much.

I have to say, listening to the discussions today, being part of this committee, many times our opposition colleagues do their jobs and they very passionately oppose most of what the government does, and that's their job. With you ladies here as witnesses, I believe you want to bring an objective contribution to this discussion.

So I appreciate Madame Demers' recognizing that we all want to see pay equity for women. We are not interested in being mean-spirited or appalling and regressive. And when I hear you talk about what has happened—women having to sit for 18 months and be cross-examined—that is regressive, that is mean-spirited, that is appalling.

Our goal is to not have that happen. We want to see pay equity achieved and this government truly wants to see it proactive. We believe there is a role, and it's a positive role, that the unions can play in it.

I really want to understand where you're coming from. Do you believe the union doesn't have the expertise in order to recognize when there are inequitable compensation situations?

The reason I ask that is because my colleague Cathy McLeod made a very good comparison to safety. We all have a basic human right to personal safety. That is not negotiable. You talked about some expert groups that look at work scenarios. Is safety ensured? We have to talk about this; we have to work it out.

I would say that this falls into the same thing. We have a basic right to be treated equally as women. Nobody can discriminate against me as a woman. And yet as a union, you have such a powerful role to play in helping women. If you recognize that something is not being achieved and that women aren't being treated fairly, you have such a positive role to play.

Do you feel that you don't have the expertise, that you can't do it?

•(1230)

[Translation]

**Ms. Marie-Thérèse Chicha:** I find it unfortunate that we are now just comparing the former model, which is costly, to the current Act. The proactive model, as advocated by the federal Task Force, has proven its worth: many women received salary adjustments, and wage discrimination was eliminated. The unions were involved, but not as part of the collective bargaining process. They were involved as partners, working with employers, moving through the different steps. It is quite true that unions have considerable expertise in this area. They were the first ones to develop it. They have made an invaluable contribution.

However, the reason this legislation is not deemed unacceptable is not just that the valuable contribution made by the unions is disregarded. Rather, it is because that contribution, if it is part of the collective bargaining process, does not result in the union playing the same kind of constructive role it plays in the Pay Equity Commission. It is important to keep that in mind. This model has proven its worth and been successful in a number of places, and is currently being imitated elsewhere. In Australia, for instance, a labour commission made proposals that draw their inspiration from this model. In Denmark and many other places in the world, this model is considered to be effective and countries are trying to copy it. So, why set it aside and develop something which dismisses a fundamental right and will again create conflict?

[English]

**Ms. Candice Hoepfner:** But I think it's because we don't want women to have to wait until afterwards. We want it to be addressed immediately.

I think this model is even better. It is. We can address these issues before any agreements are signed.

You're looking puzzled at me, I know, but we truly believe this, that women will be able to address it before. Why wait until after—

**Ms. Gisèle Pageau:** How? How? With all due respect, take me through how it's positive and how it's going to....

Just take me through your law. I don't think we're reading the same pages here. Explain it to me.

**Ms. Candice Hoepfner:** Okay, I will, and you can—

**The Chair:** Candice, if you can explain it in two seconds, girl, go ahead.

Actually, you just have about ten seconds left.

**Ms. Candice Hoepfner:** Ten seconds. Okay.

Ms. Byers, you wanted to say something.

**Ms. Barbara Byers:** I just wanted to say that of course we have the expertise, but we have the expertise that says this has to be done separately. It can't be part of regular collective bargaining.

As I said, you put the equitable compensation law and the wage freezes for the federal public sector in as part of the Budget Implementation Act and they got submerged with 57 other things. The same thing will happen on equitable compensation.

**The Chair:** We have another round to go, so somebody can decide, Candice, to let you jump in there again.

This is a three-minute round, please, so I would like both witnesses and questioners to be very aware that I'm going to be really rigid, because we would like to finish this round.

Madame Zarac.

[Translation]

**Mrs. Lise Zarac:** When you talk about pay equity, you are really talking about justice. And when you talk about justice, you are talking about rights. Rights should not be negotiable, especially since studies show that women are not good negotiators. So, if women have to defend their rights... Studies show that women's wages are 30 per cent lower than men's. That proves that they are not very good at negotiating their salary.

There will be victims, if things stay the way they are now. The victims will be the most vulnerable women. You talked about immigrant women. But, we could also talk about single mothers and go through a very long list of them. Now that the Court Challenges Program has been abolished, what kind of recourse will these women have? How will they be able to defend equity?

