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## **Special Committee on Pay Equity**

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**EVIDENCE**

**Wednesday, April 20, 2016**

**Chair**

**Ms. Anita Vandenbeld**



## Special Committee on Pay Equity

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•(1915)

[English]

**The Chair (Ms. Anita Vandenbeld (Ottawa West—Nepean, Lib.)):** The committee is called to order.

First, I want to apologize to all our witnesses about the delay. Unfortunately, in this line of work there are often votes. All the members of the committee were caught up in the House of Commons.

We do have this room until 8:30. What I propose is that... We have one panellist on the first panel, and four groups on the second panel. If we combine the panels, we can have them each do their presentation, and then we can go into the questioning. We will have an hour and 10 minutes to hear from the five different organizations.

Are there any objections? Okay.

Without further ado, I will call the first witnesses. They are here in person. We do have a number who are going to be coming in through teleconference.

This is the Canadian Association of Labour Lawyers. We have Colleen Bauman and Peter Engemann.

Will it be both of you, or just one speaking?

**Mr. Peter Engemann (Partner, Goldblatt Partners LLP, Canadian Association of Labour Lawyers):** You'll get both of us.

**The Chair:** Okay.

You have 10 minutes. Actually, we'll do seven minutes. You can divide the seven minutes as you see fit. Thank you.

**Mr. Peter Engemann:** I hope my colleague will stop me when we hit that four-minute mark.

Good evening, distinguished members. It is a pleasure to have the privilege to be here and talk to you about this very important work you are embarking upon.

I am joined by my colleague, Colleen Bauman. We are both partners in the law firm Goldblatt Partners. We are here speaking on behalf of the Canadian Association of Labour Lawyers. It is a national organization representing union clients with a goal of promoting the legal interests and improving the well-being of Canadian workers and their families.

We practice in the area of labour and human rights law, and we have extensive experience representing employees with respect to the discrimination they may face in their workplace.

CALL is delighted that this committee was struck. There was a tremendous amount of work done a long time ago, 12 years ago, by a task force chaired by Beth Bilson. I recall having the opportunity to appear before that task force on behalf of two clients at the time.

They did some wonderful work. If you get nothing else from us tonight, they have done some very detailed work. There is no need to reinvent the wheel. There is some fine-tuning, and I hope we get some questions on some of that.

In any event, what the Bilson report recognized was that the federal system for resolving pay equity was not working. Very few employers were tackling the issue voluntarily. Those who did the right thing were then at a disadvantage vis-à-vis their competitors. Those employees fortunate enough to have strong union representations were the only ones who made gains under the former law, or current law in part.

I personally prosecuted two very lengthy cases, one as counsel for the union at Bell Canada, on behalf of the telephone operators. The case took almost 10 years. We were at the Supreme Court of Canada twice. It was just full of technical arguments. At the end, there was a settlement, and there was some pay equity for the telephone operators, but it was a very lengthy legal battle.

The other case I was involved in was for the Human Rights Commission, prosecuting a complaint against Canada Post. That case started before my first-born was born, and I think he was 18 or 19 when we finished. That was before the tribunal. Then it was appealed up to the Supreme Court of Canada.

That is not how to do pay equity. That does not help women and men working in female-dominated jobs get equal pay for work of equal value.

The great thing about the Bilson report is that she had the experience from Ontario and she had the experience from Quebec. They looked at both regimes. They made some improvements, in my respectful submission, to them. Unfortunately, the report was never implemented, and the system went from bad to worse.

My colleague, Ms. Bauman, will talk about PSECA.

Here are some key principles of the Bilson report, very quickly. Pay equity, or equal pay for work of equal value, is a basic human right. That was recognized by Ms. Bilson. It is very important that it be dealt with separately from collective bargaining.

The coverage should be across the federal jurisdiction. This includes federally regulated employers, Parliament, the federal government, its agencies, and crown corporations. Importantly, the Bilson report says we should look at employees and federal contractors. I think that is very important.

It deals with structures of employers or lines of business that require special consideration. Far too much time was spent on technical arguments, fighting over what things mean. You need detail in your legislation.

It recognizes the importance of maintenance of pay equity. This has been a problem in Ontario and Quebec, and perhaps we can talk about that.

There is a need for a truly independent pay equity commission and an independent pay equity tribunal. You need experts to deal with these issues.

It goes further than other pay equity legislation in addressing the disadvantage of visible minorities, aboriginals, and disabled people, in addition to women. That may be something you want to phase in as a phase two. Get it right for women. Get it right on systemic gender discrimination first, and then move into phase two.

Colleen, I am over my time.

● (1920)

**Ms. Colleen Bauman (Partner, Goldblatt Partners LLP, Canadian Association of Labour Lawyers):** Thank you, Peter.

Good evening, and thank you for this opportunity to speak to you tonight.

In the brief time remaining, I wanted to provide some comments with respect to the Public Sector Equitable Compensation Act or PSECA. In CALL's view, this is a regressive piece of legislation that should be repealed. Rather than proactive pay equity legislation envisioned by the 2004 pay equity task force report, PSECA is a step backwards from the concept of equal pay for work of equal value and significantly interferes with the rights of federal public sector employees by denying them human rights protections for systemic gender discrimination and pay, contrary to section 15 of the charter.

PSECA applies to federal public servants. It was passed in 2009 but is not yet enforced because the necessary regulations under it have never been promulgated. In the meantime, the pay equity complaints of federal public servants have largely been left to languish in limbo. Those that have been filed have gone to the Public Service Labour Relations and Employment Board. This in itself is problematic, given that the board has no expertise whatsoever in pay equity.

PSECA is fundamentally flawed and puts in place measures that severely limit access to pay equity protection. These problems include the following. One is the high threshold for a female-predominant group. That's at 70%, compared with 55% for groups of over 500 employees in the equal wage guidelines under the Human Rights Act.

Another is the introduction of market forces criteria to assess the value of work performed by employees. Market forces are commonly accepted as perpetuating pay inequities between men

and women, rather than resolving pay inequity. There is also the fact that pay inequity complaints are to be adjudicated by the PSLREB instead of pay equity experts. Finally, there is the imposition of the incredibly high standard of "manifestly unreasonable" in order to have access to adjudication.

