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**Skill and Wages:
The Implementation of Equal Pay for Work of Equal Value in the
Federal Public Service**

by

Joseph David Shebib, B.A.

**A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of
(Master of Arts)**

Department of Sociology

**Carleton University
Ottawa, Ontario
March, 1992**

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**The undersigned recommend to the Faculty of Graduate Studies
and Research acceptance of the thesis**

**Skill and Wages:
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Equal Pay for Work of Equal Value
in the Federal Public Service**

**submitted by Joseph David Shebib, B.A.
in partial fulfilment of the requirements for
the degree of Master of Arts**

Thesis Supervisor

Chair, Department of Sociology

**Carleton University
May 8, 1992**

ABSTRACT

In 1985, Treasury Board Secretariat of Canada announced the formation of a Joint Union/Management Committee to recommend measures to implement equal pay for work of equal value in the federal public service. Five years later, Treasury Board unilaterally adjusted the study results and paid \$317 million in salary adjustments, one-quarter of the amount estimated by the union representatives. This thesis provides an empirical case study analysis of the equal pay study and argues that the actions of Treasury Board reflect its' hegemonic and regulative role as employer of the public service. The roles of the government as legislator and employer lead to opposing goals, one being legislation of equal wages for men and women, and the second, legislated spending control and wage restraint to reduce the federal deficit.

Acknowledgments

I thank those who participated in this study and my friends and colleagues who endured the trouble and fuss I made over the thesis. Special thanks to my thesis advisors, Dr. John Myles and Dr. Craig McKie for their consideration and advice provided in the preparation of this paper.

Dedicated to Gerald Fergella Shebib (1940-1990).

Arguments for sex equality rely on an assumption of equal natures which if treated equally will result in equal performance. If the possibility of distinct natures for the sexes is considered, we substitute the argument that men and women should be equally enabled to develop their different capacities so that their different performances will be both complementary and have comparable value. (Watson,1990:11-12)

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Introduction

October 1, 1991 was a cold day for those walking the strike lines and those waiting to get into their offices. The Public Service Alliance of Canada's first national strike would soon end. Workers expected the legislation ordering them back to work would soon pass through the federal government. The strike was based largely upon the federal government's decision to freeze wages for one year and to limit growth in the second and third year to three percent. It appeared to be a typical "working class" strike, pitting the interests for fair wages and working conditions of the unionized workers against the employer's attempts to reduce the wage budget. But on October 1st, eleven female members of the union were able to highlight one of the major issues which had been ignored by the employer during contract negotiations. These striking members entered the office of the Honourable Mary Collins, Minister responsible for the Status of Women (and the Associate Defence Minister) to protest her failure to represent the interests of women by promoting the full implementation of equal pay for work of equal value. They remained in the office for a little over 12 hours.

In 1985, the government had finally responded to its own legislation in the Canadian Human Rights Act passed in 1977. The federal government instructed Treasury Board officials to set up a joint committee comprised of representatives from each of the public service unions and representatives from Treasury Board. The mandate of the committee was to recommend a model designed to evaluate and implement equal pay for work of equal value for the federal public service.

The Equal Pay for Work of Equal Value study conducted between 1985

and 1990 by the Joint Union/Management Committee¹ for over 200,000 federal public service employees is an important event in Canadian social, political and labour history. The study sets an important precedent for future pay equity negotiations and studies in Canada. Unions, provincial governments, workers, business organizations and employers in both the public and private sectors have been closely watching the outcome of the implementation of equal pay for work of equal value at the federal level to assess the potential impact of legislation upon their jurisdiction.

This thesis provides an extensive review of the study and argues that the failure of the federal government to fully implement equal pay for work of equal value is part of the discrimination towards women by employers and the state. The attempt to eliminate the wage gap between women and men in Canada will not succeed until more fundamental barriers to women's full participation in the labour force are addressed. How can women and union organizations move from these experiences to action? The lessons learned from the struggle to implement equal pay for work of equal value indicate some of the opportunities for success for these groups; however, as Carl Cuneo (1990) has argued, the goal of reducing the wage gap appears to be no closer despite legislation existing for many years. It is now time to question some of the principles which have led groups to push for equal pay legislation. Indeed, what are the goals of equal pay for work of equal value legislation? Does it provide all women with an opportunity to appeal to a legislative solution to improve their economic position? Or, is equal pay for work of equal value one of many strategies

¹ Also referred to as the Joint Union/Management Initiative.

which may provide incremental improvements for some categories of workers?

The federal government acts in a variety of relatively autonomous ways to influence social and economic spheres. Its actions often depend upon the consideration of opposing interests and goals, such as equality versus competitiveness, social policies versus market forces, and spending versus fiscal restraint. Nonetheless, existing federal legislation for equal pay for work of equal value mandates that the federal government, as employer, must ensure its compliance with the legislation. However, the federal government has created the perception that spending control and fiscal restraint must dominate all of its actions, including social policies and the equality of wages.

What is it about the government's structure that makes it so difficult to implement equality legislation? The federal government is a complex organization of departments, each with its own mission and mandate which may not coincide with other departments. In the case of equal pay for work of equal value legislation, the legislation passed from departments concerned with enforcing equality rights (Canadian Human Rights Commission and Labour Canada, Status of Women) to one concerned with managing budget constraints (Treasury Board). Examining the early stages of the passing the legislation in Canada, I show how both women's groups and international declarations on women's equality encouraged the federal government to pass pay equity legislation. During the stage of interpreting the implications of the legislation, the Canadian Human Rights Commission, Labour Canada and Status of Women held hearings and consulted with Canadians on their views for the

implementation of the legislation. Treasury Board Secretariat, as employer of federal public servants, is required to adhere to federal labour codes and directions for implementing the equal pay legislation as interpreted by the Canadian Human Rights Commission. However, Treasury Board is also responsible for considering the budget constraints imposed by the department of Finance.

This study is useful because it allows for an examination of the struggles which emerge between actors: the state, unions, employers, and workers. Prior to announcing the study, the federal government appeared to be fully committed to implementing the legislation (and paying the price) for equal pay for work of equal value. However, the conclusion of the study lends support to an argument that the government wanted only to appease both unions and employees with a one-time minimal pay adjustment, excluded from either review or negotiation. The complexity of the legislation led both parties to seek out an expert consultant to implement the legislation. The final pay adjustments, however, were decided upon by the government rather than through negotiations with the unions and discussion with the consultant.

The five year study conducted by the Treasury Board Secretariat of Canada in co-operation with thirteen public sector unions and Norman D. Willis and Associates resulted in a final settlement of \$317 million to approximately 73,000 female federal public servants. The conclusion in January 1990 of the federal equal pay for work of equal value study provided a precedent which other jurisdictions may follow in order to implement the requirements of equal pay under section 11 of the Canadian Human

Rights Act. The research presented in this thesis shows that the process followed by the Committee is flawed, and as such, provides a blueprint for disaster for the future of equal pay for work of equal value in Canada.

Equal pay for work of equal value legislation is designed to address systematic differences between male and female wages. It is argued by some advocates that equal pay for equal work legislation has eliminated overt gender discrimination for those performing the same job; but, it is only by extending legislation to compare the value of jobs in female-dominated occupations so that they may be compared to male-dominated occupations that gender wage differences may be addressed.

The Joint Union/Management Committee was formed by the Treasury Board to implement the equal pay for work of equal value section of the Canadian Human Rights Act. During the first phase of the study, the committee selected a consultant to recommend and develop an evaluation methodology. The second phase combined a survey in order to evaluate the positions and statistical analysis in order to recommend actions designed to eliminate any existing wage differential.

The federal public service is one of the first public sector employers to implement equal value legislation in Canada, and up to 1992 is the largest employer to have implemented equal pay for work of equal value legislation in North America. The process by which unions and management came together to develop the methodology to evaluate occupations, the implementation of the evaluation methodology, and the eventual withdrawal of the key union participants from the pay equity study provides insights into the politics of management and labour relations.

The government is not solely to blame for the shortcomings of this attempt to implement pay equity. The failure of the unions to successfully mobilize around the study during its implementation allowed Treasury Board to seize control and decide upon the outcome of the study. In the period following the announcement of the wage adjustments, the Public Service Alliance of Canada has taken a number of steps to mobilize its members around the issue of full implementation of the study's results. With the partial wage adjustments in their pockets and announcements by Treasury Board of zero percent increase in wages for 1991, it is becoming increasingly difficult to maintain equal pay for work of equal value as a central issue for members.

Chapter 1 describes the methods used to collect data reported in this paper. I also provide a short review of perspectives on the state and their role in developing policies such as equal pay for work of equal value. In addition, the emergence of equal pay for work of equal value legislation in Canada is examined, in conjunction with changes in women's labour force participation rates, responses to international equality declarations and recent challenges to the value placed on the skill of women's labour. Chapter 2 introduces the union and management participants who initiated the equal pay for work of equal value study. Chapter 3 reviews phases one and two of the study. I show how during these phases the employer led the process of valuing the skill of women's work. Chapter 4 concludes the thesis with a discussion of the results of the study and presents an analysis of these events within a state-gender-labour-skill framework. Some observations will be made on the potential impact of this event for future struggles to improve women's labour market position.

Chapter 1. Introduction to Canadian State Policies

The purpose of this chapter is to introduce the reader to the issues raised by equal pay legislation - that is the role of state with respect to pay equity legislation and the measurement of skill. The role of the state as employer is at the core of the pay equity issue because the state both legislates and is first to implement this legislation for its own employees. The skill debate highlights the problems involved in implementing such legislation: although women's labour is skilled, it has not come to be highly valued through the wage system.

The first section of this chapter reviews international declarations and legislation that preceded the Canadian Human Rights Act of 1977 which formally legislated equal pay for work of equal value. In addition, the reader is provided with a brief overview of changes in women's labour force participation.

Since 1977 there have been a number of government committees and conferences designed to consider the implications of this legislation for Canada's labour force. Section 2 examines some of these responses by government departments to the legislation. During this period, government departments attempted to influence both the interpretation of the legislation and the methods by which that the legislation would be implemented. Section 3 provides the reader with an overview of two important theoretical and empirical issues raised in the consideration of equal pay legislation: first, the role of the state as employer and second, the nature of skill relative to its evaluation and comparison. The reader may be familiar with the discussions of the role of the state as legislator and legitimator of capital

accumulation. Here I add the state's role as employer as a significant influence upon its relations to its legitimation and legislative functions. I review some of the literature that has examined the nature of skill in order to provide the reader with the basic arguments regarding the social and power processes related to the valuation of skill. The chapter concludes with a brief description of my research methods and design of the study.

(i) Women in the Labour Force and Pressures to Implement Equal Pay Legislation

Whether by choice or need, women in Canada are more likely to participate in the labour force than twenty years ago. Tables 1 through 4 (from Statistics Canada, 1990) provide an overview of the changes in Canada's labour force. Table 1 shows that in 1988, there were over 5.8 million women in the labour force. Women's labour force participation rate has increased from 38.3% in 1970 to 57.4% in 1988. Despite the increased labour force participation of women, the earnings gap between men and women has remained.

Table 2 shows the earning gap for full-year, full-time workers for 1971, 1981 and 1987. While the earnings gap has closed over the years, these women were earning only 65.9% of male average annual earnings in 1987. The earnings gap appears to be related to educational attainment. As educational attainment increases, women's earnings as a percentage of men's earnings increases from 59.2% for those with less than grade 9 to 69.6% for those with a university degree. Table 3 provides further information on the earnings gap for full-year, full-time workers across

Table 1 - Labour force participation, by sex, Canada, 1970-1988

Labour force participation, by sex, Canada, 1970-1988					
	Labour force		Women as a % of labour force	Participation rate	
	Women	Men		Women	Men
	000s			%	
1970	2.824	5.571	33.6	38.3	77.8
1971	2.972	5.667	34.4	39.4	77.3
1972	3.101	5.797	34.9	40.2	77.5
1973	3.303	5.973	35.6	41.9	78.2
1974	3.477	6.163	36.1	43.0	78.7
1975	3.680	6.294	36.9	44.4	78.4
1976	3.836	6.368	37.6	45.2	77.6
1977	3.992	6.505	38.1	46.0	77.7
1978	4.239	6.657	38.9	47.9	78.1
1979	4.420	6.811	39.4	49.0	78.5
1980	4.638	6.935	40.1	50.4	78.4
1981'	4.849	7.051	40.8	51.7	78.4
1982'	4.916	7.009	41.2	51.7	77.0
1983'	5.057	7.052	41.8	52.6	76.7
1984	5.216	7.100	42.4	53.6	76.6
1985	5.365	7.167	42.8	54.6	76.6
1986	5.502	7.244	43.2	55.3	76.6
1987	5.679	7.332	43.7	56.4	76.6
1988	5.853	7.422	44.1	57.4	76.6

Source: Women in Canada. A Statistical Report. Statistics Canada, Catalogue 89-503E. p.78.

Table 2 - Average annual earnings of workers, educational attainment and sex, Canada, 1971, 1981 and 1987

Average annual earnings of workers, 1971, 1981 and 1987				educational attainment and sex, Canada,					
Educational attainment	Earnings of full-year/full-time workers ¹ in current dollars								
	1971			1981			1987		
	Women	Men	Women's earnings as a % of men's	Women	Men	Women's earnings as a % of men's	Women	Men	Women's earnings as a % of men's
	\$		%	\$		%	\$		%
Less than grade 9	3,732	6,722	55.5	11,126	18,425	60.4	15,077	25,454	59.2
High school ²	4,734	8,332	56.8	13,117	21,129	62.1	18,042	28,444	63.4
Some postsecondary	5,903	9,955	59.3	14,721	22,467	65.5	20,092	31,068	64.7
Postsecondary certificate or diploma	6,569	9,813	66.9	16,030	24,708	64.9	21,850	31,782	68.7
University degree	9,541	15,589	61.2	22,373	32,833	68.1	31,259	44,891	69.6
Total	5,232	8,770	59.7	14,615	22,931	63.7	21,012	31,865	65.9

Source: Women in Canada, A Statistical Report. Statistics Canada, Catalogue 89-503E. p.69.

Table 3 - Average annual earnings of full-year/full-time workers, by occupation and sex, Canada, 1981 and 1987

Occupation	1981					1987		
	Women		Men		Women's earnings as a % of men's	Women	Men	Women's earnings as a % of men's
	Current dollars	Constant (1987) dollars	Current dollars	Constant (1987) dollars				
	\$	\$	\$	\$		\$	\$	
Managerial and administrative	18,206	25,161	31,454	43,469	57.9	26,627	41,566	64.1
Natural sciences	18,795	25,975	27,654	38,218	68.0	26,460	37,962	69.7
Social sciences and religion	20,082	27,753	28,777	39,770	69.8	27,331	44,343	62.1
Teaching	23,159	32,006	30,293	41,865	76.5	31,941	40,903	78.1
Medicine and health	17,015	23,515	33,469	46,254	50.8	25,302	47,305	53.5
Artistic and recreational	15,632	21,603	21,187	29,280	73.8	22,379	27,359	81.8
Clerical	13,799	19,070	20,634	28,585	66.7	19,090	27,700	68.9
Sales	12,591	17,401	21,113	29,173	59.6	19,145	30,582	62.6
Services	10,807	14,935	18,826	26,018	57.4	13,420	25,378	52.9
Agriculture	8,117	11,218	13,926	19,246	58.3	14,157	18,447	76.7
Processing	11,543	15,952	21,144	29,221	54.6	18,359	29,205	62.9
Product fabricating	11,799	16,306	20,768	28,701	56.8	16,475	28,489	57.8

Source: Women in Canada. A Statistical Report. Statistics Canada, Catalogue 89-503E. p.101.

Table 4 - Employment, by occupation and sex, Canada, 1984, 1986 and 1988

Employment, by occupation group and sex, Canada, 1984, 1986 and 1988									
Occupation	Women			Men			Women as a % of employment		
	1984	1986	1988	1984	1986	1988	1984	1986	1988
	%								
Clerical	32.1	31.0	30.8	6.2	5.9	6.1	79.1	79.9	79.8
Services	17.9	17.8	17.0	10.5	10.4	10.0	55.5	56.2	57.0
Sales	9.6	9.7	10.0	9.5	9.6	9.2	42.7	43.3	45.9
Medicine and health	9.1	9.0	9.0	1.9	1.9	1.9	77.8	78.8	79.0
Teaching	6.0	6.2	6.1	3.1	3.0	2.9	58.8	60.9	62.2
Managerial, administrative	8.0	9.5	10.4	12.7	13.9	14.3	31.6	34.1	36.2
Product fabricating, assembling and repairing	4.7	4.5	4.2	11.5	11.4	11.4	22.9	22.9	22.5
Agriculture	2.7	2.5	2.2	5.9	5.3	4.9	25.2	25.8	25.8
Social sciences	2.2	2.2	2.3	1.3	1.3	1.3	55.2	56.8	58.4
Processing and machining	2.0	1.8	1.8	7.8	7.5	7.3	15.7	15.2	16.4
Artistic and recreational	1.5	1.7	1.8	1.8	1.7	1.8	39.0	42.5	43.8
Natural sciences	1.4	1.3	1.3	5.1	5.1	5.3	17.0	16.7	16.2
Materials handling	1.2	1.2	1.1	3.3	3.2	3.3	21.1	21.9	20.6
Other crafts and equipment operating	0.6	0.7	0.7	1.8	1.8	1.6	20.1	23.6	24.1
Transport equipment operating	0.6	0.6	0.7	5.9	6.1	6.1	6.8	7.0	7.8
Construction trades	0.2	0.2	0.3	8.8	9.4	10.0	1.8	1.7	2.1
Religion	0.1	0.2	0.1	0.4	0.4	0.4	15.6	23.5	18.8
Forestry, logging, fishing, hunting and trapping	.	.	.	1.4	1.2	1.3	.	.	.
Mining and quarrying	.	.	.	1.0	0.9	0.9	.	.	.
Total	100.0	100.0	100.0	100.0	100.0	100.0	42.3	43.0	43.8
Total employed (000s)	4,624	4,964	5,368	6,308	6,567	6,876	---	---	---

* Numbers too small to provide reliable estimates; as a result, columns may not add up to total.

Source: Women in Canada. A Statistical Report. Statistics Canada, Catalogue 89-503E. p.82.

occupational categories. There are some differences in the gap between occupations, ranging from 52.9% (in service occupations) to 81.8% (in artistic and recreational occupations). More recent data from 1989 tax returns show that in 1989 women earned 55.9% of what men earned compared to 53.6% in 1985. (Gibb-Clark, 1991:B3) Table 4 shows the distribution of men and women by occupational group for 1984, 1986 and 1988. While there has been some variation over this short time period, women clearly dominate clerical, service, medicine and health, and teaching occupations.

There have been a number of different forms of legislation in Canada in the area of equal wages for men and women. First, legislation for equal pay for equal work set out the principle that males and females doing identical work should receive the same wages. This legislation is limited in scope because many women are in female-dominated occupations without males performing identical work. Equal pay for similar work legislation provides that males and females with different job titles, but performing the same tasks, should receive the same wages. Again, this type of legislation is limited in that it fails to address discrimination between men and women performing slightly different tasks. Third, equal pay for work of equal value legislation sets out the principle that males and females with different job titles, tasks and work, but performing tasks of equal value, should receive the same wages. The value of an occupation is usually determined using techniques that evaluate skill, effort, responsibility and working conditions. The final phase of pay equity legislation not only prohibits pay discrimination between jobs of equal value, it also obliges

employers to evaluate pay practices and ensure that they comply with the legislation.

Equal pay for work of equal value legislation is intended to eliminate gendered wage discrimination by employers between occupational categories. The legislation is in its infancy in Canada and many jurisdictions appear to be waiting for the outcomes of other attempts to implement the legislation before embarking on their own evaluations. For those interested in further background discussion, Janet Lynn-Gillespie (1987) reviews economic theories and much of the history of equal pay for work of equal value.

Table 5 - Equal Wage Legislation by Jurisdiction in Canada.

Jurisdiction	Legislation	Act Refers to...	Equal work/ Value (criteria)
Federal	Canadian Human Rights Act (s.11) Canada Labour Code (s.38)	Salaries as well as other forms of compensation	Equal value - composite of skill, responsibility, effort and working conditions.
Alberta	Individual's Rights Protection Act (s.6)	Rate of pay	Similar or substantially similar work
British Columbia	Human Rights Act (s.7)	Rate of pay	Similar or substantially similar - skill, effort, responsibility
Manitoba	Employment Standards Act, Part IV (s.40)	Wages	Same or substantially the same job duties, responsibilities, services
	Human Rights Act - general (s.6)	Any term or condition of employment	Not specified
	Pay Equity Act	Any form of remuneration or benefit for work performed	Equal or comparable value - composite of skill, effort, responsibility and working conditions
New Brunswick	Human Rights Act - general discrimination (s.3)	Any term or condition of employment	Not specified
	Employment Standards Act (s.37.1)	Rate of pay	Substantially the same - skill, effort, responsibility and similar working conditions
	Pay Equity Act	Rate of pay (salary and compensation practices)	Pay equity - composite of skill, effort, responsibility and working conditions

Newfoundland	Human Rights Code (s.10)	Wages, benefits	Same or similar work under same or similar working conditions, similar skill, effort, responsibility.
Nova Scotia	Labour Standards Code (s.55)	Wages	Substantially the same work, requiring substantially the same skill, responsibility, effort, working conditions.
	Human Rights Act (s.11)	Conditions of employment	Not specified.
	Pay Equity Act	Rate of Pay	Pay equity - composite of skill, effort, responsibility and working conditions.
Ontario	Employment Standards Act (s.33)	Rate of pay	Substantially the same work, requiring substantially the same skill, responsibility, effort, working conditions.
	Human Rights Code (s.4)	Conditions of employment	Not specified.
	Pay Equity Act	Compensation	Pay equity - composite of skill, effort, responsibility and working conditions.
Prince Edward Island	Human Rights Act (s.7)	Rate of Pay	Substantially the same work, requiring substantially the same skill, responsibility, effort, working conditions.
	Pay Equity Act	Wages	Pay equity - composite of skill, effort, responsibility and working conditions.
Québec	Charter of Human Rights and Freedoms (s.19)	Wages	Equivalent work (i.e., work of equal value)
Northwest Territories	Fair Practices Act (s.6)	Rate of Pay	Similar or substantially similar work, job duties or services.
Yukon	Employment Standards Act (s.43)	Rate of Pay	Similar work under similar conditions, skill, effort, responsibility.
	Human Rights Act (s.14)	Wages	Equal value - composite of skill, effort, responsibility, and working conditions.
Saskatchewan	Labour Standards Act, Part III (s.17)	Rate of pay	Similar work, similar skill, responsibility, effort and working conditions.

Source: Labour Canada, Employment Standards Legislation in Canada, Ottawa, Ministry of Supply and Services Canada, 1989, pages 42-44.

Federal equal pay for work of equal value legislation emerged out of international declarations on pay equity and the history of our own labour markets and government intervention. During the First and Second World Wars the federal government proposed equal pay for work of equal value to encourage women to

perform work previously performed only by men. However, equal pay for work of equal value stopped with the end of the war and the return of a male labour force.

(Niemann, 1984:33)

International declarations and legislation remained the principle force compelling the Canadian federal government to adopt some form of equal pay legislation during peace time. Two international declarations, the 1919 International Labour Organization (ILO) Constitution, and the 1948 United Nations (UN) Declaration of Human Rights were major initiatives prompting Canada to respond through ratification and an action plan in the area of wages and employment.

(Swan, 1982: 119) Beginning in the 1950s, the Canadian provinces and territories began adopting equal pay legislation and in 1956 the federal government's Female Employees Equal Pay Act (Appendix 1), established equal pay for equal work legislation for those women working in occupations under federal jurisdiction. The law was added to the Canadian Labour Code in 1970 and covered approximately ten percent of the Canadian labour force within the federal jurisdiction.

