



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Special Committee on Pay Equity

ESPE • NUMBER 005 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Monday, April 18, 2016

—
Chair

Ms. Anita Vandenbeld

Special Committee on Pay Equity

Monday, April 18, 2016

• (1730)

[English]

The Chair (Ms. Anita Vandenbeld (Ottawa West—Nepean, Lib.)): I call the meeting to order.

Thank you very much, everybody, for being here. I think the other members are on their way.

We're pleased we have a long meeting today. We have three separate panels coming in, the first one being representatives of the Canadian Human Rights Commission. Mr. Fine will be speaking, and Ms. Keith and Mr. Narducci will be there to answer questions, should there be questions for them.

Without further ado, I will give the floor to Mr. Fine.

Mr. Ian Fine (Executive Director, Canadian Human Rights Commission): Thank you, Madam Chair.

Honourable members, good evening.

Thank you for inviting the Canadian Human Rights Commission to take part in this discussion about pay equity in the federal jurisdiction.

Our chief commissioner Marie-Claude Landry sends her regrets for not being here today.

I would like to introduce my colleagues. Mr. Piero Narducci is acting director general of the promotion branch of the commission, and Ms. Fiona Keith is senior counsel with the commission. Both have considerable experience in pay equity matters.

Today I will focus my remarks on the work of the Canadian Human Rights Commission, our role in equal pay for work of equal value, and why we believe a proactive model is the best way to achieve pay equity in Canada.

Before I go into my comments on pay equity, let me take a moment to tell you about the Canadian Human Rights Commission. The commission is Canada's human rights watchdog and operates at arm's length from the government. We are here to bring attention to human rights issues and promote the values of equality, dignity, and respect that are so important in Canada. We do this through our work in research, policy development, outreach, and education.

[Translation]

We are also here to bring a voice to important human rights issues. When we believe that the human rights of an individual or a group are being threatened, we speak out. We believe we have an

obligation to speak out on behalf of Canada's most vulnerable people.

Over the course of the last year, our chief commissioner has travelled around the country and met with over 100 stakeholder groups. She heard them. They told her that even more needs to be done to promote Canada's vision of an inclusive society. And above all, we need to ensure that everything we do is focused on helping people, by putting people first.

The commission serves a protection function by administering the Canadian Human Rights Act.

[English]

Each year we receive and review up to 2,000 discrimination complaints based on 11 grounds of discrimination such as race, age, sex, and disability. Some of these complaints are given priority if the alleged discrimination appears to be systemic in nature, since such complaints could involve practices or actions likely to affect many people. Some complaints that are time-sensitive or involve someone in a particularly vulnerable situation are also given priority.

Most of the complaints will be referred to mediation. Should mediation fail to resolve the complaint, the commission may launch an investigation. However, in some situations, when warranted, the commission may refer the complaint directly to the Canadian Human Rights Tribunal, a separate and independent organization. Should the commission refer a complaint to the tribunal, we may participate in the case to represent the public interest.

The recent ruling involving first nations child welfare services is one example. A second example is the commission's participation in discrimination cases involving caregiving, and in particular the obligation of employers to accommodate these needs.

We have other powers under the act, mostly under section 20, to help bring attention to human rights issues, including the authority to submit special reports to Parliament. This was the case in 2001 when the commission presented a special report to Parliament on pay equity, called "Time for Action", where we advocated for legislative change to ensure that pay equity is applied systematically and not on a case-by-case basis. Then, as now, we were motivated by the need to help Parliament navigate these important and sometimes complex pay equity issues.

This brings me to the commission's role in bringing about equal pay for work of equal value.

•(1735)

[*Translation*]

The principle of non-discrimination in wages is a well-established part of international human rights law. The right to pay equity was embedded in the Canadian Human Rights Act when it was created in 1977. This means that pay equity is legally protected as a fundamental right.

The commission's responsibility for pay equity is founded in section 11 of the act, which indicates that:

It is a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value.

In 1986, following extensive consultations, the commission adopted the equal wage guidelines to assist in the interpretation of section 11. The guidelines address gender predominance, what work may be compared, how wage adjustments should be calculated, and what "reasonable factors" may justify wage differences that would otherwise be deemed discriminatory.

[*English*]

These guidelines have proven helpful to the parties and the tribunal in interpreting and applying the principle of equal pay for work of equal value. It is important for you to know that the process for receiving and addressing public sector pay equity complaints changed in 2009 when the Public Sector Equitable Compensation Act was enacted but not proclaimed in force. As a result, a transitional arrangement was put in place. For the past seven years, as part of this transitional arrangement, public sector complaints have been rerouted to the Public Service Labour Relations and Employment Board. As a result, the board has temporary jurisdiction to interpret and apply the pay equity provisions of the Canadian Human Rights Act. However, the board does not use the commission's guidelines.

Complaints from private sector employees under federal jurisdiction continue to be handled by the commission.

This brings me to my final point: our views on the best model to move forward. The commission has in the past described the challenges in dealing with pay equity complaints, including in the 2001 report to Parliament that I mentioned earlier. With the potential for significant financial remedies and the law providing very little guidance in relation to the obligations of the employer and employee associations, the process has often been very litigious. Uncertain outcomes lead to hardship for both employers and employees. Some complaints, for instance, have taken decades to be resolved.

As we indicated back in 2001, the commission continues to believe that a proactive model is the best way to bring about pay equity in Canadian society. Quebec, Ontario, and Manitoba all have proactive models that outline steps and timetables for the achievement and maintenance of pay equity in the public and private sectors. The proactive model has the advantage of ensuring broad implementation, reducing the need for complaints, fostering management-union co-operation, reducing ambiguity, making non-discriminatory wages a priority, and achieving pay equity at a clear point in time without the need for large retroactive pay awards.

In conclusion, equal pay for work of equal value is a human right, and human rights are about putting people first. The current regimes do not provide easy, consistent, or efficient access to pay equity for anyone, which is why we support a more proactive pay equity model.

My colleagues and I would be happy to answer your questions. Thank you.

•(1740)

The Chair: Thank you very much.

We'll go to the first line of questioning, and we'll start with Mr. DeCoursey, for seven minutes.

[*Translation*]

Mr. Matt DeCoursey (Fredericton, Lib.): Thank you very much, Madam Chair.

Mr. Fine, thank you for your presentation.

[*English*]

Thank you all for being here today.

The first question I have maybe relates to the differences between the model that was in place under the human rights commission and tribunal model versus that of the Public Labour Relations and Employment Board transition model. What might be the difference between those two models, in your view, as well as what you might see as the difference between them and this proactive model that you touched on a little bit in your comments?

Mr. Ian Fine: At this point, then, the Public Service Labour Relations and Employment Board is applying section 11 of our act, the section we used to apply through the complaints model. Since 2009, the PSLREB is applying section 11 of our act. That would change under the Public Sector Equitable Compensation Act. It would be a new regime. But for now the PSLREB is just dealing with section 11 of our act when it comes to public sector complaints.

I'm not sure if I'm answering your question.

Mr. Matt DeCoursey: Would there be a difference between the PSECA, if that were fully implemented, and what you're talking about as a proactive model?

Mr. Ian Fine: Are you suggesting PSECA is a proactive model, or are you just asking for the differences between PSECA and what occurs under our legislation?

Mr. Matt DeCoursey: Yes, that is what I am asking.

Mr. Ian Fine: As we understand it, under PSECA, equitable compensation, as it's referred to under that legislation, would be dealt with through collective bargaining as opposed to, under our process, through complaints. That would be one difference.

We understand that under PSECA after collective bargaining, if there are still issues, then an employee could file a complaint with the PSLREB on his or her own, versus under the Canadian Human Rights Act. Under the Canadian Human Rights Act, employees can file complaints, unions can file complaints, and unions can help employees file complaints. That would be another difference between the two models, but largely the process under PSECA would be more in the realm of labour relations than the model under our act, which is more the human rights complaints model.

I'm not sure if there are other questions.

Mr. Matt DeCoursey: I'd appreciate your view on how different means of resolving an issue, different models.... Is there a chance they could reach the same solution and/or, in your view, are there clear differences in the results that can be achieved through those two different models?

Mr. Ian Fine: We don't know.

Under PSECA, for example, there is a regulation-making power, and we don't know what those regulations would be in terms of how the process would unfold. Depending on how those regulations would be drafted, they could impact on the result.

To be clear, we're not saying.... We do believe that in dealing with any human right, it's obviously always a good thing to have all parties working collaboratively to resolve the issue. For example, under the proactive models in Ontario, Quebec, and Manitoba, there is a provision for management and unions to ensure maintenance of pay equity, so after the actual pay equity exercise has been implemented there's an ongoing responsibility on the parties—union and management—to ensure there are no inequities going forward. We do believe it is important for the parties to work together. Our view is that it would be better, in implementing pay equity, that there be a separate exercise.

We have a bit of concern about what can happen through the collective bargaining process. As you know, collective bargaining is, by its very nature, subject to trade-offs and negotiation, and we're just not sure that it's the best process to deal with the human right of pay equity. There should be a separate exercise with that.

I don't know if my colleagues have anything to add.

• (1745)

Ms. Fiona Keith (Counsel, Human Rights Protection Branch, Canadian Human Rights Commission): No.

Mr. Matt DeCoursey: Building on what are six broad, overarching guidelines for the proactive model you're talking about, do you have more detail on what that model should look like? Should it exist within the commission? Should it exist separate from the commission? Could you make some comments to that effect?

Mr. Ian Fine: It's the will of Parliament, of course...who should be dealing with it.

We do have experience, as you may know, under the Employment Equity Act, which is a proactive model. The Canadian Human Rights Commission has the mandate to audit employers for compliance with the Employment Equity Act and the provisions in that act. It is a proactive regime. There are requirements for employers to ensure that they remove barriers to employment for the

four designated groups, for example, and there are certain steps they have to follow. So we do have experience dealing with a proactive model.

On the other hand, the Canadian Human Rights Tribunal, which is an independent body to which we refer our human rights complaints, under the Employment Equity Act they create expert panels dealing with employment equity. I query whether or not an institution like the Canadian Human Rights Tribunal could have the mandate to deal with specialized pay equity matters as well. We're not so sure about that. As I say, at the end of the day it's the will of Parliament. We're always happy to take on additional work, if it makes sense to do that, and we do have experience dealing with pay equity, for certain.

Mr. Matt DeCoursey: Great.

If I could push you a little bit further, what would your dream method or model look like, perhaps?

Mr. Ian Fine: I'll begin, and I'll defer to my colleagues if they have more detail.

In my view, it would be a melding of the models that are out there right now. We know there are these three models—Ontario, Quebec, and Manitoba—that have now been working for quite some time. It would make sense, in our view, that we take the best of all of those models and learn from their experience.

The Chair: Okay. That's the time.

Our next questioner is Mr. Albas. You have seven minutes.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Thank you, Madam Chair.

Thank you to our witnesses for being here, and for the work they do as servants to the public.

I would like to start with the Canadian Human Rights Commission. It's about 195 full-time equivalents, is that correct?

Mr. Ian Fine: Right.

Mr. Dan Albas: Around \$22 million to \$23 million is allocated this year, previous years, and future years, is that correct?

Mr. Ian Fine: It's around that.

Mr. Dan Albas: Okay.

When we talk about proactive.... I used to be a municipal counsellor, and I always try to relate some of the things I see here—and tell me if I am on or off on this one. There are always people who say that we have to enforce our bylaws, so we need to hire more bylaw officers, and there would be a cost according to that.

Other people say, well, no, what you do is you.... To me, it seems to be very much the case. When you say “proactive”, to me that means you have bylaw officers or people who are regulators, with a piece of legislation, going out and actively checking, both through the public sector and through the federally regulated private sector. Is that what we are talking about?

Mr. Ian Fine: Yes. As I say, we would look to the models that are in existence in these provincial jurisdictions, where timelines are set out, time frames for compliance with the legislation. Then there are requirements about wage adjustments. It is all set out in the legislation, and everybody knows what they have to do.

Mr. Dan Albas: We had representatives—I call them Service Canada, the HRDC. I think they have changed their name again. One of the things they said was, “Look at all these federally regulated industries, and each one is quite different.” I can imagine the challenge. It's very similar to a bylaw officer in a municipality. The more bylaws they have, the more diverse the range of functions they are expected to perform, and the more it costs, because you have to be able to do that.

Going back to proactive versus reactive.... When someone says “proactive”, to me it instantly says contrary to what is reactive. I guess what would be reactive here is that right now, if someone had an issue where they were discriminated against—not through the public service—if someone felt that there was a pay equity situation in their federally regulated workplace, they would go to the Human Rights Commission. Is that correct?

• (1750)

Mr. Ian Fine: That is correct.

Mr. Dan Albas: Then they would file a claim. Is that correct?

Mr. Ian Fine: A complaint, that's right.

Mr. Dan Albas: Okay. That is the reactive model, is that correct?

Mr. Ian Fine: Yes. We would describe it more as reactive, and as you can imagine, a bit uneven as well, because you can have one employer in one industry facing a complaint and then having to remedy that particular complaint, whereas other organizations in the same industry are not facing the complaint and not having to go through the same process.

Mr. Dan Albas: I noticed that your plans and priorities for this year show that you also have a human rights program, where you are putting a lot of information—some might say practically, but I am not going to try to confuse too many things here—and where you are trying to promote how the legislation works, what people's inherent rights are, and what the different remedies are. Is that correct?

Mr. Ian Fine: That is correct.

Mr. Dan Albas: That is something you do right now. It doesn't directly relate to this conversation, but you are trying to promote this, so that people are aware of the services you have.

How much time do I have?

The Chair: We are at three minutes and twenty seconds.

Mr. Dan Albas: Perfect. Thank you.

I would like to move on to PSECA. Itself a piece of legislation, it is complemented, I think we have to note, by the Public Service Labour Relations Act. I just want to get on the table that if someone is being discriminated against, let's say by a manager—I am not picking on management too much, but I am going to—it makes an employee feel that their human rights.... For example, if they have been denied compensation, promotions, or what not, due to gender or some other discrimination, they could still file with you directly, couldn't they?

Mr. Ian Fine: Absolutely.

Mr. Dan Albas: Their union could assist them with that, is that correct?

Ms. Fiona Keith: Are you talking about anti-discrimination complaints—

Mr. Dan Albas: Yes.

Ms. Fiona Keith: —as opposed to pay equity complaints?

Mr. Dan Albas: Well, that is the question I would like to get on the table, because to me, even though they are related, sometimes they are very different. For example, if I feel that I am discriminated against, because I think that my manager doesn't like my gender and won't give me a pay boost or a promotion, that would fall under your body, would it not?

Ms. Fiona Keith: Public sector employees would file a grievance under the Public Service Labour Relations Act.

Mr. Dan Albas: Okay, they would file a grievance.

Ms. Fiona Keith: Yes.

Mr. Dan Albas: Do they still have the option of going to the Human Rights Commission?

Ms. Fiona Keith: They could come to us at the end of the entire grievance process and take the position that their allegations have not been redressed.

Mr. Dan Albas: Okay.

Ms. Fiona Keith: The commission does have jurisdiction at that point to not take the complaint.

Mr. Dan Albas: Okay.

Again, for the individual who, for whatever reason.... To me, it sounds as if the new PSECA is really set up upon an employee.... If they say, “Listen, we are above a certain threshold for men versus women predominant in this group. We have been talking among employees, and we feel there is an issue here”, then that can go through the union grievance process under PSECA, for a pay equity complaint, can it not?

Ms. Fiona Keith: If PSECA comes into force, employees will have a limited right to file complaints by themselves without assistance from their union, after the union and the employer have attempted to implement. Those complaints will be filed to the PSLREB. We don't know what that complaint structure is going to look like. There's provision in the proposed legislation for regulations.

Mr. Dan Albas: That's the regulation power. I would assume once it goes through the *Canada Gazette* program, the Canadian Human Rights Commission would probably have some input on what those regulations look like, if they draft them and ask for public comment.

Ms. Fiona Keith: We have not been asked for comment.

Mr. Dan Albas: I know, but when that happens, typically regulations get posted in the *Canada Gazette* and there's a 30-day period, or further if the minister wants. Once those regulations are there, you would probably then comment. Is that correct?

Ms. Fiona Keith: If the regulations are posted, that's a possibility. I should say there have been two rounds in my understanding on the PSECA regulations, and we were not consulted. They were private consultations.

Mr. Dan Albas: I must be near my end.

The Chair: You have 35 seconds.

Mr. Dan Albas: Hopefully I can get another round today, but I do appreciate the work you do for Canadians in ensuring we have equity, as much as possible, given the challenges we all face.

Thank you.

Mr. Ian Fine: Thank you.

The Chair: The next one will go to Ms. Benson for seven minutes.

Ms. Sheri Benson (Saskatoon West, NDP): My apologies for being late. Thank you very much. I heard the end of your presentation, and I came prepared with some questions and comments I'd like you to reflect on.

