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

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**EVIDENCE**

**Tuesday, June 16, 2009**

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**Chair**

**The Honourable Hedy Fry**

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Tuesday, June 16, 2009

•(1105)

[English]

**The Vice-Chair (Mrs. Patricia Davidson (Sarnia—Lambton, CPC)):** I'll call the meeting to order. I think we have a quorum in place.

Apparently the chair is going to be ten minutes late, so in the meantime I think we'll get started with our witnesses.

We have with us today the Treasury Board Secretariat, with Madame Laurendeau and Mr. Danagher.

I understand, Madame Laurendeau, that you are doing the presentation.

**Ms. Hélène Laurendeau (Assistant Secretary, Labour Relations and Compensation Operations, Treasury Board Secretariat):** Yes indeed, Madame. I have some short opening remarks, and then Mr. Danagher and I will answer questions.

**The Vice-Chair (Mrs. Patricia Davidson):** Go ahead, please.

**Ms. Hélène Laurendeau:** Thank you.

[Translation]

Thank you for the opportunity to appear today to talk about the Public Sector Equitable Compensation Act. This is a piece of legislation that, as its preamble states, will proactively provide women in the public sector of Canada with equal pay for work of equal value.

Today, I will provide you with a brief overview of the underpinnings of the act and outline some of its features.

[English]

We all recognize, I believe, that the former pay equity system in the federal public service was reactive, lengthy, costly, and adversarial. Action has been haphazard, based totally on those who choose to file complaints. Further, complaints were filed without any previous discussion at the bargaining table.

The complaints-based system approach led to discussions that regularly turned into endless debate about methodologies, regression lines, and statistical reliability, debates that would not be recognizable to mainstream employees. With this reality and without hard deadlines, disputes often drag on for years and years.

The 15 to 20 years it can take to resolve complaints has taken its toll, generally speaking, on resources, on productive labour relations, and on our women employees. In one recent case, a union had to abandon its complaint because it had exhausted its internal resources.

[Translation]

This long and litigious nature was underscored by the Canadian Human Rights Commission in its 2001 pay equity report. They found that pay equity cases represented less than 8% of all their cases, yet consumed about one half of its total spending on legal services.

[English]

In tackling these challenges over the years, the federal government has learned a lot, and the Public Sector Equitable Compensation Act builds on this experience acquired through the years. As an employer, we have also learned from provincial proactive regimes, from the work of the pay equity task force, and from Canadian and international research.

Ontario, Manitoba, and Quebec have regimes that require a form of proactivity, a feature that is supported by most experts in this field. However, these regimes do not oblige employers and unions to actually address pay equity considerations every time wages are set.

The Public Sector Equitable Compensation Act tackles this head-on by requiring employers and unions to do exactly that. The legislation sets out robust requirements for transparency, information sharing, and recourse, and for the regular conducting of equitable compensation assessments.

The act will not allow parties to bargain away this human right. Rather, it details parties' obligations for regularly determining how to attain and maintain that right. In so doing, the act recognizes the long and positive history of the achievement and protection of human rights through collective bargaining, which is itself a fundamental right.

Collective bargaining has a rich history of achievement in matters such as fair wages, hours of work, working conditions, including parental leave, and occupational health and safety. It is not surprising, then, that several Canadian studies, including ones done for the International Labour Organization and one for the Canadian Labour Congress women's symposium, have included recommendations to achieve pay equity through collective bargaining.

This role for collective bargaining in achieving pay equity also supports Canada's obligation to the ILO's 1951 equal remuneration convention number 100. Article 2 of that convention effectively requires members to incorporate equal pay for work of equal value in existing methods of determining remuneration.

Closer to home, in a 2005 response to this committee on the pay equity task force report, the Ministers of Justice and Labour felt that the relationship between pay equity and collective bargaining, as well as the obligations of employers and unions, needed to be part of what they referred to as the "backbone" of effective pay equity legislation. The new act provides this backbone.

• (1110)

[Translation]

The transparency and accountability requirements in the act include obligations to proactively inform employees of their rights under the act. These obligations are designed to reinforce accountability for results.

[English]

Further, both employers and unions need to jointly and transparently take their obligations under the act seriously. To this end, both the employer and the bargaining agent are subject to fines if they do not comply with this provision of the act, in the judgment of the Public Service Labour Relations Board.

The act also maintains the right of employees to lodge individual complaints through the PSLRB, an independent body with quasi-judicial status that currently administers the Public Service Labour Relations Act. This act contains many safeguards, including the union's right to unilaterally select binding arbitration to resolve bargaining disputes.

It is a critical feature of the act that boards of arbitration will henceforth be obliged to rule on equitable compensation matters. Looking into the near future, the Public Sector Equitable Compensation Act will come into force once the regulations are established through the Governor in Council. The regulations will be developed through a consultative process and will provide greater definition and clarity to the terms, obligations, and processes that are provided for in the act.

[Translation]

In conclusion, I want to state that the Public Service Equitable Compensation Act will not only protect the right of equal pay for work of equal value, but it is also the best way to achieve and maintain it for the future.

[English]

Thank you very much. Those are my opening remarks.

Mr. Danagher and I are ready to answer questions.

**The Vice-Chair (Mrs. Patricia Davidson):** Thank you very much.

We'll now go to our first round of questioning. Ms. Neville, please.

**Hon. Anita Neville (Winnipeg South Centre, Lib.):** Thank you very much, Madam Chair.

Thanks to both of you for being here.

I have many questions. Some are from before, and some are on your representation, Ms. Laurendeau.

You commented at the beginning that it's sometimes difficult to read what's written for you, and I must confess that I'm having some difficulty understanding some of what's been written for you. I'll come back to that.

You talk about Manitoba, Ontario, and Quebec. From everything I know about those provinces, this legislation is not consistent with theirs. In the short time we have I'd like you to identify both the similarities and the differences.

