



**EQUALITY, FAIRNESS AND TRANSPARENCY
IN ONTARIO WORKPLACES**

SUBMISSIONS

TO THE

CHANGING WORKPLACE REVIEW

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I. Overview

1. The Equal Pay Coalition is an organization of over 30 women's groups, trade unions, community groups and business organizations formed in 1976 with the goal to eradicate the gender wage gap.¹
2. Despite years of efforts to end pay discrimination for women in Ontario, their average annual earnings in Ontario are still 31.5% less than that what men earn. Women who are Aboriginal, racialized, immigrant, and disabled face much larger wage gaps. The gender wage gap is further intensified by the fact women make up the majority of workers in precarious employment relationships.
3. This gender wage gap is a human rights crisis where women are paid inferior wages and their work is not valued. While there are many causes to the problem, it is clear that Ontario's labour and employment laws are an important part of the problem and need to be fixed. The gender wage gap continues to reflect a deep systemic discriminatory failure in the province's current legislative framework to protect women workers and ensure that they have a true voice in the conditions of their work. Training and education will not close the gender wage gap. In fact, as the data demonstrates below, equally educated young women face a gender pay gap from day one in the labour market.
4. The mandate of the Changing Workplace Review ("The Review") is to gather the experience of employees and employers about workplace changes and to provide advice on changes to employment and labour legislation. The Review is the first opportunity in over twenty years to conduct a detailed analysis of both the *Employment Standards Act*, a regime of statutory minimums, and the *Labour Relations Act, 1995*, a regime of procedures to secure union representation and collective bargaining.
5. For the Review to be successful, the Equal Pay Coalition submits that you need to bring a gender lens to your analysis. Both statutes, the *Employment Standards Act* ("ESA") and the *Labour Relations Act, 1995*, ("LRA") are, even in their current form, critical to providing the statutory employment minimums and access to collective bargaining for women. The *ESA* and the *LRA* are critical legislative tools in the labour market which can be invoked to start closing the gender way gap.
6. However, for many years, women's organizations have recognized that both regimes have been unsuccessful in securing a robust improvement the wages and working conditions of workers in the most vulnerable sectors of the economy, who are overwhelmingly women and particularly racialized and immigrant women.² Effective

1 Please see Appendix A attached for further background on the Equal Pay Coalition.

2 Intercede and ILGWU, *Meeting the Need of Vulnerable Workers: proposals for improved employment legislation and collective bargaining for domestic workers and industrial homeworkers*. Toronto: February 1993.

statutory sectoral regulation, effective enforcement and a regime of broader-based bargaining are required to fully protect women in the Ontario labour market.

7. The need for reform is even more urgent as the structural changes in the economy, work organization and the employment relationships over the past thirty years have left women more vulnerable in Ontario's labour market.

II. **Summary of Recommendations.**

8. The Equal Pay Coalition makes the following recommendations.

- (a) The Coalition strongly encourages the Review to undertake a gender-based analysis of the role, the impact and efficacy of the ESA and the LRA and any proposed reforms.
- (b) The Review reaffirms that the right to not earn less income because you are a woman is a fundamental human rights entitlement.

Amendments to the Employment Standards Act

- (c) The Coalition has reviewed and adopts the recommendations of the Workers' Action Centre in respect of the *Employment Standards Act* amendments.
- (d) Modernize Section 42: Equal Pay for Equal Work. The Coalition recommends that, given that the majority of women work in a non-standard employment relationship, the ESA should be amended to ensure part-time, part-year, contract, temporary agency workers are paid the same rate as full-time workers.
- (e) The Coalition recommends that the exemptions regarding seniority and merit systems should be amended to include the principle that where the jobs are of equal value, the wage grids and wage structures should be of equal length and equal steps on the wage grid.
- (f) The Coalition has requested for years that the Ontario government bring in emergency legislation to increase the minimum wage to \$15 per hour effective immediately. The Coalition recommends that the Review, despite the Ministry of Labour's direction, embrace this demand.
- (g) The Coalition recommends that the ESA provide for immediate reinstatement of a terminated employee on pregnancy or parental leave as well as an immediate fine of \$10,000 for terminating an employee on pregnancy and parental leave.
- (h) The Coalition recommends increased flexibility in access to medical and care leaves for single days, rather than a full week, if so required. The Coalition recommends removing any exemptions in respect of the size of the workplace and time in the workplace.

- (i) The Coalition explicitly supports the WAC recommendation of a separate and distinct statutory minimum for sick leave of not less than seven days per year to be taken on an as needed basis.
- (j) Flexible scheduling provisions, as a basic minimum standard, should be introduced into the ESA. Such scheduling provisions would include job sharing arrangements where two employees could voluntarily enter into an agreement to share one full-time position.
- (k) In the Coalition's submission, a new pay transparency standard would report the hourly wage and pay structures, any merit pay systems, the occupation and the nature of the employment relationship (such as part-time, contract, temporary agency, etc.).

Amendments to the *Labour Relations Act*

- (l) Card-based certification should apply in the non-construction sector.
- (m) As part of the provisions to support card-based certification, the Coalition supports expanded access to remedial certification without a vote.
- (n) The Coalition further supports measures to improve union access to employee information to facilitate organizing.
- (o) The Coalition supports the revision of the LRA to enable a union or employer to apply to the OLRB to combine bargaining units represented by the same union.
- (p) In order to redress the gendered wage gap and the state of work organization in the Ontario labour market, the Coalition recommends that the Review examine and propose specific models of sectoral and broader based bargaining. As part of this examination, unions, representatives of the unorganized and employers would provide further submissions on this issue.
- (q) Sectoral bargaining models would not be limited to establishing wage setting mechanisms, but would ensure that the full benefits of collective bargaining would become available. The Coalition recommends that any sectoral bargaining model ensure (i) that the "true employer" is identified; either through joint and several liability provisions required to pierce through existing chains and networks of subcontractors or multi-employer structures; (ii) that each sector may require specific modification to adopt to the precarity of the worker's employment relationship; and (iii) regional certification processes be developed.

III. A word on method: a Gender-based Analysis

9. Closing the gender pay gap is not just a matter for Ontario's *Pay Equity Act*. That *Act*, a specialized statute with the aim to redress systemic gender discrimination in compensation, has been in effect for over twenty five years. The *Act* provides for equal pay for work of equal value and the comparison between women's jobs and male jobs of comparable and similar equal value. The *Act* is an important tool, but

not broad enough in scope to redress the multi-faceted forms of systemic gender discrimination.³

10. The Equal Pay Coalition's 2008 Framework for Action called upon the Ontario government, working with employers and trade unions, to take immediate steps to close the gender pay gap. Most importantly, the Coalition called upon the government to create a new plan to close the gender wage gap.⁴ The Plan would include targets for closing the pay gap over a realistic time frame and strategies for meeting those targets. The Coalition called upon the government to close the gender pay gap no later than 2025 and in a manner similar to the *Accessibility for Ontarians with Disabilities Act, 2005*. The AODA requires that employers set out measures, policies, practices or other requirements for the identification and removal of barriers with respect to goods, services, facilities, accommodation, employment, buildings, structures, and for the prevention of the erection of such barriers
11. A key tool in the development of a plan to close the gender pay gap is the use of gender-based analysis to review all policy and legislative action by asking how women and men are affected by laws and policies and whether proposed actions will help to close the gender pay gap.