You talk about pay equity as a human right, and we look at the other piece of legislation that doesn't have regulations, but is coming in like.... It has a law but not regulations. I can never remember the initials. It's PSECA, and that is where pay equity would be part of a negotiation. I want you to tell me why it is not a good idea to have a human right as part of a labour negotiation.

• (1755)

Mr. Ian Fine: Sorry, I didn't catch the last part. To not have a human right...?

Ms. Sheri Benson: As part of a labour negotiation. I guess you can tell what I'm getting at. There's a reason why some things aren't at the bargaining table, and that's because many of us believe they're human rights and you can't bargain them away against something else.

Mr. Ian Fine: I'll begin the answer and defer to my colleagues if they'd like to add. The collective bargaining process involves trade-offs. We don't believe the human right of pay equity should be subject to trade-offs. To be clear, it's not that we're saying unions and management shouldn't have a role, particularly in the maintenance of pay equity. But just in the initial exercise, which as the committee knows well is founded on international covenants that Canada's a party to and that calls for an objective appraisal of work, we believe it's important that process be dealt with separately and through a separate exercise with the appropriate experts involved, guiding the parties along, and not subject to trade-offs.

Ms. Sheri Benson: I wonder if you could comment also, and maybe you have, around a complaint-based process. It seems to me from what I've read, and what we know, that it has a couple of issues. One is the length involved in those type...I guess they become litigations by the end. Often the complainants aren't even around by the time some of the decisions are made. For not only the financial costs, but the human costs, why might that not bring justice to those people who are seeking pay equity?

Mr. Ian Fine: I think you've hit on most of the major concerns we would have and that we've discussed in the past, beginning with the "Time for Action" report in 2001, and it is issues around the length of time and the complexity of the evidence. These cases can become emotionally charged for everyone involved in the process: for the parties themselves, for the counsels who are acting for the parties, and for the tribunal members hearing those cases. They can be very difficult. There are those issues that we all face in dealing with them. We believe the proactive model would ensure a more timely and a less litigious adversarial approach to resolving these issues that would be in everyone's best interest. Not only have you heard about the length of some of these cases and the complexity, but also the situations where there have been large retroactive payments that employers need to deal with at the end of the day. That's not in their best interest either. The proactive model would make that different, and it would not make it as difficult on the employer and the employees.

Ms. Sheri Benson: The 2004 task force recommended a stand-alone organization to deal specifically with pay equity around the legislation, the education, the outreach. I think it would also look at maintenance issues so they're kept current.

Are you in favour of that model? Let me know your thoughts on that and also talk about what we see in those three other jurisdictions that would have a human rights commission, plus some kind of stand-alone pay equity. How do they relate to one another?

Mr. Ian Fine: We indicated publicly after the release of the Bilson task force report that we adopted the recommendations in those reports. We would echo and support the advice given by Professor Bilson and her colleagues at that time. We believe again that it is a much less painful process for everyone involved, so we support those recommendations.

• (1800)

Ms. Sheri Benson: Nothing has changed. There's been a time period between.... Those recommendations are still true today. They still reflect what you believe would be a good model.

Mr. Ian Fine: Yes.

Ms. Sheri Benson: I'm not saying there aren't going to be tweaks and things like that but generally the—

Mr. Ian Fine: I'd add one point that you may find as useful information. Subsequent to the release of the Bilson task force report, there was a case that made its way to the Supreme of Canada. Mowat, I believe, was the name of the case, and the result of that case is that complainants are no longer entitled to legal costs associated with the filing of the complaint. That was a major case, a major decision.

So you can imagine just back to the question about the vagaries, if I can put it that way, of the complaint process. For an individual to have to file a complaint with all the complexity associated with that and then not be able to recover or recoup their legal costs in a case that in some cases, as we've said, has gone on for decades, is somewhat Herculean. That for us is another reason why that proactive model is so important. It doesn't impose onerous obligations on any of the parties.

The Chair: That's the time, sorry.

We will move to Ms. Dzerowicz, and you have seven minutes.

Ms. Julie Dzerowicz (Davenport, Lib.): So little time and I have so many questions.

I'm going to pick up on my colleague's question around the ideal model. Your response was the melding of the three models we have. Could you pull out a few of the elements that you think should be under particular consideration at the federal level?

Mr. Ian Fine: Thank you for that clarification because those three models exist in Canada, and I think for sure we should be looking to those models. It doesn't mean that we should be excluding other models as well. I think I'll defer to my colleague Ms. Keith who can respond to that question.

Ms. Fiona Keith: I think Mr. Fine is correct. There are elements in all the models that are promising in terms of pay equity implementation and maintenance. In general, the commission has taken the position that the task force's recommendations will likely lead to the most robust and most effective right to pay equity, both in terms of implementation and cost.

There was a question earlier equating this to proactive bylaw enforcement. A study has not been done on this but based on the commission's experience it is possible if not probable that a proactive model would involve less cost for government. The reason is that investigations, and pay equity investigations in particular, are extremely costly. When a pay equity investigation unfolds, it takes many more resources for an institution like the commission than other types.

But returning to your question about other aspects of the model, in addition to the Bilson task force recommendations, I think the commission would recognize there is a role for collective bargaining in the maintenance of pay equity. Once you've achieved pay equity away from the bargaining table, away from the kinds of forces that can influence the outcome of the collective bargaining process, then yes, it makes sense for parties going forward to have an obligation to maintain at the collective bargaining table.

I think in general, those are the elements from the different models that would make sense.

Mr. Ian Fine: I think you wanted some details on what would happen in that proactive model and how it would actually unfold. Is that...?

Ms. Julie Dzerowicz: It's more that there are differences between Manitoba, Ontario, and Quebec—not massive but they are there. Could you cite some aspects that you think are promising and that might work at the federal level?

Ms. Fiona Keith: There's certainly much to be learned. Manitoba, of course, is restricted to the public service. I think what the

commission would say is that there are possible hazards in having different regimes for the public service and the private sector. In light of the Bilson task force recommendations, we would say that this kind of approach should apply to all industrial sectors within federal jurisdiction.

In Ontario, one of the things that we've learned is that more attention needs to be paid to the maintenance phase. I believe that's one of the reasons why, in Quebec, subsequent to the initial adoption of the legislation and to Professor Bilson's issuing her report, there was a change to the Quebec legislation to impose a requirement on employers to do a self-audit every five years to ensure that they were maintaining pay equity.

I think those three changes would be advocated by the commission, in conjunction with the model proposed by the task force.

• (1805)

Ms. Julie Dzerowicz: How about Quebec? Is there anything there that you would pull out?

Ms. Fiona Keith: Quebec was...and if I misspoke I am sorry. I think Quebec learned from Ontario in imposing this five-year requirement on employers to do a self-audit.

Ms. Julie Dzerowicz: Is it public-facing so that people can actually see where employers are at?

Ms. Fiona Keith: My understanding is that it is and there is also a limited right for employees to file complaints. But as in Ontario, there are limits on retroactive wage awards, which we have not seen under the Canadian Human Rights Act. The commission believes this has been one of the problems with implementing the legislation.

Ms. Julie Dzerowicz: Say we move to a proactive model at the federal level, how do you envision this proactive model working with the Canadian Human Rights Commission? What would be the relationship?

Ms. Fiona Keith: Do you mean with the Canadian Human Rights Act, the Canadian Human Rights Commission, or both?

Ms. Julie Dzerowicz: I am going to say the commission and then I have another question on the act.

Ms. Fiona Keith: Machinery questions are largely questions for government to decide, so we defer to those governmental choices. As Mr. Fine explained, the commission has experience in implementing proactive legislation. The Employment Equity Act, which has been in force since 1996, has been overseen by the commission. We have auditors who go out regularly to audit federally regulated employers for employment equity purposes.

Ms. Julie Dzerowicz: How do you envision seeing it work with the act, then?

Ms. Fiona Keith: Before I move to that, one option, if government decided, would be for the commission to play a role in pay equity compliance.

As to how it works with the Canadian Human Rights Act, as Mr. Fine explained, we adopt the recommendations of the pay equity task force, including the need for separate pay equity legislation, just as there is a separate Employment Equity Act. Then consideration has to be given by legislative drafters as to how those different pieces of legislation work together. That's largely a drafting question.

Ms. Julie Dzerowicz: You mentioned in your comments, Mr. Fine, that the right to pay equity was embedded in the Canadian Human Rights Act when it was created in 1977, so pay equity is protected as a fundamental right. It has been a long time since then. Does it need to be updated today with respect to pay equity. If so, what would that be?

Mr. Ian Fine: I think we're back to the proactive model and our advice would be that it be replaced. Section 11 of our legislation, which is the pay equity complaint section, would be replaced by a proactive regime in whatever context, whether under a separate piece of legislation, or given to the Canadian Human Rights Commission or any other body. Our best advice to this committee would be that there should be another way to achieve pay equity other than the complaint structure under our legislation.

The Chair: That's the time.

We'll go to Ms. Gladu.

Ms. Marilyn Gladu (Sarnia—Lambton, CPC): Thank you, and thank you to those showing up to be our witnesses.

As I've listened to multiple witnesses on different days, I'm starting to put together a picture in my mind of what the overall solution might look like. It seems to me that because there is some provincial jurisdiction and there are some existing provincial laws, step one would be for the justice minister to be working with the provinces to try to draft federal legislation. Then it seems to me that the Treasury Board would be the body to implement and enforce whatever legislation was put in place for the public sector employees, and the Minister of Labour would be in charge of implementing and enforcing outside of that.

Then I've noted that the complaint process seems difficult for an individual to access. It's a lot of money and a lot of time, and it's sort of tricky that way. It would be nice to have an independent commission to handle the initial complaints in a speedy-resolution way, and then anything that was more complex could be forwarded to the Human Rights Commission for the due diligence that you provide.

I'm interested to know if you can comment on what I'm thinking, and what you think about that.

• (1810)

Mr. Ian Fine: It's an interesting model. I think much of what you just said makes sense, and I think all of the parties that you've said should be implicated in the process, working together to find a better way. I think that's what this is all about. We're all trying to work together. It's in everybody's best interest to find a better way.

Appearing here tonight we're talking about our legislation, so I think we can be objective about that when we say we feel there should be a different way of dealing with pay equity. Our legislation works fine in all other respects, with all other complaints and with all other grounds under the act where there aren't these kinds of issues.

But with pay equity there are, and for all the reasons we've talked about this evening.

There's nothing you've said that I would want to disagree with. I don't know if my colleagues have anything to add.

Ms. Fiona Keith: I would just add one point, if I might. It's interesting that you refer to the potential role of Labour. As you may be aware, under the employment equity regime the commission has the compliance function, so we have, in simple words, the audit function, but Labour provides the support to employers.

I don't know if that's consistent with what you're saying, but that is something that is working quite well.

Mr. Piero Narducci (Acting Director General, Human Rights Promotion Branch, Canadian Human Rights Commission): I would just add one minor component, which I think is important for all of us. As Ms. Keith mentioned, the structure you provided is what is used for employment equity right now. The legislation for pay equity internationally remains a human right, and as long as within the proposal you provide it remains a human right, I don't see very much of a concern on our part. But that is critical for our perspective.

Ms. Marilyn Gladu: Excellent.

My other question is where—from all the complaints you've seen, in both a union environment and the non-union environment—do you think the biggest opportunity is to close the pay equity gap?

Mr. Ian Fine: I'm not sure.

If you can answer that question, go ahead.

Ms. Fiona Keith: I'm not sure that falls directly within our expertise. I know you heard from colleagues at Labour. The statistics overall indicate that the wage gap is larger in non-unionized environments, so certainly, that could be seen as an opportunity. On the other hand, unions are very helpful workplace partners in terms of implementing and maintaining pay equity, so that also presents an opportunity.

Mr. Piero Narducci: Yes, I would just add, as you mentioned the wage gap, that pay equity is one factor of the wage gap. There are multiple factors. I agree with Ms. Keith about unionized environments being more beneficial in reducing the wage gap. But there are multiple factors there that need to be considered and that I would propose be considered.

Ms. Marilyn Gladu: Good.

The Chair: You have 30 seconds.

Ms. Marilyn Gladu: If you had the opportunity to tell us one recommended fix that you'd like to see put in place first, what would it be?

Mr. Ian Fine: I think we've all been talking about it.

Ms. Marilyn Gladu: Proactive—

Mr. Ian Fine: It's a proactive model.

Ms. Marilyn Gladu: Very good, thank you.

The Chair: Thank you.

The next question goes to Ms. Nassif, for five minutes.

[Translation]

Mrs. Eva Nassif (Vimy, Lib.): Thank you, Madam Chair.

Mr. Fine, thank you for your presentation.

Your administration of the Canadian Human Rights Act and the Employment Equity Act reflects the differences in how these two statutes are structured. Under the Employment Equity Act, you administer a proactive system, conducting audits and ensuring compliance. Under the Canadian Human Rights Act, you examine the conduct of employers only when a complaint is brought forward.

In your experience, what are the strengths and weaknesses of these two types of systems to oversee human rights in general, and pay equity in particular? Do you think a proactive approach to achieve pay equity is necessary? You answered this question, but I would like to know whether our complaint-based system can be improved.

• (1815)

Mr. Ian Fine: There is no doubt that the employment equity complaint process must be improved to address the concerns.

I'm not sure I understood your first question. Could you please repeat it?

Mrs. Eva Nassif: Okay.

In your experience, what are the strengths and weaknesses of these two types of systems to oversee human rights in general, and pay equity in particular?

Mr. Ian Fine: Since the process for responding to wage equity complaints is more complex, it takes a lot of time. We feel that the process must be changed.

[English]

The process around employment equity is that proactive model, so we've had the benefit of a number of years now of experience in auditing employers for compliance with the provisions of the Employment Equity Act, and we can tell you that it's a much less painful process. It's a much shorter process. It's a much less costly process financially. We believe it accomplishes the desired outcomes for all of the parties, most importantly, employment opportunities for persons in the four designated groups under the Employment Equity Act.

We can say objectively that the employment equity regime, being a proactive regime, is the better way to go, comparing those two.

[Translation]

Mrs. Eva Nassif: Thank you.

[English]

The Chair: You still have a minute and a half, Ms. Nassif. Do you want to share your time?

[Translation]

Mrs. Eva Nassif: Yes. I will share my time with Julie Dzerowicz. She always has a lot of questions.

[English]

Ms. Julie Dzerowicz: Sure I do.

I just want to finish up on the question I was asking you about whether the human rights act needed to be updated.

In my own mind, and I don't even know why I'm thinking this, there are people now who don't associate with either gender, so I wanted to put that out to you whether you felt it needed to be updated with respect to pay equity—it could be for other areas—for those who don't relate to either gender. I'm just putting that out there.

I'm going to have another one.

Mr. Ian Fine: We're always looking at improvements. As I said earlier, we've not experienced as much angst, as much concern with respect to any of the other grounds of discrimination under the Canadian Human Rights Act.

As I said in my opening comments, we administer up to 2,000 complaints a year, and while it may not be perfect, we think we do a pretty good job at processing those cases whether they be around race, religion, age, what have you.

It's just the pay equity, which for us is something we've been talking about now for many years. I do want to be careful as well because my colleague has litigated a number of the largest pay equity cases in Canadian history, and there have been some great outcomes in those cases as well. It has not all been difficult. It has not all been bad. There have been some good results for people as well.

The Chair: Thank you. That's time.

We are now going to Mr. Kmiec for five minutes.

Mr. Tom Kmiec (Calgary Shepard, CPC): Thanks very much for your presentation today.

When I think of pay equity, I think of equal pay for work that may be different but is of equal value.

I used to work not directly in human resources, but I was the registrar for the human resources profession in the province of Alberta, so pay equity was a big part of what my members used to deal with on a day-to-day basis.

I want to talk about the stakeholders you have met. You have here that you met with over 100 stakeholder groups. I was wondering whether those included professional associations—engineers, accountants, HR professionals.

• (1820)

Mr. Ian Fine: My colleague is pointing out that many of those stakeholders you're referring to would be provincially regulated, so not necessarily ones that we would have met with.

I can't honestly say that we would have met with those specific groups. To be clear, it was our chief commissioner who met with those groups. I'm not aware of all of the groups. I know she met with a number of NGOs, employers, unions, educators, a cross-section of stakeholders across the country, but I can't honestly say that she would have met with those particular groups.

Mr. Tom Kmiec: Okay.

Many of these professional associations, though, would set the standards that would be expected from their members when it comes to dignity in the workplace, maintaining a harassment-free workplace.

I'm thinking about the standards of conduct that HR professionals are required to maintain. The Province of Alberta requires those things. Pay equity may not be mentioned directly, but it's very much assumed in how HR professionals are supposed to behave, especially certified human resources professionals.

I'm a little surprised that they weren't included, although they are provincially regulated. I think it's an opportunity for the commission and these associations to better understand the interaction that their members may be having on the employee-employer side when coming to the commission or having different issues. Although they're provincially regulated, some of them work in federally regulated industries.