•(1235)

[English]

**Ms. Barbara Byers:** Very briefly, they won't have a recourse; they won't have the resources. You're right that you can't negotiate away justice, dignity, and rights in the overall collective bargaining. But I would take exception with you about women not being good negotiators. Some of the toughest negotiators I've ever seen are women, and some of the toughest people on a picket line are women. The difference is that it takes us a while sometimes to get there. Sometimes we want to talk it through—we tend to want to take care of things—but when we get there, you have a hard time getting a group of women who decided to go out on the picket line to go back in until they get their rights.

**Mrs. Lise Zarac:** I agree with you. I just want to say that there are studies saying that in salary negotiation, often the women will not have as much; there are studies that prove that.

**The Chair:** Thank you.

You have 50 seconds.

[Translation]

**Mrs. Lise Zarac:** You make some good suggestions. I would be interested in hearing your expert views on the proactive model. How can it improve the pay equity process?

[English]

**The Chair:** Perhaps the experts might want to divide that, amongst all the other questions, and throw it in, because you now only have 20 seconds.

Ms. Chicha.

[Translation]

**Ms. Marie-Thérèse Chicha:** Are you talking about the role that experts play in instituting pay equity, or about the proactive program?

**Mrs. Lise Zarac:** I'm talking about the proactive program.

**Ms. Marie-Thérèse Chicha:** The employer has an obligation to introduce it in the workplace. In other words, there will be no need to wait until an immigrant woman lodges a complaint for that to occur. On the other side—in other words, under the proposed legislation, there is no doubt that a non-unionized immigrant woman has absolutely no chance of being able to defend her rights.

**Mrs. Lise Zarac:** So, under the program you are advocating, right from the outset, there would not be a problem. The employer would already have to guarantee pay equity.

**Ms. Marie-Thérèse Chicha:** It would still be necessary to provide special support to non-unionized workers, immigrant women, and so on. At the Pay Equity Commission in Quebec, a committee is currently reviewing their specific situation. There are matters of language, time, and so on. There is certainly a more serious and complex issue to resolve, but that does not mean we are not addressing it.

[English]

**The Chair:** Ms. Boucher.

[Translation]

**Mrs. Sylvie Boucher (Beauport—Limoilou, CPC):** Good morning, ladies. Thank you for being here.

After everything that I have been hearing today and for a while now, I must say that I am pleased that Ms. Demers has acknowledged that we all want to work together to gain a better understanding. I am having some trouble understanding the arguments, as someone who does not come from a union background, has never been a member of a union in her entire life and who always believed that a union was there “to defend the rights of the workers it represents”. What I understand from this legislation—the role of the employer was mentioned—is that the union has to be involved in order to ensure that pay equity for women is part and parcel of the collective agreement, so there is no more discrimination and that this right is laid out in black and white. As you stated, it is a fundamental right of women to receive the same salary as men. We all agree on that around this table. As I see it, the union is there to act as a “watchdog” with the employer, to ensure that women receive a level of compensation equal to that of men. When I hear these kinds of reactions, I am a little taken aback, because that is not how I had understood, and continue to understand, this legislation. I have no desire to do anything that would harm the cause of women—quite the opposite. I am a member of the Standing Committee on the Status of Women because I want to advance that cause.

We also have to think about the ones coming up behind us—our children. I have two daughters aged 20 and 21. When I talk to them about the status of women and everything that we do here, they look at me as if to say they don't see any problem, even though it is a well-known fact, as all of us here are aware, that they will still face this issue 20 years from now. I am having trouble understanding. Pay

equity is not a negotiable right, any more than other rights are, but I can tell you we certainly did not intend—at least I did not, and I never saw it that way—for unions to be... We all know that the employer pays the salaries, but the union has to be there to ensure that this fundamental right of women is acknowledged. I think it is appropriate for them to sit down all together to ensure that women have equal status and are given the same rights. That is something I would like to do—

• (1240)

[English]

**The Chair:** That was a statement. There was no question there. The three minutes have been used up.

Johanne Deschamps.

[Translation]

**Ms. Johanne Deschamps:** If it's all right, I would like to let you respond to Ms. Boucher, but I also want to add that I am happy to hear her saying that pay equity is a non-negotiable right. That is not what the current legislation reflects.

[English]

**Ms. Barbara Byers:** Let's be really clear here. If we had an equal power relationship in the workplace, you would have better ground to stand on. The reality is that we don't.