We know there was no consultation prior to the implementation of this act and pay equity within the budget. You ended your comments by indicating that the regulations will be developed through a consultative process that will give greater definition and clarity to the terms. I'd like to know a little more about that.

There are a couple of points in here that I just don't understand, such as number 13, and particularly number 14. You cited in number 12 some studies that recommend pay equity through collective bargaining. Many studies and many of the presentations we've had here at the committee speak out against pay equity as part of the collective bargaining process. Were they considered when this matter was developed?

I have more, but I'll see how much time I have left.

• (1115)

**Ms. Hélène Laurendeau:** I will start with a very quick overview of the similarities among Manitoba, Ontario, and Quebec, and the current legislation. The key feature that is very common among those three regimes is having a proactive system, as opposed to a complaints-based one. The Public Sector Equitable Compensation Act provides that we proactively establish and assess the value of work on a go-forward basis, as do Manitoba, Ontario, and Quebec. This is to make sure we do away with protracted litigation and do an assessment on a regular basis. In that sense, there are similarities among the three.

There are other important features, such as how we value work and the threshold for female predominance, that are similar in the three models.

**Hon. Anita Neville:** Yours is quite different from what I know Manitoba's to be, in terms of female-dominated occupations. You are raising the bar, not lowering it.

**Ms. Hélène Laurendeau:** Actually, according to our information, Manitoba has a threshold of 70%, which is the same as that in the Public Sector Equitable Compensation Act. Ontario has one at 60%—and 70% for males—and the one in Quebec is at 60%. So there are similarities, and they are in the same range. It's a feature of a proactive regime, the idea being that proactivity does not make gender predominance a hard and fast cut-off, but makes it the basis of analysis.

One of the things I would like to go back to and mention is that there are differences in the way we apply proactivity in the Equitable Compensation Act compared with those three models, and it's the marrying of collective bargaining with the equitable compensation assessment. That feature is unique to the Equitable Compensation Act, that's for sure.

With respect to the issue of how regulations will be developed, I might turn to my colleague to give you an overview of how we're planning to develop the regulations. But one of the things we want to make sure occurs is that we actually have consultations on the regulations themselves.

**Hon. Anita Neville:** Could I just ask why you are prepared to do consultations on the regulations—which is a positive thing—but had no consultations prior to the development of the legislation?

• (1120)

**Ms. Hélène Laurendeau:** There are a couple of things that need to be said. We built significantly on the vast body of work that had been done in the previous three years. The main body of work was the Bilson task force and the analysis that was done after the release of its report. On the need to go further with consultation, we felt we had enough information to come up with legislation that had the underpinnings, but we felt at need from the implementation standpoint to actually broaden the net a little bit, having stated through the legislation what would be the process on a go-forward basis. There was a need to actually consult broadly on how those mechanical aspects of the regulations would be drafted.

**The Vice-Chair (Mrs. Patricia Davidson):** You have about half a minute left.

**Mr. Dan Danagher (Executive Director, Labour Relations and Compensation Operations, Treasury Board Secretariat):** Your third question was on alternative analyses of merging collective bargaining and pay equity. Honestly, in our research, we did not come across academic assessments that concluded that. We understood that people had testified they didn't like it, so we designed the system to ensure there were safeguards around it. I think the concern or slogan that we've heard is "bargaining away pay equity". What the act is trying to do is to ensure that everybody at the table has a proactive obligation to take it seriously, so we're trying to ensure that does not occur.

**The Vice-Chair (Mrs. Patricia Davidson):** Okay, thank you.

We'll now move on to Madame Demers, please, for seven minutes.

[Translation]

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

Ms. Laurendeau, Mr. Danagher, thank you for being here this morning. I was astonished by your testimony, Ms. Laurendeau. When you testified before the Senate Committee on Human Rights last May 25, you stated that the ministers responsible at the time had written to Parliament to say that they would not be following the recommendations of the Pay Equity Task Force. But ministers Irwin Cotler and Joe Fontana formally testified to the Committee on the Status of Women in November 2005 and formally promised to introduce a pay equity bill in the spring of 2006.

We know that the government has changed, but, at the time, they indicated that the bill would essentially follow the direction suggested by the Pay Equity Task Force chaired by Ms. Bilson. I find it strange that you now tell us that they wrote a letter saying that they would not be introducing the bill when they had testified before us that they would. If they wanted to introduce a bill in the spring of 2006, I assume that they would have some draft legislation already put together in November 2005, and that officials from the departments of Labour or Justice would have already begun to develop the bill. You do not promise to introduce a bill in two or three months if you have not already started the process.

I would like to hear your comments, Ms. Laurendeau.

**Ms. Hélène Laurendeau:** Certainly, since the Bilson task force report appeared, a number of activities have taken place. There have been similar activities at different times and with different governments. Certainly also, as per the reply given to the committee in 2005, the intention was expressed to move towards a bill at a time in the future that was more or less set. But I could not tell you if a precise date had been established. The reply also indicated that the bill was supposed to bring the collective bargaining process and the pay equity program together.

**Ms. Nicole Demers:** But does that not contradict your statement that those people had written to Parliament to say that they would not be following the recommendations of the task force?

**Ms. Hélène Laurendeau:** I do not remember saying that they had written to Parliament. I was probably relying on the committee's reply in 2005. I am relying on it in this case as well. I stick by that reply, to the effect that they were going to make sure to ease the tensions between pay equity and collective bargaining.

• (1125)

**Ms. Nicole Demers:** Various witnesses have told us that, unfortunately, unions or employees' groups were not consulted as this bill was being developed. We also do not know who will be consulted when the regulations are developed.

Could you tell us if the intention is to consult specific groups or individuals? If so, even though the process may not what they were expecting or hoping for, the regulations could at least remove some irritants.

**Ms. Hélène Laurendeau:** With regard to the regulations, we certainly want to make sure to clarify key elements of the implementation process. Certainly also—and I will ask my colleague to give you more details about this—we intend to hold broader consultations than we were able to when the bill was being developed.

