

## **Presentation to Employment Standards Code Review**

### **Manitoba Women's Advisory Council**

The mandate of the Manitoba Women's Advisory Council, which was established in 1980, is to advise the provincial government on issues that have a legal, social or economic impact on the lives of Manitoba women and their families. Government-appointed members of the Council reflect the cultural and geographical diversity of women in the province. Its goal is to enhance the development of gender-sensitive government policy and programs. Although it is an arm's-length advisory body to government, the Council is housed within Manitoba Immigration and Labour.

The Manitoba Women's Advisory Council is pleased to provide input into the review of Manitoba's Employment Standards Code, so that it better reflects the needs of all Manitoba workers and more fully addresses the protection of vulnerable workers, who are mainly women. The Council's underlying premise is based on the need to enhance women's economic security, thereby addressing systemic discrimination against them. This can be accomplished by stimulating women's increased participation in the workforce, better meeting their employment needs and encouraging their involvement in business growth and development.

### **Women in the Workforce**

During the last 30 years, the labour force has dramatically changed in composition, complexity and diversity. This change has been driven by globalization, privatization, free trade, new technologies, greater labour-force participation by women, increased immigration, changing consumer demands, cutbacks and downsizing in both the public and private sectors, and the development of global ethics and human rights legislation. These factors have had an impact on full-time employment. The current work environment requires a more flexible workforce.

Women now comprise close to half (47%) of the paid labour force in Canada. Although women are participating in the labour market in unprecedented numbers, they continue to experience economic insecurity, especially among those women who are marginalized and racialized.

Women are still earning less money for the same or greater amounts of work than men. They earn 73 cents for every dollar made by their male counterparts for full-year, full-time employment. Research shows that education does not reduce this wage gap much. Women with university degrees, employed full-year, full-time earned 74% of what men with university degrees earned (*Statistics Canada, Women in Canada 2000: A gender-based Statistical Report, p. 143*). In fact, in 1997, a man employed full-year, full-time with less than a Grade 9 education earned on average \$30,731, whereas a woman with a post-secondary certificate or diploma earned less for full-year, full-time work: \$29,539 (*Statistics Canada, Women in Canada 2000: A gender-based Statistical Report, p. 156*).

Women earn less than men even if they work in the same sectors or even in the same jobs. Although the trend in income imbalances is declining, women's salary after taxation in 2000 was only 63% of that of men's. (*Source: Women and Information Technology in Canada*)

There are no occupations in which women's average earnings exceed men's earnings, not even in female-dominated areas, such as clerical work and teaching (*Statistics Canada, Women in Canada 2000: A gender-based Statistical Report, p. 156*). Canada has the 5th largest wage gap between women and men full-time workers out of the world's 29 most developed countries. Only Spain, Portugal, Japan and Korea have larger wage gaps (*Organization for Economic Co-operation and Development, OECD in Figures (Paris: OECD, 1999)*). In Manitoba, more than 25% of workers (some 135,000 in 2004) are in low-wage jobs. (*Source: Canadian Centre for Policy Alternatives – Fast Facts 24, 25, 26*). Manitoba women are disproportionately represented in this low-income bracket.

Women are over-represented in non-standard, precarious and low-paying employment, making them and their families particularly vulnerable to financial hardships and poverty. This is evidenced by increased poverty rates among groups of women (single mothers, single unattached seniors, racialized women and women with disabilities) and their children. Women are the majority of the approximately 670,000 workers in Canada who attempt to sole-support their families on less than \$10/hour.

Non-standard, or precarious employment, includes those who work part-time, temporarily or are involved in agency work. This type of work: deviates from the standard full-time, permanent employment contract with a single employer; includes little/no benefits; is often poorly paid; offers little or no job security; and is increasingly done by women. Non-standard work also presents particular challenges for public programs such as Employment Insurance, public pensions, child care arrangements and so on, which were generally designed for workers in “standard” jobs with long-term continuous service.

