

CUPE BC

SUBMISSION TO

FEDERAL PAY

EQUITY TASK

FORCE

MAY 1, 2002

In July 1999, The Vancouver Sun reported “Canada may be considered by the United Nations to be the world’s best country, but it still has a way to go to reach equality of the sexes”.

The experience of the 65,000 CUPE members in British Columbia would support that statement, and on behalf of those members I am here today to share those experiences and support the review of the Federal legislation.

In all sectors represented by CUPE, women make up a large proportion of our membership. In some they comprise a majority. The women who are CUPE members deliver critical public services. Despite the importance of the work these women do, it has been an ongoing struggle for CUPE to gain recognition for its real value.

The experiences shared here will include successes and failures in trying to eliminate wage discrimination through negotiations, human rights complaints, legislation, and provincial policy.

Negotiations

CUPE locals have achieved modest pay equity gains at the bargaining table over the past 20 years, but often Employers and/or their bargaining agents refuse to address the issue. In the Lower Mainland of Vancouver, the Greater Vancouver Regional District (GVRD) who negotiates for most municipalities and libraries, stated during the 2000 round of negotiations, Pay Equity was not a problem and it would not be dealt with.

In an effort to eliminate wage discrimination within wage structures, bargaining proposals to reduce or eliminate increment steps have been tabled. Five increment steps to reach the job rate is still the norm in predominantly female workplaces while in most predominantly male workplaces there is a probationary step and then the job rate or employees enter the workplace at the job rate.

CUPE has attempted to negotiate across the board wage increases as percentage increases only widen the wage gap. Although this is not a cost item to the employer, unions are rarely able to achieve even this small gain.

In the early 1990s, anticipating that the provincial government would soon enact pay equity legislation, the City of Victoria negotiated a pay equity plan with their workforce. This did not include their workers at the Greater Victoria Public Library. Jobs at the library are paid \$3 - \$8 per hour less than comparable jobs at the City of Victoria. As an example, the library worker who checks out your books gets paid \$3.52 per hour less than the attendant who checks your car out of the parkade. All of the job comparisons have been done; all that is left is for the City to fund the plan. With no legislation in BC, the City is no longer motivated to eliminate wage discrimination in this portion of their workforce.

Wage discrimination is a Human Rights issue and CUPE's position is that it is appropriately dealt with through law. International Human Rights Law requires that all women have access to equal pay. Government, both Federal and Provincial, have a role in regulating the workplace and has a responsibility to end all forms of discrimination. It is unacceptable that employees should be forced to take on their employers at the bargaining table to eliminate wage discrimination. Women who earn 73 cents for every dollar earned by a man cannot afford to nor should they be forced to take strike action to achieve a basic human right.

CUPE believes it is desirable for Pay Equity plans to be arrived at through the mutual agreement of the parties but it should be done away from the bargaining table and should not impact any gains made during the collective bargaining process.

HUMAN RIGHTS COMPLAINTS

In British Columbia, CUPE has 6 locals with active Human Rights Complaints that deal with pay equity. Human Rights law in British Columbia only provides for the guarantee of equal pay for similar work. Section 12 of the *B.C. Human Rights Code* does not allow a woman to file a complaint because she is paid less than a male co-worker but is doing different work that requires more skill and effort and creates more value. Section 12 does not address disparity in wages that is based on the fact that work that has been traditionally deemed to be "women's work" is valued less and paid less because women and not men do it.

As an illustration, in Janet Reid et al, the 100 complainants who perform police dispatch duties for the City of Vancouver cite that City of Vancouver fire dispatchers earn between \$22,000 and \$33,000 more per year. 97 of the 100 complainants are women. Men make up 100% of fire dispatchers. This complaint was filed over 10 years ago and remains unresolved. Application for Judicial Review of the Tribunal decision was filed in November 2001. The Tribunal dismissed the case when it found that the City of Vancouver was not the employer of the police dispatchers despite the following facts:

- City of Vancouver advertised the jobs in the newspaper
- Applications were accepted by C.O.V Human Resources Department
- C.O.V issues bi-weekly pay cheques
- C.O.V withholds income tax and submits to Canada Customs and Revenue Agency
- Training courses are provided by the City of Vancouver

These are just a few facts of a very complex case which, to date, has had 60 days of hearings and tens of thousands of pages of evidence submitted. During hearings, there were up to 17 legal and non-legal advocates in attendance for the employer. The purpose of this illustration is that the Human Rights complaint avenue to seek justice for wage discrimination is truly unavailable to most women.

