

# Pay Equity: An Issue of Fairness

*A Supplementary Report submitted by the  
New Democratic Party of Canada*

After a successful Motion from the New Democratic Party of Canada, the Special Committee on Pay Equity was created to ‘conduct hearings on the matter of pay equity and to propose a plan to adopt a proactive federal pay equity regime, both legislative and otherwise.’

Since March 2016, the Committee has had a gruelling schedule, hearing from an exhaustive list of witnesses that included the Ministers responsible for Labour, Status of Women and Treasury Board, the co-chairs of the 2004 Pay Equity Task Force, expert witnesses, employers, unions, and individuals with experience in the administration and implementation of pay equity.

There was broad consensus among the witnesses that:

- **Pay equity is a human right, and should not be subject to collective bargaining.**
- **The current complaint-based system is not accessible to everyone and is costly and time-consuming for those who do have access – effectively denying fairness and justice through delays that can stretch for decades.**
- **Canadian women have been waiting too long for the right to pay equity to be realized and there shouldn’t be any further delays.**
- **We need proactive legislation to achieve pay equity, and the 2004 Task Force Report provides an excellent template for that legislation.**

While the committee report recommends that the government proceed with proactive pay equity legislation, we believe that the report does not accurately reflect the urgency expressed by many of the witnesses. It has now been 12 years since the Pay Equity Task Force submitted its report to the government and 11 years since the House of Commons Standing Committee on the Status of Women recommended that the government implement the report in its entirety, calling for proactive pay equity legislation by October 31, 2005. As Barbara Byers, Secretary-Treasurer of the Canadian Labour Congress, testified:

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

*Let us also be mindful that women have been waiting for longer than 12 years. We've been waiting for decades and decades, and while we wait, the debt owed to those who are caught in the wage gap continues to mount. These are women with children to raise, women who deserve a dignified retirement, and many are women who face multiple and intersecting forms of discrimination both in the workplace and in the community.*<sup>1</sup>

Instead of moving quickly to realize the right to pay equity, the committee report recommends that the government introduce legislation **eighteen months** after the tabling of the report. But as Robyn Benson, President of the Public Service Association of Canada testified, there is no excuse for delaying action: “There has been much discussion over the years. Now is the time for action. Now is the time for this committee to recommend – to urge – that the government act without delay and make proactive pay equity legislation a reality.”<sup>2</sup>

The Committee’s report is entitled ‘It’s Time to Act,’ but instead of urging action, the report urges delays. Most of the witnesses, however, recommended that the government act swiftly to introduce draft legislation, with many citing six months as a reasonable timeline.

Many of the witnesses spoke of the excellent work done by the Pay Equity Task Force and argued that the Task Force’s report, known as the Bilson report, presented an excellent model for the government to follow. Peter Engelmann of the Canadian Association of Labour Lawyers told the committee “There is no need to reinvent the wheel.”<sup>3</sup> Kate McInturff of the Canadian Centre for Policy Alternatives suggested that the Task Force “provided a comprehensive foundation for moving forward.”<sup>4</sup> Similarly, Byers called the report “the most extensive pay equity review that’s been done” and recommended “Let’s get on with the work that’s there.”<sup>5</sup>

In this context, further consultations and an extended deadline to introduce legislation only serve as a tool to delay justice for Canadian women once again. As Professor Margot Young of the University of British Columbia pointed out, “[T]alk 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.”<sup>6</sup>

But, to borrow an old expression, that’s not to suggest that talk is cheap. Indeed, talk is very expensive for the women who continue to be denied a fundamental human right. As Byers reminded the committee:

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<sup>1</sup> ESPE, Evidence, April 18, 2016

<sup>2</sup> ESPE, Evidence, April 18, 2016

<sup>3</sup> ESPE, Evidence, April 20, 2016

<sup>4</sup> ESPE, Evidence, April 20, 2016

<sup>5</sup> ESPE, Evidence, April 18, 2016

<sup>6</sup> ESPE, Evidence, April 20, 2016

*“Remember that every day you delay is justice denied, economically, for a lot of people out there. It makes a difference from the day they enter the workplace, and the things they try to accomplish for themselves and their families, and the day they retire. If you could talk to some of the women who’ve been affected when there has been a pay equity increase, then you would see it even more. Don’t delay, because if you remember the Bell Canada case, almost 16% of the women had died.”<sup>7</sup>*