Mr. Ian Fine: Right, and that's a very good point.

If I may, that's not to say that we do not do work with HR professionals, for example. We do a lot of it.

Mr. Narducci's branch is responsible for designing webinars that we offer to our stakeholders groups. I'll let Mr. Narducci speak to this, but often we include HR professionals. We do know—exactly to your point—that it's hugely important that our HR people know about human rights, whether it be pay equity or any other human rights. It's a good point.

I don't know if you want to add anything...

Mr. Piero Narducci: We've done some work with, I believe it's the Human Resources Professionals Association, to develop, exactly as you mentioned, information that will be valuable for Canadians to understand, whether it is HR-related labour relations or pay equity, primarily from a human rights perspective, as you can imagine, where we're coming from.

Mr. Tom Kmiec: Okay.

Hopefully I'm not overstepping boundaries here.

Would you be able to tell me, of these hundred stakeholder groups that you met with, how many would you say preferred the proactive approach and how many preferred the reactive approach? Did you keep that type of detail?

Mr. Ian Fine: I'm not sure of the answer to that question, but it's certainly something we're happy to get back to you on.

Mr. Tom Kmiec: Maybe I can ask on behalf of the committee whether you'd be able to produce the list of stakeholder groups you met with and, if it's possible, to say whether they preferred reactive or proactive. I'm just curious to know what types of groups you're meeting with.

One other thing I want to move on to is that you mentioned HRP that you deal with, which is an Ontario association. They are provincially regulated. Quebec is the other one where they're self-regulated provincially, *le Code des professions*.

What about the other provinces? You have HR professionals working in very different fields obviously, because the economic mix is very different. In the province of Alberta, a great many of the professionals work in oil and gas especially, where I think pay equity issues are far less.... I would meet engineers, and it didn't really matter. They're desperate to get staff, so they would pay them

whatever they were worth and they would be happy to have the person working for them.

Did you ever find a difference? Was there any specific industry or trade that you found had more complaints or less complaints? Was there a sector of the economy that was more affected by pay equity issues?

The Chair: You have only 10 seconds.

Ms. Fiona Keith: To date, most of the major complaints have emerged in the public sector.

The Chair: Thank you.

The next question, for the round of five minutes, goes to Mr. Sheehan.

Mr. Terry Sheehan (Sault Ste. Marie, Lib.): Thank you very much.

One of the questions we've been going around the horn on here, asking very similar questions, is that there are several notable pay equity disputes that have been going on. Canada Post, for instance, took 30 years to resolve. It is quite mind-blowing when you think about it.

If we have a federal pay equity regime, would it prevent such long, and I'll call them adversarial, disputes, in your opinion?

• (1825)

Mr. Ian Fine: I think that the answer would be a definite yes. Under the proactive model that we're advising be adopted you would not see that. There are no guarantees in life, of course, but we just can't imagine that there would be a scenario whereby a situation could evolve into years and years of protracted litigation under our proactive model.

Mr. Terry Sheehan: What was the reason for the 30 years? In your view...?

Mr. Ian Fine: Unfortunately, I don't have an easy answer to your question. It's an important and good question. I'm just not sure.

In pay equity cases there are a lot of experts involved. One of the first tasks in a pay equity exercise, whether it be under the complaints model or a proactive model, is gathering job information. That can sometimes be difficult for a whole host of reasons. First of all, it's within the control of the employer to provide that information. Also, there isn't a positive obligation under the Canadian Human Rights Act to provide that information.

I can also tell you that in many cases job information is not up-to-date. There may not be any job information in some situations, so it can be a very difficult task just in preparing all of the job descriptions for all of the jobs that are at issue. That's the first step.

Then once you have the job information—assuming it's up-to-date, relevant, and useful—you have to evaluate the job. It may seem on the face of it simple to say, “evaluate the job”, but it can be difficult depending on the environment. Also, where there's a lot of money at stake—as I said in my opening comments—it can make it even more difficult, particularly where you're looking at the potential of a large retroactive pay adjustment. That can make it even more difficult and challenging for employers, for sure.

A lot can happen in one of these complaints. Over the course of time you can have a member of a tribunal no longer able to be part of that panel, and then what to do about that? You can have situations where there are conflicts around the admissibility of evidence that can take the tribunal off track for a long period of time. There can be information that comes out in the middle of a case that then has to be examined and dealt with.

But largely due to the amount of money involved and the complexity of the issues, as I mentioned earlier, these cases can take on a life of their own and just go on forever.

I'm not sure, Ms. Keith, if you have anything to add.

Ms. Fiona Keith: No.

Mr. Terry Sheehan: Thank you very much.

Like my friend over here, I was on a city council and we had various things we dealt with. I've spent my life in business and economic development in the private and the public sectors. My most recent stint was working for the Ministry of Training, Colleges and Universities, for the province. There are number of issues and things I've seen through both the private and the public sectors.

One of the things we are grappling with here is trying to create some federal pay equity regime that's proactive. Could you describe again the proactive regime benefits for employees and employers, because I think it's important to underline and highlight this?

Mr. Ian Fine: We've talked about timing, for one. It's a much shorter process. It doesn't involve the same costs to any of the parties. Also, it typically doesn't involve major retroactive payouts. I think it's a process that's much more palatable for everyone concerned.

The Chair: Thank you. That's time.

I am going to go to Ms. Benson for three minutes for the last question, because we did start a few minutes late and we do have the room for an extra hour.

• (1830)

Ms. Sheri Benson: I'll be quick.

If you don't mind, I'm actually going to follow up on a question my colleague raised. This might be more your personal opinion because of your expertise of dealing with it. Is there any value in having a different regime from the public sector for the private sector? Also, when we talk about stand-alone and when you supported the task force and their recommendations in 2004, that was for comprehensive pay equity legislation for all federally regulated employees, whether they be public or private. Could you give just a general comment on that?

Mr. Ian Fine: We believe quite strongly that there should be one process, one process for public employees and one for private sector employees as well. There shouldn't be two separate streams for implementing a human right at the federal level.

Ms. Sheri Benson: That makes sense. That was my only question, so I'm good.

The Chair: Thank you.

I want to thank the witnesses very much and everybody who was asking questions.

We're going to suspend for just a couple of minutes so that we can change panels and take whatever biological breaks you might need.

Thank you.

•

_____ (Pause) _____

•

• (1835)

The Chair: Okay. Thank you very much.

We're onto the second panel. We have two organizations on this panel. We have the Association of Canadian Financial Officers with Dany Richard and Stéphanie Rochon-Perras. We have the Canadian Labour Congress, Barbara Byers and Vicky Smallman.

I would invite each of you to have 10 minutes.

Have you decided just one of you is going to speak? Okay, so it's Ms. Byers. You can start with 10 minutes, and then we will go to the next one. Thank you.

Ms. Barbara Byers (Secretary-Treasurer, Canadian Labour Congress): Thank you very much on behalf of the 3.3 million members of the Canadian Labour Congress for this opportunity to present our views on pay equity to this committee.

As you know, the CLC brings together Canada's national and international unions, along with provincial and territorial federations of labour and district labour councils. Our members work in virtually all sectors of the Canadian economy, in all occupations, in all parts of Canada.

We've appeared multiple times before parliamentary committees on the issue of pay equity since 2004, when the task force released its report and recommendations. It's starting to feel a little bit like the film *Groundhog Day*. That being said, we're glad to see Parliament strike this committee and we urge you to take this opportunity to finally and quickly set us on a path toward concrete action to end the gender wage gap.

Our message hasn't changed much in 12 years, but then, gender wage discrimination has not changed much in 12 years. The labour movement is calling for the timely implementation of pay equity, the pay equity task force recommendations. The committee's work must result in legislation, and we don't need another study. We're also calling for the repeal of the previous government's Public Sector Equitable Compensation Act, PSECA. As the only legislation in the 12 years since the task force, PSECA represented the very opposite of what the task force recommended.

It's time to clean the slate and start over, this time implementing proactive legislation, using the task force recommendations and the experience of existing proactive provincial laws in Ontario, and especially Quebec, which has been recognized by the International Labour Organization, the ILO, as a model.

The recommendations of the task force on pay equity were the result of years of careful and comprehensive study and consultation, and were widely supported by labour and women's organizations. The work of the task force is the most significant and in-depth study on pay equity anywhere, and is recognized as such by the ILO.

In our brief intervention I'll be highlighting some of the key recommendations that the CLC singled out for support when the report was released in 2004.

Women's work has always been undervalued and underpaid. This discrimination is a violation of human dignity and is a major factor in women's poverty, financial dependency, and vulnerability. It results in smaller pensions and disability benefits, a loss of autonomy, and an erosion of one's ability to participate fully in society.

The task force recommended that:

...Parliament enact new stand-alone, proactive pay equity legislation in order that Canada can more effectively meet its international obligations and domestic commitments, and that such legislation be characterized as human rights legislation.

This recognition that pay equity is a fundamental human right acknowledges that we require systemic solutions to eliminate systemic discrimination. We know that women experience the wage gap differently, so the response must address other forms of persistent systemic discrimination in employment. Women living with disabilities, racialized women, indigenous women, experience greater wage discrimination and other barriers in the workplace and are overrepresented in part-time and other precarious work.

The task force recognized that Canadian workers who belong to other designated equity-seeking groups also experience wage discrimination and the CLC supports a proactive pay equity law expanded to cover racialized workers, indigenous workers, and workers living with disabilities.

The task force recommended that legislation place the onus on employers to correct discriminatory wage disparities. It would obligate employers to work with unions and employee groups by creating pay equity committees to prepare and monitor pay equity plans in all workplaces, including those covered by the federal contractors program. These committees should include a significant portion of women workers from predominantly female job classes, and the plans would cover all workers regardless of full-time, part-time, contract, or casual status. This includes contractors whose economic dependence on an employer makes it appropriate to treat them as an employee.

Pay equity is complex work and it must include a process that enables workers to feel empowered, to feel that the value of their jobs is being set through a fair process. Employers should be required to provide committee members with the information and data required to establish a plan and maintain pay equity results through vigorous, well-resourced, and proactive enforcement.

● (1840)

Contrast this with the complaints-driven system, in which you might solve a problem for a particular group, but it involves a costly and lengthy process that is hard on everyone and frankly does not bring about solutions for others in similar circumstances.

Although the previous government labelled PSECA as “proactive”, we're not convinced of that. PSECA does not place the responsibility for eliminating discriminatory wages on employers alone. It introduces market forces as a factor for consideration when valuing women's work in the public sector. It only targets certain employers, redefines a female-predominant group, and restricts the comparator groups, thus making it more difficult to establish where wage discrimination exists. This is not proactive pay equity legislation.

The task force proposed the establishment of a separate pay equity commission to assist employees, employers, and unions to provide education on pay equity issues to resolve disagreements. This commission should have the power to look at economic dependence and have the power to develop criteria for making this determination. The CLC believes the commission could play an important role in holding employers accountable and ensuring transparency in enforcement.

After 12 years, working women deserve nothing less than proactive pay equity legislation. This committee's work must result in the tabling of a bill in short order. So much time, effort, and resources went into the task force consultation and report. We can't let it languish in the archives any longer.

Let us also be mindful that women have been waiting for longer than 12 years. We've been waiting for decades and decades, and while we wait, the debt owed to those who are caught in the wage gap continues to mount. These are women with children to raise, women who deserve a dignified retirement, and many are women who face multiple and intersecting forms of discrimination both in the workplace and in the community.

Of course we realize that a new federal proactive pay equity law will not be a panacea for Canada's gender wage gap. It won't address the overrepresentation of women in part-time and precarious work, a situation exacerbated by their assuming the burden of providing care for children or ailing and aging relatives. It's only one step towards changing broader societal attitudes that are at the root of undervaluing women's work. While the committee isn't tasked with establishing a national child care system—which, by the way, we consider to be shovel-ready infrastructure—improving access to home care, or addressing the barriers to recruiting and retaining women in sectors that are traditionally dominated by men, the labour movement will continue to push solutions for these issues as well.

In conclusion, I want to offer a brief reflection on the impact of action and the lack of action. When I speak about pay equity, I often use the phrase “justice delayed is justice denied”, so I want to remember the groups of workers who had to wait decades for complaints to work their way through the courts, such as the Bell Canada workers whose case took 15 years, and by the time the settlement was reached, almost 16% of those workers had died and many more were frail and nearing end of life. Imagine for a moment their quality of life if they hadn't had to wait. Imagine the boost to the economy if that money had been in their bank accounts the whole time.

I don't want to use that phrase in yet another call for the implementation of the task force recommendations. I look forward to my next appearance before a House committee, next time testifying in support of a new proactive pay equity law.

Thank you very much.

• (1845)

The Chair: Thank you very much.

We have Mr. Richard and Ms. Rochon-Perras. I understand you'll be splitting your time for the next 10 minutes.

Go ahead.

Mr. Dany Richard (Executive Vice-President, Association of Canadian Financial Officers): That is correct. Thank you.

Madam Chair and honourable members of the committee, and Madam Clerk and committee staff, thank you for the opportunity to come before you today on behalf of the Association of Canadian Financial Officers.

My name is Dany Richard. I'm the executive vice-president of ACFO. I'm joined by Stéphanie Rochon-Perras, one of our ACFO labour relations advisers.

ACFO represents the accountants and financial professionals who make up most of the FI group in the federal public service. Our membership is proud to provide the strong financial stewardship and sound business advice that a modern and professional public service requires.

Our membership is also female predominant. We are currently in the midst of our second pay equity complaint under the transitional provisions outlined in the budget implementation act 2009. It is in this context that we are here today to share our thoughts on the pay equity legislative regime. Our view is that the current complaint-based process is unsatisfactory in tackling pay inequity. It takes too long, it costs too much, it's too adversarial, and it only compounds the issue of gender-based wage and systemic discrimination.

We are also of the opinion that the Public Sector Equitable Compensation Act should be repealed for reasons that are widely known and are briefly outlined in our written submission.

Overall, ACFO supports the implementation of a proactive pay equity regime as recommended by the 2004 task force. We endorse the framework established under the Quebec Pay Equity Act as a model for a proactive federal pay equity regime.

We propose nine recommendations in our written submission, but in our time here today we'd like to focus specifically on one recommendation.

The Chair: The written submission hasn't been given to the committee members yet because we are still working on the translation. It was only in English. As soon as it's translated, we will distribute that to the committee members.

Mr. Dany Richard: Noted, thank you.

We'd like to focus on one specific recommendation, which is access to a variety of dispute resolution mechanisms.

At ACFO, we have a 25-year track record of success with alternative dispute resolution models. We were early pioneers of interest-based bargaining. We believe at our core that collaboration and being proactive are the keys to reaching settlements that benefit everyone. At the end of the day, achieving and maintaining equal pay for work of equal value is fundamental to employers, employees, and bargaining agents. We can all agree that employees should not endure or be subject to gender wage gaps and systemic discrimination. We firmly believe that what is needed is a holistic, collaborative, and non-adversarial approach.

If I can use ACFO as an example, I see it this way. We believe strongly in the merits of our particular pay equity case. Our third-party expert, an expert Treasury Board has relied on in the past, also believes in the merit of our case. We wouldn't have brought it forward otherwise. If we're right, every day, week, month, and year that goes by compounds the issue of gender-based wage and systemic discrimination. Getting to a fair and just resolution sooner is the right thing to do for our members and for the government we are proud to serve.

As Prime Minister Trudeau himself said during the campaign, the “lost income potential because of the wage gap hurts Canadian families and hurts our economy.”

We need to strive for a legal framework that helps employers and employees jointly and effectively resolve pay inequity in the workplace. But eliminating a wage gap due to gender discrimination is only part of the solution. Unless the underpinnings of the pay system are addressed, systemic discrimination continues creating new wage gaps that widen over time. That's why a proactive model similar to the Quebec Pay Equity Act should be considered.

There's a misconception that pay equity is an historical problem. Our group is living proof that the problem persists today and will continue in the future. Overall, our view is that the principles of proactivity and collaboration must be the bedrock of any new model proposed for achieving pay equity.

With our time remaining, if it pleases the committee, I'd like to invite Stéphanie to speak to some of the specifics of our recommendation.

• (1850)

Ms. Stéphanie Rochon-Perras (Labour Relations Advisor, Association of Canadian Financial Officers): Thank you, Madam Chair and members of the committee.

We support a pay equity model with a proactive framework and a pre-emptive resolution mechanism, such as a requirement to create a pay equity committee in the workplace comprising bargaining agents, employees, employers, and experts and advisers. Joint accountability on pay equity through a pay equity committee is needed to oblige both parties to conduct their assessments in a collaborative and transparent manner. A requirement for ongoing information sharing needs to occur.