(Ramkhalawansingh, 1979:130)

In 1970, the report of the Royal Commission on the Status of Women in Canada made numerous recommendations in the area of women in the Canadian economy, and in particular, equal pay for work of equal value legislation. The report was critical of Canada's failure to ratify the 1951 Equal Remuneration for Men and Women Workers for Work of Equal Value (Convention 100) of the ILO (Table 6).

218. Canada has not, however, ratified the International Labour Organization Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Convention 100). We believe that Canada should do this. Therefore, we recommend that a federal-provincial conference on labour legislation affecting women in Canada be called to prepare for Canada's ratification of the International Labour Organization Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Convention 100). (Royal Commission on the Status of Women in Canada, 1970:67) (bold in original)

The Royal Commission recognized that the ratification of Convention 100 would not necessarily have much impact on the wages received by women. To encourage both employers and the government to act, the report recommended substantial revisions to the conception and execution of equal pay for work of equal value legislation.

Comparing the recommendation of the Royal Commission to Section 11 of the Canadian Human Rights Act of 1977 there are many apparent similarities.

239. To ensure universal observance of equal pay for equal work in Canada, legislation is obviously needed that will be realistic enough not to demand unreasonable proof. We urge legislators to find a more appropriate way of defining the situation in which pay rates for women and men must be the same. In the meantime, we believe the United States Fair Labour Standards Act contains the most practical definition developed so far. It speaks of "equal work on jobs the performance of which requires equal skill, effort and responsibility and which are performed under similar working conditions." The present use in legislation in Canada of such terms as "same" and "identical" is much too restrictive. The term "equal" is more within the intent of the International Labour Organization Convention 100 which speaks of "work of equal value". We also strongly urge that legislation should recognize the responsibilities of unions as well as those of employers. (Royal Commission on the Status of Women in Canada, 1970:76)

It was not until 1972 that Canada formally ratified Convention 100, an international labour standard provision developed as part of the International Labour

Table 6 - Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and

Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one the following Convention, which may be cited as the Equal Remuneration Convention, 1951:

Article 1

For the purpose of this Convention—

- (a) the term "remuneration" includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- (b) the term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. This principle may be applied by means of—

- (a) national laws or regulations;
- (b) legally established or recognised machinery for wage determination;
- (c) collective agreements between employers and workers; or
- (d) a combination of these various means.

Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.

3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

Article 4

Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

Articles 5, 6 and 9-14: Standard final provisions (see appendix I).

Articles 7 and 8: Declarations of application to non-metropolitan territories (see appendix II).

Source: United Nations, Compendium of International Conventions Concerning the Status of Women, 1988, 63.

Organization's 1919 constitution and formally adopted in 1951 at the Equal Remuneration Convention. (Niemann, 1984)

The next legislative changes came in 1977, when the Canadian federal government passed the Canadian Human Rights Act (Appendix 2), which included legislation to eliminate discrimination in pay between men and women based upon the principles of the Equal Remuneration Convention of the ILO. Chapter H-6 of the Canadian Human Rights Act (CHRA) extends laws in Canada which proscribe the forms of discrimination which are not acceptable.

Section 11 prohibits employers from giving men and women (employed in the same establishment) different pay for work of equal value. In practice, this provision is interpreted as permitting comparisons to be drawn between the pay of men and women who are doing somewhat different jobs. Job value is assessed on the basis of a composite measure of skill, effort, responsibility and working conditions. Each occupation is examined according to the four components and an evaluation methodology is used to assign a score or value to the occupation.

In an interview conducted during the summer of 1991, the period following the passing of the CHRA was discussed with one of the union representatives:

The Human Rights Act was passed in 1977-78 and section 11 of the act made it illegal for employers to pay different rates of pay to people who performed work of equal value, or at least pay different rates of pay to men and women for performing work of equal value. So basically once that law was passed the federal government had an obligation I would say to implement pay equity; however, the federal legislation, section 11 of the Human Rights Act, doesn't have what we would call a pro-active component. There was nothing in the Act that set out a timetable that the government had to do that. So basically what happened after the Act

was passed, the government didn't do anything but various individuals and unions, particularly the Public Service Alliance started filing complaints saying the government was not providing equal pay for work of equal value. (Telephone Interview, 1991)

Despite Canada's adoption of international legislation during the 1950s and the inclusion of equal pay for work of equal value under the CHRA, there had still been no compliance to the legislation by employers other than a few grievance hearings responding to individuals or small groups, usually filed by unions. In the first half of the 1980s this started to change in response to election promises made by Prime Minister Brian Mulroney in 1984 and again in 1988. To fulfil these election promises a number of federal ministries including Labour Canada and Treasury Board began studying the legislation and examining its implications for workers within the federal jurisdiction early in 1984.

(ii) Response to the Legislation

There were four key groups involved in equal pay for work of equal value research at the federal level. Labour Canada held seminars and commissioned numerous working papers on the subject of equal pay for work of equal value. The House of Commons Committee on Equality was established and held hearings on issues including equal pay for work of equal value. Treasury Board began reviewing its options in the area of employee salary and classifications. Finally, PSAC filed wage and classification grievances under the CHRA, and these were becoming increasingly problematic for Treasury Board to defend.

The federal government was faced with the problem of legitimizing its commitment to an action plan (See appendix 4 for notes from the Convention on the Elimination of all forms of Discrimination Against Women) for equal pay for work of equal value. The adoption of UN and ILO conventions on wage discrimination meant that Canada was obligated under international agreement to address this issue. The delay of the government in implementing Section 11 of the Canadian Human Rights Act within its own jurisdiction was increasingly questioned.

In 1985, the House of Commons Sub-Committee on Equality Rights of the Standing Committee on Justice and Legal Affairs, chaired by Conservative Patrick Boyer along with members Pauline Browes, Maurice Tremblay, Roger Clinch, Mary Collins, Sheila Firestone and Svend Robinson, held over six months of hearings on the question of equal rights in Canada. Fifteen briefings were presented which dealt with equal pay for work of equal value. Briefs which mentioned the topic of equal pay for work of equal value were also presented by Bell Canada, Canada Labour Congress, Canadian Union of Public Employees, New Brunswick Telephone Company, and the Public Service Alliance of Canada. Representatives from Realistic, Equal, Active, for Life (R.E.A.L.) Women and National Citizens' Coalition presented briefs against any policy for employment and salary equity legislation.

Ms. Peggy Steacy, President of the British Columbia Chapter of R.E.A.L. Women, speaking before the Subcommittee in September of 1985, argued that equal

pay for work of equal value produced a "massive bureaucracy". As well, she stated

As time goes on and women are qualifying for better-paying jobs, all the inequities are going to be resolved. (Boyer (Minutes of Proceedings, Number 26), 1985:132)

Earlier in June of 1985, the National President of R.E.A.L. Women, Ms. Grace Petrasek, and other members of the organization appeared before the House Subcommittee and presented a similar brief which explains their position on the question of equality.

So what we want to make clear is that we want to make sure that in our search for equality, which all of us want, we will not eliminate the differences between male and female; that we want to eliminate anything that discriminates against women politically, legally or socially, and in business and the personal practice, but at the same time we want the definition of equality also to protect the differences between male and female. (Boyer, Number 17, 1985:36)

The final report of the Committee made only two recommendations in this area. The first endorsed the implementation of equal pay for work of equal value, and the second recommended a review of the existing legislation governing the principles and provisions for the implementation of equal pay for work of equal value.

67. We recommend that the Canadian Human Rights Commission pursue actively the implementation of equal pay for work of equal value performed by men and women working in the same establishment, as provided in section 11 of the Canadian Human Rights Act, in all areas under its jurisdiction.

68. We recommend that the federal government review the present provisions of section 11 of the Canadian Human Rights Act to ensure that the principle of equal pay for work of equal value is not unduly restricted by the present wording of the Act. (Boyer, 1985:114)

In 1986, on the thirtieth anniversary of the Female Employees Equal Pay Act, during one of many Labour Canada Seminars, the Deputy Minister of Labour

Canada, Jennifer McQueen, spoke of her concerns for the future of equal pay for work of equal value.

Much ink has been spilled in the press recently about the feasibility of equal pay for work of equal value. Concerns have been expressed about the potential costs, the impact on the market, and the administrative burden of pay equity. These are real concerns and obviously important factors that responsible business people must take into account. That is why we assembled a group of specialists, knowledgeable about equal pay for work of equal value, to explore various means by which it can be achieved. (Labour Canada, 1986:2)

The terrain for examining equal pay for work of equal value was thus established by Labour Canada. Specialists were gathered together to determine a suitable methodology for minimizing the costs of implementing a policy which would nonetheless achieve equal pay for work of equal value. Labour Canada established an Equal Pay Division and an Equal Pay Program to ensure that employers under federal jurisdiction complied with the Equal Pay section of the Canadian Human Rights Act. (Juriansz, 1989:23)

By 1986, the federal government had established the basic legislation and resources for implementing a study of the wage gap for federal public servants. While the principle of equal pay had been part of federal legislation since 1956, federal departments did not begin to examine the theoretical and empirical implications of the legislation until its implementation was made a priority following the election promises of the federal Conservative Party in 1984.

(iii) Theoretical and Empirical Issues Raised by Pay Equity Legislation

a) The State as Legislator and Employer

In addition to the precedents the state sets through the development and interpretation of pay equity legislation, it also plays a role as an employer in the implementation of that legislation. The Canadian public service is spread out amongst a number of departments coordinated by the Privy Council Office and directed by the Prime Minister's Office. Each department struggles to realize its mandate within a complex environment requiring the management of political, jurisdictional, legal, economic, social, environmental, cultural and other interests. The Minister responsible for the Status of Women may be concerned about the gendered wage gap in Canada, while the President of Treasury Board may be concerned about public service wage levels and union activities.

Sometimes one department may not be monitoring other departments actions that directly affect their interests. For example, four months after the PSAC strike, eleven women who had entered the Status of Women offices were invited back to discuss their concerns with the Minister. When asked why the Minister had failed to fight Treasury Board's court challenge of the Canadian Human Rights Tribunal jurisdiction in relation to equal pay decisions, the Minister was reported to have said that she did not realize that Treasury Board had taken such actions. As employer, Treasury Board had fulfilled its commitment to examine the wage disparity between men and women. As legislator and manager of government finances, Treasury Board appears committed to minimizing the scope and value of Equal Pay for Work of Equal

Value legislation. The failure of the Minister responsible for the Status of Women to be aware of Treasury Boards actions is either a blatant lie or a gross failure by her staff to keep the Minister informed of one of the most important issues for working women in Canada.

Not only does the government establish parameters, rules and laws enabling groups (such as unions) to act, it also shapes and implements public and economic social policies. One of the interesting dilemmas for advocacy groups and government departments is promoting and implementing the decisions made by politicians. In this case, the struggle by PSAC and advocacy groups has been to place pressure upon the various government departments to act on the laws and declarations signed by politicians.

In the 1980s the federal government decided to introduce and promote legislation to eliminate structural systems of gender and race discrimination, both in the interest of workers and employers. Perhaps the government's intention as legislator was to level the playing field of the free labour market, organize competing fractions of the working class, or reduce potential criticism of the state for failing to address market inequities. But in addition to being a legislator, the public sector is also a major employer. These dual roles, employer and legislator, may lead to contradictions in goals that, in turn, shape the actual outcome of specific legislation.

While the legislative branch of the federal government may act to reduce labour market inequities, the employer branch of the government may have strong incentives to perpetuate inequities since the effects of implementing a desirable social policy may

impede achieving other objectives such as fiscal restraint. In the current public service environment, unions and management meet on a playing field where the government not only writes the rule book but continues to revise the rules to fit its thinking of the day. By examining the experiences from the implementation of the legislation, we can gain a better understand of how government can change the impact of legislation to meet their own agendas.

b) Worker Control and Skill

Equal pay for work of equal value legislation requires the use of a job evaluation methodology which examines working conditions, effort, responsibility and skill. The first three factors are relatively objective measures of work environment; however, the concept of skill as the following literature review shows, is a highly contentious one.

Braverman's Labour and Monopoly Capital (1974) renewed interest in the struggle between employer and employee for control over the labour process and the concept of skill. Although his analysis focused upon an idealistic notion of the traditional skilled craft worker, it did raise the concern that labour in general was losing its value as a result of a reduction in the variety and complexity in the skills required to work. The reduction of task complexity in craft labour was considered

one of the key consequences of capitalism and development. According to Braverman (1974) :

The breakup of craft skills and the reconstruction of production as a collective or social process have destroyed the traditional concept of skill and opened up only one way for mastery over labor processes to develop: in and through scientific, technical, and engineering knowledge. But the extreme concentration of this knowledge in the hands of management and its closely associated staff organizations have closed this avenue to the working population. What is left to workers is a reinterpreted and woefully inadequate concept of skill: a specific dexterity, a limited and repetitious operation, "speed as skill", etc. (443-444)

Braverman argued that a reduction in the degree of craft labour in the occupational structure indicated a more general reduction in the skill of the entire labour force.

Deskilling refers to a shift in the occupational structure from highly skilled occupations towards lower skilled occupations such as those found in the service economy. (See Paul Attewell (1987) for a review of the deskilling debate.) The deskilling process is a multi-faceted historical event occurring over time which is part of the outcome of capitalist labour markets. Given the low value assessed to the skill required for many of the tasks performed by women, the impact of deskilling and changing occupational structure have a profound impact upon women's experiences of the labour market. Any strategy designed to reduce gendered wage discrimination will have to take into consideration the occupational segregation of women into occupations whose skills are undervalued.

Changes in the structure of Canada's occupations have important consequences for social and labour policy. (Discussed in the Employment and Immigration Canada

publications under the title of Success in the Works, 1989) With the increased representation of women in the labour market and the changing nature of the labour process there has been a shift in the types of skills sought by employers. Skill refers to both real attributes and social constructs. As a result, state policy that attempts to address inequalities in the labour process has to deal with a complex set of relations.

There are numerous theoretical explanations of women's subordination in the labour process (Armstrong and Armstrong, 1990; Game and Pringle, 1983; Phillips and Phillips, 1983; Walby, 1986; Krahn and Lowe, 1988; Walby, 1988). Most of the theories examine the issue from the perspective of how historically women's work was defined and why their economic position in the labour market has not significantly improved. One issue for those advocating the principle and legislation of pay equity is fairness. It is argued by advocates that it is only fair that employers examine their wage system and eliminate gender discrimination. In addition, it is unfair for the government - as employer and legislator - to retroactively change or interpret pay equity legislation in a manner which minimizes the pay adjustments and the value of women's skills. Jane Gaskell (1983) provides an analysis of historical struggles of occupations to obtain a skilled label. For example, Gaskell argues that apprenticeship programs have lengthy training periods and mechanisms which exclude women from entry, while clerical occupations tend to have short training periods and are easily entered, thus creating different systems for screening entrants. Gaskell concludes that it is the collective power of the incumbents of an occupation that is a significant factor in ensuring that a "skilled" label is assigned to the work that is performed. The

implication of much of the research on skill and work is that women will have to struggle to have their work valued in common with the work predominantly performed by men. In order for this to occur, systems of anti-discrimination need to be in place to allow women, regardless of race, religion, marital status, education and so on, to meaningfully participate in the labour force with adequate compensation.

Women's groups and unions have not been silent on the issues of wages and gender discrimination. Their actions have had both political and ideological effects which have changed the way women work in Canada. (Burawoy:1985) For example, there are a number of case studies which have looked at labour market processes and examined the interaction of technology and skill. G.S. Kealey (1986) examines worker struggle between 1820 - 1920 in the printing industry. Kealey argues that union and worker resistance reduces the negative impact of technological innovation. But the success of male dominated unions has often come at the expense of female workers performing lower paying work. The negative impact upon women of male domination of certain professional occupations is revealed in the history of women's clerical occupations.

Graham S. Lowe (1986) examines the effects of the mechanization and feminization of clerical labour in Canada. Lowe argues that mechanization and feminization combined to "form a new subordinate class of clerical functionaries, relegated to the most routinized and mechanized tasks - a trend that still persists today." (1986:199) The occupational segregation of women in clerical occupations permit the unequal treatment within this distinct occupation allowing employers to

reduce labour costs for these workers. Lowe (1987) explores the historical factors related to the feminization of clerical work.

The sex-based division of power and inequality that came to define the social organization of the office depended on specific jobs acquiring either a male or female label. Sex-linked characteristics have long determined employment eligibility. Such labels are an integral part of the ideological apparatus of a patriarchal society, justifying the exclusion of women from areas of male privilege and subordinating them in less desirable jobs. (Lowe, 1987:83)

Alfred A. Hunter (1988) utilizes a data set of 1,697 men and 2,323 women to "examine skill changes in the occupational structure of entry level jobs in Canada, circa 1930-80." (Hunter, 1988:753) Hunter chooses eight indicators of skill: cognitive complexity, task diversity, responsibility, verbal activity, persuasion, gross motor activity, fine motor activity and creativity. (Hunter, 1988:756) Hunter observes:

The results suggest that these changes have raised the demand for cognitive or intensive skills in entry-level jobs, but caused no rise or fall in the demand for responsibility. The changes have also raised the demand for occupations requiring verbal activity and lowered it for those involving gross motor activity, while the demand for creativity has neither risen nor fallen. Finally, for men, the demand for persuasion has increased and that for fine motor activity has decreased, while, for women, the demand for task diversity has increased. No downgrading thesis is consistent with the evidence on the historical transformation of skill and responsibility requirements for entry-level jobs in the Canadian occupational structure. (1988:763)

(iv) Design and Methods: The Case Study Approach

This thesis is based on an extensive interview schedule with many of the key participants in the pay equity study, access to information requests in order to review confidential government records on the pay equity study, and a review of Canadian

and international literature on equal pay for work of equal value. There have been a few case studies of Canadian equal pay for work of equal value legislation, but these have been rather theoretical and historical in nature, and none have seriously examined federal pay equity legislation nor its implementation. (Lewis:1988; Burkart:1990; Cuneo:1990; Neale:1990) However, there have been a number of empirical cases studies conducted on the implementation of comparable worth legislation in the United States (Gold:1983; Cowley:1984; Kim:1989; Acker:1990; Jacobs:1990; Killingsworth:1990) and Australia (Michael et al:1989; Watson:1990; Killingsworth:1990) that have provided valuable insights into the global politics of gender and wages in the battle for equal pay. Interestingly, some Australian academics consider the Canadian model of legislation to offer the most effective design -- because of legislation in the Canadian Human Rights Act, the role of the Canadian Human Rights Commission in enforcing the legislation, the Commission's guidelines on implementing pay equity, and the use of negotiation and conciliation to settle salary adjustments. (Women's Bureau, Australia:1991)

During the research phase of this paper, I contacted the key participants involved in the pay equity study including members from the unions, government departments and some of the women receiving pay adjustments. The pay equity study covered a period of five years (1985-1990) of activity and crossed over a number of government and union departments. Attempts to contact these participants were made between May of 1990 and June of 1991. Face-to-face interviews were conducted with many of the union officials, public servant staff, and evaluators from the study.

Telephone interviews were conducted with staff from Labour Canada, Treasury Board Secretariat and the Canadian Human Rights Commission.

The search for information on the Joint Union and Management Committee was a slow process at first. In May of 1990, Treasury Board officials were preparing a response to the Public Service Alliance of Canada grievance that had been filed with the Canadian Human Rights Tribunal. Treasury Board and Labour Canada officials were reluctant to discuss specifics of the study; however, they provided general information which allowed follow up Access to Information Requests to be made to departments. Under the Canadian Access to Information Act, federal departments must release records pertaining to requests made by the public. The disclosure of information is provided as a right of access; however, material labelled as "advice, recommendations, deliberations and plans" are exempt from access. As a result, I can only speculate on the information that was not made available under the requests. The majority of the material I received described the history and methodology used by Treasury Board to determine the salary adjustments. No material was released explaining the reasons Treasury Board unilaterally reduced the salary adjustments, and no records have been released detailing their strategy to enact new legislation limiting the final ruling of the Canadian Human Rights Tribunal.

Finally, I relied upon the publications from the Public Service Alliance of Canada (PSAC) for much of the background material on the study. PSAC has been active over the course of the study in reporting to its members the status of the committee and results of the evaluation.

(v) Conclusion

The purpose of this chapter has been to introduce the reader to the significant role played by the state as employer and the impact the state has in its role as legislator. Women have increased their numbers in the labour force, from 2,824,000 in 1970 to 5,853,000 in 1988. The majority of women are found in occupations such as clerical (30.8%), service (17%), sales (10%), medicine and health (9%), administrative/ managerial (10.4%) and teaching (6.1%) as recorded in 1988. Women are skilled, and women are performing skilled work. The problem, and the key issue that women must address, is that the wages women receive do not compensate them for the skills they bring to the labour force.

Equal pay for work of equal value legislation began as part of international declarations for labour groups interested in the equality of male and female workers and their wages. Canada's adoption of such legislation started formally in 1956 with the assent of the Female Employees Equal Pay Act but it was not until 1977 when section 11 of the Canadian Human Rights Act adopted the principle of work of equal value in order to assess equal wages for male and female employees. The 1977 legislation left many issues unanswered, and left the government with the principle role of developing the methods to be used in order to assess the value of an occupation. The next chapter examines the period between 1977 and 1985 during which the federal government reviewed its options in regards to the implementation of equal pay for work of equal value legislation for the federal public service.

Chapter 2. Getting it Started

Section 11 of the Canadian Human Rights Act defines pay equity, explains how pay is defined and describes the conditions that constitute discriminatory pay practices. The Guidelines released by the Canadian Human Rights Commission describes how to implement Section 11 and how to assess the value of occupations. The value of occupations must be evaluated on the basis of their skill, responsibility, effort and working conditions in order to compare male and female occupations and their relative wages. Therefore, the implementation and management of an equal pay for work of equal value study is key when examining the impact of the legislation and the outcome of a particular study.

In 1985, the government finally responded to its own legislation in the Canadian Human Rights Act. Treasury Board officials set up a joint committee comprised of representatives from the public service unions and Treasury Board. The mandate of the committee was to recommend a model designed to evaluate and implement equal pay for work of equal value for the federal public service. This chapter examines the process of getting the legislation implemented, starting with a discussion of the complaints initiated by the Public Service Alliance of Canada (PSAC) to the Canadian Human Rights Commission (CHRC) which no doubt embarrassed or at least encouraged the federal government to respond in a meaningful way to its own legislation.

The second section describes the establishment of the Joint Union and Management Committee and reviews its membership. The complaint process followed by PSAC reinforced the need for further direction in interpreting the relevant sections of the Canadian Human Rights Act. The third section discusses the Equal Wage Guidelines released by the CHRC in 1986 and provided further guidance on how the equal pay for work of equal value legislation was to be evaluated and implemented. As well, some of the concerns that have been raised regarding the implementation and evaluation of pay equity are raised. This section also introduces the reader to the process of hiring consultants who were to evaluate and recommend salary adjustments. The chapter concludes with a description of how the Joint Union and Management Committee went about selecting a consultant to conduct their study. The selection of a consultant is an important step since each consultant presents a different methodology to evaluate the female-dominated and male-dominated occupations. In addition, the selection process may allow the employer to exert its power in order to bias the study by selecting a consultant whose methods may favour lower salary adjustments.

(i) Unions, PSAC and Legislation

Equal pay for work of equal value legislation under the Canadian Human Rights Act relied upon the complaints of either an individual or group alleging differences in wages for an occupational group composed predominantly of one sex. The Public Service Alliance of Canada (PSAC) has actively pursued equal pay for

work of equal value, specifically for the 47% of its female membership. (Millar, n.d.)

Between 1979 and 1989, PSAC filed 17 complaints against the Treasury Board.

(PSAC - Equal Pay for Work of Equal Value: No Small Change, 1989)

In his presentation in 1985 before the Sub-Committee on Equality Rights, Daryl Bean, National President of PSAC described the implications of the Canadian Human Rights Act and the role of PSAC in filing grievances on behalf of its female members.