In the Coalition's submission, this Review should apply and implement a gender-based analysis ("GBA") and a gender mainstreaming approach to its deliberations.

i) Gender-based Analysis: an internationally accepted approach

12. The United Nations Convention on the Elimination of Discrimination Against Women (CEDAW) and the 1995 Beijing Declaration and Platform for Action and Beijing +10 Outcome documents require governments to implement a gender mainstreaming or human rights based approach to public policy.
13. A gender-based analysis recognizes that securing gender equality requires a multi-faceted, systemic approach as women face systemic discrimination in all areas of their lives. By using a "gender-sensitive analysis" in all governance areas, it focuses on identifying gender differences, constraints as well as equality promoting measures.
14. In general, GBA is a lens of analysis that examines existing differences between women's and men's socio-economic realities as well as the differential impacts of proposed and existing policies, programs, legislative options, and agreements on women and men. The aim of GBA is to identify the assumptions, which are sometimes incorrect, on which policies, programs and services are based. GBA will raise relevant questions on gender equality. GBA is useful for both women and men, as well as for groups of women and men, by taking into account their diversity.

3 See for example, *Canadian Union of Public Employees Local 1999 v. Lakeridge Health Corporation*, 2012 ONSC 2051 (CanLII), where the Divisional Court upheld the Pay Equity Hearings Tribunal finding that gender inequalities created by a wage grid could not be cured through the *Pay Equity Act*.

4 Equal Pay Coalition, *A Framework for Action on Pay Equity*, 2008.

15. The International Labour Organization adds that a gender-based analysis in the review and application of International Labour Standards:
- (a) helps to ensure that women and men have equal access to benefits derived from these standards;
 - (b) recognizes the needs, experiences and interests of both women and men;
 - (c) enables stakeholders to manage change;
 - (d) demonstrates a willingness to undertake differential measures to respond to the needs and interests of men and women; and
 - (e) advocates equality brought about by the implementation in practice of Conventions.⁵
16. For the purposes of this Review, you would assess whether the current ESA and LRA:
- (a) have a differential impact on the earnings or ability to earn of Ontario men and women and the future earnings of girls and boys;
 - (b) help to close, widen or have no impact on the earnings and working conditions of women;
 - (c) whether women facing discrimination on multiple or intersecting grounds experience a greater impact on their earnings, the ability to earn and working conditions;
 - (d) reflect and address the lived unequal compensation experience of men and women in Ontario;
 - (e) are both women's and men's compensation realities reflected in the way research is conducted and issues are identified?
 - (f) what types of gender-specific and intersectional data on pay impacts are available and needed to consider how options will have a different impact on men and women and their diverse circumstances and disadvantages?
 - (g) examine and consider who will be affected? how will the effects of any recommended legislative change be different for women and men?
 - (h) how will innovative solutions be developed to address the gender issues you have identified? Are solutions needed to address concerns of women or men with potentially intersecting grounds of discrimination?

5 International Labour Organization, Gender Equality and Decent Work: ILO Conventions on Equality, 2012.

17. Most importantly, in the context of the analysis of the ESA and the LRA, in the Coalition's submission, the issues of the gender wage gap cannot and should not be left solely to the provincial government's gender wage gap review.
18. A failure to bring a gender lens, and a gender-based analysis, to the efforts of the Changing Workplace Review will mean that the deeply structural discriminatory impacts of work restructuring and changes in the employment relationship will be left unexamined and without redress.
19. Finding and implementing solutions for women's pay gap barriers should emphasize prevention and combatting barriers before they are put in place. An equal pay compliant culture should be promoted as a key economic and business development measure.
20. **The Coalition strongly encourages the Review to undertake a gender-based analysis of the role, the impact and efficacy of the *ESA* and the *LRA* and any proposed reforms.**

IV. *The Values to guide the Changing Workplace Review: Equality, Fairness and Transparency.*

21. Preventing and remedying pay discrimination is a matter of values. Ensuring that hard work is honoured and rewarded in Ontario regardless of the sex of the person who performs it. As the demographic picture outlined below demonstrates, women face significant discriminatory norms in pay and working conditions.
22. The values to guide this Review should be equality, fairness and transparency.
23. For almost four decades, the notion of labour market "flexibility" has been particularly one-sided. The main emphasis by employers is to cut costs and find the means to reduce the unit cost of labour. In the 1970's and 1980's, the employment relationships most strongly associated with women, the precarious forms of part-time, contract, and temporary, began to take hold as the new model. Labour costs were no longer fixed, but variable. Labour was purchased only as and when needed. The emergent casualized labour market meant predominantly lower wages, less access to benefits, holiday pay, overtime pay, CPP, severance pay and employment insurance.
24. It is women who dominate the precarious employment forms. It is Aboriginal racialized, immigrant, disabled and young women who are the participants in the "flexible" labour market.
25. The Review has an opportunity to recommend measures which right the balance towards equality and fairness. In today's labour market, there is little balance between the power of employers and the precariously employed women.
26. But based upon the values of equality, fairness and transparency, new statutory minimums and creative approaches to collective bargaining may emerge.
27. The 1984 Royal Commission on Equality in Employment warned of the hugely negative impact on women of perpetuating discriminatory low wages:

The cost of the wage gap to women is staggering. And the sacrifice is not in aid of any demonstrably justifiable social goal. To argue, as some have, that we cannot afford the cost of equal pay to women is to imply that women somehow have a duty to be paid less until other financial priorities are accommodated. This reasoning is specious and it is based on an unacceptable premise that the acceptance of arbitrary distinctions based on gender is a legitimate basis for imposing negative consequences, particularly when the economy is faltering.⁶

28. As set out in the ILO overview of the Conventions and Recommendations governing Gender Equality and the Decent Work Principles:

Non-discrimination and promoting equality have been fundamental principles underpinning the work of the International Labour Organisation (ILO) since its creation in 1919.

These principles are also an integral component of the ILO Decent Work Agenda: to promote decent and productive work for women and men in conditions of freedom, equity, security and human dignity.

All workers have the right to decent work, not only those working in the formal economy, but also the self-employed, casual and informal economy workers, as well as those, predominantly women, working in the care economy and private households.⁷

29. Finally, the value of transparency is a critical one for ending the gender pay gap. Transparency, through ESA requirements, will assist in casting sunlight on the discrepancies between men's and women's wages. As set out below, the transparency requirement should be applied to all forms of employment including temporary agency employment, self-employed and contractors. Greater transparency will assist in creating the pressure towards equality in women's and men's wages.
30. By relying upon the values of equality, fairness and transparency, the Review will greatly assist in remedying pay discrimination.