The cumulative effect of these measures is to whittle away at the concept of pay equity so that it has no meaningful content left at the end of the day. PSECA also inappropriately imposes an equal obligation on the bargaining agent and the employer to provide equitable compensation, and makes bargaining agents jointly liable with the employer to pay compensation. This shared obligation fails to recognize that pay equity is a human right, not a benefit to be sought at the bargaining table.

PSECA is inconsistent with the recommendations of the 2004 pay equity task force report. It cannot be remedied and should be repealed. It also calls for a recommendation that complaints of federal public servants should not go to the board.

We thank the committee for this opportunity to speak and welcome any questions that you may have.

● (1925)

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

We'll now go to the Canadian Centre for Policy Alternatives. We have with us Kate McInturff, who is a senior researcher.

**Dr. Kate McInturff (Senior Researcher, National Office, Canadian Centre for Policy Alternatives):** Thank you.

Good evening, and thank you to the committee for inviting me to be here today. My name is Kate McInturff, and I'm a senior researcher at the Canadian Centre for Policy Alternatives.

Today in Canada our daughters are as likely to attend university as our sons are, but we are in danger of failing to deliver on the promise of education, because those girls will grow up and graduate to a pay gap—unless we act now. Karma doesn't cut it. Doing nothing, leaving pay to the forces of the market, gives us what we have today, a widening gap between men's and women's rates of pay.

Let me repeat that: the gap in men's and women's full-time wages is growing right now in Canada, not shrinking.

The cost of continuing to underemploy and underpay women in our workforce is high at a time when we can little afford it. Closing the gender gap is a key part of the return to strong growth in Canada's economy and security for Canadians. The OECD projects that narrowing the gap between men's and women's employment in Canada by 50% could contribute an additional \$160 billion to our economy by 2030. Research published by the World Bank suggests that closing the gender wage gap could be worth the equivalent of 10% of Canada's GDP. That's not nothing—not to our economy, not to women.

What causes the gap? One of the major forces contributing to the gap in men's and women's wages is the unequal distribution of unpaid work. Women in Canada continue to spend twice as much time on unpaid care work as do men. As long as there are only 24 hours in a day, that will put an absolute limit on the number of hours of paid work women can take up. More to the point, it also limits the kinds of paid work women can do, which is one of the reasons we see a concentration of women in occupations with hours that accommodate their unpaid work—occupations like nursing, teaching, and retail sales.

We also see an overrepresentation of women in part-time work. Women are three times as likely to work part time as are men. Nearly a third of the women who work part time cite family care as the reason they do so.

Finally, the kinds of work that women have historically performed without pay, caregiving and housework, are undervalued. Early childhood educators, health care workers, and housekeepers, all highly predominantly female occupations, are amongst the lowest-paid occupational sectors in our economy. Occupational segregation is itself a major factor in creating the pay gap. Men and women tend to work in different occupations. That in itself should not necessarily lead to a pay gap, not if we value the work of women and men equally. However, it does, and we evidently do not.

We also see that as the share of women in a field increases, the wages in that field stagnate or decrease. That is why leaving it to the magic of the marketplace will only produce more of what we already have, which is unfair and unequal rates of pay. Not all women are the same. The wage gap widens for aboriginal women, racialized women, for women with disabilities, and for immigrant women. This is in spite of the fact that immigrant women as a group, for example, are more highly educated than non-immigrant women as a group. Aboriginal women have seen one of the fastest increases in their levels of higher education amongst any group in our workforce, yet the wage gap actually gets larger for aboriginal women with university degrees as opposed to those with only high school degrees.

Finally, women with different levels of education respond differently to policy interventions. Some, for example, benefit from longer periods of parental leave, particularly women with lower levels of education, while women with higher levels of education do not. These differences can exacerbate and complicate attempts to narrow the wage gap. It means that the policy solutions must address these intersecting dynamics of discrimination and income equality in order to close the gap.

What does work in order to close the gap? Well, the first step in fixing a problem is realizing that you have one. Systematically tracking wages is essential to addressing that gap. The second step is to do something about it once you've found it. Wage-setting policies are particularly important in expanding the choices available for women at every income level, but particularly for low-income women. Higher minimum wages and collective bargaining narrow the wage gap where it makes the biggest difference—for women with lower educational levels and lower earning potential.

• (1930)

Next, women's double burden of unpaid work has to be addressed. There's comprehensive evidence from across OECD countries, including Canada, that paid parental leave and affordable and available child care narrow the wage gap.

Most parents in Canada are working parents. The majority of women with young children are working women by choice or necessity. That is the reality. When child care is available and the cost does not consume a third of median female wages, which it does in almost every city in Canada outside of Quebec today, then women are able to make real choices about how and when they return to paid work.

Finally, research also finds that policies that support work-life balance are not in themselves sufficient. The impact of these policies is shaped by social attitudes. Where societies value women's work, progressive family policies can have a significant impact on the pay and employment gap; where they do not, women continue to struggle for fair treatment in the workplace. That means that any policy or legislation aimed at narrowing the gap must also be paired with broader efforts to address discriminatory attitudes toward the role of women. The persistence of economic inequality across gender and racial lines is underwritten by social inequalities. The gaps in employment and wages that occur in spite of equal or even superior levels of education and experience demonstrate the persistence of underlying bias, a bias which sees traditionally male occupations as deserving of higher remuneration, which undervalues historically female occupations and work, paid or unpaid, and which puts a premium on hiring male workers.

The male breadwinner model of economic and family life no longer reflects the real choices being made by Canadians. This means that social policy must be twinned with economic policy in order to ensure that all the barriers to equality are removed.

The gap in pay is a complicated problem with complicated solutions, but we do have solutions. The 2004 pay equity task force provided a comprehensive foundation for moving forward, and move forward we must, because the cost of doing nothing is too high.

Thank you.

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

Our next witness is coming to us through video conference. Kathleen Lahey is a professor at the faculty of law at Queen's University.

Dr. Lahey, you have the floor for seven minutes.

**Professor Kathleen Lahey (Professor, Faculty of Law, Queen's University, As an Individual):** Thank you.

Thank you very much for making it possible for me to participate in this important discussion. I am going to focus on five points that I think are becoming of increasing importance as the continued existence and growth of various wage gaps has been more and more completely documented over the intervening 12 or 13 years that have passed since this was a major issue for the government.