**Ms. Nicole Demers:** Why was the development process so limited in terms of consultations?

**Ms. Hélène Laurendeau:** We contributed to the Budget Implementation Act. It restricts the way in which policies are developed, for almost all these matters. That said—and I am serious when I say this—I do not mean that there was no consultation process.

Once more, we continued to base ourselves on all the aspects of research that had been used by the Bilson task force. It had done a very thorough analysis that allowed us to develop a fairly precise idea of what would be needed for a pay equity program. Among other things, that included the need to put in place a proactive plan as well as an effective and appropriate mechanism that would allow it to be maintained.

**Ms. Nicole Demers:** Does it often happen that a bill of this importance is included as part of a budget? I ask the question because I have only been here for five years.

**Ms. Hélène Laurendeau:** Budget acts are generally quite extensive. I cannot tell you if some kinds of bills are included more than others. In other areas, it has happened that other budget acts have included fundamental reforms related to other policies. As to whether it is normal or not, I can say that the budget is just one vehicle. It is a legislative process with its own constraints. A budget bill is rarely just a dozen or so pages. They are always quite big and contain provisions that can be important for a government's activities.

**Ms. Nicole Demers:** Would it be possible to get a copy of the draft legislation prepared in 2005 that Mr. Cotler and Mr. Fontana promised to introduce in 2006?

Would it also be possible for you to provide the list of witnesses that you intend to meet during the consultation on developing the regulations once the bill is passed?

**Ms. Hélène Laurendeau:** I can certainly check to see if there was draft legislation and if it is available. Honestly, I am not sure that there was. I do not know that, but I will certainly commit to checking.

I will ask my colleague to deal with the question of the people we will meet with. We do not have a specific list of witnesses yet, of course, but we certainly have a good idea of the people we would like to consult.

• (1130)

[English]

**The Chair (Hon. Hedy Fry (Vancouver Centre, Lib.)):** Thank you.

That's it, Madame Demers.

[Translation]

**Ms. Nicole Demers:** Thank you, Madam Chair.

[English]

**The Chair:** Madame Boucher.

[Translation]

**Mrs. Sylvie Boucher (Beauport—Limouilou, CPC):** Good morning, and thank you. It is very interesting to hear you and to hear a different point of view.

We have heard from a number of witnesses, a lot of them university women who were opposed to this bill. Personally, I find it proactive. Previously, employees filed a complaint and it was years and years before it was settled. We have seen that. This new bill makes sure that employers and unions work together from the start so that women receive the compensation we deserve.

How can incorporating the idea of pay equity into the bargaining process speed up the settlement of pay equity disputes? A lot of people have told us that they do not see it like that. Could you explain the intent?

**Ms. Hélène Laurendeau:** Thank you very much for asking that question. In fact, that is one of the aspects of this bill that seems hardest to explain. The complaints process taught us one thing: we have a collective bargaining process that is established under a labour relations act that imposes very clear obligations on the parties. The labour relations process is based on a deep faith in the democratic nature of the union movement and a belief in the need to negotiate labour issues, including salaries, in good faith. The process is very well established, with clear obligations. It comes with a complaints process if negotiations are conducted in bad faith or if employees are not well represented by their union.

[English]

So there's a body of legislation that exists to govern that.

[Translation]

Along with that, we had a pay equity complaints process that allowed salaries that had already been negotiated to be reconsidered and that allowed the bargaining agent to file complaints without necessarily having to be consistent with the positions that he had put forward at the bargaining table. We want to make sure that the process is thorough and quick. With this bill, Parliament expects the parties to put all compensation issues onto one specific bargaining table, whether they deal with competitiveness or pay equity.

Collective bargaining cycles come around every two or three years, not every 15 or 20 years, as was the case with the pay equity complaint process. The process requires parties to discuss all the issues on a regular basis. The parties also have to produce an equitable compensation assessment report in order to inform employees about the way in which the issues have been examined. Employees who ratify a collective agreement will also ratify the pay equity issues report in a full, quick and transparent way, benefiting from all the safeguards for the bargaining process in the Public Service Labour Relations Act.

The intention behind this legislation is to make sure that matters dealing with pay equity for women are not handled completely outside the collective bargaining process, but as one of the key issues in that process. That is the fundamental change, in our view. Even the proactive processes in Quebec and Manitoba still leave these issues outside.

[English]

The underpinnings of the legislation were to ensure that those key fundamental issues were at the heart of the democratic process of how unions come forward with their requests at the bargaining table.

• (1135)

[Translation]

**Mrs. Sylvie Boucher:** A number of times, people have come to us to say that this legislation is taking a step backwards. Proactive legislation would not do that. We want to move forward.

In your opinion, does the fact that all the parties in the collective bargaining process are focusing on women mean a step backwards?

**Ms. Hélène Laurendeau:** The intention is certainly not to take any steps backwards. On the contrary, we want to replace an antiquated process, the complaints-based one, with the most forward-thinking of proactive programs.

We must recognize that the forward thinking that they have experimented with in Ontario, Quebec and Manitoba has produced results. Their legislation has produced positive results, but it still has...

[English]

growing pains when it comes to maintenance of pay equity.

[Translation]

This is exactly what the Public Sector Equitable Compensation Act seeks to solve. We want to build on the strength of the programs that have been tried in the provinces so that we can examine pay equity and maintain the gains that have been made in a thorough and proactive way. In that way, we would avoid the situation in Quebec, where a requirement to maintain the program is identified, but not described, so the parties are a little at a loss to say how they are going to maintain the gains they have made under their new legislation.

**Mrs. Sylvie Boucher:** Thank you very much.

[English]

**The Chair:** Irene.

**Ms. Irene Mathysen (London—Fanshawe, NDP):** Thank you, Madam Chair.

Thank you very much for being here today.

This is a very important review, and this committee is quite concerned. I think there's a real recognition and commitment to complete our work here, so we can let Parliament know what we've heard. I'm very encouraged by that commitment and glad you could make it today so we can wrap up our work today and Thursday. I do have some questions, though.