Women are often ghettoized in employment. Female-dominated sectors include health, teaching, clerical, sales and service (*1999 data from Statistics Canada, 2000, p.123*). As of 1996, women constituted 70% of health, clerical and administrative services, and sales and service occupations. On the other hand, women constitute half of doctors, dentists, financial and business professionals in Canada.

Women continue to combine paid employment with their unpaid work, maintaining primary responsibilities for child-bearing, child-rearing, care-giving and voluntarism. “Women’s work”, which evolves from work that women are expected to do for free, such as caring for and teaching children, nursing the sick, preparing food, cleaning, serving others, managing a household, is not seen as skilled or valued by society.

Over 60% of workers in Manitoba are non-unionized and many of these workers are women.

### **Women at Particular Risk of Economic Insecurity (Poverty)**

Women's economic insecurity and their health are inter-related. This fact has been firmly established in research done by the Women's Health Clinic titled *Poverty is Hazardous to Women's Health*. Women are also the gatekeepers of their families' health. As the Law Commission of Canada stated in *Is Work Working? Work Laws that do a Better Job* (December, 2004): "Workers who cannot make ends meet, who cannot afford dental and vision care, or adequate child care for their children, will experience long-term adverse health and personal consequences. Their level of retirement planning is likely inadequate, and their health and the well-being of their children may also be affected."

Some groups of women are particularly at risk of experiencing poverty.

**Women raising families by themselves:** 56% of lone parent families headed by women are poor, compared with 24% of those headed by men (*Statistics Canada, 2000, p. 139*). With many of these families, financial support agreements with the non-custodial parent (usually the father) are either not in place or in arrears (*Statistics Canada, "National Longitudinal Survey of Children and Youth: Changes in the Family Environment," The Daily, June 2, 1998*). In 1997, 56% of lone parent families headed by women were living below the poverty line, compared to 24% of lone parent families headed by men (*Statistics Canada, 2000, p. 139*).

**Senior women:** Almost half (49%) of single, widowed and divorced women over 65 are poor (*Statistics Canada, 2000, p. 138*).

**Other women on their own:** 41% of unattached women under 65 live in poverty (*Statistics Canada, 2000, p. 138*).

**Women with disabilities:** Of all women with disabilities living in a household rather than in an institution, and who had any income at all, those aged 35-54 had the highest incomes: an average of \$17,000, which is 55% of the income of men with disabilities in that age range. Women with disabilities under 35 had an average income of \$13,000, and women with disabilities over 55 had an average income of under \$14,000. The more severe a woman's disability, the lower her income (*Statistics Canada, Women in Canada: A Statistical Report. Third edition. Ottawa: Minister of Industry, 1999, p. 166.*)

**Aboriginal women:** The average annual income of Aboriginal women is \$13,300, compared to \$18,200 for Aboriginal men, and \$19,350 for non-Aboriginal women (*Statistics Canada, 2000, p. 258*). 44% of the Aboriginal population living off reserves lives in poverty, but things are worse on reserve: Almost half (47%) of Aboriginal persons on reserve have an income of less than \$10,000 (*National Poverty Organization, "Poverty in Canada: Some facts and figures." Fact Sheet, April 1999. Statistics Canada data*).

**Visible minority women:** Thirty-seven percent of visible minority women experience low income, compared with 19% of all women. The average annual income for a visible minority woman in Canada is \$16,621, almost \$3,000 less than the average for other women (\$19,495) and almost \$7,000 less than that of visible minority men (\$23,635) (1995 data from *Statistics Canada 2000*, p. 232, 246).