The first point that I want to emphasize is that while it is much more complicated to come to grips with the impact of visible minority, aboriginal, immigration, and disability status on gender wage gaps, they are rapidly compounded when those intersecting, so to speak, characteristics come into effect. I've included for your reference a set of tables that I have been developing that try to really pinpoint these kinds of issues. Table 11 shows that, for example, the visible minority and aboriginal women gender wage gaps can be as high as 38% to 47% on a national level. This really escalates the barriers that are faced by women who have these multiple barriers and forms of discrimination. I think that there is sufficient information on this to bring this into the picture now as this committee continues its deliberations on this issue.

The second point is that I would like to definitely reinforce and dwell upon the fact that we now know, through extremely comprehensive research carried out in many different countries around the world at different levels of development, that pay gaps are not just a sort of here-and-now problem. They are an intergenerational problem. They are a systemic problem. They are a problem that affects everyone in the whole country their whole lives. This is something that begins before young women even become old enough to earn any money. It becomes pronounced when women go into education and find that their part-time work, their summer jobs, are not paying as much as men's. They have to borrow more money for their higher education. They take longer to pay back their loans because they have lower wages when they do graduate and go into their full-time earning years.

They find that when they go to take maternity leave, they're often not able to take full advantage of the income security programs that do exist because employment insurance will only replace 55% of their wages, and their wages are much lower than young men's. So of course paternity leave is going to be popular because it's going to be more profitable for families. It's not that it's a bad thing that men will take paternity leave, but it just underscores the fact that women are disadvantaged even in an area where their needs are supposedly a priority.

As their lives unfold they will have less ability to form savings to get them through emergencies and periods of unemployment or to augment their maternity leave incomes. They will have less ability to save for their own retirement, even as public and private pensions have been cut back more and more. Not surprisingly, the more children a woman has, the less likely she is to be able to re-enter paid work in a way that will really maintain an upward trajectory.

Women's peak earning years are shorter and have lower incomes in them than men's do. This is a systemic problem and it affects everyone all the time.

The third main structural point is that our whole tax transfer system is now built around the assumption that women are not going to be able to maintain themselves with sustainable incomes. At last count there were at least \$25 billion being spent annually, including this year, to subsidize women's unpaid work in various ways all through their lives, but less than \$2 billion is currently spent federally to fund the child care expense deduction. That's how lopsided things have become.

• (1935)

Table 7 shows that the new child benefit is actually going to exacerbate the male breadwinner model because child care expenses will eat up the largest part of the child benefit for single parents and for dual income, equal income, and low-income couples who are both in full-time work. The only people who will really be able to use the child benefit for what it is intended—to improve the quality of life for children—are going to be those who have parents who are living on one relatively high single income, i.e., usually the male breadwinner model.

Table 8 demonstrates that, in fact, we are imposing a tax on women who are single parents or who are in dual-earner income couples because they literally have to pay on top of their usual taxes on their employment income, a tax in the form of child care expenses that they simply cannot recover in any other way.

The fourth point is that pay equity laws and child care subsidies could actively grow the economy of Canada in very specific ways. Table 6 demonstrates that even if just one province, the province of Alberta, were to engage in partial and beginning pay equity adjustments, that would produce between a half a billion dollars and \$4 billion in federal revenues more each year, beginning in 2016. If you were to multiply that impact across the country, and then take the provincial tax and revenue effect into consideration, you would be seeing even larger amounts being generated, and over time this would accumulate.

My last point is that comprehensive research has also made it perfectly clear that countries that do systemically support women's paid work as a priority, and prohibit wage discrimination, occupational stratification, and other forms of workplace discrimination, have more durable economies because, on the whole, individuals and households have more durable sources of income, are less vulnerable to downturns, and now, provably, are intergenerationally transmitting not discrimination but gender equality, including economic gender equality.

Those are my comments. Thank you.

• (1940)

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

By video conference, our next witness is Daphne Taras, the dean of the Edwards School of Business at the University of Saskatchewan.

Welcome, and you have seven minutes.

**Dr. Daphne Taras (Dean, Edwards School of Business, University of Saskatchewan, As an Individual):** Thank you. Thank you for inviting me to speak. I just want to note that I spoke a number of years ago against PSECA, particularly against section 36, which banned people from seeking the help of either employers or unions in addressing pay equity concerns. I thought that legislation stunk, if I could put it in so many words.

My greatest value today though will be to raise ideas and thoughts that might not have been presented before and to suggest some labour market matters about which the House of Commons ought to care. I come to you as an industrial relations researcher, and for the past six years I have been dean of a vibrant business school in a U15 research university in a province that's doing very well. My thoughts have been shaped by many sources and provoked by continued contact with multiple generations. I see thousands of young people every decade and I'm always spotting and watching trends.

Although it remains very relevant, pay equity has virtually vanished from research. I searched all articles in Google Scholar on pay equity in Canada and elsewhere. It took seven computer screens of articles before I found a single post-2004 publication. Almost all of the work that you have been relying on and all the work that we talk about was done between about 1988 and 1992, the heyday of studies on pay equity.

It's quietly slipped out of vogue, but there have been major achievements that have been documented. For decades, I would submit, almost as much money has been paid to consultants who have tried to provide the data during very sophisticated eras of policy capturing, regression lines, comparators, and so on, and I've been guilty of that myself. Almost as much money was spent on consultants as went into the pockets of the ladies who most needed the adjustments.

Companies and employers were quick to study and very slow to act. As the courts got involved, the creation of an adversarial tone came to pay equity like never before. Perhaps there's more work to be done or there's more policy research to be done or there's more acting to be done, but the window seems to have been closed on research about it. I just wanted to point that out. It's quite perplexing to me.

The final push for perfection and justice, which we're engaged in right now, is the hardest to achieve. I want to raise some other issues that we're in early days on, and I suspect we're actually in fairly late days on the pay adjustments. With pay equity we have the legislation largely in place. We should extend it to other groups.