We heard from the Federally Regulated Employers—Transportation and Communications, a Mr. John Farrell, who came here. I asked him about the issue of market forces and about including them in the new act. In terms of the new act, he said he expected there would be a lot more pressure to press wages down, because of market forces and the reality we're in. He expects wages may very well go down.

I wonder if you had some thoughts on that. Do you expect wages for women in the public sector to indeed go down as a result of this act?

**Ms. Hélène Laurendeau:** I have two things to say on that. There will be pressure to slow the growth of wages. I think we have already experienced that in the past few months; that's a phenomenon that is pretty much generalized.

As to whether or not wages are actually going to go down, as I said, their growth may be slowed. That's my analysis, anyway.

With respect to the impact that's going to have on the wages of women in the public service, that is precisely why this piece of legislation is so timely at this particular juncture. If indeed there is less money available than what we've known in other years, it is even more important that we address our minds when setting wages to ensure collectively that we do not give rise to unintended results, which may result in direct discrimination. It is even more important to actually put this at the forefront of our preoccupations when money is actually being dispersed between the various groups to ensure that it is done in a fair and equitable way, respecting equitable compensation principles.

So yes, the market will have an influence. The market always has an influence on how we set wages. What we need to ensure is that we actually make choices around those market pressures in a way that does not bring back possible disparities between men and women. That is precisely what this piece of legislation is meant to do.

• (1140)

**Ms. Irene Mathysen:** So everyone's wages will go down. You expect there will be a depression all across the entire system.

**Ms. Hélène Laurendeau:** That would be a little bit of a broad brush for me to say, but I suspect that because the market is contracting somewhat now, there will be an impact on wages. Whether all wages are going to go down, I don't think so, but their growth may be slowed momentarily somewhat.

I wouldn't want to leave you with the impression that wages of public servants will go down. That's not the case. They are, as you know, being increased this year and next year, and also in 2010-2011. But is it, and will it be, the same type of growth we've known in recent years? No. I also think people in the private sector are facing challenges from the availability of money, and growth will probably be slowed down there as well, I would expect.

**Ms. Irene Mathysen:** Okay, thank you.

I wanted to come back to some things Madam Neville touched on.

You say the new act will not allow parties to bargain away the pay equity human right, yet that is absolutely contrary to most of the testimony we heard. I think the only exception was the employers group.

Then, in paragraph 12, you went on to say that the Canadian Labour Congress had indicated that pay equity should be achieved through collective bargaining. Unfortunately, this is not what we heard from the CLC. This is not the entire story.

If there is pay equity considered at the table, it is a separate table. And it's a separate table set there specifically to ensure there is fair bargaining around pay equity, so that it's not included with all of the other bits and pieces. So their purpose is to be very careful that women are not victimized by the wholesale process of stacking up wages and benefits against their specific needs.

Could you clarify that for me, since it seems to be a contradiction?

**Ms. Hélène Laurendeau:** I will ask my colleague to answer the piece about the Canadian Labour Congress, because he has done extensive research on that.

I would just say one thing, though, which is that for any other terms and conditions of employment, the notion of joint accountability between employer and bargaining agents exists. Section 10 of the Canadian Human Rights Act makes it very clear that for any other working conditions the employer and the bargaining agents are not allowed to discriminate. What the equitable compensation act is doing is extending the same protection to the portion that is wages.

I would just say that with respect to other working conditions, it is working quite effectively. When you're sitting at the bargaining table, you can look at your partner across the table straight in the eyes, sometimes on demands that you either don't know or don't realize may be discriminatory. If you can sit across the table from them and say, listen, we're going to have to talk this through because this analysis demonstrates to me that X, Y, and Z may have a negative impact on women or people with disabilities, then you have a joint obligation to talk it through and find a solution. All I'm saying is that to extend the same thing to wages would be healthy in having a debate that is fulsome.

With respect to the reference to the Canadian Labour Congress, my dear colleague has the reference here.

**Mr. Dan Danagher:** Right. I know that—

**The Chair:** Sorry, but could you wrap that up quickly? We've gone over time, but go ahead.

**Mr. Dan Danagher:** When Mr. Farrell appeared before the committee, he did quote from the Canadian Labour Congress women's symposium in 1999. I understand that he left that quotation with you from a part of that.

We have a lot of other international academic research that we'd be happy to share with the clerk of this committee, even from the European Federation of Public Service Unions, which demonstrates that mainstreaming gender issues and collective bargaining is a positive way to go to stop marginalizing these issues at the table. We're prepared to share that with the committee.

• (1145)

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

We can go to a second round, but I'm going to keep people strictly to time, please. I will start with Madam Zarac. We're going to go to four minutes instead of five to fit in everyone else as a full round.

[*Translation*]

**Mrs. Lise Zarac (LaSalle—Émard, Lib.):** I may sound a bit like a broken record, but I feel that it is important to emphasize that all the witnesses that we have heard until now are opposed to this legislation, with the exception of employers' associations, of course.

They always start by mentioning how cumbersome it has been and how long it has taken to settle pay equity complaints in the past. But I think that it is unfair to make an employee responsible for making a complaint. I have a hard time understanding what is proactive about removing the ability to file complaints on the grounds that you do not want to deal with them. Now, if an employee wants to complain, she has no support, and, even if she did, it would mean a penalty for her and for the organization or union that supports her. That is not exactly what I call proactive.

I also have difficulty understanding why you are so keen on this being a collective bargaining issue. Why would it not be a separate, fair process of evaluating positions? Can you explain why you cannot see that two processes are needed in order to achieve equity?

**Ms. Hélène Laurendeau:** Present programs are constructed as you describe and they have indeed produced results. But when the time comes to sit down again to determine salaries, one of the things that was identified in our analysis as a problem that needed to be solved is the fact that two processes are cumbersome. It was determined that it would be best to marry the two processes, not to water one down to benefit the other nor to eliminate one in favour of another, but to bring the two analysis processes together.