**Immigrant women:** Education does not reduce the income gap between immigrant women and Canadian-born women. Recent immigrant women between the ages of 25-44 who have a university degree and who worked full-year, full-time earn \$14,000 less than Canadian-born women (1995 data from *Statistics Canada 2000*, p. 203). This is partly because of overt racism, but also the structural racism of lack of recognition of foreign credentials and experience. Canada imposes a head tax (a \$975 Right of Landing Fee) on immigrants and refugees, and almost a thousand dollars per DNA test where identity documents do not exist. Women, who have on average lower incomes, can least afford this enormous financial burden (*National Association of Women and the Law: Gender Analysis and Refugee Protection Legislation and Policy. Submission to Citizenship and Immigration Canada, Ottawa, 1999*).

**Lesbians:** There is little information about the economic status of lesbians. A Winnipeg study found that 14% of gay men over 65 reported incomes below the poverty line, compared with 42% of lesbian seniors (Virginia McKee, "Seniors survey identifies double discrimination for senior lesbians," *Herizons*, Spring 1999, p. 9).

**Minimum wage earners:** In Canada, employment does not preclude poverty. Most poor people work part-time or full-time (*National Council of Welfare, Poverty Profile 1980-1990, Ottawa, 1992*, p. 56). Poverty level wages are a particular problem for women. Women and youth account for 83% of Canada's minimum wage workers (Calculated from 1998 figures reported in *Statistics Canada, The Daily, August 2, 1998*). Thirty-seven percent of lone mothers with paid employment must raise a family on less than \$10 per hour (*Campaign 2000, Report Card on Child Poverty in Canada, Toronto, 1999*).

**Women on welfare, and their children:** Lone parent mothers and unattached women account for 48% of heads of households on social assistance (*National Council of Welfare, Profiles of Welfare: Myths and Realities, Ottawa: NCW, 1998*). Children make up a third (37%) of people dependent on social assistance for survival. One quarter (24%) of welfare families are headed by people with some form of disability (*National Council of Welfare, The Canada Assistance Plan: No Time for Cuts, Ottawa, 1991, pp. 6-8*). All welfare rates in Canada are far below the poverty line, ranging from 20% to 76% below (*National Council of Welfare, Welfare Incomes 1992, Ottawa, 1993, pp. 26-27*).

### Women's Inequality and Economic Insecurity

Women's economic security is key to women's equality. Poverty is a world-wide problem with its roots in inequality. According to OXFAM, the majority of the world's poor are women: around 70 per cent of the 1.3 billion people who live in poverty, on less than one dollar a day, are women and girls. Women work two-thirds of the world's working hours, and produce half of the world's food, yet earn only 10 per cent of the world's income, and own less than one per cent of the world's property (UN). The world's 225 richest people have a combined wealth of more than one trillion US dollars, equal to the annual income of the poorest 47% of the world's population (2.5 billion people). The three richest people's assets exceed the combined Gross Domestic Product of 48 developing countries (1997 data from *Forbes magazine*, quoted by Jacqueline Neun, "Confronting the growing gap between rich and poor," *Mandate* 30(2) April 1999, p. 20. *Mandate* is a publication of the United Church of Canada). In the world, women are the poorest of the poor.

There are simple structural reasons for women's lower incomes. A Statistics Canada study found that the major factor in the wage gap is the presence of children, rather than age, marriage or education (*Statistics Canada, As Time Goes By...Time Use of Canadians, Ottawa: Minister of Industry, 1995, p. 22*). Women are still expected to perform the majority of household chores and child care. In 52% of families in which both partners had full-time paid employment, the female partner was responsible for all the daily housework, in 28% the woman was mainly responsible, in 10% the chores were shared equally and in another 10% the man was primarily responsible (*Katherine Marshall, "Employed parents & division of housework," Perspectives on Labour and Income, Autumn 1993, p. 26*). Statistics Canada estimated that women's unpaid work in the home is worth about \$319 billion a year, or 10% more than the total value of all salaries paid in the workforce. Women also do 54% of the volunteer work in Canada, which is not included in that figure. (Source: [http://www.womenspace.ca/policy/research\\_work\\_paper.html](http://www.womenspace.ca/policy/research_work_paper.html))