In my own university two years ago, all women on faculty received a 2% adjustment to wage, plus additional increments based on years of service. This was done quietly without fanfare and without push-back particularly from males or unions on campus wanting to allocate differently. This is a victory for pay equity, a victory when employers simply and quietly acknowledge that there is a gap and address it without consultants and without major studies. They looked at their statistics, and they said let's just fix it and let's fix it permanently and let's monitor it.

Some of the best studies ever done on wage gaps within academic life showed that there's a mysterious 5% gap, even after every

possible variable is controlled. What I really enjoy is that my university simply eliminated that mystery gap.

For all its difficulties in measuring and implementing, I submit to you that pay equity is one of the more simple applications of human rights thinking, because pay is fairly easily measured. It's easily recorded. Whereas other issues like hours of work, having to work overtime to avoid paying benefit-rich new employees.... There are a lot of pressures on existing employees to put in unsociable hours of work. There are problems with access to dental plans and orthodontics for children. Seeking access to medical care for aging parents and dependent children during normal working hours is a horrific problem, as doctors rightly have reduced their hours of work to have more humane lives. It's pushed a problem on to all people who are working.

People are perplexed by how to have babies and also show the type of loyalty to employers that's required to progress through the ranks during those very important high income-earning years.

● (1945)

There are an extraordinary number of workplace issues that involve things other than pay. Pay equity between men and women is important, but so is pay equity for immigrants with non-British accents, visible minorities, first nations, and others in need of your attention.

One of the most disturbing wage gaps in Canada is between white men and Canadian-born visible minority men, with a gap of 17% in 2005. Black men, as compared to white men, fare worst of all, with a gap of 24.3% in the public sector and 35.5% in the private sector. When all variables are controlled for in studies, using the most rigorous possible techniques, the mystery gap remains over 11%. They found little difference in the within-women data. It was the within-men data where there was a huge gap, and comparing first nations females against males, there are more huge gaps. The within-female gap was not as alarming as the within-male gap. It's a very interesting study.

Here's what I'm curious about. For women like me, women who have achieved full equity in all aspects of work and life, do we retire earlier than comparable men, and are we just that much more tired, having birthed and raised children while reaching for that golden ring of equality? We know from many studies that when we are paid the same, we are subjected to higher performance standards. We work very hard for the same pay when we get it. I don't know many women my age—and I'm almost 60—who are lawyers, doctors, and other professionals, who work the same long and hard hours as their male counterparts. We are an exception.

I see women like me either retiring or going to part time, what I would consider, quite prematurely. What are the implications of different retirement practices of men and women, and how do they carry through to issues affecting seniors? We know women live much longer lives than men, but if they commence retirement earlier because of the pressures on them we have not solved, are we stretching out their pensions and savings, and leaving them in rather dire straits? Are they also more likely—

**The Chair:** Professor, if you could, come to a conclusion. Thank you.

**Dr. Daphne Taras:** I will.

A final point I want to make is that absolutely no studies have been done on the age of marriage and the 2.5-year difference between men and women. It makes more financial sense for women to be the ones who leave the workplace, because their husband is 2.5 years more advanced in their career. There is a logic that has never been studied, which I would suggest to you might have a significant effect on the wage gap. It's a missing variable and it's a very interesting one.

Thank you.

**The Chair:** Thank you very much, Professor. If you want to elaborate, you can do that during the questions and answers, or through a written brief, if you wish.

**Dr. Daphne Taras:** Sure.

**The Chair:** We have Margot Young from the University of British Columbia, Allard School of Law. She's a professor there. Dr. Young, you have seven minutes.

**Professor Margot Young (Professor, Allard School of Law, University of British Columbia, As an Individual):** Great, thanks a lot.

It's my pleasure to meet with the committee. I think this is incredibly important work that you're doing.

Today I'm going to speak to the notion of pay equity as required by Canada's commitment to equality, both at an international and domestic level.

I begin just by noting, as we all know already, that pay equity is a fundamental human right, so this makes the focus of this committee of the utmost importance.

Rights unavoidably signal three things. First, they are non-negotiable demands. They are demands that should get immediate attention. Second, rights obligate governance by definition, so the response to the claim of a right has to be legislative, mandating, and administrative implementation. Finally, rights demand what are

called accountability mechanisms. These are things such as legislative timetables, clear outcome objectives, review procedures for compliance, and enforcement procedures for non-compliance.

Until on all three dimensions the federal government has fully and properly responded to its own recognition of pay equity as a human right, it is simply not in observance of this right.

On a political front, talk about gender equity, slogans like “it's 2015”, are purely empty rhetoric without such things in place as proper and full pay equity law. For a government that is committed to, that indeed has promised to, prioritize gender equality, pay equity reforms are essential.

I won't go over the data. I think we all know that it's dismal. The gender earning gap for women in full-time, full-year paid work is now larger than it was in 1995. Canada ranked 80th in wage equality in a recent survey by the World Economic Forum. Remedying these injustices, or this particular injustice, demands a comprehensive and effective set of pay equity measures.

My presentation has three parts, all of which flow from this recognition of the rights character of our obligation to ensure pay equity.

First, I want to talk briefly about Canada's international commitments and the recognition that Canada has failed under these international commitments with respect to pay equity. Second, I want to talk very briefly and on the surface about our domestic constitutional commitments that should oblige the government to pay equity legislation. Finally, I want to point the committee to some useful resources that are available online for clearer articulation of a strong feminist perspective on pay equity obligations.

With regard first to Canada's international obligations, it is clear that Canada is obligated under international human rights law and labour law to achieve pay equity. I'm going to detail a few of the sites of this obligation. Most critically, the International Covenant on Economic, Social and Cultural Rights guarantees, under article 7, the right of everyone to “equal remuneration for work of equal value”.

To go on, article 2 of the Equal Remuneration Convention, ratified by Canada in 1972, states that every member, so that is Canada:

...shall, by means appropriate to the methods in operation for determining rates of [wage], promote and...ensure the application to all workers of the principle of equal remuneration for men and women...for work of equal value.

The convention goes on to detail the way that this can be done through laws or recognized national machinery, through collective agreements, or through a combination of these.



Again, to move to another site, article 11 of the Convention on the Elimination of All Forms of Discrimination against Women, the CEDAW, or women's convention, adopted by Canada in 1981, mandates that "States...take all appropriate measures to eliminate discrimination against women in the field of employment", in order to achieve the benefit, it further details, "of equal value". The convention is clear that this is a positive obligation that the state party take all necessary measures to achieve pay equity.