When disagreement occurs, a framework that provides and facilitates alternative dispute resolution mechanisms is also required. This would also create an avenue for parties to resolve their disagreements voluntarily through alternative means, such as mediation, conciliation, facilitated discussions, negotiations, and combined mediation-adjudication, for example.

It should be noted that the idea of informal conflict resolution in pay equity is not new. Conciliation and mediation services are available at the Canadian Human Rights Commission and in provincial jurisdictions. These have proven to be successful in preventing long, drawn-out, and costly litigation battles. The ACFO welcomes the use of an ADR model, both in the investigation and throughout the adjudication process.

Once a complaint is referred to a pay equity tribunal or body, we propose the additional availability of a dual-track system, with complex-track and fast-track mechanisms, depending on the nature of the case or issue in dispute and subject to strict procedural time limits in order to reduce the delays. A fast-track mechanism could also be a voluntary venue for final determination when other forms of ADR have led to an impasse.

Voluntarily choosing an expedited hearing in which a neutral third party could make a final and binding decision could also be an option. The nominee would be selected jointly through a roster of qualified and accredited pay equity experts or could even be assigned by the tribunal. Alternatively, only the portions of the dispute creating the impasse could be referred to the neutral third party.

There are many options here. The key is not closing the door on any of them prematurely. A fast-track mechanism that binds the parties and settles the complaint partially or fully would be optimal to counter the long, drawn-out litigation often seen in past and current complaints.

Our written submission contains more recommendations. We hope you'll give them careful consideration as well, but we really wanted to stress the importance of the approach to dispute resolution.

Thank you for your time. We're happy to answer any questions you may have.

The Chair: Thank you very much.

Now we'll go to Mr. DeCoursey for seven minutes.

Mr. Matt DeCoursey: Thank you very much, Madam Chair.

To start out, thank you, everyone, for your comments here.

Having listened to testimony from the Human Rights Commission just prior to this, I want to pick up on some of the things they spoke about that were also reflected in the comments here.

In regard to one of the 2004 recommendations about the onus being placed on the employer to establish or achieve pay equity, I'm wondering if both of you could comment on what role bargaining agents and employees might play in that process as well, and also on the adjudication of what is an equal wage for work of equal value so that it is similar or parallel across sectors and different work types.

There was a comment made earlier about the role of bargaining in maintaining pay equity in the workplace. I wonder if you might comment on that and, once pay equity has been established, if you see any relevance to bargaining as maintaining pay equity in the workplace. Maybe that speaks to the dispute resolution mechanism you've talked about.

Ms. Barbara Byers: Thank you for the question.

We had indicated that we think the onus has to be put on employers to correct the wage disparities, but it's not them operating on their own. That's not going to be a successful plan. In fact, that's the plan they have now. They get to set the wage rates and then other people face the wage discrimination.

What we would say is that the employers are obviously a party to this, but then they have to invite in either unions or employee groupings so that, again, people have the confidence that this is being done fairly and that their working requirements are looked at in that respect. Obviously, then that has to be maintained, because you can't just set it once and then walk away and pretend that it doesn't happen.

Vicky may have something to add as well.

• (1855)

Ms. Vicky Smallman (National Director, Women's and Human Rights, Canadian Labour Congress): The task force recommendations get pretty detailed in the composition of the committees, how plans are supposed to be developed and maintained and so on. It's not like we have to reinvent the wheel of that part. But the bargaining agent very much has a responsibility to hold the employers accountable, to be engaged in the process, to assist with the evaluation of jobs, and to maintain and ensure that the enforcement is there.

I think we can be guided by the most excellent work of the task force in determining that role.

Ms. Stéphanie Rochon-Perras: Perhaps I could comment on pay equity and collective bargaining and the maintenance.

Pay equity is a non-negotiable human right, whether in achieving or maintaining pay equity. It's a fundamental human right both domestically and internationally. Making pay equity subject to collective bargaining is making it conditional upon bargaining power, even in the maintenance stage. To allow pay equity to be subject to collective bargaining, which involves compromises and concessions, really undermines the quasi-constitutional nature and status. It does carry serious consequences for women and all those who work in female-dominated jobs.

I do want to draw a distinction between equitable compensation and pay equity. Generally, fair or equitable compensation is negotiated in conjunction with other bargaining terms and conditions of employment. It's a tenet of collective bargaining for regular pay increases. It's determined based on comparators that assume all factors are equal. Pay equity speaks to systemic undervaluation of work traditionally done by women. It is a fundamental human right that can't be bargained away.

In that sense, there is a distinction between equitable compensation and pay equity and incorporating pay equity into collective bargaining.

Mr. Matt DeCoursey: On the matter of your dispute resolution mechanism, what type of proactive role does that mechanism play, in your view, in either maintaining or adjudicating pay equity situations in the workplace?

Ms. Stéphanie Rochon-Perras: In terms of a proactive model and the requirement for a pay equity plan, this is something we have under the Quebec model, and it's also provided in the 2004 task force recommendations. That is a form of dispute resolution in itself. A mandatory pay equity plan to cover all employees in the federal public service is required to achieve pay equity and to have this pre-emptive collaborative process. Plans should be developed by a pay equity group comprised of bargaining agents, employer representatives, and expert advisers to ensure that there is equal pay for work of equal value. For employees across bargaining units, across departments, and where wage inequity is detected for female-predominant groups following assessment by a gender-neutral job evaluation system, the employer is legally required to adjust the pay of impacted employees within a strict timeline.

Within that context, within having that pay equity committee, where you have all parties at the table to work out the issues, to do the review, to do the assessments, that's where you have part of the dispute resolution that is taking place to prevent from filing a complaint.

What we're proposing in terms of the ADR is this proactive or pre-emptive approach, but also, prior to filing a complaint, having a structure in place where dispute resolution mechanisms are facilitated. Through facilitated discussion, mediation, conciliation, we'd have this body or an existing commission specialize in pay equity or some form of framework that can assist the parties before they even get to filing a complaint. When an impasse is reached, I suppose filing a complaint would be a process, but there would have to be these dispute resolution mechanisms that are part of that complaint-based oversight or body.

● (1900)

Ms. Vicky Smallman: I would add that section 17 of the commission's report on oversight agencies also gets into detail about establishing an oversight agency or pay equity commission and also having a tribunal that would handle the dispute resolution process.

The Chair: Thank you. That's time.

We'll go to Mr. Albas for seven minutes.

Mr. Dan Albas: Thank you, Madam Chair.

Thank you again to our witnesses for the work you do for your members and also for Canadians.

I think I'll start specifically on ACFO's position. You're proposing what sounds like this: we have a case we'd like to present to management or the employer, and rather than go through a long, drawn-out process, which will cost time and money for everyone, we want to have an alternative mechanism to be able to deal with issues of pay equity.

Is that what you're saying?

Ms. Stéphanie Rochon-Perras: We filed our current complaint under the transitional provision of the budget implementation act. We were working under the current legal frameworks that are available to us.

Mr. Dan Albas: Legal or not, there are ways to handle disputes. What I'm saying is that, right now if you have management that is willing to meet and discuss these kinds of terms, that could happen right away, under the current framework or under any new proactive framework. Is that correct, if there's willingness from both parties?

Ms. Stéphanie Rochon-Perras: Certainly, and ACFO is always open to collaborating and working jointly to try to settle pay equity.

Mr. Dany Richard: The answer is yes.

Mr. Dan Albas: Okay. To me the biggest thing at stake here or the biggest concern I have is that you have legitimate concerns that have not had a proper hearing yet in terms of receptivity from the management.

That being said, I know you've tried through the current system, and I understand the first complaint you made has been dismissed, and that's fine.

I'd like to ask a little bit more about this dual-track system. You said it could be possible for someone to begin this process of engaging with management, with the employer, as well as write a complaint, and then kind of get off or start up either one at either time. Is my understanding correct? Could you maybe explain that a little bit better?

Ms. Stéphanie Rochon-Perras: The option of selecting from a dual-track system would be once a complaint is filed, and there would be a possibility potentially for these complex cases to go through a more traditional route.

In terms of the fast track, if there are pay equity issues that can be dealt with and that are more simple perhaps or that can be expedited so that there is a decision, potentially on a partial component of the complaint or the complaint itself, then that would assist the parties in dealing with those matters and resolving.

Mr. Dan Albas: What you're talking about is that right now you file a claim and it begins a process and it's very adversarial.

Instead of your going to the first, second, or third step along that process, immediately this would go to some sort of alternative dispute resolution process. Again, not every issue is suitable for that kind of resolution. There are some things where maybe, again, there are good cases on both sides and maybe there can't be some compromise on that. I would like to think otherwise.

That's basically what you're calling for, to say that there should be within that framework a flexibility for both parties to say, time out, let's step back and let's see if we can resolve this without having to go to a third party in an adversarial process. Is that right?

Ms. Stéphanie Rochon-Perras: Yes. That's correct.

Mr. Dan Albas: Okay. Good.

I do recognize the statement you said earlier, Ms. Rochon-Perras, that obviously pay equity is a human right and shouldn't be subject to collective bargaining.

I totally respect where that's coming from. If PSECA were in force I would be interested to see. First of all, I think it actually adds transparency and accountability to both the employer and the bargaining agent or the union, simply because a proper assessment of the workplace is done, outlining pay equity issues, and that actually, from my understanding, would be shared with all employees.

Then you enter into a process and, by the way, pay equity is a compensation issue. I understand compensation is discussed at collective bargaining. This is one way where every three, four, or five years you actually force the issue so that people discuss it.

I do recognize your concerns when you say that pay equity is a human right and thus shouldn't be a part of bargaining, but at some point we have to deal with the culture issue, where if an issue isn't in front of us we don't deal with it. Oftentimes it gets shunted to the back.

I'd like your views on the changes with that assessment and the accountability mechanism with employees where they would know that both parties are dealing with that issue.

Ms. Stéphanie Rochon-Perras: I'm processing some of the information you mentioned. Having a pay equity committee in the workplace with a mandate, and obligating bargaining agents, employees, and all stakeholders to take part in that review, which would be ongoing, would be a process where pay equity is being addressed and it's being reviewed and it's being assessed. That would be taking place outside of the realm of collective bargaining.

Mr. Dan Albas: What you're proposing by the committee as well as by having this alternative dispute resolution could fit in with the current framework and probably be seen to be somewhat of an improvement, would it not?

• (1905)

Ms. Stéphanie Rochon-Perras: In the current complaint-based... under the Canadian Human Rights Act currently [*Inaudible—Editor*] guidelines and the transitional provisions.

Mr. Dan Albas: Whether there's another proactive system put in place, either way, there would be some viability and some improvements, would you say, in either system?

Ms. Stéphanie Rochon-Perras: Yes.

Mr. Dan Albas: Okay. Thank you.

Is that it?

The Chair: You still have 45 seconds, if you want to split your time.

Mr. Dan Albas: Okay.

Ms. Marilyn Gladu: Quick, fast, and we'll get to it later, then.

Ms. Byers, I agree with what you're saying, that if we're going to bring legislation we need to get on it. When I look at the 2004 report, although there are a lot of concepts in there, there's no language developed yet for such a bill.

I think you mentioned that you have provincial, different folks all in your organization, so you would have to bring legislation that the provinces could come alongside with.

First, do you have such language? Second, if not, are you willing to be a stakeholder to work with the Minister of Justice?

Ms. Barbara Byers: I didn't realize that the federal government had now taken over labour legislation in the provinces and territories.

Ms. Vicky Smallman: They haven't.

Ms. Barbara Byers: I think what we're saying here is, let's lead the way federally. There is the most extensive pay equity review that's been done, leading to the task force in 2004. It has the recommendations. Let's get on with the work that's there.

If we'd acted on it in 2004—guess what?—there would be a whole bunch of women, predominantly, who would have had a significant difference in their lives and their financial situations.

The Chair: Thank you very much. That's it for time.

We will go to Ms. Benson for seven minutes.

Ms. Sheri Benson: Thank you.

Barb and Vicky, I just want to thank you for your presentation.

I think I am supportive of the fact that we don't reinvent the wheel from 2004. We've heard from lots of witnesses about how extensive that was and the number of people involved. Also, we have three other models taking place that we can actually, if they found improvements, build on.

I want to give you an opportunity, and Dany and Stéphanie, as well. Sometimes, I think, we get bogged down. I think it's very clear that this is not going to end all the gap in wages. I totally understand that, but I don't want that to be a barrier for us to move forward in a fairly significant way, to at least start to attack it.

I'm just giving you an opportunity to talk about why it's important to move forward on this piece. The 2004 report did talk about cross-discriminations in other groups. Why is it important to make this step, now, in this area, even though it's not going to solve the world's problems? I guess that is what I'm saying.

Ms. Barbara Byers: For every woman who's still making 73¢ on the dollar, and that cuts across all sorts of occupations, that's important. We've said that this isn't going to deal with the equally large problems we have around access to affordable, accessible child care. It's the whole question of precarious work, all of those sorts of things.

What we do know is in a unionized environment the wage gap is a lot smaller. We know that because unions have been negotiating for things. But that doesn't mean, quite clearly because of some of the settlements in both Bell Canada and the federal public service before, that there isn't a wage gap there, and certainly for those people who don't have the benefit of a union contract it's that much more difficult.

This is comprehensive in what needs to be done. We shouldn't be scared off by, oh well, it was recommended in 2004, so why move ahead on it in 2016?

• (1910)

Ms. Vicky Smallman: While negotiations have gotten some unionized workers so far, it doesn't address the systemic issues when you compare job categories and so on. That's why we had this big study that took quite some time. You all have, I'm sure, gotten those copies of the 500-page tome to read.

It's also not an issue that is unique to Canada. The gender wage gap is a global problem. It's been well studied, and the consensus internationally is that one of the best tools that you can employ as a government is a proactive pay equity law.

Quebec's law is held up as a model, so it's not like we have to reinvent the wheel. We have a good model that we can build on, and you'll hear from some of our colleagues later about what it's like to work under that model.

Let's just move on, at least with this one piece. We can go on to fixing child care afterwards, and I'm looking forward to working on that as well.

Ms. Barbara Byers: Can I just add one thing, Sheri?

How often have you heard in an office or workplace that our office couldn't survive without Jane and the work she does? But somehow that never gets reflected in Jane's paycheque.

I remember hearing a woman a long time ago say she knew about the discrimination, she saw it every time she got a paycheque. That's what it's about. It's about gender wage discrimination against women in all sorts of occupations.

Ms. Stéphanie Rochon-Perras: On a narrower issue, the need for a new pay equity model now is because of the current transitional provisions under the budget implementation act. Despite receiving royal assent, PSECA is not yet in force. The current complaints fall under the transitional provisions. Under these provisions, complaints are filed with the Canadian Human Rights Commission and referred to the Public Service Labour Relations and Employment Board. Also under the transitional provisions, complainants like ACFO who file under the transitional provisions are restricted on the remedies available to them. The power of the Public Service Labour Relations and Employment Board is restricted to lump sum payments for monetary awards. This restricts the complainants' right to be whole

because these base salaries cannot be adjusted to prevent new wage gaps going forward.

A proactive pay equity regime should ensure that current and future complainants provide for a more comprehensive and human right-based resolution.

Ms. Sheri Benson: I like the comment that what we're talking about here is federally regulated employees, both public and private sector. This is our sandbox as the federal government, so we need to lead the way. We have our own research. I think the reference to the provincial models is that we can take pieces of legislation from other jurisdictions that would reflect the reality. I think it's also important that we talk about both public sector and private sector employees. We are not talking about separate legislation for separate groups but all the ones that are regulated.

Ms. Barbara Byers: I want to come back to the theme that we also heard while we were listening to the previous witnesses about this needing to be proactive. I want to put you in the position. What if you as legislators all had to have an individual complaint if you thought you weren't being paid fairly in comparison to the others who did similar work or work of equal value? The complaint-based doesn't work for people. The other part of it is that people don't have the resources. Those women at Bell Canada, the women in the federal public sector, couldn't have sustained a complaint for 15 years at Bell or nine years in the federal public sector. That's the reality. Complaint-based doesn't work for individuals and it doesn't work for the whole as well.

• (1915)

The Chair: Thank you. That's the time.

We'll move to Ms. Dzerowicz for seven minutes.

Ms. Julie Dzerowicz: Thank you.

I'm going to go quickly because I'd like to leave any remaining time for Ms. Sidhu

I have two sets of questions. The first set is for the Canadian Labour Congress, First, thanks to both of you for your wonderful presentations.

First, you've already mentioned, Ms. Smallman, that the Quebec model could be held up as something for us to look at. Please be specific if you can. We do have three provinces with pay equity legislation. Could you point out things you might specifically like or not like or are worried about in any of this legislation?

Also, if we at the federal level were to put in proactive federal pay equity legislation, is there anything you think we have to be cognizant of in making sure that we're complementary with what already exists in the provinces?