Women are expected to cut down on their paid work, quit their jobs, take emergency leave from work, or refuse promotions, in order to care of children, elderly parents or in-laws, or disabled relatives. Men are not. This has a lifelong impact on a woman's wages, accumulation of pension benefits, and experience in her chosen occupation (*Marika Morris, Jane Robinson and Janet Simpson, The Changing Nature of Home Care and Its Impact on Women's Vulnerability to Poverty, Ottawa: Status of Women Canada, 1999*). Largely because of the lack of balance and fairness in terms of women's and men's family responsibilities, the vast majority of part-time workers (70%) are women (1999 data from *Statistics Canada, 2000, p. 123*).

Cuts to social assistance in most provinces, stemming from a federal withdrawal of billions of dollars in transfer payments and the elimination of most standards that guaranteed help for people in need are another cause of women's economic insecurity. Only 31% of unemployed women and 37% of unemployed men qualified for EI in 1997. Ten years ago, 70% of unemployed women were covered. The situation is particularly harsh for young unemployed women: only 15% qualify (*Canadian Labour Congress, Left Out in the Cold: The End of UI for Canadian Workers, Ottawa: CLC, 1999*).

With respect to inadequate pensions, less than half of the Canadian population with paid work (41%) was covered by an employer pension plan in 1997 (*Statistics Canada Table from cat. No. 74-401-XIB: Proportion of labour force and paid workers covered by a registered pension plan (RPP) by sex*). Of these, a minority were women (*calculated from table above: Women RRP members as a total of RRP members*). The Canada/Quebec Pension Plans (CPP and QPP) are based on earnings, so women's lower earnings are reflected in the benefits, or lack thereof from this plan: The average man aged 65 to 69 gets a CPP/QPP benefit of \$533 a month, but the benefit paid to women in that age bracket is \$299 - 56 % of what men get (*National Council of Welfare, A Pension Primer, Ottawa: NCW, 1999, p. 28*). Because women tend to earn less income during their lifetimes, it is also more difficult for them to save money through Registered Retirement Savings Plans (RRSPs). Government talks about CPP credit-splitting upon marriage breakdown as a way to alleviate the poverty of senior women, but this option is not mandatory and very few women know about it. As of January 1998, only 82,772 applications for splitting had been submitted and approved under the Canada Pension Plan since the option was first available in 1978 (*National Council of Welfare, A Pension Primer, Ottawa: NCW, 1999, p. 30*).

(Source: [http://www.criaw-icref.ca/factSheets/Poverty\\_fact\\_sheet\\_e.htm](http://www.criaw-icref.ca/factSheets/Poverty_fact_sheet_e.htm) - Fact sheet on Women and Poverty by the Canadian Research Institute for the Advancement of Women).

### **Gender-Based Analysis (GBA)**

GBA is a tool that can be used in the development of policies and programs to address women's ongoing inequality and economic insecurity. It "focuses on identifying the social and economic differences between men and women and the different impacts policy may have on men and women. The term gender refers to the array of society-determined roles, personality traits, attitudes, behaviours, values, relative power and influence that society ascribes to the two sexes on a differential basis. This extends beyond the biological differences between the two sexes. Gender-based analysis does not exclude men or women but includes the perspectives of both to determine potential differential impacts on women and men. Through the Charter of Rights and Freedoms, the Government of Canada guarantees equality between men and women. Gender-sensitivity and gender-based analysis are ways of ensuring this equality.

