

STUDY ON THE ECONOMIC SECURITY OF WOMEN IN CANADA

On December 15, 2016 The Status of Women Committee invited the public to submit written briefs addressing the economic security of women in Canada. Attached is a 3 page summary document specifically addressing the four outlined requests;

- 1.) The factors that contribute to the higher incidence of poverty among women than men;
- 2.) The elements that influence women's income, including the gender pay gap and occupational segregation;
- 3.) The effect of women's economic wellbeing of federal income security programs (specifically WSH, OHS, CHRC, The Labor Board and Union CBA's) &
- 4.) The measures and strategies that can be used to increase woman's entry, participation, retention and representation in economic leadership sectors, on corporate boards, and in the sphere of science, technology, engineering and mathematics.

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My name is Annette Banach, I am an educated Metis woman who was repeatedly subjected to work place harassment, violence and pay inequality while I worked in the mining industry for 6 years, 4 of which I worked as a supervisor. This greatly affected my ability to function in my career, the economy and within my community. I attempted to seek help from provincial and federal government programs and discovered a lack of protection within the system. This oversight is due to the weak language in Acts, lack of consequences for violations, and entrenched “boys club” attitude which is enabled through complacency and ignorance. The specific mining company I worked at is located on the Manitoba/Saskatchewan border and is thus federally, and dually regulated. My case is currently being handled by the Canadian Human Rights Commission(CHRC), The Office of the Privacy Commission of Canada(OPC) and my Union USW 9338. The Manitoba provincial regulator, Workplace Safety and Health (WSH) is involved partially, but the limited scope and jurisdiction exposes a large crack in the affirmative action program that I would like to address. With the assistance of lawyers, my husband, family and friends, I activated my rights through all possible avenues. This is my experience of dealing with dually regulated government programs designed to protect women from inequality in the economy.

The main form of recourse for workplace injuries, or rights, are union’s, employee benefit insurance providers, Workers Compensation Board(WCB), WSH, CHRC, Occupational Health and Safety(OHS), the Labor Board (LB) and Employment Standards(ES). All, are a part of the employee injury machine that is designed to keep people working due to the costs of business on society. Protections are thorough for physical injuries, where mental health injuries are systematically overlooked. Mental health injuries from the workplace have just been recognized by WCB in January 2016, where recent attention brought change in regulations. There is a major flaw in the WCB Act; a person waives their rights to any other recourse if the employer participates with the WCB program. This does not allow for natural justice when there are severe infractions to personal safety due to harassment or violence. WCB can not force an employer to properly handle harassment or violence issues. Sometimes, the only option to obtain justice, is constructive dismissal; meaning you must leave your job to protect your safety and rights. WCB will deny claims for “issues between co-workers,” which allows employers to ignore potentially dangerous workplace harassment and violence. This could lead to severe injury as the person can be forced back to work with their harasser before arbitration (tribunals, etc.) have completed their process.

Although, OHS Act, ES Act, LB and the CHRC have language that protects women from abuse at work, the Manitoba WSH is not mandated to investigate harassment in federally regulated industries. This leaves federal employees at a severe disadvantage when the employer, and WCB/insurance companies, have invested interest into forcing employees back to work. There needs to be a neutral 3rd party that a woman can go to if the employer is ignoring, or downplaying, a woman’s complaint of harassment or violence. The provincial WSH is supposed to be the first line of defense for dually regulated employees, but they will only investigate/enforce against physical injuries. The very lack of protection against violence and harassment in Manitoba is an act of discrimination itself. It sends a clear message that the government recognizes the need, but will not protect women adequately, pushing jurisdiction instead of action. This loophole enables the cycle and culture of women’s inequality, and ignores mental health legislation. The very act of being psychologically injured due to violence and harassment at work forces a woman into the WCB system; which takes away her rights to justice or safety by any other means. She is then pressurized by the insurance agency and employer, who do not understand, or respect mental health injuries, to return to work; potentially back with the person who committed violence against her. For women who have a union, it can take years of arbitration to obtain protection. WSH and WCB also

aids to the equity gap for women in the workplace by forcing women to choose between maintaining their financial well-being, or looking for help to alleviate a toxic workplace. If government supplied an ombudsman to handle harassment or violence complaints, then WCB/insurance companies could report claims due to abuse, and offer guidance for women's rehabilitation into a safe environment. All harassment and violence could be prevented with combined oversight on the federal and provincial levels; with the help of strongly worded legislation and consequences from regulatory bodies, the union/judicial system is will not have to try cases with already established legislation.

Union's are uneasy with handling member against member cases and arbitration can take 1-2 years. Union's also have the power to ignore potentially dangerous situations, if members handling complaints are uneducated with handling violence and harassment in the workplace. In male dominated workplaces, the relatively new, and broadly worded harassment and violence legislation is not understood. It must be treated seriously by union representatives to create union efficacy, which will encourage women to seek help when needed. The precedent setting cases in the judicial system have taken 5+ years and exorbitant amounts of money. Union lawyers represent the union, where the potential to open a "can of worms" by representing discrimination or sexual harassment cases may cause a wave of complaints by other female members; especially when employers actively practice complacency towards harassment or violence.

