

You may be wondering why I would appear before this committee two days in a row to discuss the need for proactive pay equity legislation. I guess there has been so much written on the subject, so much debate and so much research over the years that it's mind boggling that we still don't fully understand the urgency of getting on with the job.

While I am no longer in politics I have been following this file very closely and am proud to be a member of the Coalition for Pay Equity, an organization comprised of dedicated women and men who have brought the issue of pay equity to the forefront in a timely fashion. While I am a member of the Coalition and the NBWLA my comments today are personal. As I mentioned yesterday in my opening remarks some goals take more time than others to accomplish. For me Legislated Pay Equity remains one of the goals I will continue to fight for. So I will keep coming back at every opportunity that I have.

I was pleasantly surprised in June when I heard through the media that the government was referring bill 77, a private member's bill on pay equity to the law amendments committee and almost shocked when I heard that the committee was going to hold public hearings.

As you are well aware Pay equity was brought in the public sector in 1989 through legislation for Part 1 and in 1994 through negotiated adjustments in Part 2. It is my understanding that the government of the day of which I was a part of basically used the same tools to bring pay equity to Part 2 as they had in Part 1 of the public service but did not extend the legislation to Part 2.

While both parties agreed, union and government, to the process and the adjustments were made I don't believe any review was ever done to see whether this initiative was successful or not. There were certainly no mechanisms in place to do a proper review for either part 1 or part 2. It is in that context that the government decided to attempt pay equity in part 3 through the negotiation process and using a tool called the Hay system to do the job evaluations for the non unionized employees. While there were attempts made for part 3 and some adjustments made I don't believe that the negotiated approach was successful overall. And I don't believe that there ever was any discussions regarding Part 4 of the Public Service which includes Boards and Commissions. While the intentions of all parties may have been good at the time results in Part 3 are poor and we don't really know how effective pay equity was in Part 1 and 2. That is the result of a complaint based law and using the negotiation process to ensure pay equity.

Ten years have passed and we have yet do proper job evaluations and implement pay equity in part 3 of the public service. As I mentioned earlier the adjustments, which were made, were sporadic and not based on solid research. There are still no monitoring mechanisms in place nor is there an independent body in place to receive and deal with legitimate complaints. It is time to collectively take the bull by the horns wrestle this issue to the ground until we find a solution that is going to put a stop to the discrimination. That is why I'm here.

In keeping with my interest in this subject I had read excerpts from Hansard recording the comments of members of the Legislature when they debated Motion 9 on May 27, 2004. Motion 9 was asking the government to amend the Pay Equity Act to include all parts of the Public Service and urged the government to actively pursue an objective of ensuring that the Pay Equity

Act applies to the private sector.

While all members, including ministers who spoke on the motion, supported the principles of pay equity, it was clear that the government had not changed its mind about the need for legislation. I feel it's important, however, to point out that there has been some movement since 1999. While we are certainly not there yet, we are, as a result of the efforts of many here holding public hearings on this important issue in the legislature. I view this as a very important step, which hopefully, will pave the way to ending wage discrimination for New Brunswick women. In order to put the political background in perspective I would like to take a few minutes to talk about some of the comments made during the debate on motion 9 on May 27, 2004. I believe that's it's important to understand the decision making process.

Minister Poirier, who is responsible for employees in the public sector, spoke at great length on how effective the government's record was on achieving pay equity in the public sector. She implied that since it had worked so well in Part 1, which was legislated, that the remainder of the public service could achieve the same results through collective bargaining.

It reminded me of the interview that I heard on CBC information morning this summer during the hospital workers' strike -- where Minister Poirier was explaining the government's offer. The message was that this was a fair offer and she was hoping that the union would recommend it to its members. Then we heard the spokesman for the union explaining some of the roadblocks they were facing in their negotiations.

one of the main issues that the the government and the union disagreed on was the need for a proper job evaluation mechanism which would determine the value of the predominantly female classifications. As you well know, one of the cornerstones of determining equal pay for work of equal value lies in a choosing a proper job evaluation mechanism which is mutually agreed to by both the employer and the employees or their representatives. Arriving at mutually agreed upon effective gender neutral job evaluations is the key to putting in place proper wage adjustments. If you want to compare jobs of comparable value to each other, you have to assign the right value to traditionally female dominated job and traditionally male dominated jobs. Otherwise, you will not know whether they are of the same value. I am pleased to say that, in the end, the government did give in on that issue. Without knowing the details of the agreement I cannot predict what the outcome will be. But in my view the union won a very important point for pay equity for their members.

However it is clear that pay equity should not have to be negotiated. Negotiations imply that you are ready to trade something off. How do you negotiate a right which is enshrined in the Canadian Charter of Rights and Freedom? The other problem of using the negotiation process for achieving pay equity is the fact that not all women belong to a union. The right to pay equity should apply to all women no matter where they work or who they work for. Remember, there are 79% of women in the workforce who are not unionized. Where does the principle of negotiating pay equity leave them?