V. *The Impact of Ontario's Gendered and Globalizing Economy*

31. While the pay gap and gender discrimination remain a constant, the structures and conditions of women's and men's work have changed significantly since the mid-1980s.

6 Justice Rosalie Abella, Report of the Commission on Equality in Employment (Ottawa, 1984) at 233-239. Canadian Human Rights Commission, Time for Action: Special Report to Parliament on Pay Equity (Ottawa: Minister of Public Works and Govt. Services, 2001).

7 ILO *ibid*, Preface at v.

32. There is widespread low pay for women's work despite its importance to the success of Ontario's economy.
33. As the Review's Consultation paper sets out the global migration of capital, work and labour is having positive and negative impacts for Ontario women. While some women have more paid work with better conditions, the interconnected globalizing economy is producing increasingly precarious work for women. Networked and decentralized production structures are leading to increasingly precarious conditions of employment.
34. These conditions affect (i) the nature, (ii) the degree of rights violations, and (iii) the design of mechanisms to successfully tackle those violations.
35. With globalization, labour markets are deregulated and state resources and services are often being reduced at a time when women workers require greater protections and services.⁸

i) Seven Key Labour Market Trends since 1988

36. Ontario's labour market is marked by seven key trends which are driving the systemic gender equality gaps between men and women workers. Industrialized and developing countries alike share these trends, although in different degrees. The burden of inequality falls greatest on women workers where poverty, weak employment regulation, racial, ethnic, aboriginal and disability discrimination and violence are most pronounced. These trends sustain a gendered labour market where women experience a high degree of unlawful discrimination both in gaining access to paid work as well as in the conditions and pay of that work and their ability to keep it.

a) More women are working for pay.

37. While women's work opportunities in Ontario have expanded more than men's with a growing female-dominated services sector and a declining male-dominated manufacturing sector, their conditions of work have not commensurately improved with the level of their economic contributions.
38. 82% of women age 22-44 are working compared to about 57% of women participating in 1984. In 1961 only 32% of women were employed. In 1989, women comprised 44% of the labour force, up from 39% in 1979 and 33% in 1969.⁹
39. In 2004, 73% of all women with children under age 16 living at home were part of the employed workforce, up from 39% in 1976.¹⁵ In 2004, 79% of women under age 55

8 Cornish, Mary. Closing the Global Gender Pay Gap: Securing Justice for Women's Work. Comparative Labor Law & Policy Journal, Vol. 28, No. 2, Winter, 2007, 219.

9 See Cornish, A Growing Concern Ontario's Gender Pay Gap, CCPA 2014. Also see Statistics Canada "Table 282-0014 - Labour force survey estimates (LFS), part-time employment by reason for part-time work, sex and age group, annual (persons)", CANSIM (database).(accessed: 2014-03-26). Sorted by Ontario (or Canada), and sex.

without children living at home had jobs. In 2006, the labour force participation rate of women ages 15 to 64 is at an all-time high of 73.5%.

40. More older women are working as well. The participation of women aged 55 to 59 has seen a marked increase from just under 50% in the mid-1990's to 62.3%. In 2006. Almost half of the women aged 60 to 65 are still in the paid workforce¹⁶

b) The Gendered Pay Gap: Women clustered in lowest income which stagnated over time

41. There is great income inequality in the Canadian labour market. The inequality is higher than a generation ago. The gap has grown from losses of the poorest and gains of the richest. Between 1981 and 2010, the economy more than doubled in inflation-adjusted terms, but poverty has grown for working age adults and seniors. More of the gains from growth are ending up in the pockets of higher-income individuals and households than in the past.¹⁰
42. The labour market inequality picture is intensified when one examines the gender pay gap.
43. Ontario's gender pay gap is 31.5% based upon average yearly earnings. During the period from 1999 to 2011, using the SLID data, the overall male-to-female average annual earnings ratio went from 59% to 68.5%. The change is likely a result of women's increased participation in the labour market. This is a significant indicator of discrimination in the labour market.
44. The earnings pay gap is much greater for Aboriginal women, racialized and immigrant women and women with disabilities. Racialized women earn 19% less than non-visible minority women and 24% less than racialized men. First-generation immigrant women earn 18% less than non-immigrant women and 27% less than immigrant men. Aboriginal women's median income is 17% less than those of non-Aboriginal women, and lags 25% behind the earnings of Aboriginal men and 40% behind the earnings of non-Aboriginal men. Women with disabilities earn 75% of women without disabilities.¹¹
45. Ontario's pay gap is much larger than Europe which has an average pay gap of 15%. In the Nordic countries with many progressive equality policies the pay gap is just 10%.¹²
46. The majority of working women in Ontario are clustered within the bottom 60% of the income spectrum, with only one-third (33%) of women climbing their way into the top

10 See, for example, Yalnizyan, A. Study of Income Inequality in Canada — What Can Be Done, Canadian Centre for Policy Alternatives, 2013.

11 M. Cornish, A Growing Concern Toronto: Canadian Centre for Policy Alternatives Gender Equality report. 2014. The analysis in this section of the submissions relies upon the data published in this paper. The Coalition expects to have further statistical analysis to provide the review in the coming months.

12 M. Cornish, *ibid* 2013.

40% of the income ladder. Looking at women earners in the bottom 60% over a longer time period, from 1997 to 2011, a troubling pattern emerges: *women's average earnings appear to be stagnating and their income mobility appears to be limited.*

47. Over the 14-year period only three % of women managed to move out of the bottom 60%: 72% of working women were in the bottom 60% in 1997-1999; by 2009-2011, 69% of working women were still there.
48. Going further down the income spectrum, we see the poorest 10% (earning an average of only \$1,120 annually) consisted of about the same proportion of women and men –11% of women and 10% of men in 2009-2011. And their income mobility was also stunted.¹³
49. Gender pay inequality is still entrenched in Ontario's labour market and that is reflected in the low-wage workforce: the share of women who are low-wage workers has consistently been higher than the share of men. In 2014, 14.9% of women employees were working for minimum wage, compared to 8.8% of men. The share of women making within \$4 of the minimum wage increased from 24 to 34.3% over the same period. This compares to a rise from 16.1 to 24.5% for men.¹⁴
50. Women in the bottom 60% have also been increasing their labour market human capital with greater education and work experience yet they are not reaping the rewards of those investments. While some may still face barriers to getting greater and more diverse education opportunities, it also appears that their stagnation also stems from a persistent systemic pattern of undervaluing the workplace skills and responsibilities of women and a failure to reward their effort and working conditions.
51. For Ontario men and women in the upper reaches of the income ladder and looking at average annual earnings, nearly half of male earners in Ontario (47%) land in the top 40% of the pay spectrum – earning on average \$45,000 to \$142,000 for the period 2009-2011.
52. Only one third of female earners (33%) have made it into the top 40%. That's a gap of 14%.¹⁵
53. Essentially, a story of limited income mobility for both men and women in the bottom 30% of income earners in Ontario.
54. Going further down the income spectrum, we see the poorest 10% (earning an average of only \$1,120 annually) consists of about the same proportion of women and men –11% of women and 10% of men in 2009-2011. And their income mobility was also stunted.