We don't control the workplace. We try to bargain for a better situation for all our members. We defend our workers and we try to improve their work situation, but workplaces would be dramatically different if this were an equal power relationship with the employers and we had equal say. We defend members every day who face discrimination, either through their wages or through other areas, and we would change things dramatically. Quite frankly—

[Translation]

**Ms. Johanne Deschamps:** Ms. Byers, I would like to pursue this discussion. There is one thing that really bothers me. If the union is supposedly there to support the workers and defend them, why did the government provide, under Section 36, that a union representative is not allowed to help an employee who wants to file a complaint? Why did it have to go and include Section 41, which provides for a fine of up to \$50,000 to be levied against a union that violates Section 36?

[English]

**Ms. Barbara Byers:** I think it's to catch the unions coming and going, if I can use that English expression. We're prevented from helping anybody. We'll be fined if we help you. But, by the way, you're equally responsible when you get to the bargaining table. You can't have it both ways.

So it works that way. If we really do want to do something for women, if we are all on the same page, this law isn't going to do it.

By the way, there's no timeline in here that's going to get women any faster settlement. Even if they wanted to take up the time, they're not going to get any faster settlement than the hundreds of women who have gone before them. It's not going to do anything. In fact, if it were going to do anything, you'd see us saying, “This is great. This moves things ahead. This is exactly what we wanted. This is exactly what we've asked for.”



We've praised legislation when we thought it was going to advance people's justice and dignity in the workplace—we have—but this isn't going to do it.

**The Chair:** Thank you, that's great; that's bang on time.

Irene Mathysen.

**Ms. Irene Mathysen:** Thank you, Madam Chair.

I think one of the problems here is that the government does not understand, and never did, the complexity of a pay equity settlement. It's comparing jobs, jobs that are very often disparate in terms of what is actually done, despite the fact that they require comparable skills, expertise, effort. I think that's at the basis of it.

Today we've heard from members of the government party that they want to work cooperatively to make sure that women achieve fair pay equity.

What do they need to do?

**Ms. Gisèle Pageau:** They simply need to look at the task force report and implement the recommendations from that report. It's as simple as that. The work has been done. I've said it a few times, the work has been done. All you need now is to implement it, with goodwill from everyone to do that.

• (1245)

**Ms. Irene Mathysen:** If we take them at their word, we'll continue to make sure that this report is front and centre.

In terms of this committee, would you recommend that we push very hard and make such a recommendation in our report?

**Ms. Gisèle Pageau:** Absolutely. I would hope to see this committee move to recommend legislation to implement the report. That would be achieving pay equity for the women of Canada.

**Ms. Irene Mathysen:** So it's stand-alone, separate, apart from any other contrivance or encumbering piece of legislation. Okay.

Madame Chicha, I haven't had a chance to talk with you. You were ready to respond to my question about the larger benefits of pay equity in terms of families, community, and I wanted to give you a chance to do that.

[*Translation*]

**Ms. Marie-Thérèse Chicha:** I would like to address the question of the positive impact of pay equity on workplaces and on the market.

When I chaired the commission that developed the Quebec Pay Equity Act, the President of the Conseil du patronat du Québec came to meet us during our hearings. He told me that, as long as he had anything to do with it, this legislation would not pass. But the legislation did pass. When I bumped into him a few years ago, completely by accident, he said that he now realizes that many employers support the legislation and are in fact very happy with it.

When I give training sessions to corporate managers of human resources—I have given them in 300 or 400 different firms—they tell me that, thanks to this legislation, their compensation system is more coherent, their business is better managed and has a better reputation, and is thus better able to attract talented people with the

right skills—something that is very highly valued in today's job market.

So, the impact is extremely positive in terms of their competitiveness.

[*English*]

**The Chair:** Thank you, Ms. Chicha.

I'm sorry, Ms. Mathysen, your time is up.

Mr. Dechert.

**Mr. Bob Dechert (Mississauga—Erindale, CPC):** Thank you, Madam Chair.

Welcome, witnesses.

I want to go back to an issue raised by Ms. Mathysen earlier.

Before I was elected to Parliament last year, I was a lawyer. I practised for 25 years. In fact, some of the cases you mentioned—the Bell Canada case, the Air Canada and Canada Post cases—were worked on by the firm that I practised with for 25 years, both for the employers and for the unions.

I can tell you, Ms. Pageau, that for many years, the number one client of that firm was public sector employee unions—number one in terms of billings—and the same fees were charged to the unions as to the employers.