**Mrs. Lise Zarac:** How do you ensure that the employer is going to accept equity if it has not already been negotiated?

**Ms. Hélène Laurendeau:** The idea is to have a conversation together, as is done during proactive pay equity processes. Pay equity committees have both employer and union representatives, if we use Quebec as an example. The idea is to make sure that the conversation takes place wholly in one place and the joint analysis takes place at the same place, that is, at the bargaining table.

**Mrs. Lise Zarac:** In that case, would pay equity not become one item in the agreement like any other? When an employee has to decide whether he is going to support the agreement or not, he will consider what is important for him. He may set pay equity aside in favour of other things. But equity must be fundamental. Under this new legislation, how do you ensure that the employer fulfills the conditions?

**Ms. Hélène Laurendeau:** The employer and the bargaining agent...

[*English*]

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

**Ms. Hélène Laurendeau:** The short answer to that is that there will be transparency, and the equitable compensation assessment will stand on its own, outside but attached to the collective agreement.

[*Translation*]

In that way, people will be able to evaluate the process.

**Mrs. Lise Zarac:** When you say people...

**Ms. Hélène Laurendeau:** I mean the employees who have to vote on the collective agreements and the equitable compensation assessments.

**Mrs. Lise Zarac:** Will they vote on equity separately?

**Ms. Hélène Laurendeau:** No, they will vote on everything at the same time.

**Mrs. Lise Zarac:** What do you mean?

**Ms. Hélène Laurendeau:** It would all be part of the same process.

**Mrs. Lise Zarac:** So it would be just one of the items in the agreement. Is that what you call equity?

[*English*]

**The Chair:** I'm sorry, that's it.

Cathy McLeod, please.



•(1150)

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

Thank you to the witnesses for joining us again after last Thursday.

As we move along this process, I think no one is disagreeing that the old system didn't work. But there are perhaps some issues in terms of how the new system has been designed, and I'm really pleased that you're here speaking specifically to those issues. You've already had an opportunity to talk about many of them.

One issue is that this is not a bargaining away of human rights. The other is why it's very important to marry the two together. You were cut short on your last question, so I'd like to allow you to respond in more depth to Ms. Zarac's concern regarding the marrying of these issues.

The other thing we've heard, which I think would be nice to hear you address, is the concern that the Public Service Labour Relations Board won't have the expertise to deal with this issue. I note that only 80% of the workload of the Human Rights Commission dealt with this issue, but I presume that there are some strategies and you have confidence in the ability of that group to gain the skills and expertise to move forward to deal with this effectively.

Perhaps you could talk on those two issues.

**Ms. Hélène Laurendeau:** With respect to the expertise of the Public Service Labour Relations Board, they are currently supporting the parties in pay research, so the idea of becoming even more savvy in pay research capacity to include equitable compensation consideration is something that is doable. Part of our implementation strategy is also to quantify with them the research requirement that they're going to be facing with this new set of responsibilities, so we are looking at making sure that the independent body is capable of doing that.

I would also note that the staff relations board counts among one of its part-time members the previous chair of the Bilson task force. So there is capacity there that the Public Service Labour Relations Board can tap into in order to make sure it has the capacity to actually face these challenges. We are quite confident that this institution, which has been around for 40 years, which has been supporting the parties in various difficult situations, which is supporting the bargaining process and currently has a pay research capacity, will be able to expand and embrace that new role.

**Mrs. Cathy McLeod:** Certainly my feeling is that the more organizations and groups that have these skills and abilities, rather than it all sitting with the Human Rights Commission, the better off we are. It becomes embedded throughout.

On the opportunity to reiterate the importance of why we believe that marrying it into the collective agreement...again, you didn't have a chance to be more fulsome with your response to Ms. Zarac.

**The Chair:** Although you now have only 30 seconds to be fulsome with your response.

**Ms. Hélène Laurendeau:** I'll be more fulsome in 30 seconds.

I would add one thought to all that. Resources on both the bargaining agent's side and the employer's side are unfortunately not always focused at the same time on those issues. Bringing them all into the same room for the same process would make sure that a fulsome discussion happened once every three or four years through the bargaining process. All the expertise would be at the table, as opposed to having—as is often the case in big unions—a team of people doing collective bargaining, and a separate team in another branch doing pay equity analysis.

Thank you.

**The Chair:** Thank you.

Monsieur Desnoyers.

[*Translation*]

**Mr. Luc Desnoyers (Rivière-des-Mille-Îles, BQ):** Thank you, Madam Chair.

I have not had the opportunity to meet with many of the witnesses, but those I have talked to said that this was a regressive piece of legislation that does not advance the cause of pay equity. On the hand, you claim that this legislation is proactive. The sole obligation of the employer under the current act is to inform the union. The employer is not required to work with the union on the study or assessment of equitable compensation matters. However, as everyone well knows, employers have a great deal of confidential information on file that is needed in order to achieve pay equity. So then, when you claim that the act takes a proactive approach, I do have some reservations about that contention.

You also maintain that the act is proactive, given our experiences with the current legislation and the studies done by PSAC and Treasury Board. It took almost four years to establish the rules of the game, rules which are now clear. Now you're saying that equitable compensation matters will be resolved through collective bargaining. Prior to the adoption of pay equity legislation, collective bargaining had caused wage disparities in all provinces. With this legislation, the government is taking a step backward and linking pay equity with collective bargaining. Basically, what the government is doing is reinstating wage disparity.

I have one final question for you. If I have any time left, I will have some additional questions for you. Why does the legislation apply to federal employees, whereas federally owned enterprises are exempt? The government says it is changing the system for federal employees because of certain shortcomings, but that for federally owned enterprises, the system works just fine.