The second part is a completely different set of questions for the Association of Canadian Financial Officers. What is the pay equity deficit within the ACFO? Have you done any studies of what the cost would be if we brought in the pay equity legislation to equal levels. You talked quite a bit about the approach that you wanted us to consider, but I wonder whether you looked at the methodology you chose to get to the pay equity level. Those are my sets of questions.

Ms. Vicky Smallman: On the provincial models, it's been quite recognized by the International Labour Organization and others that Quebec has served as a kind of model. You will hear later tonight from some of the others who are testifying about the specifics of operating under that model. I don't have the specifics myself. In Ontario, the complaints we hear from our affiliates have to do with maintenance and enforcement. There are some gaps there and some issues that need to be resolved. Somebody referenced Manitoba earlier, because it applies only to the public sector. That is a gap, right? You need to raise the bar for everybody and for all workers, because wage discrimination exists everywhere.

The federal contractors are probably going to be the stickiest little bit. That's where you're going to look at some of the impacts of the changing workplace. Often employees are disguised in some of these arrangements. So you'll be needing to look at that. I think that Quebec, if you're going to look at any of them, is probably the top one to consider. As for the specifics, I think you'll hear them from others today.

Ms. Stéphanie Rochon-Perras: A preliminary comparison of the current wages being paid to the FI group was done, using male comparator groups. It demonstrated that the FI job class are paid between 2% and 16% less wages than are paid to the male comparator groups. The percentages are distributed between different classification levels. Currently, the FI group has four classifications levels, so the wage gap depends on each level.

With respect to methodology, could you restate your question?

Ms. Julie Dzerowicz: My second question was about cost. If we were to bring the 2% to 16% up, what would be the cost? Have you calculated that?

Ms. Stéphanie Rochon-Perras: I have not calculated that and I don't have the answer to that question, but I can certainly hold your question and get back to you in writing.

Ms. Julie Dzerowicz: I would love that.

We had a whole presentation on methodologies. For example, if you have a man and a woman and they're deemed to be in different but similar jobs, there are different methodologies you can use to get to what would be equal pay for women's work. You have an approach to bringing together the employer, the employee, the unions, the advisers, all these people around the table. I'm wondering whether there's methodology that you would recommend. If you don't, that's okay. I just wanted to see whether or not there was something that you guys had in mind.

• (1920)

Ms. Stéphanie Rochon-Perras: I will take your question, but I can't speak to it myself as I'm not a classification pay equity expert, but I will certainly respond in written form.

Ms. Julie Dzerowicz: Thank you.

Ms. Sonia Sidhu (Brampton South, Lib.): Thank you, Madam Chair, and my thanks to the panel.

It was mentioned that the previous government model didn't go far enough. Can you specify which part of the legislation was not right?

Ms. Barbara Byers: Do I get to start with all of it?

Ms. Sonia Sidhu: No, just give us the main points.

Ms. Barbara Byers: You're in a caretaker time with the legislation where the act isn't actually done. We think you have to wipe the slate clean. You have to start all over again. It doesn't do any of the things that the pay equity task force called on it to do. It's not proactive. It doesn't seem to us to deal with the involvement of unions. What I'm trying to say in a very bad way is that it's just not fixable. You'd be better off to go and take a look at the pay equity task force and try to implement it, because you can't fix what you have now.

Ms. Vicky Smallman: We can send you a copy of what we said in 2009 about what was wrong with it.

Essentially, we listed the elements of a proactive pay equity law and it fit none of those criteria. It removed pay equity as a human right and made it a subject for collective bargaining. It eliminated the role that unions play in representing members and bringing complaints forward, and it introduced the concept of market forces as a way of evaluating things.

The Chair: Unfortunately, that's time.

If you did wish to submit anything, be sure to submit it to the clerk and it will go to all committee members. You are invited to submit additional information as written briefs.

We will now go to Ms. Gladu for five minutes.

Ms. Marilyn Gladu: Okay, very good.

I'm potentially sharing my time with Dan, if I run out of questions.

Do we see situations where unions are bargaining and they agree on wages for the different classes, and then they pay the women less? Is that still happening?

Ms. Barbara Byers: Unions don't pay. The employer pays. The employer pays the women less.

Ms. Marilyn Gladu: Okay.

Mr. Richard, did I understand correctly that in the situation where you have these two pay equity complaints, they're complaints that pertain to work of equal value, not work in the same job class? Is that right?

Ms. Stéphanie Rochon-Perras: It's work of equal value.

Ms. Marilyn Gladu: Okay.

In terms of implementing the recommendations of the committee for small businesses, there was quite a number of recommendations that look to me like you'd have to scale them somehow for a small business or the bureaucracy would be huge. Other than the committee idea, which I think is key to any business, are there other critical elements that you think small businesses would have to have?

That's for anyone.

Ms. Barbara Byers: If you look at the recommendations that came out of the task force in 2004, and what the role was between employers and employee groupings, unionized or not, and also the whole question of a pay equity commission, this is a larger issue.

We are all affected by our biases of how we see our own work and other peoples' work. For example, when I was first dealing with pay equity, I could not get my head around the issue of effort in a job.

Then I read a document, and I think it came from the Canadian Union of Public Employees. It explained that we can figure out effort if it's a predominantly male position, for example, on a construction site where the worker is picking up big bags of cement or logs. There's grunting and sweat and all that sort of stuff that goes with it. However, when there is a woman who works at a keyboard all day long, it's not seen as effort. With a woman who works as a cashier in a grocery store who's constantly picking up bags of groceries, that's not seen as effort.

What we're saying is that no matter what the workplace is, large or small, there has to be those discussions. There has to be the fair evaluation, and there has to be resources available for people to do this.

The question was raised about the costs in terms of closing the gap in particular workplaces. When we're talking about this as somehow somewhere else, I want to say to all of you, what's the cost for every one of those women who has not been paid fairly for years? There's a cost to them way more than there is to employers, quite frankly.

• (1925)

Ms. Vicky Smallman: If I might add, you also have to think that when women have money in their pockets, they spend it at the small businesses in their communities. When you address the gender wage gap, it is a boost to the local economy, so independent businesses do benefit from this.

Ms. Marilyn Gladu: Thank you.

Dan.

Mr. Dan Albas: Thank you.

I did already ask the other unions, so maybe I'll ask Ms. Byers and Ms. Smallman to comment on this.

You asked us earlier to put ourselves in a different role. I will put myself as a worker in your union, and there is an issue of pay equity. Under the PSECA, if it were in place today, it does say that there would be a workplace assessment on this very issue, and it would be transparently given to every employee. If there were an issue, then I would know that you would take it to collective bargaining to say we need to fix this. I would then be able to hold both the employer and my union representative to account if that issue were not properly resolved.

To me, the reoccurring framework that every four years this has to happen.... Perhaps if there were some of the other alternative resolution processes, I would feel better knowing that those are in place. However, don't you think members would appreciate knowing that ultimately they would get that kind of transparency and accountability? You said transparency and enforcement, but to me that would be the helpful part of the PSECA framework.

The Chair: Unfortunately, there isn't time for an answer. You can come back around to that if you want in the future.

The next five minutes is for Mr. Sheehan.

Mr. Terry Sheehan: Thank you very much. I want to thank all the presenters for the great presentations and answering of questions so far.

One of the presenters, Barbara, had mentioned that the issue and discussion around pay equity was a bit like watching *Groundhog Day*, and we're reminded of how that movie finally ends when the main character starts caring about other people. Really, that's the purpose of this committee, and I see us going there.

I'm going to ask you a similar question to one I asked the previous folks, but more specific. We talked about the length of time that unions have been dealing with various things, whether it's with Canada Post, the issue that I mentioned, which was about three decades, or Bell Canada, as you mentioned, which was about a decade and a half. They're going before the Canadian Human Rights Tribunal and the Public Service Labour Relations and Employment Board, in particular in the case of Canada Post, which did take quite a bit of time.

Could you explain to me how the process and the outcomes differ in cases before the PSLREB compared to the CHRT? I shortened it up with the acronyms.

Ms. Barbara Byers: No, I don't have a clear answer for you on that.

What we're saying is the recommendations of the task force were that you would actually have a process that would move quicker. It would move faster. It would be proactive. It's not based on, again, complaints of particular groups, and presumably there would be more resolve to settle this.

If you think of the millions of dollars—and I mean millions of dollars—spent by Bell Canada and by the federal government when it was fighting its own employees on pay equity, that money could have been better used to do the work that needed to be done in proactive pay equity legislation and in the education that's needed in removing the biases from workplace evaluations of positions and getting the money into people's hands who deserved it because that's the reality. Whatever process you choose to come to, and we hope you come to choosing what the task force has recommended in terms of proactive legislation, it has to be on the basis that we can actually find solutions for people who are paid unfairly. This is discrimination in people's paycheques. I don't know if somebody has an easier answer on the comparison you ask, but that is the reality of what we're facing. It's the cost to women.

You can say, let's wait four years because the employer and the union.... Again, as has already been pointed out, it's a question of what the power relationships with the workers are in the workplaces. You can say, well, let's come back at this every four years. If it's your mother, your sister, your daughter, the women friends that you know who are being paid unfairly, do they get to wait another four years and then maybe another four because that wasn't agreed? It's already been pointed out that you can't bargain away human rights.

●(1930)

Mr. Dany Richard: I would just like to point out as well that this is for our members too. We've mentioned how it happens to female workers and it's something we're trying to work at, but when you are in a female-dominated group, it affects males as well. It's both people in the category. It's not just one. It's everybody who is in that same group.

Mr. Terry Sheehan: For the 2004 pay equity task force, the plans included part-time casual and temporary workers who work for the federal government. The casual and temporary workers—you've talked about them a bit in your presentation—are often dispersed to different departments, to different jobs, to different experiences. By definition they are not in their jobs for long periods of time. Often such workers are not represented by unions. How would a pay equity plan work for part-time casual and temporary employees who are often not part of a group?

Ms. Barbara Byers: You're evaluating the job, not the individual. If I am a casual or a part-time worker in one department, it's the job that's being evaluated. If I move to a different kind of job in another position part time—it would be better if I didn't have to have three part-time jobs—but pay equity is not about the individual, it's about the job.

The Chair: Thank you. That's the end for that question.

Is it the will of the committee to continue and finish off this round with one more question each?

Some hon. members: Agreed.

The Chair: Then I'm going to Mr. Albas, for five minutes.

Mr. Dan Albas: Thank you. I think we'll rewind a little. I'm a bit long-winded at the best of times, so the witnesses can excuse the delay.

I asked a question earlier about the transparency and the accountability framework. I recognize that if all we were talking about was just that every four years it would be looked at, I totally sympathize. I actually think we should be going with what Ms. Rochon-Perras and Mr. Richard have said. There should be alternative dispute resolution processes, and they should be more flexible, so there should be a committee.

But going back to that, if every employee understands what the pay equity situation is, and then something comes up and it is not dealt with, I know who to hold accountable.

What's wrong with a member being able to hold the government, in this case—because they are the employer—and the union accountable for not being able to address an issue?

Ms. Vicky Smallman: Pay equity is not about individuals. It's about job classifications. What proactive pay equity legislation does is not leave it to complaints, but make sure that employers are sitting down with their employees, unionized or non-unionized, evaluating the jobs together, and then determining what needs to be fixed. It doesn't leave it to collective bargaining or any kind of dispute resolution, although there might be disagreements that would go to a tribunal later. It does all of that on the front end. That's the preferable system.

●(1935)

Mr. Dan Albas: What I'm suggesting is that you can have many of those elements outside of what you're talking about.

Furthermore, I've heard the term proactive a thousand times. I'm supportive of saying, "how can we fix the problem?", but we want to make sure we understand clearly what we're suggesting.

When you say proactive, who do you intend should be carrying out the legislation? What body? Does it exist? Would you be taking the current Labour Canada representatives, who already have experience working directly with the private sector federally regulated industries? Would you harmonize where they would end up taking part of their job component and training? Or are you talking about a wholly different regime being carried out by a wholly different group of bureaucrats and employees?

Ms. Vicky Smallman: The task force is pretty detailed about recommending that there be a pay equity commission, in which there would be experts who would be able to advise employers and employee groups and provide the necessary information and research.

Pay equity is a really complex issue. I'm not a job classification expert myself—you might hear from a couple later—but you need to have that in order to be responsible.

Mr. Dan Albas: I agree that there's a lot to the report, because I've gone through it, but I think sometimes we simplify to the point....

We've seen wages go up over the last 10 years. Also, the wage gap is slowly being eaten away, but we don't even know yet the methodology as to why that has happened. I haven't been able to get it.

I'm just asking the question because I want something that's going to work and be able to help solve the issue, but again simplifying. I don't think it allows us to really say with confidence that this is what's going to do it.

Ms. Barbara Byers: What we can say with confidence right now is that what is out there in the workplace isn't working for people who are facing wage discrimination. That's the reality.

Now, if you want to spend the next 200 years doing exactly what we've done in the previous 200 years whereby women are discriminated against in their paycheques, that's fine.

Mr. Dan Albas: Madam, I don't think anyone's asking that here.

Ms. Barbara Byers: No, but—

Mr. Dan Albas: I'd like to move on, to go back. There was one element that Ms. Rochon-Perras has mentioned twice now and that I don't think anyone has addressed yet: the marketplace clause.

Could you give us a little more background as to what this is and why it's a concern to your group?

Ms. Stéphanie Rochon-Perras: Do you mean market forces?

Mr. Dan Albas: Pardon me; yes, I mean the market forces. Excuse me.

Ms. Stéphanie Rochon-Perras: Market forces is a broad term. Historically, market forces have been influenced by factors such as occupational segregation of work and gender-biased stereotypes. While labour shortages can be and have been, under the Equal Wages Guidelines and the Canadian Human Rights Act, considered in determining whether a wage gap is discriminatory, other factors that influence labour markets should not be taken into account in the valuation of the work.

“Market forces”, with this broad meaning, are not immune to the occupational segregation of work and these gender-based stereotypes, so we can't allow market forces to dictate the value of the work that's being performed.

The Chair: Unfortunately, that's time. Sorry.

We'll go to Ms. Dzerowicz for five minutes.

Ms. Julie Dzerowicz: Great. I'm going to share my time with Ms. Nassif.

I wanted to say something to Ms. Byers. You've mentioned this point a couple of times, Ms. Byers, around how many women for so long haven't been paid equally and the impact this has had, not only on our economy but on their lives. I want to let you know that I'm also appalled by that and the fact that it was in 1977 that we made pay equity a human right in this country, and it's taken us so long to do nothing. I'm delighted to get a chance to hopefully put a nail in the coffin.

My question is to you and to Ms. Smallman. What do you see as the role or the roles of unions in proactive pay equity legislation at the federal level? What's the role specifically you would see unions playing? I know we've been dancing around a number of different things, but if you could tell me what you believe from your perspective.

• (1940)

Ms. Barbara Byers: In any workplace that deals with the issues of wage disparities, unions have to be equal partners in those discussions of the evaluations that go on in terms of occupations and how jobs are evaluated. They have to be part of the discussions as well on how we're going to achieve the pay equity and how you get to that process. There certainly have been models used in other provinces and in other workplaces where wages were raised by a certain amount and set aside away from collective bargaining. Sometimes what happens is, if you leave it over there, then some of the same forces that come into play have come into play all along. People think, oh well, if this group is getting a wage increase, then I'm losing out on a wage increase. That's why we've kept them separate in terms of bargaining.

There are going to be people who are active in the workplace and who can talk about the whole education factor and the whole evaluation factor. People have to feel confident their jobs are being evaluated and valued in ways that are different from the evaluation and valuing that has gone on up to this point, because it hasn't been working overall.

Unions are equal partners in these discussions, and that means there will be, from time to time, unions having to go out to explain to their own members why this group is getting a boost and why this group is getting the same wage increase that everybody else got.

There are all those pieces. If unions aren't there, then you're going to have a pay equity plan that isn't going to work because people are going to look at it and say, it's employer-driven and it's still not fair because employers haven't done a good job about a fair job evaluation all along.

Mrs. Eva Nassif: Under a proactive framework, federal or provincial, would non-unionized or non-public sector employees be at a disadvantage?

Ms. Vicky Smallman: The task force report is detailed about that as well, in that non-unionized employees also need some representation. It allows for the participation in these pay equity committees of other employee groups besides unions.

Mrs. Eva Nassif: Okay.

Another question, what are the difficulties with enforcing private sector compliance?

Ms. Vicky Smallman: That's a good question. I think that it depends on buy-in. With good legislation we want to make sure the public sector and private sector employers and the unions are all buying into the process. That's going to be, I guess, the next debate once we have some legislation on the table.

With compliance, you know you're going to have to have this, and this is the problem in Ontario. You need to have good maintenance and enforcement, and that was one of the things they did. Others today might correct me or elaborate, but in Quebec when they tinkered with the model in 2009, it was to address some of these issues in maintenance and enforcement. You do need to make sure it's built into the model that there are systems for maintaining pay equity, enforcing, having a tribunal for disputes, and so on.