With regard to the Canadian Human Rights Act to start with... we have had to initiate several equal pay for work of equal value complaints within the federal government. We have found that, first of all, to initiate them, takes a very extensive amount of work and an extensive amount of comparison with other groups. We have been very successful with the ones that we have initiated, dealing with the library science versus the historical research group, the general service employees group, the engineering group, etc., but it has always been the union which initiated these. (Minutes of Proceedings, no.25, 1985:92)

A union representative spoke about the history of these grievances leading up to the announcement of the 1985 study.

The first complaint on behalf of the library science group was filed right after the (Canadian Human Rights) Act was passed and from that time until the government announced the study there were a variety of complaints filed against the federal government, and in December 1984 the Public Service Alliance filed a complaint on behalf of the Clerical and Regulatory group. About 50,000 clerks in the federal government and the complaint was comparing them to the program administration group, there were about 25,000 people in that group. So that meant that in the investigation of the complaint, somebody was going to have to look at 75,000 federal public service jobs. We don't think its just coincidence that complaint was file in December 84, and in March 1985 the government announced that they were going to do a study on equal pay in the public service. (Telephone Interview, 1991)

The Public Service Alliance of Canada has filed a number of complaints on behalf of the occupational groups in its membership. For example, PSAC filed a complaint on behalf of the General Services category of food service, laundry services and miscellaneous personal services sub-groups in November of 1979. The complaint alleged that the sub-groups earned thirty percent less than male-dominated General Service comparison sub-group. The grievance was settled on March 1982 and 2,900 employees received an average retroactive wage adjustment of \$5,000. (PSAC, No Small Change, 1989:3) A summary of the other complaints filed by PSAC is provided in table 7.

Table 7 - PSAC Pay and Classification Grievances

Complaint Group	Date Filed	Date Settled	Complaint Population	Complaint Resolution
Library Science	February 1979	December 1980	LS Group, 470 employees, 65% female	Upheld with wage adjustments retroactive to April 1, 1978
Registered Nursing Assistants	December 1980	December 1982	RNA, HS-PHS-5, 280 employees, all female	Upheld, all RNAs reclassified from HS-PHS-5 to 6
Hospital Technician Sub-Group	February 1981	June 1982	EG-NOT, 376 employees, 51% female	CHRC rejected complaint because the group had not been consistently gender dominated
Hospital Services	September 1981	May 1991	HS Group, 2,600 employees, 58% female	Upheld with retroactive wage adjustments.
Clerical and Regulatory Group - Canada Post	August 1983	outstanding - PSAC filed grievance in February 1991	CR Group, 2,316 employees, 81% female	CR group received retroactive and wage adjustment in January 1990
CR Group - Administrative Support Category of Correctional Services Canada	July 1984	outstanding - PSAC filed grievance in February 1991	CR employees required to train and supervise inmates	CR group received retroactive and wage adjustment in January 1990
General Technical Group	June 1984	September 1985	Two female GT group Officers	Reclassification and retroactive wage adjustments.
Clerical and Regulatory	December 1984	outstanding - PSAC filed grievance in February 1991	CR Group, 50,000 employees, 80% female	CR group received retroactive and wage adjustment in January 1990

Fisheries Technician	September 1985	outstanding	Differential treatment of a female Fisheries technician	Delayed by question of CNRC jurisdiction.
Administrative Services Group	July 1986	outstanding	7 female members of AS Group	outstanding
Data Base Manager	July 1986	outstanding	Female Data Base Manager work is under valued	outstanding
Administrative Support Category	February 1987	outstanding	AS category, 24 employees, 88% female	outstanding
Nursing Aides	October 1985	September 1988	88 Nursing Aides primarily female	Equal value complaint upheld, retroactive wage adjustment
Library Assistant Sub-Group	March 1989	outstanding	15 employees, 100% female	outstanding
Female Clerical And Regulatory employees	September 1989	outstanding	CR group, 48,683 employees	outstanding
Female Occupational Groups	March 1989	outstanding	Approximately 1200	Joint study to be conducted with Government of the Northwest Territories

Source: Based upon case studies described in: PSAC, Equal Pay for Work of Equal Value: No Small Change, December 1989.

(ii) The Joint Union/Management Committee

It was not until March 8, 1985, that the Joint Union/Management Committee was commissioned by the government to recommend methods of implementing Section 11 of the Canadian Human Rights Act (CHRA) in the public service of Canada. PSAC was the key union representative in the joint committee with over 170,000 members (47 percent of which are women). PSAC represented over eighty percent of employees involved in the study. As a result, PSAC had the largest interest in shaping the equal pay for work of equal value initiative and ensuring a successful outcome for the employees (see Table 8).

In 1985, PSAC representatives theorized that the union and management committee was formed in response to the Conservative's election promise to support the concept of equal pay for work of equal value. They believed that the government

Table 8 - Union Participants in the Joint Union/Management Committee

Union	Total Membership	% of Female Members
Public Service Alliance of Canada (PSAC)	170,000	47.0
Professional Institute of the Public Service of Canada (PIPS)	19,188	20.1
International Brotherhood of Electrical Workers (IBEW)	3,074	1.3
Economists', Sociologists' and Statisticians' Association (ESSA)	2,414	20.8
Canadian Air Traffic Control Association (CATCA)	2,244	3.5
Canadian Merchant Service Guild (CMSC)	1,517	4.6
Federal Government Dockyard		
Trades and Labour Council (FGDT&LC) (East)	1,476	0.2
Professional Association of Foreign Service Officers (PAFSO)	1,259	13.9
Canadian Union of Professional and Technical Employees (CUPTÉ)	1,216	51.2
Canadian Association of Professional Radio Operators (CAPRO)	1,209	6.9
Council of Graphic Arts Unions (CGAU)	1,127	36.6
Federal Government Dockyard		
Trades and Labour Council (FGTD&LC) (West)	789	0.5
Aircraft Operations Group Association (AOGA)	538	3.7

Source: PSAC, Equal Pay. It's the Law!, 1990, 6.

was finally responding to their many grievances and ending the problem of unequal pay once and for all. One informant from the union side described one of the chief concerns raised during the initial stage of the study:

Well I think there are a whole lot of things all the way through the study that, you have to go back to the very beginning of the study, you know the complaints against Treasury Board while there were a few filed by individuals but basically the complaints were filed by two unions, the Public Service Alliance and the Professional Institute which represent most of the/ all of the female dominated groups as they were then defined in the public service. There are roughly 13 unions that represent people in the public service and the rest of those unions are really heavily male dominated, almost exclusively male members. By inviting all of those unions to participate basically as equal partners in the study in spite of the fact that the Alliance and the Professional Institute represent the vast majority in terms of numbers too of membership, and the male dominated unions are very small, they certainly in our view were diluting the interests of the unions that were really interested party with a lot of other unions, for whom, to put it mildly, pay equity was not an issue. (Telephone Interview, 1991)

Despite this concern, PSAC could not risk alienating itself from the other unions participating in the study. The first phase of the study would proceed once the Committee was able to review the Canadian legislation and select a consultant to assist in its implementation. The Canadian Human Rights Commission provided some guidance for the Committee in 1986 by releasing further interpretations of Section 11 of the Canadian Human Rights Act which outlined some general guidelines for implementing equal pay for work of equal value.

(iii) Equal Wage Guidelines

The Equal Wage Guidelines (Canada Gazette Part II, 1986, Vol. 120, No. 25), developed by the Canadian Human Rights Commission, outline the application of section 11 of the Canadian Human Rights Act and prescribe factors justifying different wages for work of equal value. (see Appendix 3 for the complete text of Equal Wage Guidelines)

Skill is assessed according to "intellectual and physical qualifications acquired by experience, training, education or natural ability". (Equal Wages Act, s(3)) Effort consists of "intellectual and physical effort" (Equal Wages Act, s(5)), while responsibility is measured according to "the extent of responsibility by the employee for technical, financial and human resources" (Equal Wages Act, s(7)) and finally working conditions by "the physical and psychological work environment, including noise, temperature, isolation, physical danger, health hazards and stress." (Equal Wages Act, s(8)) Most important, the Equal Wages Act states that the method of assessing value of work must be free of gender bias, measure value of work of all jobs in the work establishment, and assess skill, effort, responsibility and work conditions according to sections 3 to 8 as discussed above. (Equal Wages Act, s(9))

The Canadian Human Rights Commission has identified a number of "reasonable factors" that may justify differences in what men and women are paid, such as different performance rates, seniority, temporary training, and labour shortage resulting in premium wages to attract workers.

(iv) Methodology and Legislation

Despite the guidelines, Canadian federal legislation provides few details for evaluating the value of an occupation. As a result, the selection of an evaluation methodology has become part of the negotiations of control and power between labour and business. And because of this, the process of implementing equal pay legislation provides an opportunity to examine the relations between worker and employer.

Ronnie J. Steinberg (1984) reviews the status of job evaluation methodologies in the United States. The author argues that comparable worth is a "natural outgrowth" of equal opportunity policy and links comparable worth with both issues of class and race in America. Conceptualized as a form of equity legislation, Steinberg discusses the internal (employer), external (labour market) and gender equity that comparable worth studies are meant to evaluate and enforce. Steinberg concludes that the problems encountered in implementing comparable worth will diminish as experience and evidence build up for evaluators. The paper ends on an optimistic note, but makes the important point that:

Comparable worth is less a technical than a political issue. The very emergence of the issue of comparable worth can be regarded as both a cause and a consequence of the change in the power position of women in the labor market. The considerable progress that has been made on comparable worth since 1977 demonstrates the power women and minorities are able to command when they organize and press for legal and political change. (Steinberg, 1984:32-33)

Evaluations designed to measure the value of work are analogous to yard sticks, they provide measures that are only as valid as the user. One participant from the

union side stated:

We don't blame the golf clubs but the golfer, and similarly, it is still the people, the employer bias, not the measurement tools ... tools are just tools ... means towards an ends. (Face-to-face interview, 1990)

Pay equity is a political issue that challenges the traditional classifications used to value occupations. In the selection of an evaluation methodology, experience and bureaucratic expertise in conducting pay equity studies served as a valuable credential. Norman D. Willis and Associates had experience in conducting pay equity evaluations for the public service in the United States, their largest study was for the public service in the state of Washington, which I will now briefly review.

In 1973, the state of Washington hired the Seattle consulting firm of Norman D. Willis & Associates to determine whether the state was paying women as much as it was paying men at a comparable level of skill and responsibility. The study used a point-factor job-evaluation system and found a 20 percent wage gap. The Willis scale assumes that the worth of any job varies in relation to knowledge and skill, mental demands, accountability and responsibility, and working conditions. Each of these components is broken down into two or three sub-components, and points are awarded on the basis of each one. The knowledge and skill component is broken into managerial, interpersonal and technical dimensions; the mental demands concept is comprised of judgment and problem solving; and, finally, working conditions are categorized as being uncomfortable, strenuous or hazardous. (Cowley, 1984)

The governor of Washington ordered a second study to determine how the wage gap might be closed after the release of the Willis evaluation in 1974. Released in

1976, this report estimated the wage gap could be closed by paying the women \$38 million more per year. Governor Dan Evans requested a third study of the \$38 million figure. The third study was not completed until 1982, when the American Federation of State, County, and Municipal Employees (AFSCME) filed a civil rights suit against the government. The courts (in 1986) decided that the state would have to pay an estimated \$1 billion over an 18 month period in order to retroactively act upon the original findings of the consultant. Norman Willis and Associates refused to comment; however, Mr. Willis stated that "his or anybody else's scorecard should (not) become law." (Cowley, 1984)

(v) Selection of a Consultant

Why did the Committee use a consultant rather than the vast quantity of expertise and ability of the public service staff? At one stage in the sub-committee selection of consultants, there was a proposal to purchase the copyright to the evaluation methodology utilized by Thorne, Stevenson and Kellogg and conduct the evaluation themselves. However, time and inexperience were reasons put forward for rejecting the self-evaluation process.

There is a high value placed upon previous experience, scientific methods and credentials in conducting evaluations and the professionalism of a consulting agency appears to validate the overall process. Acting as an objective arbitrator, the consultant acts to implement equal pay for work of equal value legislation in a manner that appears to benefit both parties. In addition, the use of a consultant with a

methodology which meets the requirements of the Canadian Human Rights Act releases the employer and union from struggling to interpret and develop their own methodology.

In the fall of 1985, a sub-committee was formed to select a consultant. One factor established by the sub-committee for selection of a consultant was the ability of their methodology "to evaluate the breadth of work performed in the Public Service". Thus, the process would require setting up an intricate network of evaluators able to cover the entire scope of work performed across Canada in the federal public sector. Time and resource requirements of the consultants were considered because of time constraints set by the President of the Treasury Board. Ease of application was also considered. In particular, the sub-committee wanted a methodology which would allow for differentiation between distinctly different types of work (and thus provide a variety of categories) while at the same time be relatively simple to apply and assess. The consultant was expected to have a good understanding of equal pay for work of equal value concepts (under Section 11 of CHRA) and experience in evaluation and implementation of the legislation in private and public sectors. Finally, the sub-committee wanted a consultant with an existing plan that could be altered to fit the range of occupations in the public service, not an approach to job evaluations that would require joint development of a specific plan for the public service. The sub-committee estimated that the joint development and testing of a plan would require

between two and five years.² In a discussion of whether the Committee had considered conducting an evaluation with their own methodology, a union participant in the selection of the consultant stated:

That was considered. Basically it was the feeling of the people who made up the sub-Committee that looked for an evaluation plan, that based on our experience in job evaluation, in something as complex as the federal public service which includes just about any occupation you can think of, ...to develop and test and validate a job evaluation plan all the estimates were that it would take a minimum of five years and could well take longer before you had a workable tool that was developed essentially in-house. The federal government did not have an existing plan that met the requirements of the legislation. The plan the federal government uses, it has a different plan for every occupational group, there are about 70 groups and each one has its own plan. Some of them meet most of the requirements of the Human Rights Act, but not one of them was a plan that could be called a universal, gender-neutral plan that you could apply across the whole public service. So they didn't have an existing plan and when we looked at the question of developing one, the president of the Treasury Board had put a fairly tight deadline on the study, which ended up not being met of course, but at the time that we were looking for a plan there was a feeling that there was just no way that a plan could be developed in-house in anything like the time frame that was supposed to be on the study. (Telephone Interview, 1991)

The selection of a consulting firm involved a range of considerations as discussed above. The sub-committee filed its report at the June 9, 1986 Joint Union/Management Committee meeting and the sub-committee's recommendations were approved at the October 9, 1986 meeting.³

The sub-committee was made up of eight members, four union and four

² "Summary of Joint Union/Management Sub-Committee report regarding a common evaluation plan", page 1.

³ Access to information request, cover letter, Diane Lepage-Watchorn, Chief, Equal Pay Section, Treasury Board of Canada Secretariat, January 30, 1991.

management representatives. The four union members came from the Canadian Association of Professional Radio Operators (Leo Poirier), Canadian Union of Professional and Technical Employees (Michel Dubois), Professional Institute of the Public Service of Canada (Kathryn Alfoldi) and the coordinator from PSAC (Margaret Jaekl). The management side was coordinated by Renee Godmer, with Doug Copland, Dan Menard and Pennie Reade as members.⁴

The sub-committee heard presentations from ten consultant firms: Mercer and Associates; Wyatt; Sibson; Woods Gordon; James F. Hickling; Hay and Associates; R.J. Clifford and Associates; Thorne, Stevenson and Kellogg; Peat, Marwick, Mitchell and Company; and, Norman D. Willis and Associates. The sub-committee evaluated the presentations based upon consideration of compatibility of the methodology with CHRA, the ability of the methodology to cover the range of occupations in the public service, time and resource requirements, ease of application, understanding of the equal pay concept and experience in the private and public sectors.

Mercer and Associates

Mercer proposed an approach to evaluating work based upon a point rating system developed jointly by union and management and based primarily upon the factors in the CHRA. Regression analysis would be used to determine the weight of each factor; however, the weighting would rely upon existing pay scales (either

⁴ "Summary of Joint Union/Management Sub-Committee Report Regarding a Common Evaluation Plan", June 9, 1986.

internal to the public service or an external evaluation of labour market conditions) and thus the plan would not alter the existing levels of pay differential. Mercer and Associates presented work that had been conducted for the Quebec provincial government; however, union representatives felt that Mercer did not present a substantial understanding of equal pay for work of equal value legislation at the federal level.

Wyatt

Wyatt presented the Multicomp approach which combines a job evaluation plan and a job structure questionnaire. A computer would compare the questionnaire results with the evaluation plan. The advantages of this method include a larger sample size and reduced time and resources for evaluation since much of the work is done by computer. The method was rejected because the job evaluation plan is based upon the existing internal job hierarchy. In addition, the consultants estimated it would take five years to revise the plan to conform with section 11 of CHRA and to develop a suitable plan for the job structure questionnaire.

Sibson

Sibson and Company proposed the Paired Factor Comparison Plan. The plan assigns numeric values to evaluation judgments of equal, greater and lesser for each factor. An arbitrary value of one-quarter is assigned to each of the four factors in the CHRA, and thus eliminates the determination of any value comparison of individual factors. Jobs are compared repeatedly to a set of comparison jobs, however, with over 70,000 occupations to compare this process would be time consuming.

The sub-committee rejected the Paired Factor Comparison Plan on the basis that the tabulation of evaluation results would be "unwieldy" and time consuming.

Woods Gordon Management Consultants

The Decision Band method was proposed by Woods Gordon. The value of a job is related to its decision-making requirements. Six levels, or bands of decision-making, form the basis for sorting occupations. Within each level, occupations are ranked according to criteria established from the equal pay legislation such as skill, effort and responsibility. Working conditions are not used in ranking occupations, but serve to determine additional pay premiums after all occupations have been ranked.

The Decision Band method was rejected after consultation with Ted Ulch of the CHRC, who confirmed that the method did not measure the composite of skill, responsibility, effort and working conditions in assigning value to occupations. Decision-making requirements shape the entire structure of any evaluation outcome, without consideration of the interaction effect of the other factors specifically legislated in the CHRA to be considered in the evaluation of jobs.

James F. Hickling

Two evaluation plans were presented by James F. Hickling Management Consultants Limited. The plans would evaluate jobs allocated to either the Professional, Administrative, Technical and Clerical (PATTCES) system or the General Services and Operational (GSOES) system. Neither of these systems examines the value of an occupation according to the knowledge and skill, mental demands, accountability or working conditions. As a result, the plans were rejected

because they are not compatible with the intent of Section 11 of the CHRA.

Hay Management Consultants Limited

The Hay method presented to the sub-committee has been used in a number of pay equity studies. A revised factor chart for working conditions was being tested in 1986 in the City of San Jose and by Canada Post.

The staff side of the sub-committee expressed concern over the problems experienced by Canada Post in using the working conditions table.

R.J. Clifford and Associates

The presentation by R.J. Clifford and Associates recommended the JEBOR method which involves evaluators with knowledge of each position rating each job. Paired comparisons are then used to rank the jobs relative to one another. The results are scored and analyzed by computer, and a hierarchial listing of jobs is produced.

The need for evaluators with direct knowledge of the positions they were to evaluate and the time required to compare each pair of occupations were the reasons presented by the sub-committee for rejecting the JEBOR method.

Thorne, Stevenson and Kellogg

Thorne, Stevenson and Kellogg presented the Aiken plan for evaluating positions based upon a nine factor point-rating plan. The CHRC has accepted the plan as free of gender bias and the plan had been used previously in the resolution of individual complaints in the public service.

This evaluation plan came from a firm long established in Canada, and appeared to have the highest potential for the committee. A number of modifications

would be required to adjust the Aiken plan for the federal public service/sector. The consultant refused to consider any modifications to the plan since it had an established track record and modifications could result in study outcomes for which the consultant would not take responsibility. The consultant rejected any changes to the plan since they would "undermine the credibility, reliability and validity for which the Aiken plan is known." ⁵

The sub-committee agreed to examine the limitations of the copyright that Thorne, Stevenson and Kellogg hold on the Aiken plan. It was subsequently decided that a modified Aiken plan would not be adopted.

Peat, Marwick, Mitchell and Company

Peat, Marwick, Mitchell and Company presented a proposal to develop an evaluation methodology based upon the firm's Public Sector Evaluation Plan which evaluates jobs based upon existing Treasury Board classification standards. The Public Sector Evaluation Plan would be amended based upon CHRA factors and discussion with the Treasury Board.

The sub-committee rejected this plan because of time limitations. In addition, union representatives objected to the adoption of an evaluation methodology based upon existing Treasury Board classification standards. They argued that the methodology would bias the evaluation because it would maintain the existing hierarchal distribution and ranking of jobs.

⁵ "Summary of Joint Union/Management sub-committee report regarding a common evaluation plan", p 6.

Norman D. Willis and Associates

Willis and Associates had a number of advantages coming into the presentation. They had an established and tested evaluation method similar to the Hay method, using charts and weighted scores for each of the factors to be considered based upon the pay equity legislation. The method is considered flexible because it allows for modifications to the charts to add tasks and sub-factors to the major factors considered. Willis and Associates were also able to show the members that they understood the implications of conducting an evaluation of the federal public service based upon the legislation in the CHRA. Although other consultants presented a method for evaluating the value of occupations, their evaluations were not compatible with the range of occupations in the federal public sector, nor with the specific legislative requirements of Section 11 of the CHRA.

The Willis method requires the evaluation of a random sample of occupations, which are reviewed by evaluation committees, ranked according to pre-defined factor levels and factor weights (which could potentially be biased) and compared to benchmark occupations. The evaluation committee, through a process of debate, struggle, argument and consensus building would work to rank each evaluation relative to the benchmark occupations and previously evaluated occupations.

The sub-committee selected the firm of Willis and Associates because they were the only firm that met all of the criteria for selecting a consultant. The Willis method had been used in the United States for evaluation of comparable worth in the states of Washington, Vermont, Oregon and was used by the Yukon Territorial Government as

a universal classification plan. Willis and Associates agreed to make minor modifications to the Willis method based upon agreement between the Joint Union/Management Committee and selection sub-committee.

All of the consultants, except Willis and Associates, had Canadian offices. The recommendation to accept Willis and Associates was made conditional upon the firm establishing a Canadian office. When Willis and Associates accepted this condition and established an office in Ottawa, Ontario, the first phase could begin with the initial development, communication and data gathering phases of the implementation plan.

(vi) Conclusion

This chapter has reviewed the process of initiating the equal pay for work of equal study. It was argued that the government initiated the study in 1985 as a result of numerous complaints filed by PSAC. The Joint Union and Management Committee was made up of representatives from thirteen different unions, each with varying proportions of female membership. PSAC was the primary stakeholder with 47% of its 170,000 members being female, while some of the other unions that participated had fewer than 5% female membership. This gender distribution is important; it effectively diluted the interests of PSAC with those of unions much less committed to full implementation of pay equity legislation.

The implementation of equal pay for work of equal value legislation in Canada was affected by the guidelines established by the CHRC in 1986 and the evaluation

methods proposed by consultants. Many of the evaluations proposed by consultants are based upon classification models that use traditional rankings of jobs rather than the combination of skill, responsibility, effort and working conditions for the occupation. The Joint Union and Management Committee finally selected an American consulting firm that had conducted similar studies and appeared flexible enough to allow for special consideration of the range of occupations within the federal public service.

Once the joint committee had selected the consultant to conduct the study, it was necessary to prepare the questionnaire and conduct a survey of occupations. Once completed, the survey questionnaires would be reviewed and evaluated in order to rank the occupations according to skill, responsibility, effort and working conditions. The next chapter will describe this implementation and evaluation process, and review the recommendations of the study. The key issue is the attempt to maintain reliable observations and ratings of occupations, in other words, eliminating evaluators' biases.

Chapter 3. Struggling For Skill, Struggling For Power

Between 1985 and 1990 the Joint Union and Management Committee, along with the consultants, surveyed and evaluated the occupations of a sample of public servants. They ranked these occupations according to their value (composite measure of skill, responsibility, effort and working conditions) and compared wages between male-dominated and female-dominated occupations that ranked closely in value.