The other problem I see is that by not being proactive in dealing with pay equity with their own employees, governments are tacitly accepting that it is ok to discriminate against women employees as long as you can get away with it. What a message to send to the private sector! It is government's responsibility to end this discrimination as quickly as possible. As an

employer, it is also its responsibility to lead by example.

It is worthwhile to note that no members, including cabinet ministers, spoke against the principle of pay equity during the debate. After some interesting views from all parties however, the minister responsible for the Status of Women, Margaret Ann Blaney, moved an amendment which was seconded by the minister of Finance, Jeannot Volpe, which in effect killed the intent of the motion. If motion 9 would have been accepted by the Legislature it would have ultimately resulted in the enactment of legislation for pay equity in both the public and the private sectors.

Since New Brunswickers no longer have access to televised debates in the Legislature, I asked for a copy of the transcript of the whole debate. I was interested to see through the various comments how far the issue had evolved since 2003, and particularly to see whether the province was any closer to enacting legislation. I was also interested to see whether the round table report given to Minister Blaney in November 2003 would be part of the discussion. It was. In fact all ministers referred to the round table report recommendations in their remarks. When I read the Round Table Report I found it interesting.

I would encourage all New Brunswickers to get a copy and to read it in its entirety -- not just the recommendations. Otherwise they will never know that the findings in the report support a much more aggressive approach to finding solutions to pay equity. The issues are well presented, the evidence is clear, the relationship between a strong economy and the need for increased productivity of our total human capital is well articulated. The authors have given us a path that is obvious. However, the recommendations are divorced from the evidence and the urgency required to find solutions.

While knowing full well that only legislation will solve the discriminatory portion of the wage gap in a timely fashion the round table asks government to walk away from their responsibilities as legislators and rely on voluntary measures to achieve pay equity. The wage gap in New Brunswick is not about to be solved as long as governments, and that includes all parties past and present, keep increasing their credibility gap. In the authors own words, here is how they summarize their findings and conclusions.

"The elimination of the wage gap in New Brunswick will mean economic equality between men and women. It will also mean significant improvement in women's economic productivity, which is very good news for the province, and not a minute too soon. For us, this is the economic imperative for closing the wage gap".

You be the judge. When you know that enacting proactive legislation would at the very least solve 40% of your problem why would you recommend voluntary measures. Especially when you know that voluntary measures won't work. Every jurisdiction that has dealt with this issue acknowledges that if you leave the market place alone on this issue or if you leave loopholes they will find them and delay action for as long as they can. This was proven in Quebec. Acknowledged in BC by its one-person commission. And it was certainly made clear in Ontario by the Harris government. One would almost suspect that it's one way to buy time at the expense of women.

So again you might ask why is it that the round table does not recommend proactive legislation? I believe that it is a question of cost. Interestingly enough , nowhere in the round table report do we find the

issue of cost. Make no mistake -- there is a cost to pay equity. In part 1, I believe it was 12 million dollars at the time. In part 2, it was 2.8 million. I don't have the figures for the cost of the adjustments that were done in Part 3. Suffice it to say that in both cases women were footing the bill. It's about time the rest of society comes to the table and shares the load.

There is also a cost of not doing the right thing. Everybody shares that cost. The cost of poverty and all it entails is far greater than the cost of setting things straight once and for all. Women don't want charity. They don't want to depend on others for their livelihood; they want to be productive members of society. They want to earn a fair wage for their efforts. No more -- no less.

So far with one exception you have heard mostly arguments supporting proactive legislation as opposed to using voluntary measures to close the wage gap regarding wage discrimination. During the remainder of these hearings you may hear other arguments supporting voluntary measures. As I mentioned earlier however, you will probably not hear any arguments against the principles of pay equity. It's like the old saying everybody wants to go to heaven but nobody wants to die. You will probably also hear about the bottom line arguments. "We can't afford to do it."

You will probably also hear about the latest decision by the Supreme Court of Canada regarding pay equity and how the government of Newfoundland and Labrador was deemed justified in cancelling a pay-equity agreement with female hospital workers in 1991 because of a severe recession had swept over the province.

The province of Newfoundland reneged on a total payment of 24 million that was intended to cover the period 1988-1991. For some this might seem like good news. . . . A way out. . . . Justification for going slower. If this is possible!!!!!!!!!!!!!! A very devastating ruling for the women involved. Especially when the Supreme Court recognized that they was discrimination towards these women under s.15(1) of the Canadian Charter of Rights and Freedom and that their government owes them 24 million dollars.