The Beijing Declaration and Platform for Action—the articulation of these obligations—also provides the positive obligation placed on governments to guarantee the right of equal pay for work of equal value.

• (1950)

Article 2 of the discrimination convention, again from the ILO and ratified in 1964, takes a parallel stance. It says that every member of the convention "undertakes to declare and pursue a national policy" designed to promote equality in employment.

It has not gone unnoticed in the international community that Canada has failed to meet these obligations. In March 2016, just last month, the Committee on Economic, Social and Cultural Rights wrote that it was concerned about the gender wage gap in Canada.

In section 22 of its concluding observations for Canada's periodic review, it recommended that Canada develop and implement a comprehensive national gender equality policy that would include, specifically, implementation and improvement of legislation to achieve pay equity for women.

The previous year, that is in 2015, the human rights committee at the United Nations, doing a periodic review of Canada under the International Covenant on Civil and Political Rights, expressed a similar concern about persisting inequalities between men and women in employment. They were specifically alarmed by the pay gap in Canada for women, noting that it was more pronounced in particular provinces, that it disproportionately affects low-income women, particularly minority and indigenous women, and it recommended that Canada strengthen its efforts to guarantee equal pay for work of equal value to ensure, it went on to say specifically and precisely, that the pay equity task force recommendations were all implemented.

I conclude this first part of my presentation by repeating that there's strong messaging from the international human rights committees that we're failing on our international human rights obligations.

The next—

• (1955)

**The Chair:** I'm sorry, you're out of time. I'm sorry about that.

**Prof. Margot Young:** I'll simply conclude by saying I'm happy to discuss the charter obligations and what the nature of pay equity being a human right concretely demands going forward.

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

We will now go to the first questioner, Ms. Dzerowicz, for seven minutes.

**Ms. Julie Dzerowicz (Davenport, Lib.):** Thank you, Madam Chair. I'm actually going to share my time.

I first want to say thank you so much for the outstanding presentations today. I'm sorry we're rushing you, but know that all your words are very important. I also want to encourage you, because there's a lot of new information today, to please send in your presentations. It's going to take more time than the 30 minutes we have here to really digest, particularly from those who are on the teleconference. There's no way I can digest all of this in the short period of time.

I do have three quick questions. Peter, you started off by saying you're very supportive of Bilson and her recommendations, but you said there might be some adjustments you might want to recommend. Perhaps you can talk to that.

I'm going to ask all my questions at once.

Professor Lahey, you said that countries that support pay equity have more durable economies. Can you point out maybe one or two countries that you really think we might want to look at and study as we're moving through the rest of our committee hearings and moving toward legislation? I'd be grateful.

Then Professor Taras... Oh my gosh, so much new information. I'm sure you're very familiar with the Bilson report. Could you say to us, "Here are one or two specific recommendations I would add on the table for your consideration" in terms of moving forward on this pay equity legislation? I'd love to hear from you.

Thank you so much.

**Mr. Peter Engelmann:** Perhaps I'll start.

I don't take issue with anything in the report. I just worry that trying to do everything at once may be too ambitious. For example, when pay equity was implemented proactively in Ontario, there was a phase-in of certain issues. It was a phase-in on employers. Large employers had requirements before smaller employers. You may look at something like that.

In respect of expanding the jurisdiction, going into new areas, I'm not saying this is wrong. In fact, I'm agreeing with it. To look at dependent contractors as opposed to employees, to look at the federal contractors program—these are ambitious, valuable initiatives. This will cover universities and others. But if you're going to do that, you need to have enforcement mechanisms. As was the case before, employment equity under the federal contractors program could have only two people doing the reviewing. In such situations, there's no real compliance. If you're going to set yourself ambitious targets, ambitious legislation, there has to be money to enforce it.

I am concerned about intersectional discrimination. I've argued many human rights cases, and many of them have involved intersectional discrimination. There's no question it exists. Again, it's something you might want to phase in. Get it right first. It's easier to deal with occupational segregation in standard pay equity issues and gender predominance and then phase it in afterwards. There's a lot of work to be done here. You need experts to do it. That's key. It's not clear to me that the Bilson report was saying to segregate this matter from the federal Human Rights Commission. I would strongly urge you to do this, so that it receives the priority it needs. Otherwise, it gets folded into the commission with other money. It needs a separate agency and a separate tribunal. We wasted so much time having to prove that there was gender gap in Canada and having to prove other things that were ridiculous. We now have proactive laws that will help.

• (2000)

**The Chair:** Professor Lahey.

**Prof. Kathleen Lahey:** On the question of other countries, I would say that it would be useful to have a close look at Sweden and Norway. They were pioneers in taking the steps that have to be taken—child care, early childhood education, anti-discrimination laws, and so on. I warn you that no country is perfect. It seems to be almost an unwritten rule that if a country has a high level of equal pay they're going to have some other deficiency, maybe a high level of occupational stratification, as is the case in Sweden, or other deficiencies. No country has it right, but a lot of countries have it much more right than Canada has ever dreamed of.

I would also put Quebec on the list. All the detailed microsimulation analysis that I've been doing in the last several years makes it clear that Quebec, with its proactive mechanisms for pay equity, its proactive child care subsidy system, and the subsidized nature of its child care resources, has produced a higher level of labour force participation and reduced the gender wage gaps.

Another country that would be useful to look at is Spain. Although it had tremendous challenges after the recession, it began to do pay equity, child care investment, and early childhood education programs. Remarkable results have been obtained.

I would also suggest that you take a look at the new Obama executive order, which includes detailed information on wages paid by large-sector employers. If the data were filed by employers, not by name but by the numbers and the demographic characteristics of different employees, and vast amounts of data were made available, it would make the whole compliance process much easier. It would move everyone along more quickly towards taking steps to solve the problem.