The first section describes phase 1 of the study which involved the development, communication and data collection stages. The development stage required the revision and testing of the Willis plan (i.e., the questionnaire). The communications stage included development of a strategy and schedule for explanation of the questionnaire to the various target groups to be sampled. Finally, the data collection stage included training the coordinators, conducting the interviews, reviewing the interviews and building bench mark positions.

The second section of this chapter reviews phase 2 of the study which involved job evaluations, analysis of results and preparation of recommendations. Members of the Joint Union and Management Committee were placed into a Master Committee and trained in the use of the Willis plan and the evaluation of position questionnaires. Willis consultants had established bench mark positions (occupations which they ranked) against which the Master Committee would compare and place their own job evaluations. In order to reduce the bias of individuals within the Master Committee and of other evaluators, each position would be reviewed and compared with the other occupations to which it had closely ranked. The analysis phase continued the review

of the evaluations, analyzed the results, considered any possible adjustments required in order to compensate for possible evaluator bias, and recommended pay adjustments to remove any wage inequity. Finally, the recommendations were presented to the President of the Treasury Board.

Upon completion of the study, PSAC filed a complaint (Appendix 9) with the CHRC stating that Treasury Board had violated the collective agreement and section 11 of the Canadian Human Rights Act. The third section of this chapter reviews the tribunal process at both the federal level and for the province of Ontario. While PSAC has had limited success with the tribunal process, employees and unions have had a number of successes with the Ontario Pay Equity Tribunal.

(i) Phase 1

Once the selection of Willis and Associates by the subcommittee was approved, the development of a methodology for measuring the value of a position in the federal public service could begin. Table 9 shows how phase 1 of the study involved the development, communications and data gathering steps for implementing the Willis plan.

The Committee utilized the Equal Wages Guidelines and its criteria for determining gender dominance of occupations in the public service. The Committee determined that nine female-dominated and 53 male-dominated groups would form the population of the study, while other neutral groups and the management category would be excluded (see tables 10 and 11).

Table 9 - Phase 1 of the Study

Phase I - Development, Communications and Data Gathering

<u>DEVELOPMENT</u>	<u>RESPONSIBLE PARTY</u>
- develop questionnaire and supporting materials	JUNI/CONSULTANTS
- modify Willis plan	JUNI/CONSULTANTS
- test Willis plan; rate a sample population as part of test	JUNI/CONSULTANTS
- CHRC approval of Willis plan and questionnaire	JUNI
- obtain a Bank of Information Number from Statistics Canada	TBS
- translation of questionnaire	TBS
<u>COMMUNICATIONS</u>	
- develop strategy and schedule for initial and ongoing communications	JUNI/CONSULTANTS
- identify target groups and tailor communications packages to their specific needs including on-site briefings, written material, audio-visual presentations, etc.	JUNI/CONSULTANTS
- develop materials and edit	JUNI/CONSULTANTS
- translation of materials	TBS
- establish "hot lines"	JUNI
- specify points of contact on both sides	JUNI
<u>DATA GATHERING</u>	
- distribution of questionnaire	JUNI/DEPARTMENTS
- train departmental and union coordinators and hot line contacts	CONSULTANTS
- brief incumbents and supervisors on completing questionnaires	JUNI/CONSULTANTS
- follow-up and screen questionnaires and forward to JUNI	COORDINATORS
- screen questionnaires for adequacy	JUNI/CONSULTANTS
- determine interview sample and train interviewers	JUNI/CONSULTANTS
- follow-up interviews	INTERVIEWERS
- identification of Bench Marks	JUNI
- translation of Bench Marks	TBS

Source: Report of the Joint Union/Management Committee on the Equal Pay for Work of Equal Value Study, 1987, Appendix B.

The committee identified nine female-dominated occupational bargaining units ,
as follows:

Table 10. Female-Dominated Occupational Groups.

<u>Population</u>	<u>Bargaining Units/Occupational Groups</u>
50,000	CR - Clerical and Regulatory
2,800	DA - Data Processing
40	EU - Education Support
44	HE - Home Economics
1,400	HS - Hospital Services
500	LS - Library Science
1,500	NU - Nursing
27	OP - Physical and Occupational Therapy
14,000	ST - Secretarial, Stenographic and Typing

Source: PSAC, Equal Pay for Work of Equal Value:No Small Change, 1989:27.

The sampling methodology would be based on the population covered by the Public Service Staff Relations Act, and would include a minimum of ten and a maximum of 200 observations per female-dominated group, sub-group and level, and per male-dominated group. Out of the 200,000 total union members participating in the study, about 70,000 of the female members would be considered for salary adjustments. A total of 2,800 female and 1,500 male positions would be evaluated in order to assess the need for salary adjustments (representing 82 levels from female-dominated categories and 53 levels from male-dominated categories). Between 1987 and into 1988, the committee modified the Willis survey and evaluation tools, developed a communications strategy, and collected job information through a network of joint national and regional coordinators on a sample of 4,419 positions.

Table 11 - Breakdown of Occupational Groups by Gender Dominance

Gender Dominance of Public Service Groups
As of March 1985, Based on CHRC Guidelines

Female Dominated Groups (9)

Clerical and Regulatory	(CR)	Nursing	(NU)
Data Processing	(DA)	Occupational and	
Education Support	(ED)	Physical Therapist	(OP)
Home Economics	(HE)	Secretarial, Stenographic,	
Hospital Services	(HS)	Typing	(ST)
Library Science	(LS)		

Male Dominated Groups (53)

Actuarial Science	(AC)	Historical Research	(HR)
Agriculture	(AG)	Law	(LA)
Aircraft Operations	(AO)	Lighthousekeepers	(LI)
Air Traffic Control	(AT)	Mathematicians	(MA)
Architectural and		Medicine	(MD)
Town Planning	(AR)	Meteorology	(MT)
Auditing	(AU)	Organization and Methods	(OM)
Biological Sciences	(BI)	Pharmacy	(PH)
Chemistry	(CH)	Photography	(PT)
Commerce	(CO)	Physical Sciences	(PC)
Communication	(CM)	Primary Product Inspection	(PI)
Computer Systems		Printing Operations	(PR)
Administration	(CS)	Programme Administration	(PM)
Correctional	(CX)	Psychology	(PS)
Defence Scientific		Purchasing and Supply	(PG)
Service	(DS)	Radio Operation	(RO)
Dentistry	(DE)	Scientific Regulation	(SG)
Drafting and Illustration	(DB)	Scientific Research	(SE)
Economics, Sociology,		Ship Repair	(SR)
and Statistics	(ES)	Ships Crew	(SC)
Electronics	(EL)	Ships Officers	(SO)
Engineering and Land Survey	(EN)	Social Work	(SW)
Engineering and Scientific		Technical Inspection	(TI)
Support	(EG)	University Teaching	(UT)
Financial Administration	(FI)	Veterinary Science	(VS)
Firefighters	(FR)	Welfare Programme	(WP)
Foreign Service	(FS)		
Forestry	(FO)		
General Labour and Trades	(GL)		
General Services	(GS)		
General Technical	(GT)		
Heating, Power and			
Stationary Plant			
Operation	(HP)		

Neutral Groups (8)

Administrative Services	(AS)
Administrative Trainees	(AT)
Education	(ED)
Information Services	(IS)
Office Equipment Operation	(OE)
Personnel Administration	(PE)
Translation	(TR)
Social Science Support	(SI)

Source: Report of the Joint Union/Management Committee on the
Equal Pay for Work of Equal Value Study, 1987,
Appendix A.

During this period, PSAC expressed reservations regarding the basis upon which occupations were being selected for the evaluation process.

It is our view that equal pay for work of equal value cannot be achieved without a serious examination of the existing classification system. Management is not prepared to review the classification system. (PSAC, 1989: 27)

Norman D. Willis & Associates, Inc. provided the Position Information Questionnaire (see Appendix 5) and Guide (see Appendix 6) which allowed evaluators to determine the value of positions based upon the description from the Questionnaire. In its introduction, the Willis Guide explained the goal of the methodology for correcting sex-based wage disparity.

A single, bias-free measurement tool must be used to evaluate the relative content of positions in both female- and male-dominated occupational groups. Position measurement, also often referred to as job evaluation, is the use of such a measurement tool to determine the value of the positions relative one to another (Willis, nd: 1)

Willis officials legitimized themselves by claiming technical experience and expertise in the field of evaluations:

The Willis position evaluation system, selected by the Joint Union/Management Committee for use in the Study, is a sound, valid method that has been used in a large number of applications throughout North America since 1971. It can be (and has been) used to measure all kinds of positions in a wide range of organizations, both private and public sector. The system has been tailored to meet the specifications suggested by the Human Rights Commission and the requirements of the Canadian Government. (Willis, nd: 1)

The complexity of an evaluation of equal pay for work of equal value increases exponentially as one moves from the position descriptions to the examination of the tasks and components of an occupation. The evaluators Guide explains how the

complexity of an evaluation is supposedly simplified by developing a common measure against which all positions may be objectively compared. However, it is neither the individual nor occupation that is evaluated, but the words contained within the questionnaire which determine the value of an occupation according to the Willis method.

To a great extent, position evaluation is an exercise in advanced semantics in that the words used to describe the position are compared to the words in the evaluation dimensions defining varying levels of fully satisfactory job performance. It is important, therefore, that those undertaking the evaluation process arrive at consistent and mutually agreed-upon understanding of the words on the charts. For that reason, this section sets out a detailed description of the evaluation factors and of the key terms used. The measurement system is designed to provide the organization with the tools necessary to assure consistent and accurate appraisal of position content. The system can be viewed as a common yardstick used to examine the content and measure the value of all positions. (Willis, nd: 2)

Words from the questionnaire are compared to words on charts. Evaluation groups consider and negotiate the words from the questionnaire to fit or match the words on the evaluation charts. Assuming objective consideration of both the questionnaire and the charts, the evaluation group ultimately assigns a value to an occupation based upon the score from the four component characteristics. Following from Section 11 of the Canadian Human Rights Act and the Equal Wage Guideline, the evaluation components are Knowledge and Skills, Mental Demands, Accountability, and Working Conditions. (See Appendix 6 for Evaluation Charts for each of these components)

Knowledge and Skills

- A. Job Knowledge
- B. Managerial Skills
- C. Interpersonal Skills

Mental Demands

- A. Independent Judgement
- B. Problem Solving

Accountability

- A. Freedom to Take Action
- B. Size of Impact
- C. Nature of Impact

Working Conditions

- A. Effort
- B. Hazards
- C. Discomfort

Each component is divided into dimensions that are ranked ordinally for the evaluator. The Evaluation Charts provide cross-tables of each dimension that are subsequently divided into levels. For example, in evaluating the knowledge and skill component (See Appendix), the evaluator selects a level of interpersonal communication skills (K,X,N or Y), a level of managerial skill (1,2 or 3) and a level of job knowledge (A,B,C,D,E,F or G). Based upon these decisions, the chart provides a corresponding score for the level selected. Clearly, the scope for error, subjectivity and lack of comparable application of the charts between evaluators is immense.

In an attempt to control the evaluation process further, the evaluation Guide explains the process to be followed in order to understand the concepts and factors involved in the measurement of an occupation. There are four steps in this process: review documentation, group discussion, individual evaluation, and consensus. In the first three steps, the evaluators determine the relevant information and use the Willis

chart to assign a value to the occupation. In the final step, the individual evaluations are compared to see how they differ and the group attempts to build a consensus.

Consensus - Perhaps the most critical element in the process, consensus, involves arriving at an evaluation that represents the committee's considered judgment of the complexity and accountability of the position. Generally, the group's consensus evaluation will be more accurate than any evaluator's over a given number of evaluations. Consensus is achieved through a discussion of the differences in the evaluations of individual members, the identification and discussion of the job facts supporting individual evaluations, and the determination of an evaluation representing the majority perspective. It is important that committee members be willing to make adjustments in this evaluation as new light is shed on the position through consensus discussion. Consensus, however, does not necessarily require unanimity. (Willis, nd:16)

(ii) Phase 2

Phase 2 of the study (reviewed in Table 12) involved the formation of a joint union-management Master Evaluation Committee (MEC) which reviewed 503 positions to serve as a bench-mark guide to the application of the Willis plan. The evaluation strategy adopted to code responses consisted of two phases. First, the establishment of bench mark positions based upon a range of positions from the sample. Second, the comparison of all other positions against the bench mark positions.

The evaluation committees would review the employee questionnaire and through a process of consensus building seek to arrive at a score for each occupation (For examples of these scores, see Appendix 7). Once a series of positions were evaluated, a process of ranking, or 'sorethumbing', would rationalize the scoring in order to find those positions that appeared to be over or under-evaluated with respect

Table 12 - Phase II of the Study

PHASE II - Evaluation, Analysis and Preparation of Recommendations

<u>JOB EVALUATION</u>	<u>RESPONSIBLE PARTY</u>
- train Master Committee	CONSULTANTS
- Master Committee starts evaluation of Bench Marks	MASTER COMMITTEE/ CONSULTANTS
- train other committee members; includes observation of Master Committee	CONSULTANTS
- other committees start, once Bench Marks established	COMMITTEES/ CONSULTANTS
- Master Committee monitors for consistency and score thumbs evaluation results	MASTER COMMITTEE/ CONSULTANTS
- the consultant will develop a dispute resolution process to be used by the Master Committee and will serve as arbitrator if the need arises	CONSULTANTS
<u>ANALYSIS</u>	
- analysis of job evaluation results	JUNI/CONSULTANTS*
- determine adjustment methodology	JUNI
- determine pay lines and adjustment	JUNI/CONSULTANTS*
- determine retroactivity	JUNI
- may recommend the resolution of discriminatory aspects of the Classification System which contribute to wage inequity as defined in Section 11 of the CHRA	JUNI
<u>PREPARATION OF RECOMMENDATIONS</u>	
- preparation of recommendations to the President of TBS	JUNI
- copies will be provided to the Heads of all unions and to the CHRC	JUNI

*The extent of the involvement of the consultant to be finalized before Phase II commences.

Source: Report of the Joint Union/Management Committee on the Equal Pay for Work of Equal Value Study, 1987, Appendix A.

to other positions and hence would be re-adjusted.

Additional joint evaluation committees were formed in the fall of 1988 to evaluate the remaining job questionnaires, and eventually totalled nine evaluation committees by the spring of 1989. The process of reviewing the positions was long and tedious. Preliminary results appeared to indicate that there was little difference in evaluations within many female-dominated groups. As a result, the Committee accelerated the review process of the study by reducing the sample for female-dominated groups from 2,800 to 1,700 positions, for a total sample of 3,100 positions. Evaluations of these positions were completed in the fall of 1989, and the Committee was provided with the final rating results shortly thereafter. However, during this time there were considerable problems with ensuring the reliability of the evaluations.

Union and management sides of the MEC expressed concerns during the second phase of the study over inconsistencies in the application of the Willis Plan and evaluator bias in application of the evaluation guide for certain factors. (Mount and Ellis (1989) provide a general review of sources of bias in job evaluations.) In addition, it was felt that the bench-marks did not adequately distinguish between jobs. The basic problem lay in the national sampling procedures, whereby regional coordinators were trained and carried out the survey. While ninety-four per cent of sampled employees replied, many responses were unclear or incomplete. This left the MEC attempting to improve the evaluation techniques, while at the same time revising completed evaluations based upon uncertain bench mark rankings of positions. The Joint Union/Management Committee implemented three strategies to assess the

consistency of the evaluations. Two sub-committees were established and Willis and Associates were requested to examine the evaluations of the nine evaluation committees and compare them with the MEC.

The Committee established an Inter-Rater Reliability (IRR) Sub-Committee to examine raters, that is MEC ratings with respect to the other nine evaluation committee ratings, and compare these to an average score of raters. This would allow for a measure of the extent to which an individual rater deviated from the group average. The sub-committee reported highly diverse individual scores for all Willis factors, with the exception of knowledge and skill ratings. The sub-committee also found systematic bias in the evaluations of certain raters by over- or under-evaluating jobs from female-dominated or male-dominated groups. The sub-committee instructed Willis and Associates to counsel these raters. However, this did not result in any significant change in the manner in which raters interpreted the Willis plan or referenced bench-marks.

The second group formed by the Committee, an Inter-Committee Reliability (ICR) Sub-Committee assessed potential difference in the ratings of evaluation committees when compared to MEC bench-marks and the Willis baseline score. This was done by randomly selecting unevaluated questionnaires and, at different intervals, giving the same questionnaire to each committee to rate. Analysis of 26 positions indicated that in 50 percent of the cases committees rated jobs at least one step higher or lower than the consultant's estimated score.

During the final stages of rating the questionnaires, Willis and Associates conducted a study based on a sample of questionnaires already rated to determine the extent to which there was gender bias in the evaluations. Gender bias occurred when the evaluation overlooked important characteristics of female-dominated jobs. The factors of these jobs may be under-valued by the scoring system, inappropriately ranked and recorded, or simply not taken into account. The invisibility of factors involved in women's work resulted both from evaluation bias and societal bias reproduced in the measures of relative value. In addition, since job descriptions form the basis of job evaluations, the value of a job may also have depended upon its historical significance and the ability of its incumbents to exercise power over their work.

The Willis evaluation of a sample of questionnaires used the same procedure as the evaluation committees and compiled a table ordered by the size of the percentage difference in scores between later evaluations and those of Willis representatives. Their data suggested the questionnaires from male-dominated groups were being systematically undervalued when compared to questionnaires from female-dominated groups.

The review by Norman D. Willis and Associates of the study examined the quality of the evaluations with respect to the correct use of the Willis evaluation system, consistent evaluations by the nine evaluation committees and the Master Evaluation Committee, and tests for systematic bias in evaluations. The consultant randomly sampled 222 positions and independently evaluated the positions. These

were then compared with the evaluation committee scores, and any difference was examined using the consultant evaluations and bench mark references. Final results were examined using the chi-square statistic to measure the validity of the sample with respect to the population.

The overall findings based on the chi-square statistic should be interpreted cautiously. The analysis looked at the statistical relationship between gender dominance of the positions' classifications and percent difference between a consultant evaluation and the committee evaluation for a comparatively small number of positions. The findings of a statistical interaction between the two variables does not mean that there has been deliberate or even unconscious sex bias in the evaluations. (Willis, Special Analysis of Evaluation Committee Results, 1989:8)

Willis and Associates informed all parties that there might be "some gender-related bias in the evaluation results" after having conducted a 220-position sampling in July of 1989. This bias would have inflated the rates-of-pay differences between male- and female-dominated jobs; males were rated too low and females rated too high. The consultant requested authorization to proceed with a further analysis to confirm the extent of bias, and provide a final basis for recommending corrective measures. The CHRC and Treasury Board agreed that additional analysis was needed to assure the validity of the study. According to Treasury Board, the unions refused to support the further analysis.

The findings of the analysis described above suggest that the consistency of the evaluations by the nine committees with the MEC bench marks is less than would be desirable, and that there may be some gender-related bias in the evaluation results. It is the consultant's opinion that these findings indicate that a wider review of the evaluations by the nine committees would be proper. (Willis, Special Analysis of Evaluation Committee Results, 1989:8)

The Canadian Human Rights Commission re-analyzed the Willis study and concurred with the general conclusion made by Willis and Associates that there may be bias in the study but that further research was required to be sure. The Committee could not agree upon a statistical method to analyze the evaluation results. Rather than wait for further analysis of the evaluation, a score revision factor was estimated by the Treasury Board based on their own analysis of the evaluations. The basic principles underlying the Treasury Board approach to wage disparity are reproduced in Appendix 8. The ratings for sampled positions were adjusted using a corrective factor to adjust for the apparent gender bias identified by the consultant. The Treasury Board stated that:

The adjustments announced are based on generally accepted statistical principles, and are fair. Treasury Board is currently working with the other parties involved to resolve outstanding issues. (Treasury Board of Canada Secretariat, 1990)

The rating scores for female questionnaires were reduced by approximately three percent on average and male questionnaires were raised by roughly four percent on average.

They (Willis) did not find that there was evidence of gender-bias, they found some things that indicated there might be the possibility of gender bias, they did not find evidence of gender bias. And in fact, some of their work was replicated by a committee set up the Canadian Human Rights Commission and it was all analyzed by not quite a million, but it felt like a million statisticians, and the final report of the Human Rights Commission on their investigation into this was that in fact there was no evidence of gender bias. So what Willis came up with was the suggestion that there might be the possibility that there could have been some and that it warranted further investigation, and further investigation showed that in fact there wasn't any. The union withdrew because Treasury Board insisted that Willis suggestions that there might have

been a gender bias be treated as if in fact there was a gender bias. Well, Treasury Board unilaterally adjusted the results for what they call gender bias, which in fact when the Human Rights Commission investigated they found there was no such thing. (Telephone Interview, Union: 1991)

As a result of the many problems encountered in establishing a reliable means of assessing scores to positions, the unions temporarily withdrew from a meeting on December 13, 1989. On January 23, 1990, the Public Service Alliance of Canada announced that it was officially withdrawing from the joint study. Three days later, on January 26, 1990, Treasury Board announced that it had unilaterally assessed measures for various female-dominated groups to bring their wages into line with those of male-dominated groups. Treasury Board was satisfied with the decision which would affect about 73,000 employees who would receive about \$317 million in retroactive lump sum payments and about \$76 million in ongoing equalization adjustments. This announcement signalled an apparent end to the equal pay for work of equal value study.

The adjustments announced by the Treasury Board were effective April 1, 1990 and are retroactive for the period April 1, 1985 to March 31, 1990. Adjustments were made for the following groups as follows:

Table 13 - Treasury Board Pay Adjustments, January 1990

Occupational Group	Annual Ongoing Adjustments	Max. Retroactive Payment
All CRs	\$ 994	\$ 3,527
All STs	\$1,289	\$ 5,891
All NUs	-	\$13,759
All EUs	\$4,426	\$19,012

CR - Clerical and Regulatory

ST - Secretarial, Stenographic and Typing

NU - Nursing

EU - Educational Support

Employees in the NU group have been receiving an annual payment of \$5,500 since October 1, 1987, as a result of a Memorandum of Understanding to the collective agreement. This payment will continue until expiry of their collective agreement, when it will be reviewed. However, employees are entitled to a retroactive payment from April 1, 1985, to September 30, 1987. The complaint on behalf of this group is still under review.

Table 14 - Salary Adjustments Recommended by PSAC

Occupational Group	Average Annual Adjustment	Average Back Pay
CR	\$3,800	\$15,200
DA-CON	2,300	9,200
DA-PRO 1 & 2	1,400	5,600
EU	9,100	36,600
HS	3,100	12,400
LS	2,450	9,800
ST	3,800	15,200

Source (both tables): PSAC, Results of the Joint Union-Management Study on Equal Pay for Work of Equal Value in the Federal Public Service, 1990:1.

Some of these occupational groups had been receiving wage adjustments through contract negotiations previous to the study, thus, further adjustments were not deemed to be warranted by Treasury Board.

The fact is Treasury Board has ignored 95% of the data collected for comparison purposes. For example, only 73 of the 1,400 male positions evaluated were used to calculate the CR and ST adjustments. (Equal Pay letter, titled: "Is Treasury Board Ripping you off?" PSAC, no date)

Additional concerns were raised over the retroactive adjustments which only consider salary for pension purposes and entitlements, leaving out adjustments for rates of pay on promotion or transfer, overtime, severance pay, payment of unused annual leave, and maternity leave allowance.