The Chair: Unfortunately, that's the end of the time.

For the final questions, we will go to Ms. Benson, for three minutes.

Ms. Sheri Benson: Thank you.

To Stéphanie and Dany, you've had an experience that other groups haven't had necessarily, trying to use the current and the transitional model around pay equity. If you wanted to leave this committee with one comment on what's most important about that experience and what you'd like us to remember... I'll ask the same of Barb and Vicky. It has to be quick—one thing that you want to leave us with that might be the most important thing from your presentation.

Stéphanie.

Ms. Stéphanie Rochon-Perras: We need to create a framework that allows the parties to resolve their disagreements voluntarily through means that really empower the parties to be able to collaborate through conciliation, through facilitated discussion, perhaps combine mediation and adjudication. We really need a model that provides for those opportunities to take place, but also to facilitate and to have the funding and investment for that to take place.

•(1945)

Ms. Barbara Byers: Our one comment is don't reinvent the wheel. Don't see *Groundhog Day* one more time. Don't have déjà vu all over again. Implement the task force recommendations. The task force was the most comprehensive. We know that. I was the worker representative from Canada for 12 years on the International Labour Organization. It is seen as the most comprehensive study on pay equity anywhere in the world. We should move ahead.

Remember that every day you delay is justice denied, economically, for a lot of people out there. It makes a difference from the day they enter the workplace, and the things they try to accomplish for themselves and their families, and the day they retire. If you could talk to some of the women who've been affected when there has been a pay equity increase, then you would see it even more. Don't delay, because if you remember the Bell Canada case, almost 16% of the women had died. Granted, their estates got the money, but I think their estates would have felt a lot better if those women had gotten the money and had some dignity in their work lives and in their retirement lives.

Ms. Sheri Benson: I'm done. Thank you.

The Chair: Thank you very much.

Thank you to our witnesses.

We're going to suspend for a couple of minutes while we change the panels. Thank you.

• _____ (Pause) _____

•

•(1950)

The Chair: Thank you all very much, and thank you very much to our third panel. It's a fairly large panel, so I would ask that each organization limit its comments to seven minutes.

We have with us, from the Canadian Union of Public Employees, Annick Desjardins; from the Professional Institute of the Public Service of Canada, Debi Daviau; from the Public Service Alliance of Canada, Robyn Benson and Helen Berry; and from the United Food and Commercial Workers Union of Canada, Debora De Angelis.

We'll start with the Canadian Union of Public Employees. Annick, you have seven minutes.

Ms. Annick Desjardins (Executive Assistant, National President's Office, Canadian Union of Public Employees): Thank you.

I'll be making my short presentation in French, but I'll be ready to take your questions in English and answer as best I can in my second language. I'll try to be as precise as possible.

[*Translation*]

Thank you for the invitation and for agreeing to hear from CUPE.

My name is Annick Desjardins. I am the Executive Assistant of CUPE's National President's Office. I spent 13 years as a coordinator at the human rights department in our Quebec regional office. So is truly in my capacity as an expert in charge of wage equity litigation files that I have come here to try to provide some details and

clarifications on our experience at CUPE, especially with the Quebec legislation.

On a national level, CUPE represents 635,000 members in Canada who are working in public services, but also at private companies. More than 18,000 of our members are in federally regulated industries, including about 10,000 in the airline industry. Aside from the airline industry at CUPE, the majority of our members working in federally regulated businesses are located in Quebec. That province has a statute on wage equity, but the legislation does not apply to those individuals because their businesses come under federal jurisdiction. Therefore, only this House has the jurisdiction to address their rights to wage equity.

As an organization, CUPE has extensive experience in pay equity, as well as in employment evaluation, which is a key element of any fair pay equity exercise. CUPE is familiar with both complaint-based systems and proactive systems, especially those of Ontario and Quebec, which apply to employers beyond the public sector. Of course, we have to mention our wage discrimination complaint under the Canadian Human Rights Act. The complaint pertained to Air Canada's flight attendants. Despite many years before the courts on preliminary issues, the complaint fizzled out when the commission refused to take the matter before the Canadian Human Rights Tribunal.

Therefore, like the commission we heard from earlier, the CLC and all the stakeholders you have heard from this evening, we absolutely feel that it is high time to adopt the recommendations of the federal pay equity task force. The task force carried out some absolutely amazing consultations across the country, met with experts and issued sound recommendations based on experience. Our experience at CUPE is very much in line with those recommendations.

As a prosecutor from Quebec, I can give you more details about our experiences with the Quebec legislation. I could answer any questions you may have on the issue. I handled complaint cases under the system that was in place before a proactive piece of legislation was adopted. So I am very familiar with both systems. I have also pursued cases under the Canadian Human Rights Act in federally regulated businesses.

Since the Quebec legislation came into force, CUPE has established about 300 pay equity programs in Quebec. We have a similar experience in Ontario, with about 600 pay equity programs. That work was done with employers on joint committees. I can tell you that, in Quebec, all those exercises have at least been useful because they have led to certain adjustments to female jobs.

I would like to say a quick word about a slightly more practical perspective on the proactive model versus the complaint-based model, which we could call an adversarial system. To make sure you understand why a proactive system is preferable—since you asked questions about this and you received some good answers—I will provide you with a concrete perspective. To achieve pay equity and bridge discriminatory wage gaps, a company's female and male jobs have to be compared on an objective basis. So jobs have to be evaluated using a neutral tool, which we generally refer to as “an evaluation plan”.

The evaluation plan is used to assign a score or a rating. It is basically a point value associated with jobs and not the individuals doing the jobs. The rating is tied to the actual job and not to its specific tasks.

• (1955)

Those jobs are evaluated based on objective factors and sub-factors. Among the major categories of factors considered are qualifications, responsibilities, efforts and work conditions. The evaluation itself still remains subjective, and the idea is to determine where the job should fall at each level of each factor.

In a proactive model, this is determined by consensus by a committee of employer and employee representatives. We share the information on tasks identified by the employer and well-known to employees because they are the ones doing the work. In fact, we come to an agreement on the value of jobs.

In a litigation model or a complaint-based model, the evaluation must be proven according to the rules of evidence in civil actions through testimony and through the cross-examination of ordinary witnesses familiar with the work, as well as expert witnesses who provide an evaluation based on their scientific knowledge of the issue. The content of tasks and the level to be assigned to each factor and sub-factor are the subject of endless testimony and cross-examination. That is why a decision may take 15 or even 30 years.

Once the jobs have been evaluated, wages and value have to be compared using reliable statistical methods. In a proactive model, the methods are laid out in the legislation, and they're simply applied by the committee. In a complaint-based model, the matter must come before the courts—with experts, second opinions, testimony and cross-examinations. Experts contradict each other based on their clients' interests. That is why the process is endless.

The complaint-based system is inefficient. We all want a proactive model to be adopted to put an end to this litigation parade that is costly for everyone and leads nowhere.

The key elements of a proactive system are part of the task force's recommendations, but I want to emphasize a few of them in particular. The coverage must be as broad as possible. In addition, the process must have rigorous oversight because, the more that is left to the discretion of the parties, the more disagreements there will be within the committee, and that may also lead to litigation.

I am being told that my time is up.

Thank you. I am ready to answer your questions.

• (2000)

The Chair: Thank you very much, Ms. Desjardins.

Ms. Daviau, you have the floor for seven minutes.

[English]

Ms. Debi Daviau (President, Professional Institute of the Public Service of Canada) Thank you very much to the committee for the opportunity to present today on an issue that is extremely important to my members.

The Professional Institute of the Public Service of Canada represents 57,000 professionals across Canada's public sector, over

40% of whom are women, and the vast majority of whom work in the federal public service.

The right of women to equal pay for work of equal value with men has been reinforced by Canada's ratification of the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments as well as by the Canadian Human Rights Act currently.

For nearly a decade, however, there's been a void in pay equity in the federal public service amongst its relatively higher percentage of unionized and increasingly female workforce. In fact, my very presence here today as president of a union of professionals in the federal public sector evidences this drastic increase in women in these professional categories. This translates for us into an urgent need for pay equity legislation that will provide true, proactive, and timely means to implement pay equity and operate in a manner consistent with, amongst other things, existing human rights obligations, lessons learned from past experience, and pay equity jurisprudence.

I refer back again to the task force report of 2004 and facilitation of effective union participation. The institute maintains that the Public Sector Equitable Compensation Act, PSECA, violates the fundamental equality right of women in the federal public sector to be free from wage discrimination in the payment of their work and it perpetuates ongoing sex-based wage discrimination in the federal public sector.

This act fundamentally erodes the substantive right of public sector women to be free from sex-based wage discrimination, denies such women the ability to effectively implement and enforce even these eroded substantive rights, and imposes remedial restrictions that deny such women the right to have sex-based wage discrimination fully eradicated and prevented. In fact, PSECA is so fundamentally flawed, it cannot constitutionally be saved by any enacted regulations. Put simply, pay equity is a right, not an interest.

Individual complaints are not the best way to achieve pay equity within federal jurisdictions. Since the problem is found in the pay system, it makes sense that the parties to the collective agreement review the practices used to establish and implement pay. These parties must be vested with the responsibility to establish pay equity through a separate process. The institute cautions against measures that would tie the settlements of pay equity to collective bargaining timelines and compensation envelopes as included in PSECA. This would contribute to either delays in the setting of terms and conditions of employment through collective bargaining, inadequate attention being paid to the equitable compensation process, or more likely both. Putting pay equity in a separate process from collective bargaining allows both processes to move forward on a timely basis and to not compromise each other.

Any proactive legislation has to include and recognize clear roles, rights, and the responsibility of unions. Unions must be a party to agreements that establish pay equity. In the event that the parties are unable to reach pay equity settlements, either party should have the right to refer the dispute to an independent tribunal with pay equity expertise as well as a mechanism to help the parties resolve their disputes informally.

In conjunction with the Public Service Labour Relations Act and the Financial Administration Act, the PSECA restricts unions and employees from challenging key provisions that directly set the wage rate of employees, primarily the classification system. The federal job classification system will be the biggest challenge to achieving pay equity, keeping in mind that, for my substantive group, the informatics workers in government, that classification standard was established before there were personal computers. So you can understand where the barriers in that system may be.

The multiple plans for multiple occupation groups that still exist are believed to encompass systematic discrimination and do not allow for easy comparison of the value of female work to male work. Past experience from the joint union management initiative, the universal job evaluation plan, and the universal classification standard as well as—I have mentioned—the 2004 federal pay equity review task force report have provided valuable lessons about the implementation of pay equity. These lessons should be considered in any future undertaking.

In closing, I would like to state that it is the institute's view that a proactive federal pay equity regime is a critical, albeit overdue, step in Canada's progress towards a fair and functional labour sector. The PSECA violates the charter and constitutes an unwarranted assault on public service unions. It should be repealed and replaced with new legislation.

The institute is ready to work jointly with the employer in ensuring that the work done by women and men is valued fairly with a view to ending pay discrimination and bringing Canada in line with existing national and international human rights commitments.

● (2005)

Thank you.

The Chair: Thank you very much.

We now have Ms. Benson for seven minutes.

Ms. Robyn Benson (National President, Public Service Alliance of Canada): Thank you very much.

Good evening, and thank you for inviting the Public Service Alliance of Canada to appear before the committee.

PSAC represents about 140,000 members who may be affected by the recommendations made by this committee. These are members in the federal public service, federal agencies, crown corporations, ports, airports, and national museums.

We filed our first pay equity complaint in 1979, not long after the Canadian Human Rights Act became law. Over the years we've gained a lot of experience in this process. As the "Milestones" on page 3 in our presentation show, our members have had to wait many years to achieve pay equity. It took 15 years to resolve our 1984

complaint against the Treasury Board. Our 1983 complaint against Canada Post wasn't settled until 2013, literally 30 years later, and only after the Supreme Court was involved. We had former members in their eighties calling our offices, desperate to receive the money they were owed before it was too late. Sadly, I have to say that it was too late for some. That money went to their estates.

This is not what pay equity was intended to do. The federal complaint base model has been in place now for almost 40 years. That has given us more than enough time to assess its effectiveness. What we've found is that this model is highly adversarial. It requires legal expertise. It takes an excessive amount of time and resources to resolve the complaints. Budget and staff cuts can only add to the delays in dealing with complaints. Under this system it is virtually impossible for anyone to pursue a complaint who doesn't have the support of a large union or unlimited funds. As the federal pay equity task force concluded, it's an inadequate foundation for progress on pay equity.

Another model before us is the 2009 Public Sector Equitable Compensation Act. We believe there are a lot of problems with PSECA; perhaps that's why it hasn't actually been brought into force yet. The most serious concern is that it violates the Canadian Charter of Rights and Freedoms. We believe that setting up a scheme that only applies to women workers in the federal public service, and which also weakens their ability to achieve pay equity, is contrary to section 15 of the charter. We also believe PSECA violates paragraph 2(d) of the charter that guarantees freedom of association. PSECA prevents unions from representing their members in filing complaints and even includes hefty fines if they do provide any help.

These models are not going to help achieve pay equity. We believe there is a better way. I won't go into all of the task force findings, but it is important to note that through their extensive consultation process there were important areas of consensus. There was consensus that pay equity is a human right and is protected by constitutional equality rights; that the employers have a positive obligation to take steps to eliminate discriminatory wage differences based on sex; and that the pay equity regime must be accessible to both union and non-union workers.

Our union strongly urges this committee to support the comprehensive work done by the pay equity task force, which recommended adopting a new, proactive federal pay equity law.

There are key recommendations that must be part of any new law. All employees in the federal jurisdiction should be covered by the law, including employees who are not unionized; part-time employees; and casual, seasonal, and temporary workers. As well, pay equity coverage should be expanded beyond gender to include aboriginal workers, workers with disabilities, and workers of colour. The new law must include workers and their unions in developing pay equity studies and in maintaining pay equity over time. The task force also recommended that pay equity not be at the bargaining table. You can't bargain away human rights.

Finally, there needs to be a commission set up to assist employers, employees, and unions; and an expert tribunal established to quickly decide disputes between the parties. We would add that both the commission and the tribunal must be independent of the federal government and given the necessary funding to effectively carry out their roles.

Since the task force report was tabled, the labour movement, women's groups, and human rights organizations have called for its recommendations to be implemented. The Standing Committee on the Status of Women has tabled several reports over the years, all calling for implementation of the recommendations. Before now, the Liberals and the NDP each have introduced a private member's bill that would commit the government to putting the recommendation into law.

• (2010)

There has been much discussion over the years. Now is the time for action. Now is the time for this committee to recommend—to urge—that the government act without delay and make proactive pay equity legislation a reality.

Thank you for the opportunity to present our union's views.

Helen Berry, our pay equity expert, and I will be pleased to answer any questions you may have.

The Chair: Thank you very much.

Our final witness is Ms. De Angelis.

Ms. Debora De Angelis (National Coordinator for Strategic Campaigns, United Food and Commercial Workers Union Canada): Thanks for the opportunity for UFCW to submit its testimony.

We represent more than 250,000 members across the country. UFCW Canada is a leading trade union in the retail, food processing, and hospitality sectors. Over 50% of UFCW Canada members are women. Close to 10,000 UFCW Canada members work in federally regulated sectors. They work in the transportation sector, at Canadian Forces bases, in credit unions, in the fishing sector, in mining, and in the milling sector, including flour, grain, and malt.

We applaud the federal government's commitment to take action to close the unacceptable wage gap between men and women, which contributes to income inequality and discriminates against women. UFCW Canada supports the forward-looking mandate of the Special Committee on Pay Equity to recognize pay equity as a right. We support the implementation of the recommendations in the 2004 pay equity task force final report, and the commitment to restore the right to pay equity in the public service, which was eliminated by the

previous Conservative government in 2009. Proactive federal pay equity legislation is the starting point.

Canada's overall gender wage gap stands at roughly 30%, based upon average annual earnings using data from the most recent Canadian income survey, published by Statistics Canada in 2013. There are 8.5 million more women in the Canadian workforce than there were 20 years ago. With women's labour force participation and educational levels rising, there are still men's jobs and women's jobs, and there is still a substantial link between women's jobs and low pay. Gender-based pay inequalities are fixed in classification and pay.

As highlighted in the 2004 pay equity task force final report, racialized women, immigrant women, aboriginal women, and women with disabilities suffer from higher gender wage gaps. As fully recognized by the 2004 task force report, the gender wage gap is further intensified by the fact that women make up the majority of workers in precarious employment and in lower-paying occupations and industries. This form of employment is on the rise.

The discriminatory gender wage gap arises from occupational segregation and the prejudice and stereotypes reinforced by the labour market, which have undervalued and underpaid women and their work relative to men and their work. Today the Canadian labour market remains divided by sex across occupations in the private and public sectors. Valuing women's work; engaging in non-discriminatory labour market, workplace, and pay practices; and adopting, supporting, and funding social policies that enable and facilitate equal access to work, all build a stronger, more equitable economy.

