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December 10, 2008

Premier Dalton McGuinty  
Legislative Buildings,  
Queen`s Park,  
Toronto, Ontario

Dear Premier:

**Re: Please Act to End Ontario`s Violation of United Nations Human Rights Standards**

December 10<sup>th</sup> marks the 60<sup>th</sup> Anniversary of the United Nations Universal Declaration of Human Rights - a day to reflect on the human rights violations which need urgent attention.

The Coalition, which represents over 1 million Ontarians, is calling upon you as Premier and your Ministers to fulfill your international and domestic human rights duties by taking immediate, short term and long term action to close Ontario`s 29% Gender Pay Gap or face a Coalition complaint to the UN. Much of the gap results from the systemic discriminatory undervaluation of women`s work and discriminatory labour market barriers. With the widespread non-compliance with the *Pay Equity Act* and 74% of Ontario`s workplaces not even covered by the Act, it is your duty to take effective measures to protect Ontario women from such discrimination. The Coalition has outlined the problems and the necessary action steps in its Framework for Action which you and all your Ministers have received. (A summary is attached as Appendix A to this letter.)

### **Ontario`s Gender Pay Gap is Massive Human Rights Violation**

With a person`s pay critical to family, community and provincial prosperity, Ontario`s ongoing gender pay gap is a massive human rights violation- extending throughout Ontario`s economy and regions. It violates Article 23 of the 1948 Universal Declaration of Human Rights which committed world governments to ensuring the right of women to be free from pay discrimination. It also violates ILO Conventions 100 and 111 and other UN standards, agreed to by Canada and summarized in Appendix B. These standards require your government to act with urgency to take all necessary pro-active measures using `maximum available resources` to ensure women can earn income free of discrimination. As the 2004 Federal Pay Equity Review Task Force Report noted: "Violations of these standards expose Canada to the sanctions available to the bodies, such as the United Nations, which represent the international community."

### **Government Inaction Will lead to UN Complaint**

We have tried over the last year - the 20<sup>th</sup> Anniversary of Ontario`s *Pay Equity Act* - to get the attention of your Government to address this issue. Repeated efforts to engage in a dialogue with you and your Ministers have been for the most part either ignored or rebuffed. Two Ministers, Minister Matthews and former Minister of Labour Brad Duguid finally met with the Coalition after repeated follow up efforts by the Coalition. However, no action has been taken to address any of the pay equity issues raised by the Coalition. We have decided to make one last effort to get you and your Government

to take action. We wanted to provide you with fair warning that failure to do so would lead to the Coalition filing a complaint with the UN treaty monitoring bodies, requesting a UN investigation of Ontario's non-compliance and a direction for compliance. Canada in November, 2008 was already cited by the UN for failing to meet its gender equality obligations.

### **Ontario's Gender Pay Gap**

We are taking this action because Ontario's pay gap is so wide and the negative impacts are so great. Despite the promises in the UN standards, and *Charter* and *Human Rights Code* requirements, Ontario women receive less for their work regardless of where they work, workplace size or the precariousness of their work. The most vulnerable women – aboriginal woman, women of colour, racialized or immigrant women, and non-unionized women workers – face an even greater wage gap. According to Statistics Canada, racial minority women earn 36% less than men and Aboriginal women earn 54% less. Women with disabilities earn significantly less than women and men without disabilities. Women outnumber men in nine of the ten lowest-paying occupations.

Discriminatory pay affects women throughout their lives beginning with their first jobs and continuing into retirement. Young women graduating from high school earn 27% less than male high school graduates. Women graduating from university earn 16% less than male graduates but this pay gap widens as their careers progress. The pay gap continues into retirement with 42% of elderly women being poor. The median income of retired women is almost half that of older men.

### **Pay Discrimination Fuels Ontario's High Poverty Levels**

Gender-based pay inequities also contribute to women's higher poverty levels and women more likely than men to be working at minimum wages. The systemic discrimination women face in Ontario's labour market delivers women into the ranks of the poor and keeps them there. While commendable in many respects, Ontario's Poverty Reduction Strategy released last week fails to recognize and target the systemic gender, racial and other discrimination which must be rooted out to make poverty history. The Report sets too low a goal by targeting only child poverty. Children are poor because their mothers are poor and this can be linked directly to pay discrimination.