The Alliance has filed a formal complaint on behalf of the six occupational Groups: CR, ST, DA, EU, LS and HS, with the Canadian Human Rights Commission on February 16th. The Chief Commissioner of the Human Rights Commission, at the time of the Treasury Board announcement was asked: - Does this payment constitute Pay Equity? Max Yalden replied, "it does not". (PSAC, Results of the Joint Union-Management Study on Equal Pay for Work of Equal Value in the Federal Public Service, 1990:3).

iii) The Tribunal Process

Subsequent to the withdrawal of PSAC, and the announcement of the pay adjustments by Treasury Board, PSAC filed a grievance (see Appendix 9) with the Canadian Human Rights Commission alleging that the Employer violated Article M-16 (No discrimination) of the collective agreement and Section 11 of the Canadian Human Rights Act. They argued that the \$317 million in equal pay adjustments was only about one-quarter of the amount which the union estimates is required for

retroactive pay. Further, the \$76 million in equalization pay was only one-third of the amount estimated to be owed to the female-dominated groups. (PSAC, National Component News: May 1990)

PSAC and the Professional Institute of Public Employees are continuing to push for full implementation of the study results as they have them interpreted (see Table 14). Thousands of members of PSAC in female-dominated groups have filed grievances following the conclusion of the study. PSAC requested the Canadian Human Rights Commission to establish a Tribunal to resolve the study which was filed in February, 1990, on behalf of the six female-dominated groups. (PSAC, PSAC Union Up Date, Vol 2, No 10, May 25, 1990)

a) Canadian Human Rights Tribunal

The Public Service 2000 initiative and the 1991 Speech from the Throne establish the role of Treasury Board in a massive reorganization and restructuring of the public service. Treasury Board will be involved in the removal of layers of management, the consolidation of occupational categories, and the legislated restriction of wage increases. In addition, the role of unions in negotiating wages and classification standards for its members appears to be in great jeopardy. The attack of the government upon its own employees appears to have struck a fatal blow on an already discouraged staff. It would appear that the unions' only recourse is to proceed with the grievance proceedings within the Canadian Human Rights Tribunal, this is certain to be a lengthy process, and there is concern that the federal government will

legislate the Tribunal out of existence. Two recent tribunal decisions resulted in positive outcomes for the union complaints, one at the federal level and one at the provincial level.

With respect to a grievance originally filed on September 9, 1981 by PSAC, the Canadian Human Rights Commission Tribunal rendered a decision on April 29, 1991, based upon a complaint of discrimination in wages and classification between the Hospital Services (HS) group and the General Services (GS) group, submitted by PSAC against Treasury Board. The Tribunal hearings were postponed a number of times while the parties awaited the outcomes of other negotiations, the tabling of the Equal Wage Guidelines by the Canadian Human Rights Commission and the completion of the Joint Union/Management Initiative.

In response to the complaint that the HS classification was discriminatory, in July of 1989 the classification was amended by Treasury Board. The case of the HS group was settled by the Tribunal once these events had passed. The Tribunal examined the new HS classification and GS groups according to the skill and knowledge, effort, responsibility and working conditions factors as described in the Equal Wage Guidelines. The order of the Tribunal was based upon review of both the old and new HS classification in comparison to the GS classification.

Based on our findings that the new HS classification standard involves gender discrimination in comparison to the GS standard and that this is a continuation of discrimination that also existed under the old HS standard ... we would direct the Respondent (Treasury Board) in consultation with the Canadian Human Rights Commission, to draft a new HS classification standard which does not involve systemic discrimination by undervaluing the work of the HS group of employees in comparison to

the work of the GS group of employees. (Canadian Human Rights Commission Tribunal, 1991: 32)

Thus, the Tribunal concluded that there was discrimination in wages and classification between the HS and GS groups, and that this discrimination had not been eliminated by the new classification of the HS group.

...the Tribunal orders: (1) That the Respondent cease classifying Hospital Services employees on the basis of either the Hospital Services Classification Standard dated December, 1966, as amended, or the Hospital Services Classification Standard dated July, 1989, or any other classification standard for Hospital Services employees which is similarly discriminatory in comparison to the General Services Classification Standard dated June, 1969 (Canadian Human Rights Commission Tribunal, 1991: 36)

Susan Giampietri, vice-president of the Public Service Alliance of Canada estimated that the order to compensate the HS group for the wage discrimination would amount to a \$1.5 million settlement. She was quoted as saying,

The decision shows the government clearly has discriminatory practices... This is the first time that we have gone through the full human rights tribunal process to correct the injustices faced by our members and the law is on our side. (Pugliese, 1991: A1)

The Public Service Alliance of Canada and the Professional Institute of the Public Service have contended that the January 1990 settlement was not only too small but also left out a large portion of women who should have received adjustments. The HS Tribunal decision may have marked the first step in a successful campaign to examine the full requirements to bring the federal public service into line with the equal pay for work of equal value legislation.

The really interesting thing that came out of the HS tribunal decision, and I think the reason Treasury Board is really trying to play this down, is the tribunal decided that not only the original classification standard for the HS group, the one that we had complained about when the complaint was filed, but also the second standard, which the tribunal had made an interim ruling a few years and part of the interim ruling was that Treasury Board had to come up with a new non-discriminatory standard for the HS group and when the tribunal re-convened they also ruled that this new standard that supposedly had corrected the problem was still discriminatory and ordered Treasury Board to stop using it and come up with one that really is non-discriminatory. So I think this has real implications for Treasury Board basically. They told Treasury Board even when you're trying to make a non-discriminatory standard... you couldn't do it. So I think it is a very important decision and I can understand why they (TB) are trying to play it down because I believe it shows that they don't have people there who can develop non-discriminatory standards. (Telephone Interview, Union side: 1991)

The lengthy time frame for decisions by the Canadian Human Rights Tribunal has allowed Treasury Board to fight to limit the actions of the Tribunal. The decision of the Canadian Human Rights Commission tribunal in May of 1991, was preceded by a claim filed to the Federal Court of Canada requesting it to block any Canadian Human Rights Commission tribunal hearings into equal pay for work of equal value. Treasury Board claimed in its submission to the courts that the commission exceeded its authority in its decision to examine the 1990 complaint of the Public Service Alliance of Canada. The Treasury Board has presented the argument that the Equal Wage Guidelines of the CHRC are invalid. Treasury Board spokesman Craig Lee was quoted as saying they "remain committed to equal pay for work of equal value, but we feel we must make adjustments to pay based firmly on the law." (Galt, May 1, 1991: A2)

In response, both the Commission and PSAC said that Treasury Board had been consulted and had input into the development of the Equal Wage Guidelines. With the announcement that Treasury Board was going to attempt to limit the Canadian Human Rights Commission jurisdiction in this matter, PSAC executive vice-president Susan Giampietri responded:

It is really disgraceful to watch this government abuse its power and waste taxpayers' dollars when it knows full well that it is wrong. (Galt, May 1, 1991: A2)

Closer examination of the complaint by Treasury Board shows that they are challenging the basic concept of equal pay for work of equal value. The claim states that the legislation of the CHRC is flawed:

On a basis that is inconsistent with the purpose of the Human Rights Act in that it would interfere with the operation of market forces other than discrimination; discrimination on the grounds of sex against some members of the deemed target group; and resolve the complaints on the basis of proportional pay for work of proportional value rather than on the basis of equal pay for work of equal value. (Galt, May 1, 1991: A2)

The attack by Treasury Board on the jurisdiction of the CHRC raises the question of its mandate. The Treasury Board Secretariat of Canada determines the salary and occupational classification of the federal public servants in Canada. As a result of their mandate to govern public service wages, Treasury Board negotiates with unions the contracts for its employees and took a lead role in the implementation of equal pay for work of equal value in the federal public service.

In the House of Commons Debates on March 7, 1991, Ms. Dawn Black asked the federal government about its position on equal pay for work of equal value.

Mr. Speaker, during a nationally televised debate at the time of the last federal election, the Prime Minister made a commitment and said that he had already set aside money for pay equity for women in the Public Service. After what we heard in the budget last week, I want to ask the Prime Minister: In spite of the warnings in the budget, does he intend to keep that commitment to the women in the Public Service? Will he fulfil that commitment to women of Canada? Yes or no? (Hansard, March 7, 1991:18170)

In a somewhat surprising response, Gilles Loiselle stated that while the salary adjustments had been made, additional money had been set aside in the budget to continue the salary adjustments. This statement goes against other statements by Mr. Loiselle that the salary adjustments completed the federal government's commitment to implementing equal pay for work of equal value.

Yes, Mr. Speaker, without any hesitation, I can repeat the commitment of the government to pay equity. As you know, we did something that former governments did not do. We settled for a very generous, honest and fair package. It is being contested. We will see where we are, but this is more than the Liberals did over I do not know how many years or decades of government. We have committed ourselves to this. We have set aside in the budget the money necessary to continue that, and I can vouch that we will continue to proceed in this direction. It is the only good one in any case. (Hansard, March 7, 1991:18170)

Despite these comments, the federal Conservative government continues attempts to restrain their budget deficit and as a result has severely limited any increase in wages whether negotiated through contract or ordered by award. The President of the Treasury Board has stated their policy from 1991-1994 quite clearly:

As announced in the Budget, we will act to modify any arbitral awards that go beyond the 0-3-3 guidelines to bring them into line with the Budget. (Gilles Loiselle, Collective Bargaining in the Public Service of Canada, Transcript of Speech, June 19, 1991: 2)

A representative from the Canadian Human Rights Commission explained in an interview that Treasury Board's control over public service salaries is potentially threatened by the roles played by unions, Willis Consultants, and the Commission. As a result, Treasury Board has challenged the interpretation of the legislation as detailed in the Equal Wage Guidelines.

Despite the strong words of Treasury Board, PSAC continues to press for the equal pay for work of equal value in the federal public service.

In spite of the four-year joint union/management study which proved that equal pay for work of equal value does NOT exist in the federal public service, the government refuses to accept the study's findings and is currently fighting the Canadian Human Rights Tribunal assigned to investigate the matter. (PSAC, 0% Increase, bulletin, June 1991)

As mentioned in the introduction, striking members entered the office of the Honourable Mary Collins, the Minister Responsible for the Status of Women on October 1, 1991. Although Mary Collins was not in the office and refused to meet the group, they received national media coverage and a number of questions were raised that day in the House of Commons. The Honourable Audrey McLaughlin, MP for Yukon rose and asked the Prime Minister why the government had failed to fulfil its commitment to equal pay for work of equal value.

"Hon. Audrey McLaughlin (Yukon):... The Public Service strike is continuing. The anger and sense of despair at the lack of respect this government has shown its own workers are mounting. During the 1984 election the Prime Minister made a personal commitment to the women of Canada on pay equity. He reiterated that commitment in 1988. Pay equity has been the law in Canada since 1977. I want to ask the Prime Minister why he does not show the good faith of his government, keep his commitment to the women of Canada and enact the legislation now on pay equity.

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Hon. Mary Collins (Associate Minister of National Defence and Minister responsible for Status of Women): Mr. Speaker, I am very pleased to respond to the hon. member because indeed it is this government that has implemented pay equity, the largest pay equity settlement that has ever been made, \$370 million. If we take the example of a secretary, over the past few years as a result of that pay equity settlement she has received an additional \$7,000. This year, in addition to her salary, she will receive another \$1,289 and, if she still is earning less than \$27,000, she will receive another \$500. The government is without comparison in terms of our commitment and our action on pay equity. ... We will continue to work on pay equity legislation, but the average employee, the clerk or the secretary who has benefited from pay equity, I think we have shown that commitment and we will continue to show that commitment." (Hansard, October 1, 1991:page 3046)

b) Ontario Pay Equity Tribunal

While the federal Canadian Human Rights Tribunal has been fighting challenges by Treasury Board, provincial tribunals continue to make important decisions which may set precedents for the outcome of the federal case. In a recent ruling by Ontario's Pay Equity Tribunal (Haldimand-Norfolk (29 May 1991) 0001-89 (P.E.H.T)) both the issue of skill and gender neutrality of evaluation systems was addressed. The case has been referred to by the press as "unprecedented" and a "landmark decision that could have far-reaching implications for other women whose work has been undervalued" because it is the first case to hear evidence and make a decision with respect to the gender neutrality of a job evaluation scheme. (Galt, June 26, 1991: A2) The case of Ontario Nurses' Association (ONA) v. Regional Municipality of Haldimand-Norfolk was based upon a complaint that the comparison system proposed by the employer and developed by William M. Mercer Ltd was not

gender neutral. ONA claimed that the Mercer point factor job evaluation system was flawed because it failed to "describe, measure and value the job content of the work of the nurses in the ONA bargaining units as compared to male job classes in the Regional Municipality" (Haldimand-Norfolk, 1991:2)

We find that the Employer failed to negotiate the component parts of the gender neutral comparison system; failed to recognize the bargaining agent; failed to disclose information on the pilot tests, computer program, and weights embedded in the questionnaire; and failed to engage in a full and informed discussion. We also find that the comparison system proposed by the Employer does not meet the standards of gender neutrality required by the (Ontario Pay Equity) Act and specifically that it does not accurately capture and thus not value the content of the skill, effort, responsibility and working conditions of the work required to be done by the female job classes in these bargaining units. (Haldimand-Norfolk, 1991:49)

The decision of the Tribunal calls into question both the operationalization of the skill factor and the method of evaluating occupations. In addition, the Tribunal found that the employer withheld information and acted unilaterally to revise the Mercer comparison system and implement the pay equity plan.

While telling employees that the federal government awaits the outcome of the Canadian Human Rights Commission Tribunal hearing on the pay equity study, Treasury Board has challenged before the Supreme Court of Canada the jurisdiction and authority of the Tribunal. The future of the PSAC complaint is unknown at the time of writing (Fall 1991); however, given the previous wrangling by both sides, it may take another five years before this study is resolved by the Tribunal.

(iv) Conclusion

In review, between 1985 and 1990, the joint committee and consultant conducted a survey of 4,419 employees and reviewed a sample of 3,100 positions. During the analysis and review phases, evaluator reliability was questioned due to evidence of potential bias in the job evaluations. The Master Evaluation Committee felt that the bench mark positions did not adequately distinguish between jobs. A report by Willis and Associate warned the joint committee that a preliminary review of a sample of 222 positions showed potential evidence of gender-related bias. Male-dominated occupations were being under valued and female dominated occupations were being over valued. Treasury Board reviewed the positions further, and thereafter adjusted all of male dominated occupations upwards and all of the female dominated occupations downwards. By regressing the committee ratings onto the Willis consultant ratings for the 222 positions, a "corrective factor" was estimated for an average decrease of three per cent for female dominated jobs and a four per cent increase on average for male dominated jobs. Finally, in order to determine the rate of pay for female dominated occupations, existing wage scales were regressed onto the job scores assigned after the adjustments.

Besides being confusing for the average public servant, the final decisions made to determine salary adjustments were unsatisfactory to PSAC. The unilateral actions by Treasury Board in evaluating and adjusting the positions alienated many of its employees who were being told by their union in its publication titles: **MORE MONEY OWED!** and **IS TREASURY BOARD RIPPING YOU OFF?** and **IT'S A**

CRIME ... THE WAY THE FEDERAL GOVERNMENT UNDERPAYS ITS EMPLOYEES. The final blow came in the governments 1991 Budget which provided no increase in wages for one year, and a limit of three per cent increase in 1992 and 1993. In fall of 1991, PSAC held its first national strike, with calls for the Prime Minister to resign with chants of "Lying Brian's Got To Go", the entire membership campaigned against a list of "broken promises" such as contracting out of jobs, job protection, wage and benefit negotiations, and equal pay for work of equal value.

I will next turn to a discussion of this study and its impact in shaping future equal pay for work of equal value studies. There is no doubt that both PSAC and women in the federal public service will continue to strive for better representation and wages; however, they may need to re-evaluate their successes and consider alternative strategies in order to achieve their goals.

Chapter 4. Conclusion - The Politics of Wages

This final chapter reviews the implementation of the equal pay for work of equal value study conducted by the federal government and public service unions between January 1985 and January 1990. The paper has documented the government's role as employer and its struggle to maintain control over the wage negotiation process. Ignoring the Canadian Human Rights Commission and side-stepping the unions, the employer branch of the government followed its own course of action in the end.

The second section of this chapter ties together the discussion of skill with the politics of wage negotiations and the role of the state as employer. It is argued that skill classifications are affected by the historical power relations of the incumbents in an occupation and by society's traditional gender bias in favour of male-dominated occupations. These traditions of classification and sexual stereotyping have tending to be slow to change and rigid against any type of major evaluation. As a result, equal pay for work of equal value legislation will have only a marginal impact in reducing the wage inequities between male and female occupations.

In future attempts, unions and women groups should attempt to control both the strategy and the outcome of their struggles for equal wages. Losing control over the implementation of equal pay for work of equal value legislation to the employer and consultants is a tremendous risk given the complex formulation of the legislation. Additional strategies need to be explored and each strategy should be periodically evaluated to see if it is helping or hindering women in achieving their goals.

(i) Reviewing the Issues

In this paper, I have examined the Joint Union/Management Committee established by the President of the Treasury Board Secretariat of Canada in 1985 to implement Section 11 of the Canadian Human Rights Act, equal pay for work of equal value, in the federal public service.

Treasury Board invited all federal unions to participate in the study, thereby diluting the special interests of PSAC and PIPS with representation of unions both male-dominated and without lower wage clerical and service workers.

The early stages of the study involved the selection of a consultant with an established methodology for measuring the value of occupations for purposes of the legislation. The outcome of the selection process was as much a political decision as it was one of experience. By 1987 the study was only able to begin implementation of the Willis plan, not make recommendations as had been requested by Treasury Board in 1985.

Between 1987 and 1990, the Committee conducted an extensive survey using an employee questionnaire which was reviewed by evaluation committees according to the guidelines established by Willis. Following the verification of reliability of the scores of the evaluation committees, Willis Consultants released a report which stated that there was possible gender bias in the evaluations; however, confirmation of evaluator bias would require further investigation.

Rather than invest further time into the study, Treasury Board took a sample of the evaluations and statistically estimated the necessary adjustments required to

equalize male and female wages. PSAC objected to Treasury Board's unilateral decision to adjust the data. A few days before the salary adjustment announcement by Treasury Board, PSAC officially withdrew from the Joint Committee. Treasury Board's announcement of salary adjustments and retroactive compensation was attacked by PSAC as representing less than a third of the total amount owing to public employees. In February of 1990, PSAC filed a formal grievance with the Canadian Human Rights Commission requesting a tribunal review the study and, using the entire sample of questionnaires, fully implement equal pay for work of equal value.

Treasury Board dealt with the study as purely a bureaucratic, technical process of reviewing the salary of women; alternatively, PSAC argued that pay equity was a class and gender issue. Initially, PSAC focused their arguments for pay equity along class lines, mobilizing both male and female workers by arguing that pay equity was everyone's concern. During the 1991 strike, the issue of PSAC workers as a distinct class of workers in the federal government mobilized many of those debating crossing the lines. PSAC officials were quick to point out to the press that their members were not the bureaucratic elite, but the secretaries, clerks and researchers working for an average of \$25,000. The strike and its goals were shared by male and female members of the union. With so many goals and interests on the bargaining table, there was the risk that issues would be displaced during the negotiation process. Thus, one of the unintended consequences of PSAC's national strategy of many issues was to reduce support for pay equity because the membership was dealing with other issues, and they were having problems articulating the particular importance of pay

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equity for their low-paid female PSAC members. After meeting to review their options, PSAC officials decided towards the end of the fall 1991 strike that it was time to mobilize their female members and to make pay equity their priority issue. They gathered together a group of women and entered the offices of the Status of Women in order to protest the failure of the government to fulfil its promise of equal pay for public servants.

Although PSAC had submitted its pay equity grievance early in 1990, by summer of 1991 the Canadian Human Rights Tribunal has only begun preliminary hearings into the grievance. The federal government responded during the recessionary period of 1990 and 1991 with radical legislation in their budget limiting the public service to zero percent wage increases in 1991. The actions of the federal government reflect its dual role as employer and legislator. The government acts to legitimize the capitalist economy by legislating equity legislation intended to dampen the inequities of market forces. But as an employer and through their close ties to economic policy, the government feels that it cannot allow its workers to receive wage increases. Not only would wage increases cause their budget deficit to rise, but they might also indicate to private sector employees that the economic situation was such that it permitted wage increases.

In 1988, the Women's Research Centre told employers to "just give us the money". (Lewis:1988) This publication reviewed the legislation of equal pay for work of equal value and pay equity in the United States and across Canada. At this time, the Centre believed that public service employees were in a favoured position

where the federal government would gain as a result of a large settlement.

Employers still hold most of the cards in collective bargaining. Negotiation of pay equity increases appear to work most effectively in the public service where there are a large number of both female and male categories available for comparison, and where the government is both the initiator of the legislation *and* the employer and therefore has a vested interest in demonstrating the programme's success. (Lewis, 1988:98) (*Italics in original*)

I do not disagree that the state has a vested interest in promoting equality in the labour market, both for reducing the poverty of women and limiting feminist accusations of discrimination and ensuring the most efficient use of human capital stocks. However, the federal government also has economic considerations which direct both economic and social policy decision making.

As a result, I would argue, the federal government had an interest in finishing the equal pay for work of equal value study simply to show other employers covered under the Canadian Labour Code and subject to federal jurisdiction that it could be completed and done so without major costs. Failure to implement the legislation might have effectively destroyed future federal attempts to conduct equal pay for work of equal value studies. The process of grievances filed by PSAC under the Human Rights Act would no doubt continue to slowly chip away at the inequities of the wage and classification system. Failure to implement the legislation within a reasonably affordable budget would have signalled to other employers that they simply could not afford to even attempt to ensure compliance with the legislation.

PSAC did succeed, after all Treasury Board did implement a portion of the required wage adjustments, thereby helping some of the women, rather than refusing

to implement any of the wage adjustments because of the high costs. With this initial "success", PSAC can continue to work towards improving the wage and classification system, continue to expose the inequities and discriminatory policies of the public service system, and continue to work for change through decisions from the Canadian Human Rights Tribunal.

Currently, the most harmful potential outcome of the study would be the failure of the Tribunal to act as an arbitrator in the equal pay for work of equal value process. If Treasury Board succeeds in arguing that the Equal Wage Guidelines are not valid, and if the Tribunal's decisions are not binding upon Treasury Board policy, then PSAC will be left without further recourse under current legislation, except appeal to the public and possibly international courts.

Meanwhile, social and economic decision making continues at all levels of government. North American free trade agreements, National Unity, income and consumption taxes continue to dominate our politics and press. Perhaps it is time for unions, women's groups, native groups and other groups to form alliances to promote not only gender equality, but also linguistic, class, ethnic and racial equality across all sectors of Canada. Such alliances should be flexible in order to permit special interest groups to cross-over into areas as required, while at the same time maintaining their legitimacy and original purpose.

(ii) Discussion

Much of the current feminist literature on the labour process examines the historical process and current features of women's subordinate position in the labour force, sometimes theorizing from their position in the household as unpaid workers. (Gannage, 1986; Armstrong and Armstrong, 1990) With the increased participation of women in the labour force, some argue that it is only a matter of time before the inequalities in wages between men and women disappear. However, as Carl Cuneo (1990) argues, this neo-conservative anti-feminist position in Canada has acted to reduce the scope and efficacy of equity legislation. Groups such as R.E.A.L. and the National Citizens' Coalition serve the state as a source of opinion from the right; however, they are only part of the environment in which policy development occurs.

Specifically, during the 1980s and well into the 1990s, the overriding factor for government has been the federal deficit and budget constraints. Notwithstanding tax reform and free trade, Canada continues to struggle to achieve an internationally competitive economy. The failure of real wages to increase during the 1980s continues to be a problem for families and individuals struggling to maintain their standard of living during times of high inflation and interest rates. (Spiro, 1991) Increasingly, there have been cries for the government to intervene to increase the minimum wage, maintain low interest rates, fight inflation, achieve full employment and ensure equal pay for work of equal value for men and women. Government departments are pulling the public purse in many opposing directions.

Reviewing the literature on the topic of skill, it appears that a basic problem for

those attempting to implement equal pay for work of equal value legislation is developing a bias free, gender neutral measure of the skill of an occupation. For example, Anne Phillips and Barbara Taylor (1986) offer a feminist critique of the traditional operationalization of skill. Focusing on a Marxist-feminist critique of women's subordination in the labour market, the authors argue that a gender hierarchy which permeates the class structure must be theorized. Continuing arguments against sex-blind categories used by Marxist analysis (see Hartmann:1979), it is argued that some concept of women's subordinate allocation to positions in society is required. Skill categories are ambiguous or 'mystifying' argue Phillips and Taylor (1986), and they provide examples to show how skill categories have a gender-bias such that similar occupations differing only in the gender of the workers may be ranked quite differently according to skills. The reason for the work of women being ranked lower is explained as the result of the individuals who perform the occupation.