13 See A Growing Concern. The Coalition is working on further statistical analysis of the gendered wage gap and would be pleased to provide copies to the Review in the near future.

14 See S. Block, A Higher Standard, Toronto: Canadian Centre for Policy Alternatives, June 2015

15 See M. Cornish, A Growing Concern Toronto: Canadian Centre for Policy Alternatives Gender Equality reports. 2014.

c) Persistent Occupational Segregation: the gender hierarchy

55. Men and women continue to do different work often in different workplaces with men dominating higher-paying “production”, supervisory and management positions and women dominating lower-paying care giving, home-based or informal jobs.
56. For example, women made up 21% of managerial positions in 1987 and this has gone virtually unchanged with women now making up 22% of the total employed in managerial positions. In 1987, 5.2% of women worked in trades, transport and construction and this has remained virtually the same with women making up only 7% of this occupational category.
57. Traditionally female-dominated occupations have not seen a change. Nurses are 87% women and this has not changed since 1987. In clerical and administrative positions women remain at 75% to the total employed. Very few professional occupations have seen modest changes. The business and finance sectors have seen some improvements. Women now make up 51.3% of the total employed in the sector compared to 38% in 1987.
58. According to Statistics Canada, *Women in Canada 2006* report, there has been *virtually no change in the proportion of women* employed in these traditionally female-dominated occupations over the past decade.
59. In fact, the share of female workers employed in these areas in 2004 was almost exactly the same as that in 1996. In 2004, 67% of all employed women were working in teaching, nursing and related health occupations, clerical or other administrative positions, and sales and service occupations. This compared with just 30% of employed men.¹⁶
60. The pervasive occupational segregation of Ontario’s workforce by sex corresponds with a value system in which men’s work is considered superior economically, socially and legally. Women’s full integration into the labour market continues to be resisted and surrounded by patriarchal, stereotypes, prejudices, misconceptions and culturally-based expectations about gender roles and what constitutes “valuable work worthy of protection”.

d) Unequal Home and Life Circumstances

61. Women remain primarily responsible for unpaid housework and caring for children, the sick and elderly. This creates significant stress in reconciling their unpaid and paid work responsibilities and increasing their work hours and therefore paid income beyond that of men. Regardless of the reasons, the evidence suggests that giving birth to a child lowers the future earnings of a Canadian mother compared to a comparable woman without children by between 5% and 13%. As a Canadian Labour Congress Report outlines:

16 Shillington, R Expert Report in ONA-SEIU and Participating Nursing Homes, Pay Equity Hearings Tribunal, 2014.

In all countries, participation rates and employment in full-time jobs tend to be lower for women because women still bear the primary responsibility for child care as well as elder care and work in the home generally. Almost everywhere, the gap between the employment rates of women and men increases with the presence and number of children in a family.¹⁷

62. Balancing the demands of paid work and unpaid care work, women often have to take low or non-paying “flexible” jobs with unsafe conditions. Women’s double burden and time poverty are further exacerbated where they take on added care obligations as the Ontario government has rolled back, privatized and eliminated public services. Given the unequal relations of social reproduction, and the constraints women face as a result of their domestic and child care responsibilities, precarious employment with unequal pay is not a free choice. Predominance in Precarious Work
63. Men dominate higher-paying often full-time standard work with many women found mostly in insecure, often part-time, lower paid standard and non-standard employment.
64. As noted above, the growth of women’s work is largely in the precarious sectors of the economy since global networks are structured to depend on “insecure” and individualized forms of employment, including disguised employment self-employment, part-time employment, casual and temporary employment and home-based low income work.
65. In Canada, “non-standard” employment relationships have grown from 33% in 1989 to 37% in 2001. Between 1989 and 2002 part-time employment rose from 16.8% to 18.7%. The Coalition adopts the multi-factor analysis provided to the Law Commission in its analysis of Vulnerable workers.¹⁸
66. Women are much more likely than their male counterparts to work part-time.
67. 72% of permanent, part-time workers are women.¹⁹ In 2004, 27% of the total female workforce were part-time employees, compared with just 11% of employed men.
68. Indeed, women accounting for about seven in 10 of all part-time employees, a figure which has not changed appreciably since the mid-1970s.
69. Other forms of precarious work have grown, In general, own-account self-employment rose from 7.2% to 9.8% between 1989 and 2002. Over one in 10 employed women in Canada are self-employed. In 2004, 11% of all employed

17 Canadian Labour Congress (CLC) 2008, “Women in the Workforce: Still a Long Way from Equality. March, 2008. Available at <http://canadianlabour.ca/sites/clc/files/womensequalityreportEn.pdf>.

18 Law Commission of Ontario, Vulnerable workers and precarious work, Final Report Toronto: 2012.

19 *ibid* at page 19.

women, were self-employed, up from 9% in 1976. Overall, women accounted for 34% of all self-employed workers in 2004, up from 31% in 1990 and 26% in 1976.²⁰

70. Women are clustered in the lowest paid, lowest skilled jobs in the informal and formal sector. Such work i) is highly vulnerable and often unsafe; ii) has very low pay and irregular income; iii) often excludes, effectively or directly legal and regulatory frameworks; and iv) lacks access to employee and social security benefits.
71. Many globalized enterprises and supply chains have a male-dominated core labour force and a periphery of networked enterprises where workers disadvantaged by factors such as gender, race or immigrant status increasingly have only a temporary, contract or home-based status. Increasing sectors of the economy are not subject to effective labour enforcement. Many women workers have no “employer” at all as disguised employment or self-employment increases significantly and flexibilization leads to greater “individualization” of working conditions.
72. Ensuring non-discrimination in pay is not even considered as global supply chains focus on cost-cutting and production time constraints and using women's low pay as their competitive advantage.
73. Downsizing, work restructuring, reduced staffing levels and more ‘hard-nosed’ human resource management have gendered effects. Such changes more often lead to greater control for men and less control for women and exposing women to workplace bullying/mobbing, abuse and other forms of occupational violence and harassment.

e) Workplace Size

74. The size of the workplace or establishment has a direct impact on women and labour standards enforcement and contributes to the persistent pay discrimination gap. For example, the ESA excludes workplaces with less than 50 employees from severance pay or access to emergency care provisions. The *Pay Equity Act* excludes workplaces with less than 10 employees.
75. One of the significant trends in the Ontario labour market is the emergence of smaller and smaller workplaces. It is a trend that began to emerge during the recession of the 1980's. Between 1978 and 1986 the proportion of small workplaces with less than 20 workers increased from 16.28% to 24%.²¹ The Toronto Region Research Alliance, *Workplace Establishments Report* outlines that in 2007, 74% of Ontario's 544,885 workplaces have less than 10 employees.²²

20 See Vosko, et al *Precarious Employment*. Montreal: Queen's-McGill Press 2006.

21 See O'Grady, John “Beyond the Wagner Act, What then?” in *Getting on Track*, Drache D. (ed.) McGill-Queen's Press, 1992.