The cost of pursuing a complaint is prohibitive. Employers will always have greater resources than their employees. The travesty is that in the case of Janet Reid, millions of dollars that belong in the wallets of the complainants has been spent on legal fees to defend the employers right to discriminate.

Another unseen cost to the organization is *rock-bottom* morale. The complaints are very discouraged with the process. To add further insult to injury, their employer is now introducing fire dispatch duties with no additional compensation and little recourse. This example further illustrates how the lengthy delays inherent in a complaints-based system.

The other five cases are identical and involve the cities of Burnaby, New Westminster, Coquitlam, North Vancouver, and Richmond.

Complaint-based legislation is not effective. Women are not just dealing with one issue in their lives but, rather, face multiple major barriers to economic equality. A single mother, for example, cannot afford to wait years to be paid equal wages for her work when she needs to feed her family now. CUPE BC encourages a pay equity law that promotes respect, not one that guarantees fear and vulnerability.

PROVINCIAL POLICY

Provincial Pay Equity Policy has been proven effective to the limited number of workers who fall under its guidelines, until recently. Pay Equity has been achieved in some sectors (colleges, universities) through Accords. These Accords are now vulnerable due to a change in provincial politics. Funding for pay equity settlements is also in jeopardy. Mutually agreed upon pay equity settlements that are being incrementally funded, taking into consideration the cost to the employer, are in jeopardy of not being funded to completion. This is unacceptable. If wage discrimination is determined to exist and an implementation agreement is negotiated, workers have a right to expect these agreements to be honoured. Political climate should not determine a workers' right to a workplace free from any discrimination and for this reason CUPE does not support Policy and voluntary compliance as an acceptable means to the end of wage discrimination.

LEGISLATION

The balance of my remarks will be in the area of why legislation is important and the criteria that CUPE BC believes must be covered.

Legislation is essential if wage discrimination is to be addressed in Canada. The history of advances in pay equity are outlined on the Task Force website. I'd like to begin my remarks in this area by raising the issue of attitudes. Nothing more clearly demonstrates the need for proactive pay equity legislation than the attitudes displayed in British Columbia over the past year when pay equity legislation was first enacted and then quickly repealed. The BC Business Council stated that BC's new pay equity law would contribute to BC's reputation as a tough place to do business. Then Liberal critic Geoff Plant called the new law "a goofball idea". These attitudes are insulting. When will it be

the right time to stop being unfair to women? It is not the responsibility of women to accept discrimination so British Columbia, or any other jurisdiction can be an easy place to do business.

CUPE BC supports the core principles of:

- Proactive, mandatory pay equity law
- Prohibiting discrimination by paying employees of one sex differently than employees of the other sex for performing work of equal value
- Pay should include wages, all benefits and perquisites
- Requiring that employers continue to maintain pay equity once it has been achieved and include how to cover the creation of new jobs, changes in job descriptions, and changes in employer
- Prohibiting the lowering of wages to achieve pay equity
- Including the right to find equivalent, outside comparators if there are no male-dominated jobs with an employer
- Prohibiting the lay off of workers to fund pay equity
- Staggered implementation deadlines
- Provides strong penalties for non-compliance

CUPE BC supports legislation that requires employers to review their pay practices to ensure that they are not discriminatory. The methods chosen to do this review must be free of gender bias. CUPE BC supports using skill, effort, responsibility, and working conditions as criteria for assessing value.

A proactive model ensures that everyone in the workplace is covered. No employee is forced to complain to get what they are entitled to.

Timelines

CUPE BC recognizes that for pay equity to be meaningful, legislation must provide for realistic and mandatory timelines for the development of plans, for implementation, and for wage adjustments. We believe that it is desirable for pay equity plans to be arrived at through the mutual agreement of employers and their employees/unions.

In order for timelines to be effective however, there must be a clearly outlined, real penalty for failing to meet them. Financial penalty for failure to meet mandatory timelines should be paid directly to employees involved.

It must also be mandatory to post plans in the workplace and to file plans with a government agency. Enforcement of timelines is critical to the effectiveness of legislation. One of the failures of Ontario's proactive legislation was that timelines were ignored, as there was no financial penalty for failure to comply.

Payments

Current federal legislation requires employers to pay any proven difference in wages based on discriminatory pay practices retroactively. CUPE BC supports the continuation of this practice.

Joint Participation

As mentioned previously, CUPE BC supports employers and their employees/union working together to arrive at a pay equity plan that will be effective for their workplace. Having said that we also support the following principles to guide a joint process:

- Union involvement at every stage of plan development – with full access to all relevant information
- The right of non-unionized employees to participate in plan development or to select an agent to represent them in pay equity development and through the dispute resolution process if agreement cannot be reached
- Paid time for employees who are engaged in the process, whether union or non-union

Dispute Resolution

CUPE BC does not have a position or recommendation on whether the Canadian Human Rights Commission should continue to be the agency to enforce pay equity or if a new, separate agency dedicated to pay equity should be established. Whatever avenue the Task Force recommends, CUPE BC would put forward the following position on dispute resolution.