Benson also reminded the committee of the human costs of our current, broken pay equity system. “It took 15 years to resolve our 1984 complaint against the Treasury Board. Our 1983 complaint against Canada Post wasn’t settled until 2013, literally 30 years later, and only after the Supreme Court was involved. We had former members in their eighties calling our offices, desperate to receive the money they were owed before it was too late. Sadly, I have to say that it was too late for some.”<sup>8</sup>

According to McInturff, there is also an economic cost for the country if Canada doesn’t move swiftly to implement pay equity:

*The cost of continuing to under-employ 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.<sup>9</sup>*

On the other hand, Professor Kathleen Lahey of Queen’s University told the committee there would be significant economic benefit to implementing pay equity immediately:

*...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.<sup>10</sup>*

Allowing the status quo to continue unnecessarily for another year and a half is to actively deny justice to women who have already been waiting for far too long.

Pay equity is a human right and Canadian women should not be made to wait any longer to see their human rights realized.

**Therefore, the New Democratic Party recommends that the federal government introduce proactive legislation on pay equity before the end of 2016.**

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<sup>7</sup> ESPE, Evidence, April 18, 2016

<sup>8</sup> ESPE, Evidence, April 18, 2016

<sup>9</sup> ESPE, Evidence, April 20, 2016

<sup>10</sup> ESPE, Evidence, April 20, 2016

## **Pay Equity Task Force Report**

The New Democratic Party is also concerned about the way in which the committee report dismisses a number of important recommendations from the Pay Equity Task Force. As witnesses noted, the Task Force's Report was the result of extensive study and received strong support. Barb Byers told the committee, "The recommendations of the task force on pay equity were the result of years of careful and comprehensive study and consultation, and were widely supported by labour and women's organizations. The work of the task force is the most significant and in-depth study on pay equity anywhere, and is recognized as such by the ILO."<sup>11</sup>

Similarly, Fiona Keith of the Canadian Human Rights Commission argued that from the perspective of the Commission, compared to alternative options "the task force's recommendations will likely lead to the most robust and most effective right to pay equity, both in terms of implementation and cost."<sup>12</sup>

It is therefore surprising and disappointing to see the committee report dismiss a number of the Task Force's recommendations, particularly when witness testimony before the committee provides no evidence of the need to disregard these recommendations. We are particularly concerned that some of the recommendations that the report argues should be ignored would have the effect of closing loopholes through which employers might be able to avoid actually implementing pay equity. The committee report also dismisses a number of recommendations that would require transparency from the employer throughout the process. And we find it totally unacceptable that the committee report should argue that a recommendation requiring that pay equity committees must be composed of at least 50% women is "too prescriptive" or "too onerous." After all, it is 2016.

Therefore, ***the New Democratic Party recommends that the federal government adopt the recommendations of the 2004 Pay Equity Task Force in their entirety.***

## **Public Sector Equitable Compensation Act**

Although the former Conservative government's regressive legislation on pay equity, the Public Sector Equitable Compensation Act (PSECA), has never been implemented, a number of witnesses testified that the existence of the Act was nonetheless having a harmful effect on the pay equity rights of public servants in Canada. Because of the Act, complaints about pay equity from the Public Service have been directed to the Public Service Labour Relations and Employment Board instead of to the Canadian Human Rights Commission.<sup>13</sup>

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<sup>11</sup> ESPE, Evidence, April 18, 2016

<sup>12</sup> ESPE, Evidence, April 18, 2016

<sup>13</sup> ESPE, Evidence, April 18, 2016

It is very disappointing, then, that the Liberal government did not take the opportunity to repeal PSECA when it introduced Bill C-4, which does repeal other pieces of damaging Conservative labour legislation.

***The New Democratic Party recommends that PSECA be repealed immediately.***

This will restore the right of women and their unions in the federal public sector to file pay equity complaints during the transition to a new, proactive federal pay equity regime. This should be done as soon as the government returns in September.

The New Democratic Party Caucus looks forward to reviewing the government's legislation for a proactive pay equity regime, and to working with Members of Parliament from all parties to eliminate wage discrimination for all Canadians.

*Respectfully submitted on behalf of the New Democratic Party*

June 9, 2016