22 Toronto Region Research Alliance, *Workplace Establishment Report for Ontario, Canada*. Relies upon Environics Analytics, *Business Profiles*, 2007. Daytime population is provided by Environics Analytics and is an estimate of total population for each Census geographic level during daytime hours. Data sources used are the 2006 Census, Environics Analytics' 2008 population estimates

76. The majority of firms in the private sector have less than 20 full-time employees whereas for the public sector the majority of organisations have more than 300 full-time employees.
77. By 2007, the trend towards smaller workplaces was very apparent. The above-noted report states that the Retail and Wholesale sector, for example, has an estimated 149,596 establishments in Ontario with less than 50 employees. Accommodation, Food, Beverage and Recreation have 45,817 establishments with less than 50 employees.
78. Small workplaces should not be confused with necessarily small employers. Many large employers oversee a large number of smaller workplaces. Over the past twenty years, employers have relied upon contracting out a strategy to reduce costs and avoid responsibility for labour standards and equity entitlements. Work that might have been performed 'in-house' in 1988 is now contracted out to a smaller private firm.

f) Weakening of Union Representation and Women's Voice

79. With unionization rates declining, particularly in the private sector and the structures of workplaces increasingly favouring individualized working conditions, trade union representation of women has been weakened.
80. With unionized women being the group which was best able to enforce the *ESA* and the *Pay Equity Act*, this weakening adversely impacts the ability of women to secure their right to be free from pay discrimination.
81. In Ontario, the unionization rate has declined from 33.7% in 1981 to 27% in 2004. Unionization in the private sector declined sharply between 1988 and 2008 and remains around 27% in 2014.²³
82. Union density for men dropped from 32% to 26% over this period. Union density for women rose slightly and then stabilized at around 28% between 1997 and 2014.
83. The larger decline in union density happened in the private sector – it fell from about 19% in 1997 to about 14% in 2014.
84. Public sector union density stayed relatively stable, rising from about 70 to 71%. While union density is much higher in the public sector than it is in the private sector, most of the jobs in Ontario – about 78% – are in the private sector, so a drop in unionization in that sector has a major impact on the labour market landscape.
85. Women's unionization has remained relatively constant in this period at approximately 30% primarily because of the higher unionization rate in the public sector.

along with business locations and sizes from Info Canada. Available at <http://www.trudeaufoundation.ca/community>.

23 See Block, *ibid*.

86. However, with the reduced union density across the entire labour market, women suffer.
87. Unionizations play a major role in closing the pay discrimination gap between women and men and in countering the low pay among working women.
88. The pay gap between union men and women is estimated at just over \$2 per hour compared to a gap of more than \$4 per hour between non-union men and women.

VI. *The Gender Pay Gap: the factors and causes*

89. As part of a gender-based analysis, we encourage the Review to consider the factors and causes of the gender pay gap.
90. Many of the demands, conditions and contributions of women's work are invisible and undervalued both because so many women do these jobs and because female-dominated skills, effort, responsibilities and working conditions are associated with unpaid domestic or volunteer work.
91. Yet such skills are essential to carrying out the work and are acquired over time, through training, even though they are often undervalued relative to those of men. Moreover, many of these women's jobs are highly demanding, but in ways so long associated with women that they are thought to be part of being a women.²⁴
92. Systemic gender-based pay discrimination persists in Ontario arising out of three fundamental features associated with women's work.
93. First, as noted above, to a very large extent, women and men continue to be segregated in different jobs in the workplace. There are still "women's jobs" and "men's jobs" with women limited to a narrow range of sales, service and clerical occupations and facing barriers to obtaining higher paying male dominated work.
94. Second, the gender occupational segregation of the labour force is accompanied by wage inequality. Female-domination of a job and low pay are linked. The more female-dominated the industry or the occupation, the more women's wage rates are depressed. In 1995 women accounted for less than 20% of workers in the ten top paying jobs and more than 78% of those in the ten lowest paying jobs.²⁵
95. Economists have coined the term the "care penalty". This refers to both the low pay and strenuous workload for those who care for the young, the vulnerable, and the elderly within our society. The workforce in the social service, health care and child care sectors—all of which play a 'caring' role in our society—is predominately female.²⁶

24 Dr. Pat Armstrong, Expert Witness, Opinion adopted in *Service Employees International Union, Local 204 v. Ontario (Attorney General)*, 1997 CanLII 12286 (ON SC).

25 See Armstrong and Shillington, *ibid*.

26 See BUDIG, M. J. and MISRA, J. (2010), How care-work employment shapes earnings in cross-national perspective. *International Labour Review*, 149: 441–460; Paula England , Michelle Budig , {C1424527.1}

96. Third, this lower pay and the "care penalty" reflects the systemic undervaluation of women's work relative to that of men's work. Historically these types of paid care jobs have been viewed as 'women's work'. They are seen as an extension of the kind of unpaid work that women have traditionally performed in the home. As a result, this type of work is both undervalued and underpaid. It reflects the failure to recognize and value the skills, effort, responsibility and working conditions associated with female-dominated jobs. It is a product of a devaluation of women's skills (i.e. pervasive stereotypes that women's skills are not real skills but are qualities "intrinsic to being a woman" and so not deserving of compensation); a devaluation of the kind of work women do as not being "real work" (particularly in relation to the kind of care-giving work which is heavily female-dominated); and a reliance on historical stereotypes about women as secondary wage earners rather than true "breadwinners".
97. If you compare many female-dominated care occupations with male-dominated occupations requiring similar levels of experience and education, you will most often find a significant wage differential. The factors above combine to create pervasive discrimination which is generally present regardless of the particular nature of women's work, her industrial sector, her own capacities and her particular employer.

i) Three Key Dynamics of Pay Discrimination Summarized

98. The Coalition has recognized that Ontario's gender pay gap is a function of the systemic labour market discrimination which women experience at all points of the work continuum. This discrimination arises from three separate but interconnected discriminatory dynamics.

a) Discrimination Dynamic #1

99. The discrimination women experience in their segregated job ghettos where the different work women do is systemically undervalued both because it is not counted and what is counted is not valued properly.

b) Discrimination Dynamic #2

100. The discrimination women experience because of the barriers or "glass ceiling" women face in gaining access to higher paying "men's" work - the male job ghettos.

c) Discrimination Dynamic #3

101. The discrimination women experience where they do the same job as men and get paid differently.

ii) Equality in pay - a fundamental human right

102. The right to not earn less income because you are a woman is a fundamental human rights entitlement.
103. It encapsulates:
- (a) a substantive human rights *entitlement* to sex equality in the workplace;
 - (b) a systemic human rights *remedy* for discrimination; and
 - (c) as implemented through employment standards and collective bargaining and collective agreement enforcement, a human rights *enforcement mechanism* for eradicating discrimination and ensuring equality outcomes.
104. The challenge for the Review is to ensure that equality in pay is a fully realized human right through both the ESA and the LRA.