- Whatever agency is given responsibility for pay equity, it must be adequately funded to ensure implementation, maintenance, and enforcement. This is the only way to guarantee effective access to justice.
- Employers, unions, and unrepresented employees must have the right to seek assistance or complain to a government agency. Given recent court challenges, the right of unions to carry out complaints must be clearly outlined.
- Strict time lines should be spelled out for every step of the process, including the right for the parties to proceed to the next level if the time lines are not met.
- There must be an independent pay equity tribunal. Pay equity is a specialized field that requires a trained expert and full-time tribunal to adjudicate pay equity disputes.
- Mediation should be an option for resolution.

Education

As expressed earlier, a major hurdle in the pay equity is attitudes. There remain myths and misunderstandings about what equal pay for work of equal value is. Because the issue is not understood, it is not seen as discrimination. Therefore, the elimination of this form of discrimination does not have the support that eliminating other forms of discrimination does.

It is critical there be consistent and accurate information available to everyone. Widespread and accessible education programs that place the pay equity struggle in historical and social context are an important part of achieving public awareness of pay inequity as a form of workplace education. Any education must extend to politicians and policy makers, many of whom are employers.

Funding and expertise should be provided for general education at the federal level on pay equity, sexism, racism, and human rights. CUPE BC supports the recommendation of the Canadian Labour Congress that government, as part of the process of amending and improving federal pay equity legislation, allocate funds to conduct a national equality education campaign. Funding must also be available for training to employers, unions, and employees in development and implementation of pay equity plans.

Other Actions Required to Close The Wage Gap

CUPE BC recognizes that pay equity addresses only part of the persistent wage gap between men and women. Other measures are desperately needed to eliminate barriers to economic equality.

Women head 83% of all single parent families. Affordable, accessible childcare is essential if these women are to provide for their families. Government's inaction on universal, affordable childcare must be reversed. Inadequate childcare holds women back from fully participating in the labour market. When examining women's economic equality, the issue of childcare must be taken seriously.

Access to education must be improved. Affordable post secondary and technical training is essential to achieving this goal. Affordable and accessible childcare goes hand in hand with access to education.

The minimum wage must be raised and should rise automatically with the cost of living. Workers have a right to live above the poverty line.

There are serious skill shortages in many occupations. As workers are laid off through re-organization, privatization, trade impacts, and government cutbacks, training and retraining options for displaced workers must be enhanced.

Unionization is an effective way to narrow the wage gap. The wage gap for unionized women is much narrower than the overall wage gap. We need labour laws that make it easier to join unions and guaranteed successorship rights that make it more difficult for employers to get rid of unions. Easier access to unionization will go a long way to closing the wage gap.

Access for women to the entire workforce, will only occur with the continuation of education and Employment Equity programs. A series of changes to strengthen Employment Standards, Labour and Human Rights Laws must also be made if there is to be serious progress made in achieving women's economic equality and security.

CONCLUSION

It is Time for Action on this issue. The Federal Government must take the lead and set a positive example that other jurisdictions can look to.

Women cannot be expected to continue to subsidize the economy by working for less than their fair share. Business and employers will reap the reward of providing workers with a discrimination-free workplace. Reduced worker turn over will result in higher retention, reduced costs associated with employee recruitment, and increased productivity as worker loyalty and morale rises.

Women will know they have achieved equality when they can put money back into the economy by purchasing food, gas, clothing, shelter and when they can afford to pay for childcare.

Women will have achieved equality when they can continue to upgrade their skills and education, can support manufacturers, retailers and service companies by purchasing their products and services and when they can buy the most nutritious food for their families.

Pay Equity is the keystone to these changes. As long as employers may legally discriminate against women in the workplace, there is no hope for equality in our society. The elimination of wage discrimination in Canada will never be achieved by individual complaints and forcing women to challenge their employers in court.

Amend the law to be proactive, with clear timelines, strong maintenance, enforcement measures, and a comprehensive education program.

We appreciate the opportunity to participate in this review and applaud the Federal Task Force for this public consultation process.

Colleen Jordan, Secretary-Treasurer
Canadian Union of Public Employees – BC Division

kl opeiu-491/G:\REPRESENTATIVES\ENGLISH, HEATHER\Working\Task Force Submissions\Federal Task Force Submission 2002.doc