You mentioned that these cases went on for years and years, at an enormous cost, I think you mentioned, Ms. Byers. I can tell you it's in the millions and tens of millions of dollars, both to the union members and the employers and the taxpayers.

Why would you want that money to go to the legal profession? The system here is good work for lawyers; I can tell you that from personal experience. Why would you want the money to go to them, rather than into the pockets of the women whom you represent, or stay in the pockets of the taxpayers?

And why would you want to delay the justice that you seek to have done for women? Isn't the old system of forcing women to litigate to get their rights later—10, 15, or 25 years down the road—a worse system than having it negotiated up front, even if it has to be done through some kind of a subcommittee process with the experts on these matters that all of you have in your unions? Isn't that a better way to handle it than having these things litigated over 25 years?

**Ms. Barbara Byers:** We don't want lawyers to get rich on women's bad wages. Let's be real clear.

**Mr. Bob Dechert:** Right. So—

**Ms. Barbara Byers:** We don't think you should get...or not you personally.

Well, you personally too, but....

**Voices:** Oh, oh!

**Mr. Bob Dechert:** I wasn't doing that work, just so you know.

**Ms. Barbara Byers:** We don't think lawyers should get rich on women being paid badly.

We do think that women need to get these payments faster. I haven't seen anything in this legislation that would mean that women are actually going to get these payments faster, because we seem to be missing some timelines.

**Mr. Bob Dechert:** Doesn't it move the examination of these issues to the beginning of the process rather than to the back end of the process?

**Ms. Barbara Byers:** No. I think if we're sitting in this room a year from now, we're not going to see any significant difference in it because of this law of yours.

• (1250)

**Mr. Bob Dechert:** How do you know that?

**Ms. Barbara Byers:** Because it doesn't meet any of the standards.

**Mr. Bob Dechert:** You haven't seen it in action.

**Ms. Barbara Byers:** But you haven't met any of the standards on pay equity—nothing.

**Mr. Bob Dechert:** It does require these things to be negotiated at the time of the bargaining of the contract.

**Ms. Barbara Byers:** It does—

**Mr. Bob Dechert:** Therefore, it puts the onus on everybody, including the union, to examine these issues and to make sure that women are treated fairly.

Isn't that the right way to go about it? If they go to court—

**Ms. Barbara Byers:** Again, if we had the equal—

**The Chair:** Sorry, this is degenerating into a debate.

**Mr. Bob Dechert:** I'm asking questions.

**The Chair:** And you've already used up your three minutes, I'm sorry.

We've finished with our third round, and I suggest every one of the panel be given a minute to wrap up.

It sounds to me, just putting together what I heard from everyone, as though the Conservatives have said they agree with the objective. So I don't get a sense that people are in disagreement with the objective. In my opinion, the disagreement with the process and how to get there is fundamental to what is happening. Everyone thinks there are different ways to get there.

You've made some extremely good points. I think the reason there's a difference in how to get there lies in the fundamental issue of understanding that pay equity is extremely different from same salary. In other words, even if you said that everyone in a particular place, even if they're men and women, will get the same salary, if it is in a category in which women have traditionally been the worker, then that is inherently undervalued. The whole issue of pay equity is that it began at the time when only men were in the workforce. When women came into the workforce, their jobs were valued as purely women's work. They were valued at a totally different rate. So secretaries were paid very differently and their work was valued

lower than janitors' work because of an inherent gender discrimination at the time because women were not encouraged to be in the workforce.

To bring that together, to right that historic wrong, if you even say that all people will get the same salary as the women in the pool, it still doesn't bring up the value of the work that was traditionally done by women. That, I suppose, is what pay equity is about, and that is why it's defined as a right, because inherent in it is the issue of a traditional gender discrimination that undervalued the work traditionally done by women versus the work that was traditionally done by men.

I think everyone has made very good points and I would ask you, therefore, to do a one-minute wrap-up each, starting with Ms. Healy.

You didn't say a word, so I thought I'd give you a chance.

**Dr. Teresa Healy (Senior Researcher, Social and Economic Policy Department, Canadian Labour Congress):** Thank you.

I would like to raise the point again about the significance of what was articulated in the November statement with regard to wage controls, as well as the introduction of the first elaboration of this legislation.

I think what's really important for us to recognize is that there are significant pressures from business to try to find mechanisms to reduce public sector wages. I think we should consider the extent to which the introduction of this new concept of a market-based evaluation and comparison should be considered important in this legislation, because it is one mechanism through which public sector wages can be compared with the market-based economy. I think this is introducing a new concept, which we have to be very concerned about. It could have other applications as well.