In the north, there is also a lack people working in mental health care; long wait lists and expensive traveling tax the already stressed woman. Insurance companies deem only specialized doctors as competent to sign off on medical papers and most northern women must travel to access these specialists. This allows insurance companies to follow questionable practices. By issuing blanket release forms that violate your privacy and mental health rights, they can fish for information and make connections to other illnesses to deny legitimate claims. Forcing women to follow contract provisions, delays are inevitable for northerner's. By causing undue delays when the insurer does not respect the general practitioner's sick notes, the person becomes increasingly desperate and more likely to sign away their legislated rights. As our rights are being held hostage by insurance companies (sign the release or you can't have benefits), they make blanket statements to share personal information with the employer. Employers can violate the privacy of an employee if that employee is taking the employer to arbitration or tribunals. This is a severe disadvantage to the harassed women when employers and insurance companies have the funds, and means, to fish for discrediting information to use in court, or to deny insurance benefits.

Women's rights must be strengthened, setting out rules for all industries and governments to follow during workplace injury rehabilitation due to harassment or violence. There is no regulatory body over looking employer investigations and dealings, nor is there mandatory reporting for events. This allows employers to avoid the due diligence of providing a toxic free workplace, changing the focus off the harassment, onto the victim to prove they are disabled from the abuse. The victim must prove the extent of the damage, be it mental, physical or financial. A physical injury is easy to prove, yet psychological injuries are relatively invisible. Insurance companies and employers can use practices to discredit the griever, denying benefits from an estimate of legal liability. These business practices treat mental and physical health injuries the same, where mental health recovery must be treated differently. It cripples the griever financially, creating a sever disadvantage to activating your rights. Regulations for code of conduct for health insurance benefits must respect the modern mental health science.

In February 2011, Bill 219 came into force in Manitoba. This bill was called the Workplace Safety and Health Amendment Act. It mandated reporting of workplace harassment to governing bodies, and broadened the definition of harassment which was a more modern reflection of today's societies needs. These regulations served as a deterrent, yet they are not reflected in the current WSH Act of Manitoba. This gap leaves women in the province with no immediate relief to stop harassment or violence. With out this Act being honored, Manitoba women are left to the mercy of time to seek justice. If the said woman lived in Ontario, she would have broader access to protective resources. The difference between provinces appears discriminatory. The Labour Board recently issued new laws that force employers to hire a third- party investigator for harassment and violence complaints; but this can only happen when you have a complaint filed with the Labor Board, which one can not do if they apply for WCB. If a person is pursuing a complaint with any other (CHRC or Union), the Labour Board will also deny assistance. All costs are left to the union, leaving women with out immediate safety or legal protection. Women should be able to activate other forms of protections if jurisdiction prevents immediate relief. All Canadian women should be equally protected.

Lastly, pay equity is hard to spot, as the sharing of wages is confidential in some work cultures. WSH is unable to investigate pay equity complaints, and the only recourse is the CHRC. Pay equity cases can be stressful, long and expensive, as well, there is no advocate to get help to mediate complaints. Unions tend to shy away from pay equity cases due to cost, lack of legal landmarks and potential for future arbitration when word spreads. Some male dominated unions also feel the men are discriminated against when equity legislation forces employers to position women, bumping seniority rights. This creates grievances from men and costs for unions. Ontario now has a Pay Equity Commission which assists residents through the complaint procedure. All Canadian women should be afforded the same right. Human rights can not be contracted out, and specific guidelines must be in place for employers and unions when pay equity complaints are made. A separate tribunal arm of the Human Rights Commission can speed up remedial measures to prevent severe injustice. Each provincial Human Rights Commission should administer federal employee human rights complaints. The governments need to work together, with the federal system supplementing the provincial.

In summary, this is what is needed for women to achieve economic equality; 1.) Equal protection across Canada with the ability to call on immediate assistance, beyond the employer, for violence and harassment. 2.) Education and training to employees, unions and management for harassment, violence, bullying, mental health, pay equity and human rights. 3.) A human rights legal advocate and government investigators that work with unions and other regulators (WSH, OHS, LB, ES) to uphold/enforce current legislation. 4.) Basic procedures for unions to follow when handling cases of human rights violations, harassment or violence; especially member to member cases. 5.) The removal of barriers in seeking natural justice that allows for WCB benefits and the ability to seek other recourse. 6.) Strengthening the language in current legislation. 7.) Adopting the previously enacted Bill 219(MB Legislature). 8.) Allowing subcontracting of regulators to investigate/enforce federal laws protecting women from harassment/violence. 9.) Stronger codes of conduct for insurance companies when dealing with employment abuse claims. I have detailed suggestions for improvement beyond this written brief and would be honored to share my ideas with the Standing Committee.