**The Chair:** I'm sorry, Professor, I think Dr. Taras was the third one.

**Dr. Daphne Taras:** Gosh, okay, I'll be fast.

I differ with the Bilson report. To me the devil in the report is in the details. I found that there was a strong element that prescribed exactly how the committees would run, how they would be set up. It cited pay as a type of committee. We already have occupational health and safety. I would put an onus on employers to work with employees to develop the mechanism that best suits them. There are a lot of non-union, employee representation forms that could roll pay

equity into a discussion of racism, harassment, and other things. I don't know why there would be a privileging of a certain structure in a pay-equity committee. That was my only objection to the report. I've never seen a report impose such a structure on one workplace issue—not hours of work, not benefits plans, just pay equity. I would be happy to see it less prescribed.

**The Chair:** Thank you.

I'm sorry to be cutting you short, but I want to make sure all the questions get in before the end of our time.

With that, our next question will be to Ms. Gladu, for seven minutes.

• (2005)

**Ms. Marilyn Gladu (Sarnia—Lambton, CPC):** Excellent.

I want to echo my colleagues' comments. I am so thankful that you're all here, and your presentations were excellent.

I especially want to say hi to Kathleen, because I am a Queen's alumna.

My questions are going to continue on the theme of the 2004 report and trying to implement it. There are 15 pages of recommendations. What do you believe the priorities are?

I liked the comments about large employers before small employers; maybe leaving the dependent contractors for later, because that's complex; and doing the women equity before the intersectional. I think those comments are good, but within the report elements, we've heard that legislation is one of the first steps, that the complaint and enforcement resolution is important, and that the pay equity plan the employer has is important.

I'm interested in hearing what you think the priority should be.

**Mr. Peter Engelmann:** I will start by saying I'm just concerned with Dr. Taras' comment about it being too prescriptive.

One of the problems we had and one of the things that led to multiple extra months of litigation was that the equal wages guidelines from 1986 were not prescriptive enough. Bell Canada had done this wonderful voluntary pay equity study, then disowned their own study, saying that it didn't meet the standards of this section or this section. It was bizarre. That only happened when they started to realize what is was going to cost to actually close the gap.

There's a fine line between too prescriptive and not prescriptive enough.

I think Dr. Bilson's report was more prescriptive, because at the time, we were arguing the Bell Canada case and had been to the Supreme Court of Canada twice. So be careful there.

All of the speakers have talked about the fact that the gap is growing again. The problem is that some of the maintenance provisions in the Ontario act are not good enough. One of the things the Bilson report does is talk about the need to revisit. I think what she's suggesting by way of maintenance is stronger protection than what we see in both Ontario and Quebec. I think there are some positives there.

**Ms. Marilyn Gladu:** What about Kathleen? What do you think?

**The Chair:** Professor Lahey, go ahead.

**Prof. Kathleen Lahey:** On proactive responsibilities, I agree that it should start with the largest employers first, but I think there also needs to be some mechanism to empower people who are at the whim of their employer in defining the comparable groups to invoke some sort of outside expertise in some form. I myself have not seen an effective mechanism in any jurisdiction. Invariably, the most vulnerable workers are compared, according to their employer's choices, with people who are, for example, summer lifeguards. These are really inappropriate comparisons. There's really no room. The whole gender hierarchy in workplaces is such that a lot of people become silenced and are really frightened to speak up during pay equity periods of adjustment.

I agree that better monitoring and having this continue to be an obligation is something that really needs to become part of the culture of business management.

**Ms. Marilyn Gladu:** What about Margot Young?

**Prof. Margot Young:** Thanks.

I'm going to reiterate, at an abstract level, many of the points that have been made.

I would caution you not to jump too quickly to the conclusion that detail is a problem. I think, in fact, the litigation over this shows that the absence of appropriate detail and specifications has been a problem.

Let me begin by saying, then, that a proactive scheme is universally regarded as required and as a feature that was deeply problematic with existing and proposed pay equity schemes. Second, the need to deal with issues of ambiguous terminology and the lack of guidance on methodology seem to have been of critical negative importance. There needs to be some detail about those. Finally, I would say the enforcement procedures are critical. It doesn't really matter what protections you have in place if there's inadequate enforcement.

Effective enforcement requires at least formal mechanisms and sites with individuals and offices responsible for that enforcement. It requires adequate funding for those assigned the enforcement task, and also for individuals, particularly those who are disempowered within the workplace, to proceed. Within that I would include funding for assistance, so that you're not simply leaving this up to individuals. The monitoring is a key expansion of the notion of enforcement.

●(2010)

**Ms. Marilyn Gladu:** All right. Very good.

I have to pass this over to my colleague.

**Mrs. Karen Vecchio (Elgin—Middlesex—London, CPC):** Thank you.

Professor Lahey, I find it very interesting, and I want to talk about the child care benefit and how that could possibly be a negative effect on women. I would think that, if anything, it would be a positive thing, because it's putting more money in their pockets.

I don't understand. Perhaps you could explain to me why there would actually be a negative impact from receiving more money. I just want to see what the correlation is there.

**Prof. Kathleen Lahey:** The correlation simply is this. In the case of a couple, when it comes to deciding who's going to go into paid work and who's going to do unpaid work, the person who's pegged to go into the paid work will be the person who can earn the higher income. Because that's disproportionately male income earners, women become responsible for doing the home care work. Then when money is put into the hands of women to help close the household budget gap that will be present for many—at least the lowest 40% of the population—we're into a situation where we are literally subsidizing women to stay home and care for children in circumstances when, by virtue of their education, or their current employment opportunities, or all sorts of factors, they may actually prefer to be in paid work.

This is something that is really beyond question in terms of the data that is available. More and more women are going into unpaid work, either to care for their children's children or to care for their own children. It's because they simply cannot earn a living wage that can compete with the effect of the various child care subsidies and unpaid work subsidies that permeate the Income Tax Act, the employment insurance structures, and every fiscal statute in the country. Over 170 provisions provide either tax or direct benefits for women who are engaged in unpaid work.

**The Chair:** Thank you. Unfortunately, we're out of time on this question, and we do want to make sure everybody gets a chance.

We will move to Ms. Benson for seven minutes.

**Ms. Sheri Benson (Saskatoon West, NDP):** Thank you very much for all the presentations. They were really good, and it's starting to bring some of the pieces together. I know you appreciate that we're trying to be practical and move forward with something quicker rather than later, and feel the weight of doing something, considering nothing has happened.

First, to Ms. Bauman or Mr. Engelmann, you made a comment about expertise in pay equity. We have heard that term used, and I don't really know what that is. Could you say a little bit more about it?