Gender-neutral policy treats women and men identically and might seem to provide equal opportunities for all people. However, men and women, because of their differing circumstances, may not be able to take advantage of similar opportunities equally or may be affected by various aspects of a policy in different ways. Equity is not possible unless all people have equivalent access to the intended outcomes or benefits of policy and equal protection from unintended outcomes." (*Source: Women's Health Clinic – Programs and Services: Advocacy & Policy Advice, Women and Health Reform Working Group Report, Appendix 1: A Gender Analysis of Health Issues and Reform Documents, p. 6*)

## Recommendations

1. A gender-based analysis needs to be incorporated into the development of changes/updates to the Employment Standards Code to determine differential impacts on women and men.
2. Labour laws and policies need to achieve a fairer distribution of the costs and rewards of participation in the labour force. The minimum wage needs to be raised, or the provision of a “living wage” could be considered as a means to assist low-income families move permanently out of poverty.
3. The regulatory framework needs to be expanded to ensure that workers have an adequate voice in their workplace. With the decline of unionization, and the growth of alternative forms of employee representation, workplace democracy needs to be scrutinized.
4. Adequate resources must be dedicated to enforcing existing laws and regulations and the methods of enforcement must be sufficient to achieve the intended goal.
5. Attention needs to be paid to a healthy work/life balance. Existing laws and policies dealing with work that are organized around the concept that “someone” (not the worker) provides the child-, elder- and homecare for the worker contributes to women’s ongoing inequality. Today’s reality is that “most workers struggle to meet the increasing demands of work and family/home obligations with few resources and supports to assist them. The sacrifices made may well undermine the short- and long-term well-being of Canadian workers and society as a whole.”(Is Work Working? Work Laws that Do a Better Job, Law Commission of Canada, p. 2).
6. Any reform of labour and employment laws must consider the impact on a competitive trade market and pressures to reduce public spending and the size of government, which have lead to many businesses feeling the need to reduce labour costs.
7. Better protection needs to be offered to vulnerable workers, the majority of whom are women. The challenge will be the determination of tools to accomplish better protection. There is some controversy over the choice of tools for providing effective protection and concern about the impact such regulatory instruments will have on the competitiveness of the economy.
8. Labour standards need to adhere to and reinforce human rights legislative provisions around all forms of discrimination and harassment.
9. Employees need to be made more aware of their workplace rights and employers of their obligations to their employees.

10. The development of provisions that provide protection and coverage of non-standard workers: part-time, contract and temporary workers, as well as those who work multiple jobs or are involved in third party contracting employment arrangements, should be considered. This could include access to equal pay and benefits that are currently received by full-time employees. A cautionary note to consider is the possibility that both the short- and long-term financial security of women in non-standard work arrangements may be compromised unless policies can be developed to ensure they are accommodated in public programs that protect their current and future economic autonomy and promote their equality. (*Source - Status of Women Canada report titled Women in Non-Standard Jobs, the Public Policy Challenge by Monica Townson, page vii-viii*).
11. Employment Standards Codes should support and promote family-friendly workplaces that increase flexibility with respect to:
  - a. Placing limits on the total hours of work, including limiting employers' capacity to demand overtime.
  - b. Establishing provisions for personal leave time, including family illness and community/volunteer participation.
  - c. Expanding the eligibility requirements and flexibility around provisions for those with dependant care responsibilities.
12. Strengthen provisions for maternity-related reassignment and leave by supporting the choices of pregnant employees who have appropriate medical approval to continue in their current position.
13. Provide maternity/parental benefits for self-employed women.
14. The workplace needs more flexibility to address the childcare and care-giving needs of employees, primarily women, who undertake these responsibilities while maintaining employment, sometimes at great cost to their health.
15. The key to protecting the economic security of women in non-standard employment is the development of policies such as enhanced access to childcare, improved services for lone parent families, the establishment of non-wage benefits programs, addressing immigration policies/accreditation issues and the expansion of labour laws (*Women in Non-Standard Jobs: The Public Policy Challenge, Monica Townson, Status of Women Canada*).

**Note:** Some of the above recommendations were compiled with reference to the Submission of the Nova Scotia Advisory Council on the Status of Women to the Government of Canada's Federal Labour Standards Review (November 2005).

**Note:** The recently released attached document, *Risk and Opportunity: Creating Options for Vulnerable Workers*, provides information that may also be of interest.