Men and women work in a similar process; men are recognized as semi-skilled rather than unskilled workers; therefore carton production must be semi-skilled. The women producing paper boxes are simply women producing paper boxes, and however much the work itself might seem to qualify for upgrading, it remains unskilled because it is done by typically unskilled workers - women. (Phillips and Taylor, 1986:61)

It is not the subordinate position of the occupation that women perform, but the subordinate position of women themselves in the social structure which makes their skill label "unskilled" and shows how skill and the deskilling process are as much a social construction of positions as it is part of capitalism and the changing of the occupations structure.

The impact of current trends in the occupations in which women participate has significant consequences for the overall structure of the Canadian labour force. Two recent studies of the occupational structure of Canada show modest increase in the overall skill level, thus finding evidence against a deskilling process. (Myles,1988; Boyd,1990)

The current research on the changing skill level of Canadian society is important because of the types of 'skill investment' that are being instituted. The Canadian response to new technology in the labour market has been the promotion of training programs which allow workers to gain new skills. The Federal Ministry of Employment and Immigration Canada has launched numerous 'skill investment' programs⁶ which address technological and market changes upon the labour force.

Several researchers (Steedman,1986; Ferland,1989) have shown that there is a distinct relationship between the gender of the workers and the skill level; however, there has not been a systematic theory formulated which combines these findings into a model for resistance and change. Integrating dual labour market theory with the concept of social construction of skill (and the power relations involved in this construction) leads researchers to question the overall process of acquiring skill. Skill is a fundamental category used by pay equity to evaluate and compare occupations.

⁶ Under the Canadian Job Strategy program (now called the Labour Force Development Strategy) the Skill Investment segment includes the following branches : Work Sharing, Training Trust Fund, Retraining, Continuing Employment, Relocation and Travel Assistance; and under Skill Shortages segment : Work place-Based Training and Relocation and Travel Assistance. (Employment and Immigration Canada, Canadian Jobs Strategy and other programs and services)

The labelling of occupations according to skill levels remains an "objective" process, ignoring the social construction and power relationships in which skilled categories are often assigned. The issues of control over labour process and power to change labour process are thus part of a historical struggle for women's rights.

Arguments of wage discrimination, job discrimination, overcrowding and reserve army, and overt discrimination have lead to an explanations using labour market segmentation theory. (Edwards:1979; Gordon et al.:1982) The segmentation perspective highlights barriers between a primary and secondary labour markets, and it distinguishes between core and periphery economic markets in the economy. The primary labour market is characterized by high wages, unions, a job ladder and good work conditions. Secondary markets are characterized by low wages, few unions, and poor work conditions. The core firms are characterized by high levels of technology, capital investment, high profits and market control. The periphery firms often have lower levels of technology, less capital, lower profits and are in highly competitive markets.

Considering the relationship between employees and these types of firms, it may be argued that core firms are able to maintain close to monopoly control over both labour and production. The control over production allows core firms to discriminate without losing market share and thus maintain a large primary labour force. The periphery firms who are competing for market share are encouraged to use a secondary labour force in order to minimize labour costs.

With respect to sex discrimination, it would suggest that improvements in the education or training of women will do little to improve their earning to the extent that they would remain in the secondary labour market, and there is no guarantee that improvements in such factors enable them to move from the secondary to the primary labour markets. (Gunderson and Reid, 1983:22-23)

While this theoretical framework of a primary/secondary labour market and core/periphery firms does allow an analysis of the economics of discrimination in the labour process, the model lacks ways for social actors and historical events to intervene into the labour process system.

There are a number of critics of the dual labour market theory (Wilkinson, 1982; Phillips and Phillips, 1983) who argue that it cannot explain the development of sex segregation, nor can it account for the mix of male and female workers within the secondary sector. In an effort to introduce some of these elements into the framework, a revised framework has been developed by the Cambridge Labour Studies Group which focus attention on industrial organization and power relations.

In the revised theory, labour markets are conceptualized as structured by the productive system, on the one hand, and by the system of social reproduction, on the other... Labour is not intrinsically scarce. The supply of labour is constantly constructed by a variety of social and political factors ... It is through the system of social reproduction - the family system, the state welfare system and the education system - that the labour force becomes differentiated. (Beechey and Perkins, 1987:138-139)

The approach does permit the further description of the labour process, however, it accepts the subordination of women in the labour market rather than making the sexual division of labour and the subordination of women one of the central questions

of a historical analysis and theoretical understanding of the labour process. What is needed is a model which evolves and learns with our experiences.

(iii) Building on Experience

Examining the experiences of women with respect to the legislation reveals some of the limits of the scope and efficacy of equal pay for work of equal value. In addition, women and unions are learning that the legislation provides one of many strategies for addressing women's issues. Debra J. Lewis (1990) provides a blueprint for moving women from experience to a plan for action to address wage discrimination. Lewis argues that women must review what the issue is and why the issue is important in order to understand both their goals and the outcomes of struggles. If the issue is the wage gap (and the accompanying low social and economic value given to the work performed by women) and if the issue is important because women are suffering as a result of wage discrimination, then a number of strategies may become apparent.

The point of all of this is that women's work has not been undervalued because someone sat down and decided parts of women's work (such as the skills, effort, responsibility and working conditions now used in pay equity programmes) were "objectively" (or even subjectively) worth less than men's, but because of the unequal power between men and women that made it possible to divide the workforce into male and female parts, and define the female part as undeserving of better pay.
(Lewis, 1990:15-16)

Once the issue of wage discrimination is placed on the table, there is at least the potential to address the issue through a number of policies. These policies can be

assessed with respect to the number of women they would assist and the amount that these women would be assisted. Strategies such as organizing women into unions, increasing the minimum wage and pay equity programmes can reduce the wage discrimination between men and women. Increasing women's representation in unions provides gains through systems of negotiations and collective action protected with the rights of union members. Increasing the minimum wage is proposed as an option which would reduce the proportion of working-poor women and assist those women in low-paying, non-unionized occupations. The National Council of Welfare (1990) makes it clear that poverty is a reality for thousands of women, and that the groups that politicians refer to as the 'working-poor' are predominantly female single-parents struggling with work and family responsibilities. (National Council of Welfare:1990) Pay equity programmes are recommended because they have given wage increases to some women; however, Lewis acknowledges that the legislation is difficult to implement, costly to evaluate and benefits few women. The experience of The Committee on Affirmative Action for Women in the Civic Workforce in attempting to recommend pay equity to the city council of Vancouver is discussed by Lewis. From these experiences, the author argues the importance of developing alternatives for improving women's economic condition. Lewis concludes:

At best, pay equity provides a very limited solution to wage discrimination. Furthermore, we have seen how the narrow definition of pay equity as a job comparison based programme can actually be used against women developing other strategies. So, in our development of other ways of addressing wage discrimination, we face two tasks -- identifying other strategies and re-thinking the scope of the issue to include these other strategies. In doing this, we need to:

- **keep the issue *grounded in women's experience*** - in this case, this means remembering that the goals are getting more money for women, particularly those at the lower end of the wage scale, and closing the wage gap.
- **focus on the *results*, not just the process** - achieving a "victory" in legislation or policy is not an end in itself, the real victory is what women gain as a result.
- **broaden the issue *beyond narrow definitions*** - finding ways of combating the view that pay equity is *the* answer to wage discrimination will be critical for future gains on this issue. (Lewis,1990:27) (Bold and Italics in original)

Poverty for working women is a real problem which requires a range of strategies and struggles. While governments may support in principle the empowerment and independence of women through programs such as pay and employment equity, these cannot be relied upon to assist the majority of women who want to escape from the "pink ghetto". This paper has focused on the experiences of the PSAC union in attempting to guarantee equal pay for work of equal value for its female members. Based upon the outcome of the study, I have concluded that PSAC should continue in its attempts to get the CHRC to finish the case; however, PSAC should consider alternative strategies to increase the training and experience of all of their members. For those women not represented by a union, this case study has demonstrated how easily the pay equity legislation allows for the process to be taken over and directed by the employer without consideration of either the employee nor the recommendations of the consultant. Once again, women must seek out and pursue alternative strategies for improving their incomes and labour market position.

Epilogue

On February 25, 1992 the Minister of Finance effectively sealed the vault against any retroactive claims to equal pay that might be decided upon by the courts for the period of the study from 1985 to 1990.

We are also taking action to manage future spending pressures in a fiscally responsible way. The government is prepared to act when necessary to counter the serious fiscal effects that may come from legal challenges to government programs. For example, while the government will continue to implement equal pay for work of equal value, it will not make any further retroactive payments for the period prior to November 1, 1990. (The Budget Speech, Honourable Don Mazankowski, Minister of Finance, February 25, 1992, page 6)

In addition, they stated that they will not hesitate to use legislation to eliminate any decision of the Canadian Human Rights Tribunal related to the period before November 1, 1990. The government goes on to claim that they are going on to design a universal job-evaluation plan which will provide a basis for equal pay for work of equal value. In other words, the government will institute another form of classification which bureaucratizes and legislates a set of classification without any regard for the interests of women, the unions that represent them, nor existing legislation intended to protect their equality rights.

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Appendix 1 - Female Employees Equal Pay Act

4-5 ELIZABETH II.

CHAP. 38

An Act to Promote Equal Pay for Female Employees.

[Assented to 14th August, 1966.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

1. This Act may be cited as the *Female Employees Equal Pay Act*.

INTERPRETATION.

2. In this Act,

- (a) "Fair Wage Officer" means an officer of the Department of Labour designated by the Minister to deal with complaints under this Act; Definitions.
"Fair Wage Officer."
- (b) "federal works, undertakings or businesses" means "Federal works, undertakings or businesses."
- (i) works, undertakings or businesses operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada;
 - (ii) railways, canals, telegraphs and other works and undertakings connecting a province with any other or others of the provinces, or extending beyond the limits of a province;
 - (iii) lines of steam and other ships connecting a province with any other or others of the provinces, or extending beyond the limits of a province;
 - (iv) ferries between any province and any other province or between any province and any country other than Canada;
 - (v) aerodromes, aircraft and lines of air transportation;
 - (vi) radio broadcasting stations;
 - (vii) banks and banking;

- (viii) such works or undertakings as, although wholly situate within a province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces; and
- (ix) any work, undertaking or business outside the exclusive legislative authority of the legislature of any province, and all other works, undertakings or businesses that are within the legislative authority of the Parliament of Canada, but not including any works, undertakings or businesses of a local or private nature in the Yukon Territory or the Northwest Territories; and

"Minister."

(c) "Minister" means the Minister of Labour.

APPLICATION

Application
of Act.

3. This Act applies to and in respect of
- (a) employment upon or in connection with any federal works, undertakings or businesses;
 - (b) employers engaged in any federal works, undertakings or businesses;
 - (c) employees employed upon or in connection with any federal works, undertakings or businesses; and
 - (d) employment of employees by any corporation established to perform any function or duty on behalf of the Government of Canada.

EQUAL PAY FOR FEMALE EMPLOYEES.

Equal pay for
identical
work.

4. (1) No employer shall employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for identical or substantially identical work.

When work
deemed
identical

(2) Subject to subsection (3), for the purposes of subsection (1), work for which a female employee is employed and work for which a male employee is employed shall be deemed to be identical or substantially identical if the job, duties or services the employees are called upon to perform are identical or substantially identical.

Exception

(3) Payment to a female employee at a rate of pay less than the rate of pay at which a male employee is employed does not constitute a failure to comply with this section, if the difference between the rates of pay is based on length of service or seniority, on location or geographical area of employment or on any other factor other than sex, and, in the opinion of the Fair Wage Officer, Referee, court, judge or magistrate, the factor on which the difference is based would normally justify such difference in rates of pay.

5. No employer shall discharge or otherwise discriminate against any person because that person has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Act.

Discharge,
dismissal,
etc.

ENFORCEMENT PROCEDURE.

6. (1) Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Minister and the Minister may instruct a Fair Wage Officer to inquire into the complaint and endeavour to effect a settlement of the matters complained of.

Complaint to
Minister and
reference to
Fair Wage
Officer.

(2) If the Fair Wage Officer is unable to effect a settlement of the matters complained of, he shall make a report to the Minister setting forth the facts and his recommendation thereon.

Report to
Minister.

(3) The Minister may

(a) refer the complaint to a Referee to be appointed by the Minister, or

Powers of
Minister.

(b) decline to refer the complaint to a Referee if he considers it to be without merit.

(4) Where the Minister has referred a complaint to a Referee the Referee shall

(a) inquire into the matters referred to him.

(b) give full opportunity to all parties to present evidence and make representations,

(c) decide whether or not the complaint is supported by the evidence, and

(d) make whatever order he considers necessary to carry his decision into effect, which may include payment of the remuneration or additional remuneration that, during a period not exceeding six months immediately preceding the date of the complaint, would have accrued to the employee if the employer had complied with this Act.

(5) In considering a complaint under this Act a Fair Wage Officer or a Referee may enter the premises where any work, business or undertaking relating to the complaint is carried on and may inspect payroll and other employment records; and the owner or person in charge of such premises and every person found therein shall give the Fair Wage Officer or Referee all reasonable assistance in his power and furnish the Fair Wage Officer or Referee with such information as he may reasonably require.

Powers of
Fair Wage
Officer or
Referee.

(6) A Referee to whom a complaint has been referred has all the powers of a Conciliation Board under section 33 of the *Industrial Relations and Disputes Investigation Act*.

Powers of
Referee.

(7) Every person in respect of whom an order is made under this section shall comply with the order.

Compliance
with order.

Obstruction. (8) No person shall hinder or obstruct a Fair Wage Officer or Referee in the exercise of any duty or power conferred by this section.

False statements. (9) No person shall make any false or misleading statement either verbally or in writing to any Fair Wage Officer or Referee engaged in carrying out his duties or powers under this section.

Allowances. (10) A Referee appointed by the Minister under this Act may be paid such allowances and expenses as are approved by the Treasury Board.

Rights preserved. (11) Nothing in this section operates to restrict the right of any aggrieved person to initiate proceedings under any other provision of this Act before a court, judge or magistrate against any person for an alleged contravention of this Act, except that where a complaint has been made under this section that an employer has failed to comply with section 4 or 5, and the complaint has been referred to a Referee appointed by the Minister, the employer shall not, in respect of the same matter, be convicted under section 7 for failure to comply with section 4 or 5, as the case may be.

OFFENCES AND PENALTIES.

Offences. 7. Every person who does anything prohibited by this Act or who refuses or neglects to do anything required by this Act is guilty of an offence and is liable on summary conviction

(a) if an individual, to a fine not exceeding one hundred dollars, and

(b) if a corporation, to a fine not exceeding five hundred dollars.

Restoration of remuneration. 8. (1) Where an employer is convicted for failure to comply with section 4 or 5 in respect of any employee, the convicting court, in addition to any other penalty, may order the employer to pay to the employee the remuneration or additional remuneration that, during a period not exceeding six months immediately preceding the date the prosecution was instituted, would have accrued to the employee if the employer had complied with these sections.

Idem. (2) Where an employer is convicted for failure to comply with an order under section 6 for the payment to an employee of an amount as remuneration or additional remuneration, the convicting court, in addition to any other penalty, may order the employer to pay such amount to the employee.

Multiple complaints. 9. A complaint, information or order under this Act may relate to one or more offences by one employer in respect of one or more of his employees.

10. In any prosecution under this Act, Evidence.
- (a) a document purporting to be an order or a copy of an order of a Referee and purporting to be certified by a Referee, is receivable in evidence and is *prima facie* proof of the appointment of the Referee by the Minister under this Act and of the order; and
- (b) a document purporting to be certified by the Minister or by any person purporting to be acting under the authority of the Minister and stating that any person named therein has been appointed by the Minister under this Act to be a Referee and stating the nature of the complaint referred to the Referee, is receivable in evidence as *prima facie* proof of the appointment of such person as a Referee under this Act and of the nature of the complaint referred to him.

INQUIRIES.

11. The Minister may, where he deems it expedient, Inquiries. undertake or cause to be undertaken such inquiries and other measures as appear advisable to him to promote the purposes of this Act.

REGULATIONS.

12. The Governor in Council may make regulations to Regulations. carry out the purposes and provisions of this Act.

COLLECTIVE AGREEMENTS.

13. (1) Where an employer is bound by a collective Equal pay provisions in collective agreements. agreement that contains an equal pay provision and contains, or is deemed under subsection (2) of section 19 of the *Industrial Relations and Disputes Investigation Act* to contain, a grievance settlement provision, no complaint shall be made or information laid in respect of any employment by that employer of a female employee who is bound by the collective agreement.

(2) In this section

(a) "equal pay provision" means a provision in a collective Definitions.
"Equal pay provision." agreement substantially to the same effect as section 4; and

(b) "grievance settlement provision" means a provision "Grievance settlement provision." for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or persons bound by a collective agreement or on whose behalf it was entered into, concerning its meaning or violation.

Transitional.

14. Where on the day this Act comes into force an employer is bound by a collective agreement that was entered into prior to that day, no complaint shall be made or information laid in respect of any employment by that employer of a female employee who is bound by the collective agreement, during

- (a) the period that the collective agreement is in force, or
 - (b) a period of one year from the coming into force of this Act,
- whichever is the shorter period.

COMING INTO FORCE.**Coming into force.**

15. This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

EDMOND CLOUTIER, C.M.G., O.A., 1947
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1948

Appendix 2 -

Canadian Human Rights Act, Section 11

OFFICE CONSOLIDATION

CODIFICATION ADMINISTRATIVE

**Canadian Human
Rights Act**

**Loi canadienne sur
les droits de la
personne**

R.S., 1985, c. H-6

amended by

R.S., c. 1985, c. 31 (1st Suppl.)

R.S., c. 1985, c. 32 (2nd Suppl.)

L.R. (1985), ch. H-6

modifiée par

L.R. (1985), ch. 31 (1^{re} suppl.)

L.R. (1985), ch. 32 (2^e suppl.)

January, 1989

Janvier 1989

Employee organizations

9. (1) It is a discriminatory practice for an employee organization on a prohibited ground of discrimination

- (a) to exclude an individual from full membership in the organization;
- (b) to expel or suspend a member of the organization; or
- (c) to limit, segregate, classify or otherwise act in relation to an individual in a way that would deprive the individual of employment opportunities, or limit employment opportunities or otherwise adversely affect the status of the individual, where the individual is a member of the organization or where any of the obligations of the organization pursuant to a collective agreement relate to the individual.

Exception

(2) Notwithstanding subsection (1), it is not a discriminatory practice for an employee organization to exclude, expel or suspend an individual from membership in the organization because that individual has reached the normal age of retirement for individuals working in positions similar to the position of that individual.

Definition of "employee organization"

(3) For the purposes of this section and sections 10 and 60, "employee organization" includes a trade union or other organization of employees or local thereof, the purposes of which include the negotiation, on behalf of employees, of the terms and conditions of employment with employers. 1976-77, c. 33, s. 9; 1980-81-82-83, c. 143, s. 4.

Discriminatory policy or practice

10. It is a discriminatory practice for an employer, employee organization or organization of employers

- (a) to establish or pursue a policy or practice, or
- (b) to enter into an agreement affecting recruitment, referral, hiring, promotion, training, apprenticeship, transfer or any other matter relating to employment or prospective employment,

that deprives or tends to deprive an individual or class of individuals of any employment opportunities on a prohibited ground of discrimination. 1976-77, c. 33, s. 10; 1980-81-82-83, c. 143, s. 5.

Equal wages

11. (1) It is a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees

9. (1) Constitue un acte discriminatoire, s'il est fondé sur un motif de distinction illicite, le fait, pour une organisation syndicale :

- a) d'empêcher l'adhésion pleine et entière d'un individu;
- b) d'expulser ou de suspendre un adhérent;
- c) d'établir, à l'endroit d'un adhérent ou d'un individu à l'égard de qui elle a des obligations aux termes d'une convention collective, que celui-ci fasse ou non partie de l'organisation, des restrictions, des différences ou des catégories ou de prendre toutes autres mesures susceptibles soit de le priver de ses chances d'emploi ou d'avancement, soit de limiter ses chances d'emploi ou d'avancement, ou, d'une façon générale, de nuire à sa situation.

Organisations syndicales

(2) Ne constitue pas un acte discriminatoire au sens du paragraphe (1) le fait pour une organisation syndicale d'empêcher une adhésion ou d'expulser ou de suspendre un adhérent en appliquant la règle de l'âge normal de la retraite en vigueur pour le genre de poste occupé par l'individu concerné.

Exception

(3) Pour l'application du présent article et des articles 10 et 60, «organisation syndicale» s'entend des syndicats ou autres groupements d'employés, y compris leurs sections locales, chargés notamment de négocier avec l'employeur les conditions de travail de leurs adhérents. 1976-77, ch. 33, art. 9; 1980-81-82-83, ch. 143, art. 4.

Définition de «organisation syndicale»

10. Constitue un acte discriminatoire, s'il est fondé sur un motif de distinction illicite et s'il est susceptible d'annihiler les chances d'emploi ou d'avancement d'un individu ou d'une catégorie d'individus, le fait, pour l'employeur, l'association patronale ou l'organisation syndicale :

- a) de fixer ou d'appliquer des lignes de conduite;
- b) de conclure des ententes touchant le recrutement, les mises en rapport, l'engagement, les promotions, la formation, l'apprentissage, les mutations ou tout autre aspect d'un emploi présent ou éventuel. 1976-77, ch. 33, art. 10; 1980-81-82-83, ch. 143, art. 5.

Lignes de conduite discriminatoires

11. (1) Constitue un acte discriminatoire le fait pour l'employeur d'instaurer ou de pratiquer la disparité salariale entre les hommes et

Disparité salariale discriminatoire

employed in the same establishment who are performing work of equal value.

les femmes qui exécutent, dans le même établissement, des fonctions équivalentes.

Assessment of value of work

(2) In assessing the value of work performed by employees employed in the same establishment, the criterion to be applied is the composite of the skill, effort and responsibility required in the performance of the work and the conditions under which the work is performed.

(2) Le critère permettant d'établir l'équivalence des fonctions exécutées par des salariés dans le même établissement est le dosage de qualifications, d'efforts et de responsabilités nécessaire pour leur exécution, compte tenu des conditions de travail.

Critère

Separate establishments

(3) Separate establishments established or maintained by an employer solely or principally for the purpose of establishing or maintaining differences in wages between male and female employees shall be deemed for the purposes of this section to be the same establishment.

(3) Les établissements distincts qu'un employeur aménage ou maintient dans le but principal de justifier une disparité salariale entre hommes et femmes sont réputés, pour l'application du présent article, ne constituer qu'un seul et même établissement.

Établissements distincts

Different wages based on prescribed reasonable factors

(4) Notwithstanding subsection (1), it is not a discriminatory practice to pay to male and female employees different wages if the difference is based on a factor prescribed by guidelines, issued by the Canadian Human Rights Commission pursuant to subsection 27(2), to be a reasonable factor that justifies the difference.

(4) Ne constitue pas un acte discriminatoire au sens du paragraphe (1) la disparité salariale entre hommes et femmes fondée sur un facteur reconnu comme raisonnable par une ordonnance de la Commission canadienne des droits de la personne en vertu du paragraphe 27(2).

Disparité salariale non discriminatoire

Idem

(5) For greater certainty, sex does not constitute a reasonable factor justifying a difference in wages.

(5) Des considérations fondées sur le sexe ne sauraient motiver la disparité salariale.

Idem

No reduction of wages

(6) An employer shall not reduce wages in order to eliminate a discriminatory practice described in this section.

(6) Il est interdit à l'employeur de procéder à des diminutions salariales pour mettre fin aux actes discriminatoires visés au présent article.