**Mr. Peter Engelmann:** Sure. A number of consultants have been doing work on pay equity in this country, predominantly in Ontario and Quebec because of the proactive laws, but elsewhere as well.

For example, in the federal cases, because we had to educate panels that had human rights backgrounds but not pay equity backgrounds, someone like Pat Armstrong, who is a fantastic expert on women and work, talked about the development of equal pay law, and equal pay for work of equal value, through time, and then proactive pay equity. She certainly testified. A fellow by the name of Paul Durber was the head of the Canadian Human Rights Commission's pay equity unit when they had a pay equity unit. Paul has worked with both the Quebec tribunal and the commission, and in Ontario, so he has some knowledge of those areas.

As well, a number of pay equity consultants have worked on pay equity plans outside of just the big consulting groups and developed gender-neutral plans. It's important that the evaluation plan capture the value of women's work and that it really be gender neutral.

**Ms. Colleen Bauman:** Just to add quickly to that, pay equity can be very technical. It is not exactly the same as human rights law and some other areas. That's where I think sometimes you see boards that lack that expertise needing to spend a lot of time to be brought up to speed in terms of technically how to do pay equity properly.

• (2015)

**Ms. Sheri Benson:** Thank you.

Ms. McInturff, with regard to one of the questions we've been asking our witnesses, I would value your comments because of the research you've done.

It would be my desire that we finally step into pay equity at the federal level, for both private and public sector employees, and we create legislation. In your presentation you talked about other pieces when we talk about the wage gap, which is bigger. But would you agree that this is an important step, that we shouldn't wait to get everything right, that we could actually have an impact on women's lives if we had federal pay equity legislation?

**Dr. Kate McInturff:** Well, yes, clearly I think we need to act sooner rather than later. I wouldn't want to advocate not getting things right, but I think an incremental implementation may be—

**Ms. Sheri Benson:** That was maybe more the challenge.

**Dr. Kate McInturff:** —the most practical way forward. There's been a lot of interest in, for example, women on corporate boards and women in business. But, really, when we're talking about a life-threatening impact, we have to think about the women who make up two-thirds of minimum wage workers. A pay gap for a retail worker, who is making \$12,000 to \$13,000 a year, can really mean the difference between food and rent or not. That's why I would urge the committee to act on this, because addressing it has a really substantial impact on the quality of life of the lowest-earning women in the country.

**Ms. Sheri Benson:** Thank you.

This is my final question, and it's to Ms. Lahey.

You mentioned the lopsidedness of how we approach things through federal government transfers to individuals. It was the \$25 billion to \$2 billion statistic you talked about. I just wondered if you could say a bit more about that.

**Prof. Kathleen Lahey:** Yes. I actually did a research project looking at what would happen economically if all of those laws were

repealed. The result was that it would immediately increase women's average incomes by over \$3,000 per year simply by virtue of the way it would leave the individual tax transfer provisions to operate on each individual and not treat women as being bundled into a unit consisting of a usually higher male wage earner and herself. It would be a larger bump up in terms of after-tax incomes for women with the lowest incomes. This definitely would be a poverty reduction move as well. I'm convinced that every one of these joint and unpaid work subsidies has an invidious effect. No matter how humanitarian the impulse behind them is, they are actually undercutting women's interests.

We have a new sector to worry about that wasn't quite on the radar to the same extent back in the early 2000s, and that is the vast growth of people engaged in paid caregiving work. They are the new challenge from a pay equity perspective. When I was doing a detailed analysis of Alberta, there were so few men involved in caregiving that it was literally impossible to identify any male comparisons within that profession.

That's where you get into trying to do proxy comparisons, trying to find some other form of occupation that can be a reasonable comparison. If employers are allowed to choose something like 16-year-old boys who mow lawns for \$12 an hour as the comparator group, then we will not be able to solve the problem of women whose careers now are involved in caregiving for pay under usually very precarious employment conditions, which themselves push the limits of existing pay equity laws to be brought into the framework, because they're often treated as being independent contractors or self-employed and not even subject to employment laws like pay equity laws.

• (2020)

**The Chair:** Okay, thank you.

Now for our final question, we're going to Ms. Nassif for seven minutes.

[*Translation*]

**Mrs. Eva Nassif (Vimy, Lib.):** Thank you all for your participation today, and that goes for both those who are here in person, as well as the three witnesses appearing by video conference.

The 2004 Pay Equity Task Force recommended, in its report, that the government establish a Canadian pay equity commission and a Canadian pay equity hearings tribunal, distinct from the Canadian Human Rights Commission and the Canadian Human Rights Tribunal.

The rationale for creating separate institutions was to ensure a pay equity regime that would have adequate resources and expertise. Both Quebec's and Ontario's pay equity acts established proactive pay equity regimes that apply to both public and private sector employees, as well as distinct pay equity oversight bodies and tribunals.

Do you believe it is necessary to create separate bodies to administer a proactive pay equity regime? If not, why?

[English]

**Mr. Peter Engelmann:** I'm going to respond in English.

[Translation]

That said, I understood the question.

[English]

I think it is important that it be distinct, both from the expertise issue standpoint and.... I'm not as familiar with the Quebec approach because my experience has been more in Ontario, but one of the things I've heard as a criticism is that since it has moved to a court, rather than a tribunal hearing the cases, there is more re-education. We talked about expertise earlier. I think it's important that the adjudicators be at a specialized tribunal.

Your other point, about resources, is also a key one, because if the resources become bundled with other human rights or other labour resources, you will lose the focus and the ability to keep those experts and do the monitoring work that is so important.

I thus support the Bilson recommendation on both distinct bodies for a commission and an enforcement mechanism and for a distinct tribunal.

**Mrs. Eva Nassif:** Thank you.

Does someone else want to answer the question, please?

Ms. Young, or Ms. Taras...?

**The Chair:** Ms. Taras wants to answer that.

**Dr. Daphne Taras:** I had experience, being on the Arthurs commission on the Canada Labour Code, of various employment standards, and my own preference would be to handle workplace-related discriminatory practices together. I think there are bundles of practices, and I would not personally privilege pay over other issues. I would rather see a sensitive panel, a separate one. I agree that it takes expertise to understand workplace discrimination or patterns of work, but I would like to see more issues. I don't see why it shouldn't be broadened to include a number of the barriers that women face at work. To only be able to deal with pay does not eliminate many of the problems that bug us at work, that perplex us, and that are almost insoluble.