•(1155)

**Ms. Hélène Laurendeau:** Very briefly, I would draw your attention to section 4 and to the ensuing sections of the act which clearly describe the process whereby employers and bargaining agents will be obligated to share information and work together on equitable compensation assessments. This was not something that we had with previous pay equity regimes, all of which came after the introduction of collective bargaining. This obligation is not clearly stated anywhere else, not in existing proactive regimes, because it is a separate process, and obviously not in—

**Mr. Luc Desnoyers:** I have to interrupt you. You say that this obligation is not stated anywhere. Under Quebec's pay equity regime, partners are obligated to exchange information, and not at the bargaining table. This is a requirement of the pay equity process and for follow up action as well. That is something that you failed to mention.

**Ms. Hélène Laurendeau:** I would simply ask you to read section 4 and the ensuing sections of the act, which provide for a process very similar to the one you describe, but within the context of collective bargaining. That process calls for the exchange of basic information and for the parties to work together to conduct an equitable compensation assessment.

**Mr. Luc Desnoyers:** Earlier, you said that employees will vote on both pay equity and working conditions. As you know, a power relationship comes into play in the collective bargaining process. Inequities are often the result of the existing power relationship between groups governed by the same collective agreement. Do you think this might create some disparities?

**Ms. Hélène Laurendeau:** All I can say is that we are seeing a cultural change in our approach to collective bargaining. This cultural change will mean that the principles of equitable compensation will be front and centre at the bargaining table. The parties are responsible for ensuring that this approach is taken.

[English]

**The Chair:** Thank you.

Madam Mathysen.

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

I want to come back to some of the testimony we've heard from other witnesses. One of the things that was consistent was that the complaints-based system simply doesn't work. Yet if the objective is to indeed achieve fair and proactive pay equity, something on which people could agree, why not simply adopt the 2004 report on pay equity? There was broad agreement among the witnesses who came here that this was the way to go. Why isn't it the law? Why isn't it in legislation?

**Ms. Hélène Laurendeau:** Key features that were identified as being essential, proactivity being one of them, were replicated and adopted in this piece of legislation, but this piece of legislation also does what the minister had identified at the time as still being unresolved with what the task force had produced, which was to make sure that the disconnects between collective bargaining and assessment of pay equity were harmonized. In that sense, it has built on the results of the report and has resolved what had been identified as being still problematic in the report.

•(1200)

**Ms. Irene Mathysen:** It sounds rather like an ideological decision.

I want to come back to the issue of thresholds. You talked about the thresholds that were determined in the act as being comparable to those in other acts that we see across the country, yet we know that the threshold for a predominantly female working group is 70% for groups of under 100 employees, 60% for groups of between 100 and 500, and 55% for groups of over 500. There's a significant difference here.

How did you arrive at the threshold that you did in the PSECA? How was that determined?

**Mr. Dan Danagher:** We looked at the 30 years of experience that we had in dealing with and managing complaints, and we looked at the track record of those complaints. With extraordinarily few exceptions, the complaints were generated by groups that were at 70% gender predominance, or significantly greater.

Since the adoption of the Canadian Human Rights Act in 1977, the presence of females in the public service has grown enormously. We are currently sitting right now at a female presence of 56% or thereabouts, I think, in the workforce in the public service. So at some point, we had to look at what was reasonable to support a proactive regime, and 70% seemed to be the one that zeroed in on where the problems had been in the past. It also lined up with, as you say, one of the thresholds that existed in legislation elsewhere, not just in Manitoba; there are other nations, such as New Zealand, that have 70%.

Unfortunately, there is no universal truth for what becomes a gender-predominant group. There is no number that you can look up. It suited our circumstances to set it at 70%, again because of the 30 years of track record that we had.

**The Chair:** Thank you.

Sorry, Irene, that's it.

Ms. O'Neill-Gordon.

**Mrs. Tilly O'Neill-Gordon (Miramichi, CPC):** I will be sharing my time with Candice.

**The Chair:** Yes. That means two minutes each.

**Mrs. Tilly O'Neill-Gordon:** That's right. Thanks.

As we all know, equitable compensation only works when all parties are working together and reach an agreement on all the issues. I know that we have listened to many witnesses who are speaking against this idea, but I also know from working with constituents and from having recently sat on a women's forum that there are many women out there who are happy with this idea.

I'm wondering what kinds of comments you are receiving. What do people see as one of the main achievements for women who are going into this?

**Ms. Hélène Laurendeau:** Thank you for your comment, because that reassures me in certain things that we have seen emerging.

I would say that there is one comment that comes back once people have come over the hurdle of understanding what the underpinnings are. One of the things that some women have mentioned is the fact that their voice through the union movement will be a little bit more at the centre rather than marginalized. I would be remiss if I were to tell you that I had a drove of women writing me and telling me that, but of the ones who actually really have been following this issue, there are women who are saying that finally we're getting a voice that is in the middle of the consideration, as opposed to being on the outside or on the margins.

Thank you for asking the question.

**The Chair:** Ms. Gordon.

**Mrs. Tilly O'Neill-Gordon:** I feel that by being negative all the time, we're just bringing them down, so more of a positive attitude....

**The Chair:** Ms. Hoepfner.

**Ms. Candice Hoepfner (Portage—Lisgar, CPC):** I want to echo what my colleague said. When we came into this study, I was very curious to see what the arguments were against the act. I can tell you, from what I've heard from witnesses who are against this, I believe it's purely ideologically and politically charged. I can tell you that after hearing the witnesses and after studying this, I feel more confident than ever that we are moving forward in the best interest of women. I'm very proud of the work that we've done, and I think this is good for women.

I do have one quick question. There has been some issue with pay equity versus equitable compensation. Can you explain that briefly?

• (1205)

**Ms. Hélène Laurendeau:** The reason we went with equitable compensation was to better align with the root documents to which Canada is signatory, the international convention on equitable remuneration. We kept it to compensation because compensation, in our vocabulary, is more encompassing than remuneration. We went with equitable because we wanted to go back to what was at the root of the obligation that we took internationally.

**Ms. Candice Hoepfner:** Thank you for that.

**The Chair:** Thank you.

That's it. We're finished.