VII. The Employment Standards Act and closing the gender pay gap

105. The *Employment Standards Act* and its predecessor legislation has been long recognized as the key employment statute to determine the status of women. The *Act* has been reviewed, tinkered and modified in an *ad hoc* manner over the past fifty years. While the *Act* provides a generalized set of minimum statutory protections, those protections are eroded through special rules and exemptions so much so it is commonly referred to as resembling a piece of Swiss cheese.
106. To assist in closing the gender pay gap, it is the Coalition's submission that it is time to move the ESA out of the status of "labour law's little sister" and to provide a robust statutory minimum framework to fully protect women workers in all forms of the employment relationship.²⁷
107. **The Coalition has reviewed and adopts the recommendations of the Workers' Action Centre in respect of the *Employment Standards Act* amendments.**
108. In particular, the Coalition adopts the recommendations to ending the exemptions to the ESA and the urgent need for a more rigorous enforcement mechanism with heavy fines for violations of the *Act*.
109. The Coalition makes the following additional submissions.
- i) Equal Pay for Equal Work: Modernize s. 42 of the ESA.**
110. Some women continue to be paid differently even though they do the same work as men and despite the provision in the *Act* for equal pay for equal work.

27 See Fudge, J. *Reconceiving Employment Standards legislation: labour law's little sister and the Feminization of Labour*, *Journal of Law and Social Policy* 7 (1991) 73-89.

111. The equal pay provision in the ESA was one of the first key statutory protections for women and introduced in 1951. We note that the 2008 Vector Poll found that 72% of those polled say that the law should require that part-time and full-time workers should be paid the same hourly rate when they do the same job.
112. Section 42, the equal pay for equal work provision, was clearly designed to prevent an employer from paying employees differently just because of the differential in the sexes. Section 42 prohibits employers from paying employees who perform substantially the same work under the same working conditions where the performance of the work requires substantially similar skill, effort and responsibility differently solely because of the gender of the individuals. There are exemptions to the principle: a seniority system, a merit system, and piece rate systems.
113. Section. 42 2(d) also enables an exemption of "a differential based on any other factor than sex."
114. A review of limited jurisprudence interpreting this section demonstrates that the analysis of "the wider context of employment" has been applied to conclude that an employer's wage policy may be relied upon to exclude, for example, casual workers from the same wage rate.²⁸
115. Adjudicators are required to consider whether the "term of employment" (i.e. casual, part-time) is a colourable device to mask a discriminatory motive. In other words, by an employer's mere stroke of the pen, a new category or employment status of worker cannot be relied on to pay female workers less. The employer is required to have a *bona fide* employment or wage policy for the existence of the separate employment status.
116. In the Coalition's submission, employers have been provided too wide latitude to create distinct wage rates based solely on occupation status and "term of employment". An employer's alleged policy may be a factor in the different pay for female-dominated part-time work from full time work.
117. In today's labour market, with the extensive reliance on precarious employment relationships, not only is s. 42 2(d) an exemption that should be removed, but Section 42 as a whole requires modernization.
118. Similarly, a seniority system and merit system may masks certain discriminatory features. This is particularly so where a male-dominated position is evaluated to have the same value as a female-dominated position. This hidden form of discrimination should be eliminated. Women should not be discriminated against where a male-dominated occupation is placed on a shorter, compact wage grid resulting in thousands of dollars. The ESA exemptions should be fine-tuned to ensure that equal pay for equal work is a reality.²⁹

28 Temiskaming Hospitals, ESC 475, January, 30 1978 (Haladner).

29 See *CUPE v Lakeridge*, *ibid.* for a discussion the unequal wage structures issues.

119. **The Coalition recommends that, given that most people in a non-standard employment relationship are women, the ESA should be amended to ensure part-time, part-year, contract, temporary agency workers are paid the same rate as full-time workers.**
120. **The Coalition recommends that the exemptions regarding seniority and merit systems should be amended to include the principle that where the jobs are of equal value, the wage grids and wage structures should be of equal length and equal steps on the wage grid.**
121. To ensure that the ESA equal pay for equal work provides for substantive equality, it is time to amend s. 42 in a manner that effectively protects women from the discrimination in the labour market. The modernization of s. 42 will assist in reducing the gender wage gap.
122. The roadmap to modernizing the ESA to ensure that equal pay for equal work is a fully realized substantive right are the EU Directives on atypical work: the Part-Time work directive, the fixed-term work directive and the Agency Work Directive.
123. The Directives aim to ensure that employees who are not employed in permanent jobs are guaranteed a minimum level of equal treatment compared to full-time permanent staff. The explicit purpose of the Directives is (i) remove discrimination in pay and conditions; (ii) improve the quality of part-time, fixed term and agency work so that it is equal to full-time employees; and (iii) to prevent abuses of these forms of employment relationship, such as multiple successive fixed-term contracts.
124. We encourage the Review to draw upon the regulatory framework of the EU Directives to bring substantive meaning to equal pay for equal work.

ii) Minimum Wage increase

125. Minimum wage laws are a key pay equity measure. Women account for two-thirds of the minimum wage earners.⁵¹ Aboriginal women, immigrant and refugee women, women with disabilities and racialized women are even more likely to be working at the minimum wage. Without the benefit of a union, their employers have ignored their obligations to make sure their women's work is paid equal to men's work of comparable value. Low minimum wage policies ensure that women and their children remain poor.
126. Increasing the minimum wage will have a significant impact on closing the gender pay and reducing women's poverty.
127. **The Coalition has requested for years that the Ontario government bring in emergency legislation to increase the minimum wage to \$15 per hour effective immediately.** An increased minimum wage is a pay equity down payment. The minimum wage must keep up with inflation and keep on increasing until it is at the level of a living wage.

iii) Leave of Absence Provisions: Personal Emergency, Family Medical Leaves, Critically Ill Child Care, Organ Donation, Crime-related Death or Disappearance of a Child

128. Women continued to be terminated merely because they are pregnant. This archaic, discriminatory approach in the workplace must stop.
129. **The Coalition recommends that the ESA provide for immediate reinstatement of a terminated employee on pregnancy or parental leave as well as an immediate fine of \$10,000 for terminating an employee on pregnancy and parental leave.**
130. The relatively recent additional leave provisions are an important addition to the basic statutory minimum framework including the personal emergency and family leave provisions.
131. However, as currently set out there are three significant issues for women which add to the gender pay gap: (i) the exemptions regarding size of workplace and length of time in workplace to qualify; (ii) the limitation that leaves are to be taken as the equivalent of "full week" (e.g. s. 49.3(1)) and some leaves are required to be taken as "full weeks" (49.1 (7) and (iii) lack of protection to employee if medical note is not immediately provided to an employer.
132. The Review proposes a basic minimum of statutory defined, job-protected sick days and emergency days for every employee would assist in overcoming the issues identified above. However, such a proposal cannot be at the reduction of other critical leaves for medical and critical care needs.
133. **The Coalition recommends increased flexibility in access medical and care leaves for single days, rather than a full week if so required. The Coalition recommends removing any exemptions in respect of the size of the workplace and time in workplace.**
134. **The Coalition explicitly supports the WAC recommendation of a separate and distinct statutory minimum for sick leave of not less than seven days per year to be taken on an add needed basis.**

iv) Flexible Scheduling provisions

135. Access to flexible scheduling regimes reduces the gendered wage gap. Without access to affordable child care programs, flexible scheduling allows women, who remain the predominant caregivers and men to attend to family responsibilities.
136. **Flexible scheduling provisions, as a basic minimum standard, should be introduced into the ESA. Such scheduling provisions would include job sharing arrangements where two employees could voluntarily enter into an agreement to share one full-time position.**

v) New Employment Standard: Pay Transparency provision – mandatory pay gap reporting.