It's important to recognize that pay equity has been fully recognized as a fundamental workplace right in Canada since 1972. In 1972, the International Labour Organization's convention 100 regarding the equal remuneration for work of equal value was ratified in Canada. Pay equity was incorporated in the Canadian Human Rights Act, but in a complaint-based system that denied effective access to pay equity for many women in the federal sector. The focus on pay equity as a priority human-rights mandate needs a gender and equity based planning, action, and monitoring lens. This is essential if there is a serious commitment to closing the gender wage gap.

The current system, as the other witnesses have already outlined, has many problems. I will skip that part in my witness report because I know it's getting a little late.

Moving forward, the federal government, working with employers and trade unions, needs to develop a systemic plan that targets closing the gender wage gap over a realistic time frame, and strategies for meeting those targets. UFCW Canada supports the Equal Pay Coalition's call to the government to close the gender pay gap no later than 2025. I believe they will be speaking soon to the committee.

We call for a proactive federal pay equity law modelled on the recommendations of the 2004 pay equity task force and the Quebec legislation with which those best align. UFCW Canada joins other trade unions and pay equity advocates in calling for the repeal of the Public Sector Equitable Compensation Act. PSECA is fundamentally flawed and cannot be improved by any amendment.

Pay equity legislation, and not collective bargaining, is the proper way to achieve pay equity. Equal pay for work of equal value is an internationally recognized human right. It must not be left to trade-offs at the bargaining table. Governments and employers are responsible for securing this. Unions have a critical role, which must be built into pay equity legislation.

● (2015)

Freedom from discrimination is a fundamental human right, and freedom from wage discrimination is an essential component of this right. Proactive pay equity legislation is necessary to tackle the systemic discrimination in wages as part of a larger package of policy measures. In addition to biased job classification, a pay gap factor such as occupational segregation, precarious employment, and uneven distribution of unpaid labour must be addressed. Employment equity, universal child care, strong public services, decent work, living wages, and free collective bargaining are other measures required to achieve full wage equity.

As an immediate step, this committee has the opportunity to advance a proactive pay equity law as envisioned by the 2004 task force. The federal government should seize the moment to redress gender pay discrimination for workers under federal legislation and show leadership within Canada and internationally as well.

UFCW Canada is calling on the federal and provincial governments to implement additional recommendations—and I'm just going to list them because they are in front of you.

Make closing the gender wage gap a human rights priority. Enforce and expand pay equity. Promote access to collective bargaining. Require reliable scheduling practices and better notice periods. Legislate a living wage. Legislate equity compliance for workplace and business. Legislate paternity leave and provide high-quality and universal child care.

Thank you so much for this opportunity to be a witness here.

The Chair: Well done. Thank you.

Our first question will go to Ms. Sidhu who has seven minutes.

Ms. Sonia Sidhu: Thank you, Madam Chair. Thank you, panel.

Good to see you, Debi.

Debi, can you elaborate on your comment about job classification done by the institute. Also can you explain more about the charter violation inherent in PSECA?

Ms. Debi Daviau: Yes, thank you.

As I mentioned, the classification standards throughout the federal public sector are insanely old. They were structures from a different time. With PSECA leading us back to the bargaining table on dealing with pay equity complaints, we're already hindered by this structure that doesn't recognize the necessity to do a proper wage analysis between genders and introduces a whole bunch of other factors into

those considerations, as I mentioned. By focusing on those other elements, we take away from our focus on wage parity.

Can you repeat your second question?

● (2020)

Ms. Sonia Sidhu: Can you explain more about the charter violation inherent in PSECA?

Ms. Debi Daviau: It's pretty broad. On the one hand, PSECA takes away the rights of unions to advocate on behalf of our members who may be experiencing pay equity gaps. On the other hand, those members can file complaints against their union even though it's eliminated all the tools for us to be able to resolve those issues.

It's because of forcing this to the bargaining table that there is suddenly no focus on the human right but rather a focus on interests. Pay equity should never be an interest. It is clearly upheld as a Canadian human right and therefore, as my sister and colleague Robyn Benson said, you can't bargain away a human right. To allow that to happen...and I could go as far as to say you have a male-dominated industry negotiating with another male-dominated industry on issues such as pay equity. It doesn't put the right voices at the table to prevent further human rights violations.

By taking this away from the Canadian Human Rights Tribunal, you eliminate that expertise. You now have a very similar process ongoing without the expertise and the resources of the unions to support these people. That results in a David versus Goliath scenario where David is simply incapable of fighting Goliath on pay equity. We are never going to achieve pay equity and uphold pay equity as a human right in this environment.

Ms. Sonia Sidhu: Some unions may have experience representing your members under provincial pay-equity legislation. Could you give us your opinion about what is effective under the provincial pay-equity regime?

Ms. Annick Desjardins: Is your question, what is effective?

Ms. Sonia Sidhu: Could you give us your opinion about what is effective under the provincial pay-equity regime?

Ms. Annick Desjardins: What is effective is the joint committee working toward achieving pay equity in a collaborative process, rather than adversarial. What's effective is the obligation to achieve a result. If you ask the parties to talk about pay equity at the bargaining table, there is no obligation to achieve it. That's why it doesn't work. We've been trying, before the enactment of the Pay Equity Act in Quebec, to bargain toward pay equity. We made progress but the cases that I litigated were the result of our inability to really achieve true pay equity at the bargaining table.

What's effective is all the elements of a proactive model that are integrated in the act, so it's almost a recipe that you have to follow, and you do it jointly in a collaborative process where people share information and come to a consensus. If a consensus doesn't emerge, there are mechanisms that are available at the pay equity commission, mediation and conciliation, to help us to get around that. It is effective. We make it work.

Ms. Sonia Sidhu: What elements of the provincial system do you believe could be included?

Ms. Annick Desjardins: Right now the maintenance provisions in the Pay Equity Act should be improved. What happened is that in 2009 the Quebec government amended the Pay Equity Act to improve monitoring of pay equity maintenance, but in so doing a number of mistakes were made. First of all, it only allows for prospective pay equity maintenance, so there are periods of immunity that are granted that were actually considered unconstitutional by the Superior Court of Quebec. That case is under appeal, though. That's a mistake.

The other mistake that was made in 2009 was to remove the mandatory pay-equity committee. There is no mandatory employee participation in the maintenance of pay equity. It is still mandatory in the initial plan when it's put in place, but for maintenance it's not mandatory anymore. We have a problem with that because employers are left with full discretion to change wages, despite employees being unionized. This is a problem and.... Well, we addressed it in the courts and we're waiting for the court of appeals decision on that.

• (2025)

Ms. Sonia Sidhu: Okay.

Can you make a comment on the Bell Canada case brought up in a previous panel by Ms. Byers?

Ms. Annick Desjardins: The Bell Canada case lasted very long. We went all the way to the Supreme Court on various preliminary issues about which comparators could be used. After all these years, we don't have a conclusion in that complaint.

The Chair: Thank you. I'm sorry about the timing.

The next question will go to Mr. Kmiec, for seven minutes.

Mr. Tom Kmiec: Thank you very much for your presentations. Actually, this is the part of the evening I've been most waiting for because I have questions about the classification system. I mentioned this to other witnesses, that I used to be the registrar for the HR profession of the province of Alberta. I remember in our workplace we went through a process of drafting job descriptions for everybody in the workplace. I found it the most excruciating work I have ever had to do, where each position involved around 20 pages in minute detail of what it was. When I see here that it says that our belief is to encompass systemic discrimination to allow for easy comparison of the value of female work to male work, I'm kind of concerned because when I think of the federal government, I know there's classification upon classification of work.

Maybe briefly, could someone explain to me what is some of the problem between male work and female work and some of the issues that classification in general has?

Ms. Debi Daviau: When those first pay structures were stood up around the federal government, there were no bargaining agents. Unions and workers' representatives didn't exist. Right from the get-go you had inequitable pay structures.

Throughout the years, once we were in a position to negotiate on behalf of members, all we could do was make changes to those initial pay structures as well as the job definition structures.

You're quite right, classification will make you pull your hair out, particularly when you're dealing with such an old system that isn't necessarily relevant in today's environment. It is quite something, and my hat's off to the professionals who have to work in this field with such a deteriorated set of tools.

This adds to the barrier on our resolving pay equity disputes through bargaining. What makes this unconstitutional is the fact that the job evaluation plan itself—the classification standard, or the original standard on which this pay is determined—is flawed right from the get-go, and more flawed now that it is 30 to 40 years old. It creates a situation where there is already discrimination inherent in the system before you even get into negotiating collective agreements.

Mr. Tom Kmiec: Maybe I could ask, would it be fair—

Ms. Debi Daviau: To finish off, we can't negotiate organization job structures in the federal public sector, whereas in some of the provincial models they can. That's a barrier in adopting some of these provincial models that might be better. They have tribunals and they have union involvement. Maybe there is some room to move on maintenance, but we can't adopt that model today in the federal public sector because classification standards creates a barrier to that.

Mr. Tom Kmiec: I was going to ask, if you were to fix the classification structure on the front end, would that reduce problems on the back end where you're starting to have the employee-employer conflicts?

Ms. Debi Daviau: I would say it's one step in getting toward a fix, but it's just a barrier and not a solution. It's a barrier we need to take down, and not a solution we need to enact.

Ms. Helen Berry (Classification and Equal Pay Specialist, Public Service Alliance of Canada): I can speak a bit to the problems with the classification system with the federal public service.

There are 72 different classification plans in the public service, and not all of them measure the same thing. Most of them don't measure the same thing. Some of them were created, like the AS classification for administrative services, in 1965. The computing is not the same group as the CS group, but I think the data processing was created in 1978, and it's still used today to classify these jobs.

Part of the difficulty we have, and this was a problem with the PSECA legislation, is that you can't compare female-dominated jobs—and PSAC covers a lot of female-dominated jobs, most of our workers are female—and male jobs. You can't compare the wages for work of equal value because they use different measures.

In some cases they don't have all the four criteria under the Human Rights Act Equal Wages Guidelines, which are skills, effort, responsibility, and working conditions.

The CR group, for instance, which is the clerical and regulatory group, has been around since the 1970s. That classification standard doesn't measure working conditions, which is a huge issue. It is the issue we raised back in our Treasury Board pay equity case. We have done a lot of work around the joint union-management initiative, and your concerns about bringing together job descriptions and things like that have happened over time. We did it in the eighties, and we did it in the nineties, but there hasn't been the impetus to push it forward. We still have the same system we were dealing with in 1965, which is inherently discriminatory.

• (2030)

Mr. Tom Kmiec: I'm going to ask, has this classification system ever been submitted to a company for an outside audit? The Hay Group is an HR firm that provides this service to companies out there, especially large companies when they're doing a lot of mergers and acquisitions. They start gobbling up different benefit plans and total compensation starts to get out of whack. You're paying the same person different amounts of money depending on the type of work they're doing, and you're starting to layer on benefit plans. They provide that service, as do Morneau Shepell. I think we know someone who can probably get us a good price if we need them to.

Has there ever been an outside audit provided?

Ms. Helen Berry: In my experience, I've worked with the Hay Group in other areas.

Mr. Tom Kmiec: Okay.

Ms. Helen Berry: We've brought joint pay equity plans into other places such as Nav Canada and the CRA and those kinds of things. We've used job evaluation plans that were off the shelf, such as those you're talking about, or we've developed them jointly with the employer. That has worked. In some cases, we've pulled together under one job evaluation plan almost 72 classification systems that were inherited from the Treasury Board and these separate employers, so it can work.

It's very big at the federal level, but the kind of proactive legislation we're talking about would address that.

The Chair: Thank you. You're out of time.

I'm sorry, Ms. Daviau. You have 30 seconds.

Ms. Debi Daviau: All I wanted to do is refer you to page 4 of our submission, where we define some of the work that has been done over the years in the federal public sector, specifically around classifications. We only hope that this work would form part of the considerations for any future plan.

The Chair: Thank you.

We next have Ms. Sheri Benson for seven minutes.

Ms. Sheri Benson: Thank you.

Thank you for the presentations. It's great to talk about this issue, but at the same time, most of us want to see it move forward. It's nice to see some commonalities, obviously, in the witnesses we've seen so far, and some agreement on how to move forward.

Annick, you brought up a point that I'd like you to repeat. It was about why the proactive stand-alone pay equity process—versus a complaints-based process—allows it move forward so quickly,

especially at the front end. On the comment you made about trying to get information and trying to get people to agree, why would a proactive process actually move that piece forward in a better way?

Ms. Annick Desjardins: One part of the proactive system is that there's a date limit, after which interests accrue. It obviously helps parties to move forward quickly, to meet often, and to agree quickly on the value of jobs.

On information gathering, part of the Pay Equity Act in Quebec makes it an obligation for the employer to provide training to the members of the pay equity committee, as well as relevant information for them to do their work. It is transparent. You were talking about transparency. This is absolutely a transparent process. There are postings so that the employees in the workplace know exactly what happened at the pay equity committee, know exactly how the jobs were valued, and know what adjustments have been made. They can ask questions and they can get answers.

It's about the obligations that are found in the act, as well as the rules at every step that are already in the act and need to be followed. You don't have to argue about them because they're already there.

That's what the recommendations of the task force do as well. They actually set the methodology in advance as to how you identify job classes and how you identify the predominants. It's a recipe that you follow. That's why it works.

• (2035)

Ms. Sheri Benson: In some ways, it is almost a collaborative mediated process right from the get-go, because you're both there talking and you have to come to.... I understand that at some point if you can't get there, you have another alternative, but it starts with....

Ms. Annick Desjardins: Out of the 300 or so programs that we did in Quebec, only a couple had to go through a mediation process. The parties agree at the end of the day. It is technical, but it's not as complex as it seems.

Ms. Sheri Benson: Helen, I wonder if you might expand on this. I know that sometimes we start to talk about job classification and everybody's eyes glaze over. They say that it's so technical and we can never get there, and it just falls flat.

But as a barrier to pay equity.... I thought I heard you say that proactive pay equity legislation is an impetus or can get us moving. You could start with some of those classifications, working on those people who are most affected. Is that correct? Instead of saying that we have to do all this work first before we even start on pay equity...?

Ms. Helen Berry: Certainly there's an obligation on the employer. Part of it is an information-sharing obligation that would come out of a proactive pay equity model, at least I'm assuming so. That would be a key to being able to work from the union's perspective but also with the employer, and to look at these joint plans. If we don't have that information, we can't move forward. That would be a really important piece of this, the sharing of information from the employer.

Then I think the impetus is on both parties, and when you take it out of the whole bargaining idea or the complaint system, it's not so inherently adversarial. I think that's a key to this. It's working together for the aim, which is pay equity, not the fight about who pays what and who's right and who's wrong. I think that's one of the important pieces to this.

Ms. Sheri Benson: Do you want to add something to that, Debi? It sounded like you have the biggest problem.

Ms. Debi Daviau: Under PSECA it takes forever. We can't rightfully get through these complaints. Our common goal is not met. What we need, as mentioned, is a proactive model. But that means having a tribunal, a deciding body with expertise. It means engaging the stakeholders, the unions, in the solution as well as the maintenance. Personally I think that although classification is a great big barrier, what makes it such a problem for this exercise of pay equity is PSECA. If you're looking for low-hanging fruit, what we need to do is repeal PSECA and go back to at least the complaint mechanism under the former legislation. Then we can look forward, and there is a base we can return to in the meantime.

But you're right, we can't resolve all of these classification issues at the same time. Hopefully we have a methodology that doesn't require us to dabble into classification, as a system that brings us to the bargaining table does.

Ms. Sheri Benson: Debora, because you're from the one group here that maybe has a larger private sector employer involved, could you quickly talk about those groups and what groups you're talking about.

• (2040)

Ms. Debora De Angelis: In the private sector?

Ms. Sheri Benson: Yes, because you're representing those. The other groups here are talking more about public sector workers.

Ms. Debora De Angelis: Yes, right.

Ms. Sheri Benson: It's occupations we're talking about.

Ms. Debora De Angelis: In terms of occupations that we're talking about in the private sector, we have members in every single sector right across—

Ms. Sheri Benson: Are they covered by the federal regulations?

Ms. Debora De Angelis: They are federally regulated. We have the transportation sector; Canadian Forces bases; credit unions; fishing sector; milling sector, including flour, grain, and malt; and mining.

Ms. Sheri Benson: Okay, thank you.

Thank you, Madam Chair.

The Chair: Thank you very much.

The next questioner is Ms. Dzerowicz, for seven minutes.

Ms. Julie Dzerowicz: First I just want to say thank you for your great presentations and thank you for hanging in there. I know my brain is kind of like....

I'm going to ask three questions, and feel free to answer any of them. They're addressed to all of you.