Diminutions de salaire interdites

Definition of "wages"

(7) For the purposes of this section, "wages" means any form of remuneration payable for work performed by an individual and includes

- (a) salaries, commissions, vacation pay, dismissal wages and bonuses;
- (b) reasonable value for board, rent, housing and lodging;
- (c) payments in kind;
- (d) employer contributions to pension funds or plans, long-term disability plans and all forms of health insurance plans; and
- (e) any other advantage received directly or indirectly from the individual's employer.

1976-77, c. 33, s. 11.

(7) Pour l'application du présent article, «salaire» s'entend de toute forme de rémunération payable à un individu en contrepartie de son travail et, notamment :

Définition de «salaire»

- a) des traitements, commissions, indemnités de vacances ou de licenciement et des primes;
- b) de la juste valeur des prestations en repas, loyers, logement et hébergement;
- c) des rétributions en nature;
- d) des cotisations de l'employeur aux caisses ou régimes de pension, aux régimes d'assurance contre l'invalidité prolongée et aux régimes d'assurance-maladie de toute nature;
- e) des autres avantages reçus directement ou indirectement de l'employeur. 1976-77, ch. 33, art. 11.

Publication of discriminatory notices, etc.

12. It is a discriminatory practice to publish or display before the public or to cause to be published or displayed before the public any notice, sign, symbol, emblem or other representation that

12. Constitue un acte discriminatoire le fait de publier ou d'exposer en public, ou de faire publier ou exposer en public des affiches, des écriteaux, des insignes, des emblèmes, des symboles ou autres représentations qui, selon le cas :

Déclaration de faits discriminatoires, etc.

Appendix 3 - Canadian Human Rights Act, Equal Wages Guidelines, 1986

10-12, 36 Canada Gazette Part II, Vol. 120, No. 25 Gazette du Canada Partie II, Vol. 120, N. 25 SOR/DORS/86-1082

Registration
SOR/86-1082 13 November, 1986

Enregistrement
DORS/86-1082 13 novembre 1986

CANADIAN HUMAN RIGHTS ACT

LOI CANADIENNE SUR LES DROITS DE LA PERSONNE

Equal Wages Guidelines, 1986

Ordonnance de 1986 sur la parité salariale

The Canadian Human Rights Commission, pursuant to subsections 11(3) and 22(2)* of the Canadian Human Rights Act**, hereby revokes the Equal Wages Guidelines, made on September 18, 1978***, and makes the annexed Guidelines respecting the application of section 11 of the Canadian Human Rights Act and prescribing factors justifying different wages for work of equal value, in substitution therefor.

En vertu des paragraphes 11(3) et 22(2)* de la Loi canadienne sur les droits de la personne**, la Commission canadienne des droits de la personne abroge les Ordonnances sur l'égalité de rémunération, prises le 18 septembre 1978***, et prend en remplacement l'Ordonnance de la Commission canadienne des droits de la personne précisant les modalités d'application de l'article 11 de la Loi canadienne sur les droits de la personne et les facteurs justifiant la disparité salariale pour des fonctions équivalentes, ci-après.

Ottawa, November 18, 1986

Ottawa, le 19 novembre 1986

GUIDELINES RESPECTING THE APPLICATION OF SECTION 11 OF THE CANADIAN HUMAN RIGHTS ACT AND PRESCRIBING FACTORS JUSTIFYING DIFFERENT WAGES FOR WORK OF EQUAL VALUE

ORDONNANCE DE LA COMMISSION CANADIENNE DES DROITS DE LA PERSONNE PRÉCISANT LES MODALITÉS D'APPLICATION DE L'ARTICLE 11 DE LA LOI CANADIENNE SUR LES DROITS DE LA PERSONNE ET LES FACTEURS JUSTIFIANT LA DISPARITÉ SALARIALE POUR DES FONCTIONS ÉQUIVALENTES

Short Title

Titre abrégé

1 These Guidelines may be cited as the *Equal Wages Guidelines, 1986*.

1 Ordonnance de 1986 sur la parité salariale

Interpretation

Définitions

2. In these Guidelines, "Act" means the *Canadian Human Rights Act*. (Loi)

2. La définition qui suit s'applique à la présente ordonnance.
«Loi» La Loi canadienne sur les droits de la personne.

Assessment of Value

Équivalence des fonctions

Skill

Qualifications

3. For the purposes of subsection 11(2) of the Act, intellectual and physical qualifications acquired by experience, training, education or natural ability shall be considered in assessing the skill required in the performance of work.

3. Pour l'application du paragraphe 11(2) de la Loi, les qualifications comprennent les aptitudes physiques et intellectuelles acquises par l'expérience, la formation ou les études ou attribuables à l'habileté naturelle.

4. The methods by which employees acquire the qualifications referred to in section 3 shall not be considered in assessing the skill of different employees.

4. Il est fait abstraction, lors de la comparaison des qualifications de différents employés, de la façon dont celles-ci ont été acquises.

* S.C. 1977-78, c. 22, s. 5(1)

** S.C. 1976-77, c. 33

*** S1/78-155, 1978 Canada Gazette Part II, p. 3695

* S.C. 1977-78, ch. 22, par. 5(1)

** S.C. 1976-77, ch. 33

*** TR/78-155, Gazette du Canada Partie II, 1978, p. 3695

Effort

5. For the purposes of subsection 11(2) of the Act, intellectual and physical effort shall be considered in assessing the effort required in the performance of work.

6. For the purpose of section 5, intellectual and physical effort may be compared.

Responsibility

7. For the purposes of subsection 11(2) of the Act, the extent of responsibility by the employee for technical, financial and human resources shall be considered in assessing the responsibility required in the performance of work.

Working Conditions

8. (1) For the purposes of subsection 11(2) of the Act, the physical and psychological work environments, including noise, temperature, isolation, physical danger, health hazards and stress, shall be considered in assessing the conditions under which the work is performed.

(2) For the purposes of subsection 11(2) of the Act, the requirement to work overtime or to work shifts is not to be considered in assessing working conditions where a wage, in excess of the basic wage, is paid for that overtime or shift work.

Method of Assessment of Value

9. Where an employer relies on a system in assessing the value of work performed by employees employed in the same establishment, that system shall be used in the investigation of any complaint alleging a difference in wages, if that system

- (a) operates without any sexual bias;
- (b) is capable of measuring the relative value of work of all jobs in the establishment; and
- (c) assesses the skill, effort and responsibility and the working conditions determined in accordance with sections 3 to 8.

Employees of an Establishment

10. For the purpose of section 11 of the Act, employees of an establishment include, notwithstanding any collective agreement applicable to any employees of the establishment, all employees of the employer subject to a common personnel and wage policy, whether or not such policy is administered centrally.

Complaints by Individuals

11. (1) Where a complaint alleging a difference in wages is filed by or on behalf of an individual who is a member of an identifiable occupational group, the composition of the group

Effort

5. Pour l'application du paragraphe 11(2) de la Loi, les efforts comprennent l'effort intellectuel et l'effort physique.

6. Pour l'application de l'article 5, l'effort intellectuel et l'effort physique peuvent être comparés.

Responsabilités

7. Pour l'application du paragraphe 11(2) de la Loi, les responsabilités comprennent les responsabilités de l'employé sur le plan des ressources techniques, financières et humaines.

Conditions de travail

8. (1) Pour l'application du paragraphe 11(2) de la Loi, les conditions de travail comprennent les conditions liées à l'environnement physique et au climat psychologique au sein de l'établissement, notamment le bruit, la température, l'isolement, les dangers matériels, les risques pour la santé et le stress.

(2) Pour l'application du paragraphe 11(2) de la Loi, il est fait abstraction, dans l'évaluation des conditions de travail, de l'obligation de travailler des heures supplémentaires ou par poste lorsque l'employé reçoit une prime pour ce travail.

Méthode d'évaluation

9. Lorsque l'employeur a recours à une méthode d'évaluation pour établir l'équivalence des fonctions exécutées par des employés dans le même établissement, cette méthode est utilisée dans les enquêtes portant sur les plaintes dénonçant une situation de disparité salariale si elle:

- a) est exempte de toute partialité fondée sur le sexe;
- b) permet de mesurer la valeur relative des fonctions de tous les emplois dans l'établissement; et
- c) permet d'évaluer les qualifications, les efforts, les responsabilités et les conditions de travail visés aux articles 3 à 8.

Employés d'un établissement

10. Pour l'application de l'article 11 de la Loi, les employés d'un établissement comprennent, indépendamment des conventions collectives, tous les employés au service de l'employeur qui sont visés par la même politique en matière de personnel et de salaires, que celle-ci soit ou non administrée par un service central.

Plaintes individuelles

11. (1) Lorsqu'une plainte dénonçant une situation de disparité salariale est déposée par un individu qui fait partie d'un groupe professionnel identifiable, ou est déposée au nom de cet individu, la composition du groupe selon le sexe est prise en

according to sex is a factor in determining whether the practice complained of is discriminatory on the ground of sex.

(2) In the case of a complaint by an individual, where at least two other employees of the establishment perform work of equal value, the weighted average wage paid to those employees shall be used to calculate the adjustment to the complainant's wages.

Complaints by Groups

12. Where a complaint alleging different wages is filed by or on behalf of an identifiable occupational group, the group must be predominantly of one sex and the group to which the comparison is made must be predominantly of the other sex.

13. For the purpose of section 12, an occupational group is composed predominantly of one sex where the number of members of that sex constituted, for the year immediately preceding the day on which the complaint is filed, at least

- (a) 70 per cent of the occupational group, if the group has less than 100 members;
- (b) 60 per cent of the occupational group, if the group has from 100 to 500 members; and
- (c) 55 per cent of the occupational group, if the group has more than 500 members.

14. Where a comparison is made between the occupational group that filed a complaint alleging a difference in wages and other occupational groups, those other groups are deemed to be one group.

15. (1) Where a complaint alleging a difference in wages between an occupational group and any other occupational group is filed and a direct comparison of the value of the work performed and the wages received by employees of the occupational groups cannot be made, for the purposes of section 11 of the Act, the work performed and the wages received by the employees of each occupational group may be compared indirectly.

(2) For the purposes of comparing wages received by employees of the occupational groups referred to in subsection (1), the wage curve of the other occupational group referred to in that subsection shall be used to establish the difference in wages, if any, between the employees of the occupational group on behalf of which the complaint is made and the other occupational group.

Reasonable Factors

16. For the purpose of subsection 11(3) of the Act, a difference in wages between male and female employees performing work of equal value in an establishment is justified by

- (a) different performance ratings, where employees are subject to a formal system of performance appraisal that has been brought to their attention;
- (b) seniority, where a system of remuneration that applies to the employees provides that they receive periodic increases in wages based on their length of service with the employer;

considération avant qu'il soit déterminé si la situation constitue un acte discriminatoire fondé sur le sexe.

(2) Si une comparaison peut être établie avec au moins deux autres employés exécutant des fonctions équivalentes à celle du plaignant visé au paragraphe (1), le salaire moyen pondéré versé à ces employés doit être utilisé dans le calcul du rajustement qui doit être apporté au salaire du plaignant.

Plaintes collectives

12. Lorsqu'une plainte dénonçant une situation de disparité salariale est déposée par un groupe professionnel identifiable ou en son nom, ce groupe doit être composé majoritairement de membres d'un sexe et le groupe auquel il est comparé doit être composé majoritairement de membres de l'autre sexe.

13. Pour l'application de l'article 12, un groupe professionnel est composé majoritairement de membres d'un sexe si, dans l'année précédant la date du dépôt de la plainte, le nombre de membres de ce sexe représentait au moins:

- a) 70 pour cent du groupe professionnel, dans le cas d'un groupe comptant moins de 100 membres;
- b) 60 pour cent du groupe professionnel, dans le cas d'un groupe comptant de 100 à 500 membres;
- c) 55 pour cent du groupe professionnel, dans le cas d'un groupe comptant plus de 500 membres.

14. Si le groupe professionnel ayant déposé la plainte est comparé à plusieurs autres groupes professionnels, ceux-ci sont considérés comme un seul groupe.

15. (1) Pour l'application de l'article 11 de la Loi, lorsque la plainte déposée dénonce une situation de disparité salariale entre un groupe professionnel et un autre groupe professionnel et qu'une comparaison directe de ces deux groupes ne peut être faite quant à l'équivalence des fonctions et aux salaires des employés, une comparaison indirecte de ces éléments peut être faite.

(2) Pour la comparaison des salaires des employés des groupes professionnels visés au paragraphe (1), la courbe des salaires du groupe professionnel mentionné en second lieu doit être utilisée pour établir l'écart, s'il y a lieu, entre les salaires des employés du groupe professionnel en faveur de qui la plainte est déposée et de l'autre groupe professionnel.

Facteurs reconnus raisonnables

16. Pour l'application du paragraphe 11(3) de la Loi, les facteurs suivants sont reconnus raisonnables pour justifier la disparité salariale entre les hommes et les femmes qui exécutent dans le même établissement des fonctions équivalentes:

- a) les appréciations du rendement, dans les cas où les employés sont soumis à un régime d'appréciation du rendement qui a été porté à leur connaissance;
- b) l'ancienneté, dans les cas où les employés sont soumis à un régime salarial qui prévoit des augmentations périodiques fondées sur les états de service auprès de l'employeur;

(c) a re-evaluation and downgrading of the position of an employee, where the wages of that employee are temporarily fixed, or the increases in the wages of that employee are temporarily curtailed, until the wages appropriate to the downgraded position are equivalent to or higher than the wages of that employee;

(d) a rehabilitation assignment, where an employer pays to an employee wages that are higher than justified by the value of the work performed by that employee during recuperation of limited duration from an injury or illness;

(e) a demotion procedure, where the employer, without decreasing the employee's wages, reassigns an employee to a position at a lower level as a result of the unsatisfactory work performance of the employee caused by factors beyond the employee's control, such as the increasing complexity of the job or the impaired health or partial disability of the employee, or as a result of an internal labour force surplus that necessitates the reassignment;

(f) a procedure of gradually reducing wages for any of the reasons set out in paragraph (e);

(g) a temporary training position, where, for the purposes of an employee development program that is equally available to male and female employees and leads to the career advancement of the employees who take part in the program, an employee temporarily assigned to the position receives wages at a different level than an employee working in such a position on a permanent basis;

(h) the existence of an internal labour shortage in a particular job classification;

(i) a reclassification of a position to a lower level, where the incumbent continues to receive wages on the scale established for the former higher classification; and

(j) regional rates of wages, where the wage scale that applies to the employees provides for different rates of wages for the same job depending on the defined geographic area of the workplace.

17. For the purpose of justifying a difference in wages on the basis of a factor set out in section 16, an employer is required to establish that the factor is applied consistently and equitably in calculating and paying the wages of all male and female employees employed in an establishment who are performing work of equal value.

18. In addition to the requirement of section 17, for the purpose of justifying a difference in wages on the basis of paragraph 16(h), an employer is required to establish that similar differences exist between the group of employees in the job classification affected by the shortage and another group of employees predominantly of the same sex as the group affected by the shortage, who are performing work of equal value.

19. In addition to the requirement of section 17, for the purpose of justifying a difference in wages on the basis of paragraph 16(i), an employer is required to establish that

(a) since the reclassification, no new employee has received wages on the scale established for the former classification; and

(b) there is a difference between the incumbents receiving wages on the scale established for the former classification

c) la surévaluation d'un poste, dans les cas où le poste d'un employé est réévalué et déclassé et où son salaire demeure fixe pour une période limitée ou ses augmentations salariales sont bloquées jusqu'à ce que le salaire propre au poste déclassé soit égal ou supérieur au salaire de l'employé;

d) l'affectation de réadaptation, dans les cas où l'employeur verse à un employé un salaire supérieur à la valeur du travail qu'il exécute pendant qu'il se remet momentanément d'une blessure ou d'une maladie;

e) la rétrogradation, dans les cas où l'employeur, tout en maintenant le salaire d'un employé, le réaffecte à un poste d'un niveau inférieur, soit à cause du rendement insuffisant de l'employé attribuable à l'accroissement de la complexité du travail, à des problèmes de santé, à une incapacité partielle ou à toute autre cause indépendante de la volonté de l'employé, soit à cause d'un surplus de main-d'œuvre au sein de l'établissement de l'employeur;

f) la réduction graduelle du salaire, dans les cas où celle-ci est effectuée pour l'un des motifs mentionnés à l'alinéa e);

g) l'affectation temporaire à des fins de formation, dans les cas où, dans le cadre d'un programme de perfectionnement des employés qui est accessible tant aux hommes qu'aux femmes et leur offre des chances égales d'avancement, un employé est affecté temporairement à un poste et reçoit un salaire différent de celui du titulaire permanent;

h) la pénurie de main-d'œuvre dans une catégorie d'emploi particulière au sein de l'établissement de l'employeur;

i) la reclassification d'un poste à un niveau inférieur, dans les cas où le titulaire continue à recevoir un salaire selon les taux de l'ancienne classification;

j) les variations salariales régionales, dans les cas où le régime salarial applicable aux employés prévoit des variations de salaire pour un même travail selon la région où est situé le lieu de travail.

17. L'employeur qui entend justifier une disparité salariale en invoquant l'un des facteurs énumérés à l'article 16 doit prouver que ce facteur est appliqué de façon uniforme et équitable dans le calcul et le versement des salaires des hommes et des femmes qui exécutent, dans le même établissement, des fonctions équivalentes.

18. Outre les exigences de l'article 17, l'employeur qui entend justifier une disparité salariale en invoquant le facteur visé à l'alinéa 16h) doit prouver qu'une disparité salariale existe entre le groupe d'employés appartenant à la classification touchée par la pénurie et un autre groupe d'employés qui exécute des fonctions équivalentes et est composé majoritairement d'employés du même sexe que le groupe mentionné en premier lieu.

19. Outre les exigences de l'article 17, l'employeur qui entend justifier une disparité salariale en invoquant le facteur visé à l'alinéa 16i) doit prouver ce qui suit:

a) depuis la reclassification, aucun nouveau titulaire n'a reçu un salaire selon les taux de l'ancienne classification;

b) une disparité salariale existe entre les employés recevant un salaire selon les taux de l'ancienne classification et un

and another group of employees, predominantly of the same sex as the first group, who are performing work of equal value.

autre groupe d'employés qui exécute des fonctions équivalentes et est composé majoritairement d'employés du même sexe que le groupe mentionné en premier lieu.

EXPLANATORY NOTE

(This note is not part of the Guidelines.)

These guidelines prescribe

- (a) the manner in which section 11 of the *Canadian Human Rights Act* is to be applied; and
- (b) the factors that are considered reasonable to justify a difference in wages between men and women performing work of equal value in the same establishment.

NOTE EXPLICATIVE

(La présente note ne fait pas partie de l'ordonnance.)

L'ordonnance vise à préciser:

- a) les modalités d'application de l'article 11 de la *Loi canadienne sur les droits de la personne*;
- b) les facteurs reconnus raisonnables pour justifier la disparité salariale entre les hommes et les femmes qui exécutent, dans le même établissement, des fonctions équivalentes.

Appendix 4 -

Convention on the Elimination of all forms of Discrimination
Against Women (Canada's report to the United Nations on
measures to address equal pay for work of equal value.

129. The Canadian Human Rights Commission is responsible for the enforcement of the principle of equal pay for work of equal value, as that concept is enshrined in section 11 of the Canadian Human Rights Act. As of June 1986, approximately 4,800 federally regulated employees in female-dominated occupational groups had shared approximately \$39.1 million in equalization adjustments and back pay following settlement of equal pay for work of equal value complaints. These occupational groups include home economists, occupational and physical therapists, librarians, food services, laundry services and personal services. In each instance, the settlements were derived by comparing the work of these groups with dissimilar work of equal value performed by male-dominated occupational groups for the same employer. On November 18, 1986, the Commission approved a new set of guidelines for the application of that section of the Act.

130. The Joint Union/Management Committee formed in 1985 by the President of the Treasury Board has been actively working on a detailed plan for the proactive service-wide implementation of equal pay for work of equal value within the federal public service. The Committee submitted a report to the President on March 31, 1987, regarding the future direction for the implementation of this principle across the public service.

131. In addition to the complaints and enforcement mechanisms of the Canadian Human Rights Act, section 38(2) of the Canada Labour Code enables an inspector to notify or file a complaint with the Canadian Human Rights Commission where the inspector has reasonable grounds to believe that the equal pay provision of the Canadian Human Rights Act has been breached. In June 1984, the Equal Pay Division of Labour Canada began operations. Its aim is to eliminate pay discrimination against female workers in industries falling within federal jurisdiction. Its immediate task is to ensure that educational and promotional activities relating to equal pay for work of equal value are developed. Labour Canada's field officers have undergone a training program to enable them to better promote compliance with the equal pay provisions of the Labour Code.

132. The Women's Bureau, Labour Canada, held a seminar on equal pay for work of equal value in February 1986. It brought together senior executive officers of companies under federal jurisdiction, as well as Canadian and American experts to examine some of the key issues in the implementation of this policy. A similar seminar was held in February 1987 for union representatives.

Source: Canada. Secretary of State. Convention on the Elimination of all forms of Discrimination Against Women. Second Report of Canada, 1988, 30.

Appendix 5 - Government of Canada, Position Information Questionnaire

**Government of Canada
Position Information Questionnaire**

**EQUAL PAY FOR WORK OF EQUAL VALUE STUDY
JOINT UNION/MANAGEMENT INITIATIVE**

**GOVERNMENT OF CANADA
POSITION INFORMATION QUESTIONNAIRE
EQUAL PAY FOR WORK OF EQUAL VALUE STUDY
JOINT UNION/MANAGEMENT INITIATIVE**

Position Title _____	Name _____
Position Number _____	Length of Time in Current Position _____
Work Location _____	Department _____
Office Telephone No. _____	Section/Unit _____
Supervisor's Title _____	Supervisor's Name _____

INTRODUCTION

Use this questionnaire to tell us about your position. The information you provide will be used for this study only. This is NOT a classification audit. Information obtained in the questionnaire will NOT be used to make any personnel decisions. The identifying information at the top of this page will be removed before the evaluation process.

A copy of the current JOB DESCRIPTION for your position is attached. It may be helpful if you read it before you complete the questionnaire.

Answer the questions carefully. The information you give will help make sure your position is fairly evaluated. Here are some suggestions to consider in completing the questionnaire:

1. Tell the facts about what you actually do.
2. Before answering each question, read it carefully.
3. Give specific examples to make it clear; look at the examples given and adapt them to your work.
4. Describe your position so that a person unfamiliar with it will be able to understand it.
5. Describe your position as it is now; not the way it was or will become. This means telling us what you actually do during the entire year, which may not be exactly what is in your job description.
6. Use your own words. Do not just copy information from the attached JOB DESCRIPTION.
7. Be careful to print or write legibly. Even better, type your answers if possible. If you cannot type your answers, arrangements will be made to have them typed for you.
8. You may need more space than is provided. If so, add your own pages and insert them in the questionnaire. Identify the question number to which the pages refer.
9. Sample answers to each question are provided on pages facing the questions.
10. Anyone having difficulty with any part of this questionnaire should feel free to discuss it with his/her supervisor, or departmental or union coordinator.

BEFORE YOU BEGIN, READ THROUGH THE ENTIRE QUESTIONNAIRE, INCLUDING EXAMPLES AND INSTRUCTIONS. THIS WILL HELP YOU TO ORGANIZE YOUR THINKING ABOUT YOUR POSITION. THEN RETURN TO THIS INTRODUCTION AND RE-READ IT.

Your cooperation and goodwill are gratefully acknowledged.

IMPORTANT: PLEASE RETURN YOUR COMPLETED QUESTIONNAIRE TO YOUR SUPERVISOR BY _____

• • •

SAMPLE ANSWERS

1. PURPOSE OF POSITION

State the main purpose of your position. What does your position require you to do?

Occupational Therapist

I develop and apply treatment plans and conduct training of Occupational Therapy Interns. I also evaluate hospital education programs.

Janitor

I perform light and heavy cleaning and other duties to ensure that the building and grounds at the staff training college are clean and look good.

Pay and Benefits Clerk

I inform new and current employees of all aspects of pay and benefits related to them, and initiate and follow-up on pay actions.