137. In a bid to combat the gender pay gap, several jurisdictions in both the United Kingdom and the United States have introduced new statutory measures which require companies to publicly disclose information on the average pay of their male and female employees.
138. The Regulations require employers to publish information relating to the pay of employees for the purpose of showing whether there are differences in the pay of male and female employees.
139. The rationale for the new regulation is that by shining a light on any pay practices in the private and voluntary sectors will enable the impact of workplace policies and practices to be monitored and discussed. By identifying those employers that are consistently and successfully ensuring that their women employees are achieving their full potential, the governments seek to publicly recognize and disseminate good practices.
140. **In the Coalition's submission, a new pay transparency standard would report the hourly wage and pay structures, any merit pay systems, the occupation and the nature of the employment relationship (such as part-time, contract, temporary agency, etc.).**
141. Transparency in pay structures has long existed in collective bargaining regimes. Employees receive copies of the bargained wage structure as outlined in their collective agreements. Collective agreements are publicly available through the Ministry of Labour.
142. The Transparency provisions would apply to all employers, and especially employers of precariously employed workers.
143. For domestic workers and home-based workers, the transparency provisions would require employers and workers to submit names to a central registry. Such a registry would provide the Ministry of Labour with an enforcement mechanism to ensure minimum standards are adhered to.
144. The lack of a pay transparency provision in the ESA only serves to perpetuate the secrecy of Employer's pay policies and potential wage disparities. Such an amendment would create little cost to an employer. Employers who currently ensure that no wage disparities exist would likely support such an amendment for the public recognition of good employment practices.

VIII. The Labour Relations Act: access to union representation and collective bargaining

145. The right to union representation and collective bargaining is a critical statutory right for women. Unionization is an equality promoting tool for closing the gender pay gap. Through union representation women have access to just cause protection and mechanisms to enforce their statutory rights in the *Pay Equity Act* and the *Human*

Rights Code. The unionized wage premium in Ontario is 28.2%, or \$6.43 per hour.³⁰

146. Apart from increasing women's wages, union protection often leads to greater access to full time positions and/or more secure and greater part-time hours. As well, it means women have someone to negotiate with their employer to secure their pay equity rights.
147. The very foundation of Ontario's labour law recognizes that there is a profound inequality in bargaining power between individual employees and employers. The Ontario system privileges mechanisms whereby employees can join together to form a trade union to bargain collectively with their employer. The rationale in this industrial pluralistic model is that the parties are best left to set the terms and conditions of employment themselves.
148. Union certification and bargaining on a workplace by workplace model. The unionization and collective bargaining model is predicated on a particular norm – of an non-fragmented, male-dominated labour force, working in regular and secure employment, working for a family wage.³¹
149. The challenge is that the current labour relations norm upon which the *LRA* is based is significantly eroding the in Ontario labour market. Smaller workplaces and precarious employment relationships combine to defeat the modest *LRA* rights that currently exist.
150. The Coalition focuses its submissions on the following revisions to the *Labour Relations Act* as immediate steps to close the gender wage gap.
 - i) **Card-based certification:**
151. Card-based certification should apply in the non-construction sector.
152. When the *LRA* was amended to re-introduce card-based certification, it applied solely to the male-dominated construction sectors.
153. The exclusion of the non-construction sectors is a blatant differential treatment which has an extremely negative impact on women in female-dominated sectors such as employment agencies which provide home-care services.
154. In the construction sector, a union may elect either a card-base application or a vote-based application. Similar provisions should apply to the non-construction sector.
155. **As part of the provisions to support card-based certification, the Coalition supports expanded access to remedial certification without a vote.**
156. **The Coalition further supports measures to improve union access to employee information to facilitate organizing.** We note under the Public Sector Labour

30 Cornish, 2014 at 10 and footnote 74.

31 Fudge, *Labour Law's Little Sister*, *ibid.*

Relations Transition Act ("PSLRTA"), the Board will order access to employee lists for a time-limited period. The employee lists include both currently unionized and non-union employees. Such provisions should be expanded where a union is able to demonstrate a near threshold support in a workplace.

ii) Bargaining Unit Structure: Sectoral and Broader-based bargaining

a) Consolidation of Bargaining units

157. **The Coalition supports the revision of the LRA to enable a union or employer to apply to the OLRB combine bargaining units represented by the same union.** As the Labour Board held, such a provision provides the means of enhancing administrative efficiency and convenience, lateral mobility, a common framework of employment conditions and the promotion of industrial stability"³²
158. This recommendation is consistent with the OLRB's current approach to designate larger bargaining units pursuant to PSLRTA.

b) Sectoral Bargaining

159. Historically, there are different models of sectoral bargaining: the construction industry in Ontario and the Decrees system in Quebec, to name two.
160. **In order to redress the gendered wage gap and the state of work organization in the Ontario labour market, the Coalition recommends that the Review examine specific models of sectoral and broader based bargaining. As part of this examination, unions, representatives of the unorganized and employers would provide further submissions on this issue.**
161. Such models would not be limited to establishing wage setting mechanisms, but would ensure that the full benefits of collective bargaining would become available.
162. In the Coalition's submission there are three main components to sectoral bargaining: (i) that the "true employer" is identified, either through joint and several liability provisions required to pierce through existing chains and networks of subcontractors or multi-employer structures; (ii) that each sector may require specific modification to adopt to the precarity of the worker's employment relationship, and (iii) regional certification processes be developed.
163. The Coalition's recommendations in respect of sectoral bargaining are at the early stages. The Coalition requests the opportunity and reserves the right to provide the Review with more fulsome submissions on this proposal in the near future.

IX. Concluding comments

164. The Review has sought recommendations on what changes can and should be made to the Ontario employment and labour law regime.

32 Marriott Corp., 1994 CanLII 9820 (ON LRB) para 2; Mississauga Hydro-Electric Commission, 1993 CanLII 7839 (ON LRB).

165. In the Coalition's submission, this is not a neutral exercise.
166. In order to meet the needs of workers and employers in the current environment and the future, the Review is required to examine the gendered wage gap and how the existing employment and labour laws contribute or ameliorate that gap.
167. The recommendations provided in these submissions are a modest first step to closing the gendered wage gap.
168. The Coalition looks forward to working with the Review in the upcoming months to refine these recommendations.