The Supreme Court, in its ruling, warned governments that this was not to be seen as a precedent. In section 72 of the judgement, Court Justice Ian Binnie states "the Result of all this, it seems to me, is that courts will continue to look with strong scepticism at attempts to justify infringements of Charter rights on the basis of budgetary constraints." He goes on to say, " to do otherwise would devalue the Charter because there are always budgetary constraints and there are always other pressing government priorities."

He warned politicians, however, not to read the ruling as giving them carte blanche to breach the Charter for budgetary means.

I also would like to point out that the Attorney General of the province of New Brunswick was an intervener in this case supporting the position of the province of Newfoundland and Labrador. A position which if accepted by the Supreme Court of Canada would rule against the rights of the hospital workers who were mostly women. I find that disturbing to say the least. What a message to give to New Brunswickers. If ever we find ourselves in dire straights we would not hesitate to use the same tactics. How safe are our rights under the Charter in New Brunswick?

I would also remind both levels of governments that when the Courts ruled that municipalities in New Brunswick had no choice but to have their laws and by-laws available in both official languages both levels government came to the table to offer financial assistance to the municipalities who were affected by this judgement. We know that the government of Canada recognizes its commitment to the principal of equal pay for work of equal value and is a party along with the provinces to legally binding international covenants and conventions on pay equity. We also know that the Supreme Court of Canada acknowledges that the employees were discriminated against under s 15 of the Charter. The Supreme Court is also clear in that an infringement on a Charter right for budgetary reasons is very dangerous. So it is difficult to understand why assistance to help defray the 24 million was not sought through the federal coffers. It would not be the first time that a province would ask the federal government to assist in a crisis situation. If the politicians were afraid that this would create a precedent, in my humble opinion, the consequences of getting financial help from Ottawa on this issue would not be as far reaching as having the Supreme Court of Canada say that if you don't have the money you can be absolved from protecting women's rights. Regardless of Justice Binnie's warning to governments, I feel the Charter has been compromised by this decision.

RECOMMENDATIONS:

I would like at this time to reiterate the recommendations made by the New Brunswick Women's Association:

1. That the Legislature direct the government of New Brunswick to begin immediately to draft pay equity legislation, which is both proactive and inclusive.
2. That this legislation covers all employees in both the private and public sectors.
3. That an independent commission be set up in the next session of the Legislature to oversee the drafting of the bill and be tasked to recommend to government an implementation time frame, which is fair and equitable for both the employers and the employees.
4. That the government of New Brunswick use bill 77 as presented by the Coalition for Pay Equity as a framework to build a pay equity acts which will ensure that the wage gap due to discriminatory practices, estimated to be at least 40% of the total gap, is eliminated in a timely fashion.
5. That the legislation includes a mechanism, which will ensure that job evaluations for sectors where there is no comparable group, composed of predominately male employees are done. For example day care workers and home care attendants.
6. That the government of New Brunswick table the Round Table Report with its action plan during the next sitting of the Legislature and that it adopts all the recommendations dealing with measures to close the wage gap due to family responsibilities and job clustering.

CONCLUSION:

Again, I want like to thank the committee for having made it possible for me to make my views known. I realize that I have just touched on the highlights of this complex issue. However, I trust that at the end of this process you will have heard from many experts and people who have been fighting the cause for many years. You will be the privileged in the legislature because you will be able to advance this cause further than it has ever been done before in New Brunswick. What a legacy to leave your daughters! What a challenge as politicians! Remember Equal Opportunity. People still talk about it.

Hier lorsque nous avons entendu les employes de L'Universite de Moncton nous expliquer leurs situation plusieurs personnes n'en croyaient pas leurs oreilles. Voici une exemple d'un employeur qui croit a l'equite salarial sur papier seulement. Imagine le message lorsque nous avons un institution dont nous sommes tous fiere qui accepte de paye le personnel du soutient administratif un salaire inferieure aux personnes qui font l'entretiens menager et la peinture. Suite a la presentation le commentaire suivant a ete exprime « mais c'est une question de choix ». J'espere que personnes pense que la facon de regler le cas de l'iniquite des employees du personnel administratif de l'Universite de Moncton est que ces employes change d'emploi. Au lieu d'etre secretaire pourquoi pas etre consierge c'a paye mieux. Travailler dans une garderie c'a ne paye pas alors devenons mecahnicienne. Prendre soin des personnes a domicile c'a ne paye pas alors devenons chauffeur de camoin. Je crois dans la diversification. Je crois aussi que nous devons encourager nos filles et nos garcons de choisir des metiers non tradionnelles, Cependant il y a quelques choses de fondamentalement faux lorsque que ont devalorise les emploie tradionnellement femimin a ce point. Des emplois comme Huberte Gautreau le disais si hier que nous avons besoin. En fait des emplois de valeur inestimable pour la societe. Pensons a nos enfants et nos personnes ages.

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