I was curious. As we started going down the line of questioning around the classification, it came to mind that if tomorrow we put

into place the proactive federal pay equity legislation, what would the other difficult steps be to actually adhere to it from each of your perspectives? There are going to be some difficulties, and it's beyond just the classifications. What are some of the other elements that are not going to be easy for us to work through at the federal level when we're putting in the proactive model? That's the first question.

The second question I have is around cost. I know I've been asking this question, and I ask it not because I think if this is expensive I don't think we should do it. I'm very much a huge proponent of us moving as quickly as possible. I'm curious about the cost. I want to know whether there's been any costing done in any of your individual groups or unions on if we did pursue a proactive pay equity legislation at the federal level.

The last question I have is.... I come from a family that watches a lot of sports. In my very young days, I used to love Wayne Gretzky. They always say he always goes to where the puck is. For me the world of work is changing. I know that the best model people seem to talk about is the Quebec model now. If I was saying to you the world of work is changing and you wanted us to look at progressive proactive federal pay equity legislation, what are some of the other elements you think we need to be concerned with in drafting such a legislation?

I know they're big questions for late in the evening, but, please, if you could answer them, I'd be grateful.

Ms. Robyn Benson: Maybe I'll start, since I haven't spoken to any of the questions.

I would like to advise the committee that I'm a recipient of pay equity. I've been with the federal government for 36 years, and many of those years were as a CR, which is the clerical regulatory category. When we filed our complaint in 1984, I was a CR and then subsequently got a pay equity cheque in 1999.

It's really difficult for the PSAC, when we've had so many pay equity complaints and it has taken so many years. Here I find myself now as the president of PSAC, elected first in 2012. Then, of course, we resolved the Canada Post pay equity, and I'm the individual who talks to the folks who want the cheque paid out to the estate. I'm the one they call to say, "My mother died", or "My grandmother died. Who do I contact?" As a matter of fact, I think it should be known that Canada Post is still making cheques today as I sit here, because they haven't completed the payments.

Proactive federal legislation obviously would mean that we wouldn't be waiting 30 years to have pay equity. I would ask you to look at page 5 of our presentation. Clearly, the task force worked for two years, from 2002 to 2004; they commissioned research reports, heard from witnesses, had round tables and high-level discussions; and then they came through with a number of consensus and principles. I would thus suggest to you that there wouldn't be difficult steps. I think we would need to have the commission established, we would need to have the tribunal, and certainly we would move forward from there.

Are there additional costs? Well, there are costs to going to court. When we have to file our complaints and we have to go through the human rights apparatus and we have to go to the highest court in the land, if I may be so cheeky, it costs money. From my perspective I think it's the way forward. It's what we should be doing, and I think it can be accomplished by this committee.

• (2045)

Ms. Debi Daviau: I'll jump in on the tail of Robyn Benson, because we come from a very similar predicament, if you will.

On the issue of costing—I'll start there, because the other two are related for me—we've just come through a government of 10 years during which almost the only considerations were economic in nature, so we've almost become allergic to costing at this point.

No, then; we haven't done the costing, but you can bet that in the context of a solution that costing would have to be done. In fact, we might be able to do it, if we had access to all of the information that we don't have today. That's one of our difficulties, getting access to the data that we need to do effective costing, or any kind of analysis, for that matter.

I agree that moving forward is not that difficult a path, really, if we choose the right plan at the get-go. We need a long-term plan, we need to be able to maintain pay equity over a long period of time, and we need to be committed to implementing and resourcing pay equity.

In my view, once you start with proactive legislation, the steps after that are much less difficult than one would imagine.

Ms. Annick Desjardins: The question of cost comes up all the time. It's a legitimate concern. It depends upon whether you're talking about the cost of the process to implement pay equity or the cost of the redress or the pay adjustments. Obviously, the more women are being discriminated against, the more costly it is to redress that discrimination.

We've tried in CUPE to assess and have estimates, but it's really difficult to do, because it really depends.... You try to assess the cost as a percentage of a payroll—things like that—but where you start from really depends upon the composition of the groups and whether there were already job evaluations in place or not.

We cannot come up with a figure that will be relevant, really. We tried and we can't do it.

The Chair: I'm sorry, we're out of time.

In the interests of time, we can go into our final round, but I would suggest that we reduce the time from five minutes to four minutes, if that's the will of the committee.

Some hon. members: Agreed.

The Chair: Okay.

The next round will be Mr. Albas for four minutes.

Mr. Dan Albas: Thank you, Madam Chair.

Thank you again to all of our witnesses for your work for Canadians, also for your members, and of course, for our committee today.

I'd like to start by going back to Ms. Benson.

First of all, thank you for bringing a written submission and for making it as descriptive as possible. It's helpful for us to get a better image in our minds.

In your opening statement, you talked about an independent commission and tribunal. Is that the case?

Ms. Robyn Benson: Yes.

Mr. Dan Albas: Okay.

I'm assuming that this will apply both federally to the public sector as well as the private sector?

Ms. Robyn Benson: Yes, because my understanding is that this was the recommendation of the task force.

Mr. Dan Albas: Okay.

Obviously, governance, staffing, and all that stuff are a conversation for another day, but I appreciate that you at least came and told us what proactive means to your members.

Ms. Robyn Benson: Yes.

Mr. Dan Albas: Another thing I believe you mentioned in your comments is that there's a lot of focus on the Public Sector Equitable Compensation Act, and I know many of the unions here have taken very strong positions on that, but there's also the other relevant legislation that affects your members, and that's the Public Service Labour Relations Act. This has been raised a few times and I think in your comments at one point.

If a member finds an issue of pay equity at the workplace, you say that their rights are being diminished because we cannot assist them. To me it makes sense that, if a member were to say to you, "Here's my perspective on this. I'd like you to take this on and see if there's any validity to it and see if this is something you can run up the flagpole for resolution".... Because I think to a large extent, if it doesn't relate directly to them, then it would relate more to the workplace and how it functions.

There's nothing stopping a union from saying, "Yes, this is a legitimate pay equity concern. We will take this and address this through the various processes." For example, if PSECA were in place, there would be an assessment of the workplace. It would then go to a process of engagement with the employer.

Do you understand where I'm coming from?

• (2050)

Ms. Robyn Benson: Well, if you're asking me would the union, if PSECA is in place, assist our members with pay equity, we certainly would, but the fine would be \$50,000. For every member we help, it's a \$50,000 fine.

Mr. Dan Albas: But the question I asked, though, is: if they say they have a situation, rather than you pursuing it on behalf of that member, would you take it up as an issue to deal with yourself as a union?

Ms. Robyn Benson: Our understanding of PSECA, while it hasn't been enacted yet, is that, if the union were to file any pay equity complaints, it's a \$50,000 fine because we're filing it on behalf of our membership. What the task force clearly articulated was that we needed to have proactive pay equity legislation.

Mr. Dan Albas: The reason why I raise this, and I mentioned this in earlier testimony, is that there is an availability that if someone, an individual, finds that they're being discriminated against for gender, for any of the things under the Canadian Human Rights Act, they can deal with that through various means, the ultimate of which would be to take it to the tribunal. That's still within there.

To me, I think it's eminently reasonable to say that if someone, one of your members, had seen it and said, "There is a case here for pay equity discrimination" that you as the union could take that on for the membership in general. Is that not correct?

Ms. Helen Berry: Sure, I'll be quick.

The problem with that is the individual's not having the information to even know if they have an equitable compensation problem or a pay equity problem because they don't have the access to the information from the employer to actually say that. But if they were to raise.... The CR complaint came from our members. The complaints we have filed have all come from our members, so I don't think that's a huge issue—

The Chair: The time is up.

Mr. Dan Albas: Is it four minutes already?

The Chair: Four minutes is a short time.

Mr. Dan Albas: Okay, thank you, Madam Chair. I know it's difficult.

The Chair: We're going to Mr. Sheehan for four minutes.

Mr. Terry Sheehan: Thank you very much.

Just on the pay equity commission and the pay equity tribunal that the 2004 federal pay equity task force recommended, in your opinion, what would be the advantages and disadvantages of setting these up?

Ms. Annick Desjardins: v The obvious advantages are the expertise because this is quite technical and we do need expertise and people who will stay in their commission and not move elsewhere in other areas of investigative functions. Our experience in Quebec has been good with a specialized body to help the parties through this process.

In Quebec, if there was any litigation to pursue this it would go to the labour board, which is not exactly the best solution because the labour board does not have expertise with this systemic discrimination. We think a human rights tribunal does, so it's more appropriate for both parties to have someone with this knowledge handling the complaint.

Mr. Terry Sheehan: Could these bodies not be branches of existing agencies, if they're given adequate resources?

Ms. Annick Desjardins: They could, but then the problem of personnel mobility might come up.

Mr. Terry Sheehan: With the little time I have left I'm going to key in on some of the comments that were made in a similar presentation that we heard from earlier. It talked about the inequity with indigenous women. In my riding of Sault Ste. Marie we have a lot of first nations, Métis, etc., and the presentation before said it was 30%, you guys recognized it, and with newcomers, 21%.

What does that look like within the federal system and could you suggest any solutions to this very important problem?

• (2055)

Ms. Debi Daviau: For us it looks like under-representation of all those groups in the federal sector, under-representation of aboriginals, disabled persons, people of colour. Then obviously there are all those issues exacerbating the whole wage gap for women when women are also in those various groups.

For the most part we have federal rates of pay and if you have people in the same classification they'll be paid the same regardless of their gender or colour, but we see a gross under-representation of those groups in the federal public sector.

Mr. Terry Sheehan: Is it a recruitment issue then?

Ms. Debi Daviau: No. I think it's unfair hiring practices, and it goes way beyond the issue of pay equity. It goes to the very structure of government and staffing.

Ms. Robyn Benson: If I might add, we've just been through a government that has done major downsizing for 10 years within the federal public service, so our members have found that unfortunately equity group members have left the government through no fault of their own. There is a decided under-representation.

The Chair: We'll now go to Mr. Kmiec for a four-minute round.

Mr. Tom Kmiec: I want to continue where I left off about the classification system because this discussion has made me appreciate people who do classification even more, and I was at the point where I had a lot of time for them.

An outside audit from a private firm was never done, but people who have worked in the private sector, from Hay Group and other places, have come in and done work with the classification system?

Ms. Robyn Benson: Because I'm at 36 years, and I'm not sure how long Ms. Daviau has been with the government—

Ms. Debi Daviau: I'm not saying.

Ms. Robyn Benson: —there have been many attempts at a new classification system. Let me be clear.

There was UJEP. There was UCS. I think there was La Relève, but there have been many attempts. In 2006 the president of the Public Service Alliance of Canada signed a document with Treasury Board that we would undertake classification. Here we are 10 years later and the work is not done. It's been stalled. Staff has not been assigned to it. We've had many difficulties.

I don't want to be disrespectful, but it has become somewhat of a joke among my membership that the government or Treasury Board will never do the classification system because every time they get close and find out it's going to cost them money, they drop that process. It's been attempted many times.

Mr. Tom Kmiec: Can I just ask a follow-up? I can see here on page 4 that they have really nice acronyms for them, but in each of those processes was there no private company from the outside looking in? Were those all internally run by Treasury Board?

Ms. Robyn Benson: I would suggest to you that they were probably all internally run by Treasury Board. The process we have now, Helen....

Ms. Helen Berry: It's still internal as far as I know. We're not privy to some of the things that they're looking at, so they may well be looking at outside, off-the-shelf plans. We've dealt with the outside plans and consultants with a number of our separate agencies and separate employers.

Ms. Debi Daviau: What we know is that this government has certainly not been immune to the use of professional services and external providers. You can bet that in an area where they had little or no expertise that they have, of their own volition, in privacy, availed themselves of this expertise, but maybe not as part of a formal process.

The Chair: Very good. Thank you.

Ms. Marilyn Gladu: Switching direction, how long did it take Quebec to put its law in place?

Ms. Annick Desjardins: The act was adopted in 1996. It was put in force in 1997. But there was a chapter at the time that allowed for exemptions, and we contested the constitutionality of that. This took many years to resolve, and in 2004 there was a Superior Court decision declaring the exemption process unconstitutional. This had obviously taken a lot of energy from the pay equity commission. We all started really working on pay equity plans in Quebec after that decision in 2004.

• (2100)

Ms. Marilyn Gladu: What is the wage gap now in Quebec? Do you have any data on it?

Ms. Annick Desjardins: I don't have up-to-date data. What we know, though, is that when the Quebec government finalized its exercise in 2006, there was a peak in economic growth that was identified by economists. It was actually beneficial to the economy.

The Chair: Thank you.

Now we have Mr. DeCoursey for four minutes.

[*Translation*]

Mr. Matt DeCoursey: Thank you very much, Madam Chair.

I want to thank all the witnesses again for their participation today.

[*English*]

I heard loud and clear what your preferences are, what your versions are.

Both my questions will build on some of Terry's questions because listening to the Canadian Human Rights Commission earlier and the discussion about the expertise that's there, I wonder, given the desire to see an independent commission and tribunal set up, whether there is any thought amongst anyone here that perhaps the Canadian commission for human rights does have the expertise or could serve in that role, if that was a recommendation sent to government.

Ms. Robyn Benson: I'll start, and Helen will finish.

Certainly they do have the expertise, but with all of the tasks at hand, unless there's going to be some assistance to them, I think they're spread far to thin right now.

Ms. Helen Berry: That's part of the issue. Pay equity is a bit different to some of the other things, as they highlighted in their comments. It requires different kinds of expertise and some technical know-how whereas the other grounds of discrimination are a little more the same. They see the same kind of thing. Even going to the Human Rights Tribunal, pay equity expertise at the tribunal level is somewhat limited.

Ms. Debi Daviau: I'd just like to add to that. If that were a model to be considered, it's taking anywhere between 10 and 30 years to resolve complaints through that system, although admittedly it's a better complaint-based system than the one being proposed under PSECA. But what we are really proposing is that we move away from a complaint-based system into this more proactive system where we can resolve disputes in some other mechanism other than through a complaint-based system. Maybe any tribunal could be set up to do that, but they aren't today.

Ms. Annick Desjardins: The Human Rights Commission surely has expertise on systemic discrimination because they also administer the Employment Equity Act. They do have some experience with proactive systems, but obviously we're talking about many more resources that would be needed there.

Mr. Matt DeCoursey: As a follow-up, I'd really love some insight into how you see a proactive tribunal or commission process being able to address the situation of under-represented groups of women, like aboriginal women and those from minority backgrounds. That, more than anything else, has struck me throughout the testimony today.

How does a proactive system address under-representation in the workforce and enhance pay equity for those groups?

Ms. Annick Desjardins: Under-representation is addressed through employment equity, not pay equity. We already have legislation in place for that. It is proactive, in the sense that there is an obligation to put in place employment equity plans and to have a statistical analysis of your workforce to make sure that all the groups are properly represented. If they are not, you have to go through your whole employment system and make sure there are no biases. Where stereotypes have acted as barriers, you have to be aware and take steps to redress that.

On pay equity, to really address the wage gap between aboriginal members or racialized employees, you would have to find—I'm sorry for using this awful expression—job ghettos. You would have to find people concentrated in certain job classifications. We could probably find such concentrations, but I'm not sure how much.

• (2105)

The Chair: Thank you. Sorry, that's the time.

The final question is to Ms. Sheri Benson, for three minutes, unless you don't wish....

Ms. Sheri Benson: I'll give everyone one last hurrah here.

I seem to be—there's some term in baseball—the cleanup batter, so I will give each of you about 30 seconds to leave us with a parting comment, some piece of advice you would like to leave us with, or what you think was the most important thing you shared tonight.

I don't know whether Helen and Robyn want to share it.

Ms. Robyn Benson: I'll start very quickly.

I think the title of our presentation says it all: the time for action is now. As a 36-year employee, I am certainly one who did benefit from pay equity. I think it's about the next generation. We need to have a proactive pay equity law so we don't find ourselves here again.

Ms. Debi Daviau: We still need a long-term plan, but we also need short-term fixes. We believe that your easiest short-term fix is to eliminate PSECA and move forward with a more proactive legislation.

Ms. Annick Desjardins: I would say don't reinvent the wheel. Everything is in there. There is language. There is a law that comes very close to those recommendations in Quebec, and it is available in English, so you can get inspiration there.

Ms. Debora De Angelis: I just want to say that a progressive proactive pay equity program has to come with a gender and equity lens to make sure we cover and we're representing all the marginalized group of women, and as well that we look at precarity of employment. Employment is changing in Canada, and we really need to cover all the new types of employment coming up.

Ms. Sheri Benson: Thank you.

The Chair: Thank you very much.

I want to thank our witnesses for staying at this late hour, and also the committee members for staying late. Thank you very much.

The meeting is adjourned.

Published under the authority of the Speaker of
the House of Commons

SPEAKER'S PERMISSION

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the Parliament of Canada Web Site at the following address: <http://www.parl.gc.ca>

Publié en conformité de l'autorité
du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : <http://www.parl.gc.ca>