**The Chair:** Thank you very much.

Ms. Byers.

**Ms. Barbara Byers:** You know, if we are all on the same page—wanting to actually have equal pay for work of equal value for women not just in the federal sector but in the federally regulated sector—then, in terms of the objective of how to get there, this law is not well thought out. It was not consulted with.

Anyone who is an expert, as we've had here, on pay equity would have told you that this law misses the mark in every conceivable way, that we will find ourselves a year from now, or five years from now or whatever, in exactly the same position.

Women will have lost hope, quite frankly. I think it's the responsibility of people in this room to give people hope that, yes, they can improve their wages and working conditions.

• (1255)

**The Chair:** Thank you.

Ms. Pageau.

**Ms. Gisèle Pageau:** Thank you.

If we are all on the same page, as Barb said, and if all parties are sincere about implementing pay equity for women, two things have to happen.

First, it has to stay as a human rights issue; it cannot be separated from human rights because it is a gender issue.

Second, the work has been done, it has been studied, and recommendations have come forward; all we need is the goodwill of all parties to implement what we know will work and finally put an end to this discussion.

Thank you.

**The Chair:** Thank you.

Go ahead, Madame Chicha.

[*Translation*]

**Ms. Marie-Thérèse Chicha:** I would like to repeat what was said earlier. Pay equity is a fundamental right which it is taking a long time to give effect to. Thirty-five years ago, we might have been able to experiment with new models. But this is 2009 and the other models have been tried.

In Ontario and Quebec, the proactive legislation that has been implemented has shown itself to be effective. The proof of that is that this legislation is still in place in Ontario. In Quebec, a new bill will be introduced in the coming days which goes even further and improves on the existing Pay Equity Act. If the proactive approach had not been effective, Ontario and Quebec would not have kept using it. But, if these laws have been kept in place and are now being further improved, it is because this approach has proven itself to be the most effective one thus far for enforcing the fundamental right of pay equity.

[*English*]

**The Chair:** Thank you very much.

I would like to thank the witnesses for taking the time to come and for an excellent discussion. It was really nice to have three rounds for a change and to be able to discuss the issue very well. Thank you again for coming.

I will just give us a few seconds to go in camera....

Ms. Demers, did you want your motion in a public forum?

[*Translation*]

**Ms. Nicole Demers:** Yes, Madam Chair.

[*English*]

**The Chair:** All right. Okay.

Then we begin with business and the report. We agreed at the last meeting that we would stay until 1:30. As you may see on your agenda, it is going to go to 1:30.

Before we get into the report, the first order of business is that there is an outstanding motion by Madame Demers that had been presented on May 6, and we need to deal with it now. Do you all have it?

I will read the motion:

That the Standing Committee on the Status of Women call on the Minister of State for the Status of Women and the Minister of Human Resources and Skills Development to ask Statistics Canada to measure and value unpaid, "invisible" work, like it did in the 1992 General Social Survey.

[*Translation*]

That the Standing Committee on the Status of Women call on the Minister of State for the Status of Women and the Minister of Human Resources and Skills Development to ask Statistics Canada to measure and value unpaid, so-called "invisible" work, as it did in the 1992 General Social Survey.

[*English*]

Okay, good. That was 1992, then. I had to work that out in my head, and I'm not that fast.

• (1300)

[*Translation*]

**Ms. Nicole Demers:** Your French is excellent. Thank you.

Madam Chair, we introduced this motion because Canada made a commitment in Nairobi, back in 1985, to abide by the United Nations Nairobi Forward-Looking Strategies for the Advancement of Women, under which governments were to collect statistics on the status of women, and ensure that these data, broken down by gender, recognize the paid and unpaid contributions of women, particularly in such areas as agriculture, food production, reproduction and domestic activities.

The last time this was done was 1992. In our opinion, that was a very long time ago. Women's contribution has probably been very extensive since 1992. It is important that a statistical study be carried out once again. However, in order for that to happen, Statistics Canada must cooperate with Status of Women Canada. The Minister of State for the Status of Women has to agree that this study should be done, in order that the invisible work done by women be reflected in the GNP and GDP. We need to know everything that has been done by women in recent years.

That is my rationale for introducing this motion, Madam Chair.

[*English*]

**The Chair:** Thank you, Madame Demers.

Is there any discussion on this motion?

(Motion agreed to)

[*Proceedings continue in camera*]





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