I don't see them as ripped apart. I see them as part of a package of workplace practices that in their totality discriminate.

**The Chair:** Does anybody else want to answer that?

Or do you want to continue or share your time?

**Prof. Margot Young:** Let me jump in really quickly, and then I think Kathleen wants to also.

There is a bundle of issues to consider when you're thinking about the institutional home for a pay equity system. You want a system that isn't already burdened, because that results in delay. You want a system with requisite expertise that is sufficiently—indeed very adequately—resourced. You want something that is set up to be proactive, with the staffing and the resources for that. You also want a guarantee of impartiality through security of tenure and pay. Those

features are the ones that should guide you in your choice of where you institutionally house the program.

• (2025)

**Prof. Kathleen Lahey:** As a quick reference, Heidi Hartmann in the United States has been involved in some very large-scale studies that have compared on the one hand an overhaul of an entire public sector workforce—for example, a whole state in the United States—and on the other, both the costs and the benefits and the types of outcomes for more targeted pay equity, gender discrimination-focused programs.

Not surprisingly, the conclusion that was reached was that the whole workforce do-overs are much more expensive and tend to minimize the benefits, for the gender-based discrimination, and at the other extreme the programs that were more directly focused at gender-based discrimination result in overall fewer costs but much greater impact upon the specific problem of gender discrimination.

I think this is something worth taking into consideration. I can provide references to some of her studies, if you want to look at some of the details that enter into this finding.

**The Chair:** Thank you.

You have 45 seconds.

**Mrs. Eva Nassif:** The vast majority of witnesses we have met with so far have all been repeating the same message, some more vibrantly and passionately than others, that the work was done ages ago and that we need to move on with implementing the recommendation of the 2004 pay equity task force.

Do you agree with this, and if so, is it totally or in part?

**Dr. Kate McInturff:** Yes.

**Voices:** Yes.

**The Chair:** Okay. We have unanimity.

That's a perfect note on which to end.

I want to express, again, my tremendous thanks to all of you, witnesses, for your patience, your expertise, and all of your testimony. If there are things that you feel didn't get covered, please do submit briefs. I know this was a short period of time in which to get this much information, but thank you very much for taking the time out to do that.

There's one final motion, I think.

**Ms. Julie Dzerowicz:** Yes, I have a motion. I'm hoping the library will still like me after this.

Just as we're starting to move towards the end of our presentations—and I know we still have a number of them—I'm wondering if the library can put together the key decision points and options within the decision points that we should be looking at as we're thinking about legislation. Those could be from Treasury Board, Labour, Status of Women, or all three.

**Ms. Julie Mackenzie (Committee Researcher):** Is this in terms of legislation or in terms of the report?

**Ms. Julie Dzerowicz:** I'd like to say in terms of legislation.

**The Chair:** You don't actually need a motion to do that. We can just make the request at the library.

**Ms. Julie Dzerowicz:** Oh, okay.

**The Chair:** Is there another...?

**Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC):** I would just point out that we still have a number of witnesses, and I think it's probably too early for us to be directing the analysts to start moving in a particular direction and report at this stage. The whole point is that we still have a number of people to hear from. We should hear their testimony and then we can start looking at drafting a report and recommendations. I think it's just a little early for us to be picking certain elements when we've heard only a few segments from the witness list.

**The Chair:** Monsieur DeCoursey.

**Mr. Matt DeCoursey (Fredericton, Lib.):** I certainly wouldn't want the decision options to be restrictive in any way, but I actually do think it would be helpful to kind of scope or frame some of the different points along the way that decisions need to be made on. I think part of that decision tree is "and/or a different option from the options that are presented to us" as an option itself. I certainly don't think it's restrictive, but I think it would help in framing some of the questions for remaining witnesses as we get to the end of this.

• (2030)

**The Chair:** Ms. Gladu.

**Ms. Marilyn Gladu:** Also, I would be interested if you could send us links to the Quebec and Ontario legislation that we've heard about, so we can take a look at the language and the differences.

**Ms. Julie Mackenzie:** I think in the earlier briefing notes, whenever you see the Ontario Pay Equity Act there is a hyperlink.

**Ms. Marilyn Gladu:** Is there a link in there? They've been printing them for me, so I haven't seen those links.

**Ms. Julie Mackenzie:** Anytime you see the blue, those are hyperlinks going to the documents, but I'll send them again.

**The Chair:** In the interests of time, it sounds as though we would want the library to provide some kind of a framework, not so much specific decisions but something that would just guide and put our deliberations into buckets, perhaps, so that it's a little bit easier to—

**Mr. Dan Albas:** If I may say so, there's nothing stopping individual members from starting to collect their thoughts on certain areas. Then when we actually sit down we will give direction to the library analyst as to what we'd like to see in the report and give her some greater context as to what we'd like to have drafted. Those conversations usually take place when we've completed testimony or are near completion of testimony.

**The Chair:** Ms. Dzerowicz.

**Ms. Julie Dzerowicz:** We obviously disagree.

**Mr. Dan Albas:** I've never seen it.

**Ms. Julie Dzerowicz:** Again, we're not looking at drafting legislation. All we're saying is that there are certain buckets of questions, whether it's scope, the model, or the job classification. It just helps us with the framework to be able to start targeting some of our questions and to be consistent.

**Mr. Dan Albas:** I would suggest that if the committee wants more briefing notes, Madam Chair, then that's fine. But it did sound as though the member was trying to say that, based on the testimony we've heard, we'd like to start framing a report. I don't think we're at that point. I'm not going to belabour the point. I think I've expressed it clearly.

**The Chair:** I think, just for clarification, we will take Ms. Dzerowicz's idea and make a request to the library but make sure that it is in no way prescriptive or the beginning of a report. It's just something that can inform, based on—

**Mr. Dan Albas:** It's just information seeking.

**The Chair:** Wonderful.

Seeing the hour, it is twenty-five to nine, so unless there is anything further, thank you very much.

Thank you to our witnesses.

The meeting is adjourned.









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