I want to thank the witnesses very much for coming to present to us and answer questions.

People may go and have something to eat, and we will move as quickly as possible into business of the day.

Thank you.

**Ms. Hélène Laurendeau:** Thank you, Madam Chair.

**The Chair:** We have a motion here by Mr. Desnoyers. It is changed from the one that he brought in originally. We're going to discuss it with his amendment, which entirely changes the sense of the motion. I'm going to read it to you:

Pursuant to Standing Order 108(1)(a), the Standing Committee on the Status of Women requests that the Treasury Board Secretariat and the Privy Council produce all documents and analyses that are accessible by standing committees that the Auditor General of Canada used or may have been used in the preparation of its study on gender-based analysis.

[*Translation*]

Pursuant to Standing Order 108(1)(a), the Standing Committee on the Status of Women requests that the Treasury Board Secretariat and the Privy Council produce all documents and analyses, that are accessible by standing committees, that the Auditor General of Canada used or could have used in the preparation of its study on Gender-Based Analysis.

[*English*]

Mr. Desnoyers.

[*Translation*]

**Mr. Luc Desnoyers:** My reasons are the same as last time, namely that the committee must have access to all of the documents that the Auditor General was not able to consult.

At our last meeting, my colleague Ms. Demers pointed out that in the next-to-last line of the English version, the following is noted:

[*English*]

“that the Auditor General of Canada used or may have been...”.

[*Translation*]

The motion should have read “could have been”, instead of “may have been”.

[*English*]

**The Chair:** Okay. So we will have “that could have been” instead of “may have been”?

[*Translation*]

**Mr. Luc Desnoyers:** That's right.

[*English*]

**The Chair:** Ms. Davidson.

**Mrs. Patricia Davidson:** I have a couple of comments and questions about the motion.

I'm not really sure why we are doing this. Is the intent to have all these documents given to the analyst to review, or to just have them deposited with the committee? What are we going to do with these documents? Are we questioning the Auditor General's report? Are we questioning whether she did a proper job with these documents? I just don't understand what the reasoning is behind having a bunch of documents deposited with committee.

**The Chair:** Mr. Desnoyers, did you want to explain this?

• (1210)

[*Translation*]

**Mr. Luc Desnoyers:** The Auditor General was very clear. If you reread the blues, you will see that she did have some discussions, but did not necessarily have access to all of the documents required for her own analysis to determine if everything had been done properly. She observed that departments acted quite differently. Some, although not the vast majority, assumed their obligations fully. The question is how Treasury Board or the Privy Council can accept certain things. I want to see these documents in order to make the right decision.

[*English*]

**The Chair:** Mrs. Davidson.

**Mrs. Patricia Davidson:** Further to that, Madam Chair, who is going to determine whether it was done correctly and clearly? Are these documents being presented to the analysts, for the analysts to come back with a report on the Auditor General's report? Are they being deposited with the clerk for her comments?

Just because some documents are presented to the committee doesn't mean we can determine if something was done correctly and clearly. And I'm not really sure that anybody sitting in this room right at the moment is capable of making that determination anyway, because some of the documents the Auditor General used will never come to this committee because of confidentiality reasons.

I fail to see what we're doing here.

**The Chair:** Monsieur Desnoyers.

[Translation]

**Mr. Luc Desnoyers:** The Auditor General was quite clear. She maintained that she was not given access to all of the documents and that the committee could ask to see them if it wanted. The committee can ask to see these documents, pursuant to Standing Order 108(1), to find out how each department dealt with gender-based analysis. We're told that some departments did very sound gender-based analyses, while others made only a partial attempt, or did nothing at all. It's a matter of getting a clear picture of the situation in order to make the appropriate recommendations.

[English]

**The Chair:** Monsieur Desnoyers, my understanding of what Madam Davidson asked is that once those documents are tabled, who will they be tabled with, the committee or the analysts? Who will then analyze them to ensure that in fact the gender-based analysis, *l'analyse comparative entre les sexes*, was actually done? I think that's what Madam Davidson asked.

**Mrs. Patricia Davidson:** Yes.

**The Chair:** Who will then analyze the documents that we get?

[Translation]

**Mr. Luc Desnoyers:** We can examine the relevant documents ourselves. If we must have competent people review specific analyses, then that is what we will do. We need to have these documents in order to make the appropriate recommendations.

[English]

**The Chair:** Thank you.

Madame Boucher.

[Translation]

**Mrs. Sylvie Boucher:** Mr. Desnoyers, you would like the committee members to have access to these documents in order to determine if the Auditor General has done her job properly.

**Mr. Luc Desnoyers:** No, that is not it. The Auditor General claims that she wasn't able to do her job fully because she did not have access to all of the documents.

**Mrs. Sylvie Boucher:** She did, however, have access to certain documents.

**Mr. Luc Desnoyers:** She said she had some verbal exchanges. The committee could take a look at these documents and thus be in a position to make some appropriate recommendations.

**Mrs. Sylvie Boucher:** I don't know where this is going.

[English]

**The Chair:** Ms. Hoepfner.

**Ms. Candice Hoepfner:** My concern is that because we cannot have access to all of the documents.... To really be able to see the full picture of this, we would need to have access to all the documents she had, as well as the documents you're referring to, and I don't think we can do that. We would not have the full picture of whatever it is we're looking for.

We have to be very careful that we are not sending a message to the Auditor General that we don't think she did her job. So we have to look at what she did. We can't do it. We don't have all of the information and we won't have access to all of the information.

Some of those documents are under cabinet confidentiality and we will not have access to them.

**The Chair:** Ms. Zarac.

**Mrs. Lise Zarac:** Actually, I have a question I would like to ask Monsieur Desnoyers.

[Translation]

Is the motion intended to show that the Auditor General failed to do her job, or to send a message to the department concerned that it must conform to this process?