Appendix A

Who is the Equal Pay Coalition?

With the founding of the Ontario Equal Pay Coalition in 1974, the Coalition brought together trade unions, women's and business women's organizations and community organizations to lobby for the implementation of ILO Convention 100 Equal Pay For Work of Equal Value.

The Equal Pay Coalition is a coalition of organizations to seek the implementation of equal pay for work of equal value both through legislation and collective bargaining. The Coalition has over 39 constituent and partner groups which represent Ontario women and men who support equal pay for work of equal value. Our member groups are attached as Appendix B.

The Coalition met with a succession of Ontario Ministers of Labour pushing for a strong equal pay for work value law, increases to the minimum wage as a pay equity down payment for the most vulnerable women workers, strong collective bargaining laws to help women bargain pay equity, and implementation of sectoral wages in female-dominated sectors.

With a strategy of working with all political parties who supported equal pay for work of equal value, the Coalition gained the support of both the New Democratic Party and the Liberal Party which resulted in pay equity being part of the Liberal/NDP Accord when the Liberals came to power in 1985.

As such, the Liberal Government issued a Green Paper on Pay Equity in 1985 which called for input on the design of the law. After two years of consultations, the Legislature passed the 1987 *Pay Equity Act*, effective January 1, 1988.

As this law was based on the job-to-job method and did not cover women who had no direct comparator in a workplace, the Predominantly Female Workplace study was made part of the *Act*. This Study reported to the Minister of Labour and resulted in the amendments to the *Act* in 1992 which provided for the proportional and proxy comparison method. This provides women in predominantly female workplace with a mechanism to identify their discriminatory pay gap. At the same time, as a result of cases which were finding that the Ontario Government and larger public sector employers were being found to be "employers" under the *Act* and responsible for pay equity, the Ontario Government in the early 1990's agreed to fund all public sector pay equity adjustments. In exchange, the Government included an amendment which prevented the Ontario Government from being found as an employer of another entity in the public sector. As well, after lobbying efforts by many groups, Ontario passed the *Employment Equity Act*.

When the Progressive Conservative government came to power in 1995, Ontario's leadership in the pay equity field ended. The Government quickly moved to repeal the proxy comparison sections of the *Act* which covered approximately 100,000 public sector women, ended the funding of such adjustments; eliminated funding for Pay Equity Legal Clinic, repealed the *Employment Equity Act*; and repealed *Labour Relations Act* provisions which had assisted and facilitated the union organizing of women workers.

As a result of the *SEIU et al. v. Attorney General (Ont.)* legal challenge, Mr. Justice O'Leary struck down provisions of the *Savings and Restructuring Act, 1996* as a violation of section

15 of the *Charter of Rights and Freedoms*. With the proxy provisions reinstated, the Coalition lobbied again for the funding of the proxy adjustments. After paying out more than \$200 million in funding adjustments after years of delay, the government then stated that pay equity was the cost of doing business and it was not prepared to fund public sector agencies to pay these adjustments. A further *Charter* challenge, *CUPE et. Al v. Attorney General(Ont)* was brought in 2001 which resulted in the Government reaching a settlement two years later in 2003. This led to the requirement for the Government to pay out up to \$414 million in pay equity adjustments for the over 100,000 women in predominantly female workplaces. This settlement lasted for a period of three years and the Ontario Government has again reverted to refusing to pay the necessary pay equity adjustments. Based on the government's own figures, \$78.1 million is owing for 2006 and 2007, a further \$77.6 million is owed in 2008 and about \$467.9 billion will be owed from 2008-2011.

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From 2006-2008, the Coalition lobbied all political parties to take immediate steps to improve the enforcement of the *Pay Equity Act* and continues to do so today.

In 2008, the twentieth anniversary of the *Pay Equity Act*, the Coalition released the Framework for Action on Pay Equity in Ontario which called upon the Provincial government to take action to end the gender pay gap crisis in the Ontario.

The Coalition lobbied for the creation of Equal Pay Day marking the pay gap and the additional days that women must work in order make the same pay men make in twelve months.

In April 2014, the provincial government agreed that Equal Pay Day would be held on an annual basis.

The Coalition is a regular contributor to the Canadian Centre for Policy Alternatives series on women unequal position in the Canadian labour market.

Appendix B



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MEMBER ORGANIZATIONS

The Equal Pay Coalition was formed in 1976 as a coalition of organizations to seek the implementation of equal pay for work of equal value both through legislation and collective bargaining. The Coalition has over 39 constituent and partner groups representing Ontario women and men who support equal pay for work of equal value. Some of our member groups include:

Association of Ontario Midwives, www.aom.on.ca
Business & Professional Women's Clubs of Ontario, www.bpwontario.org
Business And Professional Women of Ontario (Sudbury), www.bpwsudbury.com
Canadian Union of Public Employees, www.cupe.ca
Chinese Canadian National Council (Toronto chapter), www.ccnctoronto.ca
Community Social Planning Council of Toronto, www.socialplanningtoronto.org/Index3.htm
Confederation of Ontario University Staff Associations & Unions, www.cousa.on.ca
Elementary Teachers Federation of Ontario, www.etfo.ca
Income Security Advocacy Centre, www.incomesecurity.org
International Alliance Theatrical Stage Employees (IATSE), www.iatse-intl.org/home.html
International Association Of Machinists And Aerospace Workers, www.iamaw.ca
Office & Professional Employees International Union, www.copesepb.ca
Ontario Association of Interval and Transition Houses (OAITH), www.oaith.ca
Ontario Coalition For Better Child Care, www.childcareontario.org
Ontario Coalition for Social Justice, www.ocsj.ca
Ontario Council of Canadian Federation of University Women, www.cfuwontcouncil.ca
Ontario Council of Hospital Unions, www.ochu.on.ca
Ontario English Catholic Teachers Association, www.oecta.on.ca
Ontario Federation of Labour, www.ofl.ca
Ontario Municipal Employees' Committee, Library Workers' Committee
Ontario Nurses' Association, www.ona.ca
Ontario Public Service Employees Union, www.opseu.org
Ontario Secondary School Teachers' Federation, www.osstf.on.ca
Parkdale Community Legal Services, www.parkdalelegal.org
Provincial Council of Women of Ontario
Public Service Alliance Of Canada, www.psac.com/home-e.shtml
Service Employees International Union, www.seiu.ca
Times Change, www.timeschange.org
Union of Needletrades Industrial & Textile Employees, www.unitehere.ca
United Food And Commercial Workers International Union, www.ufcw.ca
United Steelworkers of America, Local 1998, www.uswa1998.ca

United Steelworkers of America, District 6, <http://www.usw.ca>
United Food and Commercial Workers, Local 1000A, www.ufcw1000a.org
York University Staff Association, www.yusapuy.org
YWCA of Metropolitan Toronto, www.ywcatoronto.org