Manager

I manage a Canada Employment Centre which provides employment and counselling services to the public.

II. WORK SITUATION

Describe the features of your work unit and environment. This will help us better understand the size and complexity of your position.

Occupational Therapist

I am one of 3 occupational therapists in a 500-bed health care facility providing orthopaedic, surgical, medical, psychiatric and geriatric treatment. The facility serves a veteran population of 5,000.

Janitor

I am one of 5 janitors working at a staff training college for a department of 10,000 employees. The college has room for approximately 150 students; has a dormitory, classroom, office, swimming pool and tennis courts; and sits on 5 acres of land.

Pay and Benefits Clerk

I am one of 3 clerks providing pay and benefits services in a regional office of 1,000 employees for 25 different occupational groups in a decentralized department.

Manager

The Canada Employment Centre is one of 4 centres in a metropolitan area of 750,000 people with a staff of 15 employees.

Appendix 6 -

GUIDE TO POSITION MEASUREMENT EQUAL PAY FOR WORK OF EQUAL VALUE STUDY

NORMAN D. WILLIS & ASSOCIATES, INC.

KI VLEDGE & SKILLS

EVALUATION CHART FOR

GOVERNMENT OF CANADA

	A	B	C	D	E	F	G					
1. The previous experience is needed. Activities follow a simple pattern requiring a brief on the job learning period	40	40	53	61	53	61	70	80	70	80	92	106
2. Unrehearsed procedures may be followed. The operation of machinery or equipment and/or application of a degree of experience, skillness or manual dexterity may be required	40	53	61	70	80	92	106	122	140	160	184	200
3. Activities or procedures require occasional competence or skillness in the operation of completed mechanical equipment or equipment which may necessitate a high level of speed or manual dexterity	53	61	70	80	92	106	122	140	160	184	200	212
4. A measure of knowledge is required in a specialized or technological area, including occasional competence. Alternatively, competence in an involved manual or mechanical skill is required	61	70	80	92	106	122	140	160	184	200	212	224
5. Competence is required in a specialized or technological field. This includes a comprehension of complete principles and practices	70	80	92	106	122	140	160	184	200	212	224	236
6. An advanced level of understanding is required in a specialized or technological field, or competence in multiple specialized fields which may include management systems and techniques	80	92	106	122	140	160	184	200	212	224	236	248
7. The person incumbent is required to be highly knowledgeable, having a command of the subject matter pertaining to a specialized or technological field or an advanced understanding in multiple specialized fields	92	106	122	140	160	184	200	212	224	236	248	260

Knowledge & Skills encompasses the total amount of understanding, familiarity with facts or information, dexterity or aptitude necessary to perform the job in a satisfactory manner. It may be gained through experience, education, training and/or education. There are three parts to this component.

JOB KNOWLEDGE—What the position incumbent must know or know how to do in perform satisfactorily, giving appropriate consideration to the importance of the results to be achieved, and the reasonable expectation of reliability in the avoidance of errors and the consequences of errors.

MANAGERIAL SKILLS—The degree to which the elements of management must be practiced in coordinating activities, functions or subfunctions

INTERPERSONAL COMMUNICATIONS SKILLS—Good contact skills in relationships with people within and outside the organization. The levels are:

ii. Sufficient personal efforts is needed to get along with fellow employees. Contacts with others are incidental as required on a number of a work unit.

N. Personal interviews outside of the immediate work unit are required. Contacts normally involve giving or receiving information or materials.

14. **influencing and/or personally servicing others are a material part of the job, and require fact and diplomacy in dealing with others.**

You can't count on others to take action. Put yourself in contact with others involved in the project. You may need to take action.

MENTAL DEMANDS EVALUATION CHART FOR GOVERNMENT OF CANADA

PROBLEM SOLVING					
1. Problems encountered in quest rated higher than and with.	2. Problems encountered in quest rated higher than and with. Problems in the solution of a specific effort.	3. Problems encountered in quest rated higher than and with. Problems in the solution of a specific effort.	4. Problems encountered in quest rated higher than and with. Problems in the solution of a specific effort.	5. Problems encountered in quest rated higher than and with. Problems in the solution of a specific effort.	6. Problems encountered in quest rated higher than and with. Problems in the solution of a specific effort.
A. Simple decisions and procedures rated based the latitude permitted for independent judgment	e	d	e	e	i
B. Standardized work requires based the latitude permitted for independent judgment	b	e	f	h	i
C. Similar products and methods based the latitude permitted for independent judgment, as performance of multiple work tasks is normally subject to significant interruption.	e	e	e	i	i
D. Varying or complex procedures and methods based the latitude permitted for independent judgment	d	f	h	i	i
E. Greatest demands in functional abilities and goals with independent judgment	e	e	i	h	m

This component weighs the degree of effort of the required thinking process in analysis and evaluation of alternatives in reaching solutions. It is represented by the following parts:

- The latitude permitted for independent judgment.
- The extent and nature of the job's problem solving requirements.

MENTAL DEMANDS POINTS

MD symbol	K&S points																				
	46	53	61	70	80	92	106	122	140	160	184	212	244	280	320	368	424	488	560	640	736
n	30	35	40	46	53	61	70	80	92	106	122	140	160	184	212	244	280	320	368	424	488
m	26	30	35	40	46	53	61	70	80	92	106	122	140	160	184	212	244	280	320	368	424
l	23	26	30	35	40	46	53	61	70	80	92	106	122	140	160	184	212	244	280	320	368
k	20	23	26	30	35	40	46	53	61	70	80	92	106	122	140	160	184	212	244	280	320
j	17	20	23	26	30	35	40	46	53	61	70	80	92	106	122	140	160	184	212	244	280
i	15	17	20	23	26	30	35	40	46	53	61	70	80	92	106	122	140	160	184	212	244
h	13	15	17	20	23	26	30	35	40	46	53	61	70	80	92	106	122	140	160	184	212
g	11	13	15	17	20	23	26	30	35	40	46	53	61	70	80	92	106	122	140	160	184
f	10	11	13	15	17	20	23	26	30	35	40	46	53	61	70	80	92	106	122	140	160
e	9	10	11	13	15	17	20	23	26	30	35	40	46	53	61	70	80	92	106	122	140
d	8	9	10	11	13	15	17	20	23	36	30	35	40	46	53	61	70	80	92	106	122
c	7	8	9	10	11	13	15	17	20	23	26	30	35	40	46	53	61	70	80	92	106
b	6	7	8	9	10	11	13	15	17	20	23	26	30	35	40	46	53	61	70	80	92
a	5	6	7	8	9	10	11	13	15	17	20	23	26	30	35	40	46	53	61	70	80

Point increments

736 — 640 — 560 — 488 — 424 — 368 — 320 — 280 — 244 — 212 — 184 — 160 — 140 — 122 — 106 — 92 — 80 — 70 — 61 — 53 — 46 — 40 — 35 — 30 — 26 — 23 — 20 — 17 — 15 — 13 — 11 — 10 — 9 — 8 — 7 —

ACCOUNTABILITY EVALUATION CHART FOR

GOVERNMENT OF CANADA

ACCOUNTABILITY EVALUATION CHART FOR GOVERNMENT OF CANADA		SIZE OF IMPACT																			
		1. SMALL IMPACT				2. MODERATE IMPACT				3. SIGNIFICANT IMPACT				4. SUBSTANTIAL IMPACT				5. MAJOR IMPACT			
		N	S	D	N	S	D	N	S	D	N	S	D	N	S	D	N	S	D		
FREEDOM TO TAKE ACTION		A. Duties are routine and specifically delineated, with a clearly controllable		10	16	23	13	20	30	30	17	26	40	23	35	53	30	46	70		
				11	17	26	15	23	35	35	20	30	46	26	40	61	35	53	80		
				12	20	30	17	26	40	40	23	35	53	30	46	70	40	61	92		
				15	23	35	20	30	46	46	26	40	61	35	53	80	46	70	106		
				17	26	40	23	35	53	53	30	46	70	40	61	92	53	80	122		
B. Duties are somewhat routine in nature and clearly delineated, but with limited options, with a clearly controllable		20	30	46	26	40	61	61	35	53	80	46	70	106	61	92	144				
		23	35	53	30	46	70	70	40	61	92	53	80	122	70	106	160				
		26	40	61	35	53	80	80	46	70	106	61	92	140	80	122	184				
		30	46	70	40	61	92	92	53	80	122	70	106	160	92	140	212				
		35	53	80	46	70	106	106	61	92	140	80	122	184	106	160	244				
C. Characteristics of the position are such that activities and methods are clearly defined and as such a frequently reviewed		40	61	92	53	80	122	122	70	106	160	92	140	212	122	184	280				
		46	70	106	61	92	140	140	80	122	184	106	160	244	140	212	330				
		53	80	122	70	106	160	160	92	140	212	122	184	280	160	244	380				
		61	92	140	80	122	184	184	106	160	244	140	212	330	184	280	424				
		70	106	160	92	140	212	212	122	184	280	160	244	380	212	330	480				
D. Characteristics of the position are such that activities and methods are broadly defined and as such a frequently reviewed		70	106	160	92	140	212	212	122	184	280	160	244	380	212	330	480				
		70	106	160	92	140	212	212	122	184	280	160	244	380	212	330	480				
		70	106	160	92	140	212	212	122	184	280	160	244	380	212	330	480				
		70	106	160	92	140	212	212	122	184	280	160	244	380	212	330	480				
		70	106	160	92	140	212	212	122	184	280	160	244	380	212	330	480				

Each position is designed to make some contribution toward
desired overall results. The amount of contribution required is
represented by the job's accountability. It has three parts:

FREEDOM TO TAKE ACTION —

The extent of restraint under which the job must operate

Limitation can be in the form of necessary supervision or
direction, or can be inherent in the nature of the position.

SIZE OF THE JOB'S IMPACT ON END RESULTS — The general idea most representative of the job's scope based on the resources and program objectives affected.

NATURE OF THE JOB'S IMPACT —

NONDIRECT — Services attended are routine, cellular
or incidental in nature.

SUPPORTIVE — Services attended are participative in na-
ture. Assume team situation, rather than carry, results
DIRECT — Principal actions — at the position's organiza-
tional level — are taken in achieving results.

GOVERNMENT OF CANADA

WORKING CONDITIONS Evaluation Chart

		HAZARDS															
		1. Danger of injury or probability of illness or physical harm associated with the job is minimal.				2. Some danger of injury or probability of illness or physical harm is inherent in the job.				3. A significant degree of danger of injury or probability of illness or physical harm is inherent in the job.				4. A severe exposure to potential loss of life or permanently debilitating injury or illness is inherent in the job.			
		A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D
EFFORT	L. Activities require little working in tiring or restrained positions, lifting, climbing or other situations that, by their nature, cause a marked degree of fatigue.		5	7	9	6	8	10	13	9	11	15	20	13	17	23	30
			6	8	10	7	9	11	15	10	13	17	23	15	20	26	35
			7	9	11	8	10	13	17	11	15	20	26	17	23	30	40
	S. Work is characterized to a considerable degree by tiring or restrained positions, lifting or climbing, extended concentration, or other situations causing mental or physical fatigue.	5	7	9	11	8	10	13	17	11	15	20	26	17	23	30	40
		6	8	10	13	9	11	15	20	13	17	23	30	20	26	35	46
		7	9	11	15	10	13	17	23	15	20	26	35	23	30	40	53
	M. A substantial expenditure of mental or physical energy is the nature of, and normal to, the work.	7	9	11	15	10	13	17	23	15	20	26	35	23	30	40	53
		8	10	13	17	11	15	20	26	17	23	30	40	26	35	46	61
		9	11	15	20	13	17	23	30	20	26	35	46	30	40	53	70
	H. Work situations normally involve continual and highly intensive expenditure of mental or physical energy.	9	11	15	20	13	17	23	30	20	26	35	46	30	40	53	70
		10	13	17	23	15	20	26	35	23	30	40	53	35	46	61	80
		11	15	20	26	17	23	30	40	26	35	46	61	40	53	70	92

This factor includes undesirable conditions the work requirements impose on the employee. The dimensions are:

EFFORT — the amount of intense mental concentration or physical energy required to be expended.

HAZARDS — the degree of risk of injury or harm.

DISCOMFORT — The environmental or stressful conditions associated with the work. These include such things as noise, temperature, isolation, exposure to emotionally draining situations, and other similar or related unfavorable conditions. There are four levels:

- Nature of the work is such that there is a minimum of undesirable conditions.
- Normal work conditions tend to be moderately disagreeable on occasion.
- Normal work conditions are moderately disagreeable much of the time, or strongly disagreeable on occasion.
- Strongly disagreeable conditions exist continuously or much of the time.

Appendix 7 - Sample of Ratings of occupations

Rating thousands of public service jobs resulted in examples such as the following:

Title	Classification	Evaluation Points	Salary
Chief, Library Services	LS-5	562	51,544
Manager, Dairy Cattle Improvement	AG-5	542	57,009
Nursing Night Co-Ordinator	NU-HOS-5	424	42,304
Senior Program Officer	PM-5	410	46,576
Community Health Nurse	NU-CHN-3	359	38,006
Pesticide Officer	BI-2	344	40,519
Supervisor, Computer Operations	DA-CON-6	246	29,696
Project Forestry Officer	FO-1	247	39,628
Certified Nursing Assistant	HS-PHS-6	198	22,715
Preventative Maintenance Inspector	GL-COI-9	198	27,784
Secretary	ST-SCY-2	159	22,180
Building Supervisor	CS-BUS-5	154	25,538
Edit and Compilation Clerk	CR-3	147	21,469
Farm Worker	GL-MAN-5	145	22,418
Typist	ST-TYP-1	115	15,487
Seaperson	SC-DED-02	115	20,731
Processing Clerk	CR-2	110	17,868
Labourer	GL-ELE-3	113	19,994

Source: PSAC, Equal Pay. It's the Law!, 1990, 10.

Treasury Board - Basic Principles Underlying the Management Approach to Wage Disparity

Basic Principles Underlying the Management Approach to Wage Disparity

The purpose of this document is to outline the criteria used by the Management side of the Joint Initiative to determine the extent to which wage disparity exists in the Public Service for specific occupational groups. These principles were to be tabled at the Joint Initiative, but the union side withdrew from the study before this was possible.

1. Since the study of wage disparity on the scale undertaken by the parties in the Joint Initiative is unique, every effort must be made to develop the best possible methodology that will withstand the closest scrutiny. Previous equal pay judgements involved unique circumstances so that while the methodologies of previous complaints will inform the approaches taken in the present study, there is no obligation to follow any previous mode of inquiry.
2. The equal pay study is a proactive exercise designed to redress wage disparity anywhere it is found in the Public Service as defined by the Joint Initiative. As a proactive study therefore, it is assumed that section 11 of the Canadian Human Rights Act and the Guidelines to it provide the legal framework to guide the development of an appropriate statistical methodology. This means that there are two necessary events that follow in sequence: first, the search for employees performing work of equal value, and second, where work of equal value is performed, the determination and substantiation of any pay differential. Job worth in this study is defined as the sum of the scores for each evaluation factor found in the Willis job evaluation plan.
3. The parties in the Joint Initiative have opted for a study based on a sample of employees from male- and female-dominated occupational groups using a complex sampling design. Since the purpose of the study is to determine wage disparity in the Public Service, the sample is an appropriate instrument to make statements about it. Since a sample of public servants is being used to make statements about all public servants, it is necessary to invoke principles of statistical inference, and thus hypothesis testing, to make generalizations from the sample to the population in an orderly and sound manner.
4. Since a statistical approach to sampling was adopted by the Joint Initiative, it is assumed as well that such an approach will be used for the analysis of the data. This means that only statistical criteria will be used to make judgements about differences between groups and as such requires that all statistical estimators, including those of pay-lines, explicitly incorporate the sampling design. The data must be examined for statistical adequacy and any limitations to the data must be recognized and treated so that the assumptions underlying

statistical calculation both in the estimation of parameters and of their variances remain valid. The use of statistical criteria in making conclusions about the data prevents any subjective approach to data analysis which would be the case were purely visual criteria used.

4a. In concrete terms, principles 3 and 4 mean that any differences in pay-lines must be statistically significant using sound hypothesis testing techniques that explicitly incorporate the sampling design. Were such a requirement waived, there would be uncertainty that any difference was not simply some random result associated with this particular sample rather than a systematic outcome.

5. Section 15 of the Guidelines to the CHRA permit the existence of apparent wage disparity under certain circumstances, otherwise known as 'reasonable factors'. These factors must be taken into account in the pay data, where feasible, prior to any pay-line analysis.

6. The basic unit of analysis in the study is the occupational group as defined for purposes of collective bargaining and for purposes of defining gender predominance in complaints to the Canadian Human Rights Commission. All evaluated questionnaires within an occupational group will be used to form statistical estimates for the group, and any comparisons between groups will include all the questionnaires for those groups, subject to the constraint of statistical adequacy outlined in article 4. The relative size of each group, sub-group and level is automatically taken into account through application of the sampling design as described in article 4.

7. Whether wage disparity in any given year is observed or not as outlined in articles 4 and 5, any discussion of retroactivity must include analyses for each year in question for the reason that group wages are not constant from year to year. Differing levels of disparity are possible depending upon the year in question.

8. Wage disparity will be determined using Willis evaluation scores for the current fiscal year. Any analysis for purposes of retroactivity will use the same date from year to year.

9. The salary component of total compensation shall be expressed in hourly units.

Source: Treasury Board of Canada Secretariat, Methodology Used to Determine Sex-Based Wage Disparity in the Public Service of Canada, 1990, 21-22.

Appendix 9 - PSAC - Grievance Presentation

GRIEVANCE PRESENTATION

We believe that the Employer is violating both Article M-16 (No Discrimination) of the collective agreement and Section 11 of the Canadian Human Rights Act.

The gap between men's and women's wages is nothing new. It has existed as long as there have been workers. Historically, the salaries earned by women have had little relationship to the work performed.

The public service classification and pay system doesn't help. It classifies jobs into categories and groups based on similarity of work. Within each group, employees performing the same duties receive the same pay, regardless of gender.

The problem is that men and women tend to do different jobs and to be classified in different groups. There are no comparisons between groups or between dissimilar jobs to determine relative worth. As a result, in the public service, work usually done by women is never compared to that usually done by men to ensure that there is, in fact, equal pay for work of equal value.

Given the wage gap that still exists, it is understandable that many people don't know that Equal Pay for Work of Equal Value is, in fact, the law in Canada, and has been for 12 years. Section 11 of the Canadian Human Rights Act (CHRA) (1978), applies to all establishments under federal jurisdiction, and makes it

"a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees, employed in the same establishment, who are performing work of equal value."

It goes on to describe the criteria used to assess value: the composite of skill, effort and responsibility required in the performance of the work, and the conditions under which the work is performed.

Unfortunately, Treasury Board has ignored the law, and the law has not been enforced unless someone filed a complaint.

From 1978 to 1985, several wage adjustments were achieved a result of complaints lodged by unions on behalf of female-dominated occupational groups.

The complaint on behalf of the 50,000 members of the CR group is the largest filed to date.

The CR bargaining unit is a classic example of a female job ghetto; over 80% of its members are women.

During the 1984 federal election campaign, all three political parties supported the principle of equal pay for work of equal value.

On International Women's Day, March 8, 1985, all 13 public service unions and Treasury Board agreed to work together on achieving equal pay. Shortly afterwards, they formed a Joint Union-Management Committee to oversee a government-wide study.

Any study of work value needs two crucial things:

- (i) a description of all the work which is to be studied; and
- (ii) an evaluation plan to measure the value of the work.

The Willis Job Evaluation Plan was chosen because it had been used successfully in other equal pay studies. This plan rates job value using the four factors required by the Canadian Human Rights Act.

Questionnaires were completed by 4,300 employees whose jobs were chosen to represent the great variety of work in the public service. The questionnaires were very detailed and lengthy in order to guarantee a full understanding of the duties and to ensure that the same kind of information was collected on all jobs.

Ten committees, made up equally of union and management, were assigned to rate the completed questionnaires.

Finalizing the ratings required the agreement of at least 2/3 of the committee.

Even though the evaluations were arrived at jointly by the union and management committee members, Treasury Board has not endorsed them.

As a result of the study, Treasury Board has unilaterally decided to pay \$317 million in equal pay adjustments, retroactive to March 1985.

- * This is only about one-quarter (1/4) of the amount which the union estimates is required.

Treasury Board has also unilaterally decided to pay \$76 million per year, starting April 1st, 1990, toward correcting pay inequities.

- * This is only about one-third (1/3) of the amount which the study results show is owed to members of the female-dominated groups.

- * Our estimate that the cost to implement the study results is over \$200 million per year is consistent with the actual cost of implementing pay equity in other jurisdictions which has normally been found to be about 4% of the the Employer's total payroll

(and has generally resulted in increases in the neighborhood of 15% for members of female-dominated groups). Provision is made, by law, for adjustments of a least this much in Manitoba, Ontario, New Brunswick, Nova Scotia, Newfoundland and the Yukon.

1,400 positions in 53 male-dominated groups were evaluated in the study.

Treasury Board has chosen to base their equalization adjustments for the ST group on only 58 positions in 3 male-dominated groups.

For the CR group, they made comparisons with only 73 positions in 4 male-dominated groups.

In other words, they have chosen to ignore 95% of the evaluations of positions in male-dominated groups.

According to our calculations, the average annual adjustment owed to the female-dominated groups represented by PSAC is as follows:

Group	PSAC Estimated Average Back Pay April 85 - March 90	Treasury Board Payment
CR	\$15,200	\$3,527
DA-CON	9,200	0
DA-PRO - levels 1 & 2	5,600	0
DA-PRO - levels 3 - 7	little or no adjustment	0
EU	36,600	0
HS (in addition to current equalization adjustment)	12,400	0
LS (in addition to current equalization adjustment)	9,800	0
ST	15,200	5,981

Group	PSAC Estimated Average Annual Payment	T.B. Annual Payment
CR	\$3,800	\$ 994
DA-CON	2,300	0
DA-PRO - levels 1 & 2	1,400	0
DA-PRO - levels 3 - 7	little or no adjustment	0
EU	9,150	0
HS (in addition to current equalization adjustment)	3,100	0
LS (in addition to current equalization adjustment)	2,450	0
ST	3,800	1,289

In addition, it would be consistent with normal Canadian Human Rights Commission policy to provide back pay to a date one year prior to the date on which the study was announced, i.e. to March 8, 1984. It is important to keep in mind that, by law, the Employer has had an obligation to provide equal pay for work of equal value since the Canadian Human Rights Act was passed in 1977.

The additional back pay for the period March 8, 1984 to April 1, 1985 would be as follows:

CR	\$1,300
DA-CON	1,800
DA-PRO - levels 1 & 2.....	900
EU.....	6,400
HS.....	1,100
LS.....	2,700
ST.....	1,300

Some groups are not receiving adjustments for the following reasons:

GROUP	T.B. EXCUSE	PSAC JUSTIFICATION
DA	- claims group is not undervalued	- all levels of DA-CON and DA-PEO-1's & 2's deserve increases
EU	- results not conclusive - need further review	- entire group has been rated on approved plan - large increases due
HS	- settlement of HS-GS complaint fully implemented	- further increases due when compared to average of 53 male-dominated groups
LS	- now says LS complaint settlement is closed	- T.B. agreed to include group in study - comparison to average of 53 male-dominated shows increases definitely due

It is also important to understand that Treasury Board's equalization adjustments

- * were not negotiated with nor agreed to by any of the unions involved in the equal pay study,
- * were not agreed to be the Canadian Human Rights Commission,
- * do not begin to represent true pay equity,
- * are not part of the collective agreement and therefore could be removed unilaterally by the employer at any time.

The Chief Commissioner of the Canadian Human Rights Commission, Max Yalden, has objected to Treasury Board's unilateral action and expressed the opinion that these adjustments do not provide true pay equity.

Treasury Board has not implemented the study results and the Alliance will not rest until wage discrimination in the federal public service is ended and equal pay for work of equal value as required by law becomes a reality.

END

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FIN