• (1215)

**Mr. Luc Desnoyers:** That is indeed the intent. I want some assurances that officials will perform gender-based analyses, that they won't ignore people like the Auditor General who want to check compliance. She was unable to get all of the information to verify what departments had done. At the same time, it would give us an idea of what departments are doing on this front.

[English]

**The Chair:** So it's my understanding—

[Translation]

**Mr. Luc Desnoyers:** She claims not to have had access to all of the documents. As MPs, we are entitled to see all of the documents. Standing Order 108(1) is clear: members of Parliament are entitled to have access to all documents, even confidential ones. We could always ask a lawyer to come and explain to us which documents members we are entitled to see in order to make sound decisions. A lawyer, or even the parliamentary counsel, would likely give us some fairly specific answers.

[English]

**The Chair:** Madam Hoepfner, before we go into any further arguments, I would like to say to you what I'm hearing. What I'm hearing is that Mr. Desnoyers would like full disclosure of documents that are disclosable. We're not talking about cabinet documents, which aren't disclosable; he would like all documents that are disclosable, because he understood from the Auditor General that they were not all disclosed to her, and he would like full disclosure.

Now a committee is able, under Standing Order 108(1)(a), to ask for full disclosure. Whatever it does with the disclosure is not necessarily that it needs to follow up; it just needs to have full disclosure. That's my understanding of what Mr. Desnoyers is asking. He is asking about using Standing Order 108(1)(a) to get full disclosure of the things that he understood from the Auditor General were not fully disclosed but that were disclosable. That's why he changed the piece that says "all documents and analyses that are accessible by standing committees". We're not even talking about cabinet documents. I think he changed that.

The reason, if you recall, I voted against this motion last time was it that it just said "all", and it was my understanding that it was not an implementable motion. Therefore, I voted against it. I think he has changed it now to suggest that it is appropriate for a standing committee to ask, under certain standing orders, for full disclosure of whatever is disclosable to standing committees. That's simply what he's asking for. I don't think he wants to second-guess the Auditor General's report; I think he just wants disclosure.

All right. We'll go ahead. We have Madame Boucher and Ms. Hoepfner.

[*Translation*]

**Mrs. Sylvie Boucher:** I have a bit of a problem with this motion, for the simple reason that the Auditor General was given access to documents. She was even asked if an analysis had been done previously. This was the first time that she had been given access to documents. That had never happened before. If we're talking about Cabinet documents, that is another matter, but I fail to see why we need to see all of these documents. There is much work for us to do to advance the cause of women.

The Auditor General has done her job. She reported that some departments had not met their obligations. Everyone is in agreement on that score. However, there is much to do for women. The committee has many more issues to examine. We've already looked at gender-based analysis. I think we should move on to something else and leave it to the other committees to look into this matter.

**Mr. Luc Desnoyers:** Madam Chair—

[*English*]

**The Chair:** Yes, Mr. Desnoyers, you may answer. Go ahead.

[*Translation*]

**Mr. Luc Desnoyers:** Nevertheless, this is an important issue for women. When we look at what is happening, we realize that many departments have not met their obligations with respect to GBA. Ms. Fraser clearly stated in her response that she was informed verbally of action taken, but apparently she did not receive the relevant documents to ascertain what had been, or had not been done by these departments.

I agree with Ms. Zarac. I think we need to see these documents. It would send a clear message to these departments that they must meet their obligations, so that we don't find ourselves grappling with the same problems a few years down the road, or facing a situation where only two departments have met their obligations as far as this important women's issue is concerned.

• (1220)

[*English*]

**The Chair:** Go ahead, Ms. Hoepfner.

**Ms. Candice Hoepfner:** Actually, a lot of what Madame Boucher said is what I wanted to say.

My only question, though, to your comments, Madam Chair, is that I understand some documents that were accessible to the Auditor General are not accessible to us. We will only have those documents that we are able to access, and that's why I say we are not going to get the full picture of what she looked at and what she didn't look at. That was my point on why we will not be able to see the full picture.

I'll go to my other point. We heard for one day about human trafficking. I think all of us in this room know what a huge problem that is. We have women right now who are out of work. We need to

get things moving on the economy and continue to work on the economy, and there are a lot of other issues that we need to be looking at. I see that we want to send a message, but is it our job to be sending messages to departments? I think our job, first of all, is to make sure that we're working on behalf of women.

**The Chair:** Ms. Neville.

**Hon. Anita Neville:** I'm going to enter into this. I think it's precisely because we are working on behalf of women that it's important that we send a message to departments that the gender-based analysis counts.

I agree, Madam Chair, that this is an improved motion in terms of the wording that's been used, and I think it's incumbent upon any committee to call for full disclosure. By passing this motion, we will not in any way be derailing or impeding the work of this committee. We pass the motion, the documents are sent. What's done with the documents is up to individual members of the committee who want access to them, but in no way does this slow down the work of this committee.

**The Chair:** I would like us to move on and deal with the document we have in front of us, so I'm going to end debate, because we're just going around in circles here.

I would have Mr. Desnoyers finish up any final comments he may have to make, and then I'll call the motion.

[*Translation*]

**Mr. Luc Desnoyers:** As I already said, this is an important issue for women, in my opinion. When we receive these documents, each one of us will be able to judge the situation for himself or herself. However, once we have seen and analysed the report, we will be in a position to make appropriate recommendations to these various departments. And in order to do that, we need to familiarize ourselves with everything connected with this issue.

[*English*]

**The Chair:** Thank you.

I will call the question now.

All right, we have a tie vote.

I will vote in favour of the motion, and I will explain why.

Any committee could and should, if it wishes to, ask for full disclosure and for certain documents available under Standing Order 108(1) that are available to committees. What the committee does with that is going to be, as Ms. Neville said, decided on by whoever wishes. If members wish to read all the documents and eventually feel that something will come out of doing so, that is going to be told later on. But committees have the right to seek documents that are available to them. So I will be voting in favour of this motion.

(Motion agreed to)

**The Chair:** We are now moving in camera.

[*Proceedings continue in camera*]





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