### **The Fiscal Crisis**

Human rights are not a luxury reserved for good times. The current financial crisis provides even stronger reasons for making the issue a priority given that Ontario's women workers are struggling to cope in this volatile economy. When you scramble every month to make ends meet, losing almost a quarter for every dollar a man is paid is devastating to a family budget. In 1984, the Royal Commission on Equality in Employment chaired by Justice Rosalie Abella warned of the hugely negative impact on women of perpetuating discriminatory low wages:

*The cost of the wage gap to women is staggering. And the sacrifice is not in aid of any demonstrably justifiable social goal. To argue, as some have, that we cannot afford the cost of equal pay to women is to imply that women somehow have a duty to be paid less until other financial priorities are accommodated. This reasoning is specious and it is based on an unacceptable premise that the acceptance of arbitrary distinctions based on gender is a legitimate basis for imposing negative consequences, particularly when the economy is faltering.*

Like the current financial crisis, the pay gap crisis will continue to erode Ontario's economy and impair its future prosperity unless pro-active interventionist measures are taken. Securing women's human rights is an essential feature of democratic governance. Failing to do so sends the message that women are not

equal to men. It reinforces the prejudices which undervalue women's work and undermines the struggle of women for equality in all areas of their lives.

### **Why is there so much Non-Compliance with Pay Equity Rights?**

Ontario's persistent wage gap shows that many women never received the benefit of Ontario's *Pay Equity Act* and that others lost the gains they initially made for reasons including: employer non-compliance, economic restructuring and inadequate government funding of pay equity adjustments and of the Pay Equity Commission and Hearings Tribunal. Since the early 1990's the Government has reduced the budget of the Pay Equity Commission and Hearings Tribunal by half and eliminated funding for a Pay Equity Legal Clinic denying many women access to pay equity justice. Many employers failed to comply with the *Act* and other women fell outside the *Act* or its effective enforcement. Pay equity measures must be developed to bring pay equity to those women who are excluded from the *Pay Equity Act*. Many employers have not complied with *Human Rights Code* and collective agreement anti-discrimination provisions requiring the removal of the barriers facing women in gaining access to higher paid male work. Approximately 100,000 women working in predominantly female public sector workplaces such as child centres and small community agencies are also being forced to work at discriminatory wages because as of 2006 the government stopped paying the designated pay equity monies to close their identified pay gaps. This money was paid as a result of the settlement of 2003 *CUPE et al.* Charter challenge. Based on the Government's own figures, \$78.1 million is owing for 2006 and 2007, a further \$77.6 million is owed in 2008 and about \$1.32 billion from 2008-2011.

### **Conclusion**

When the Government introduced the *Pay Equity Act* in 1988, it committed to "the achievement of equal opportunity and social justice for all Ontarians" as "a fundamental and unalterable commitment of the Ontario government". While there was cause to be proud once of Ontario's leadership in the passing this law, that leadership ended in the 1990's. We look forward to hearing from you and your Ministers that Ontario is once again prepared to assume such a leadership role and prepare a province-wide Closing the Global Gender Pay Gap Plan which will set realistic and timely goals for ending Ontario's pay discrimination. In the end, preventing and remedying pay discrimination is a matter of values - ensuring that hard work is honoured and rewarded in Ontario regardless of the sex of person who performs it.

Yours truly

Mary Cornish  
Chair, Equal Pay Coalition



## **APPENDIX A**

### **The Coalition's Framework for Action on Pay Equity in Ontario**

(for full text, see [www.equalpaycoalition.org](http://www.equalpaycoalition.org))

The Coalition released its Framework for Action released on November 5, 2008 calling on your Government, working with employers and trade unions to institute a province-wide Ontario Closing the Gender Pay Gap Plan. This Plan must include targets for closing Ontario's 29% gender pay gap over a realistic time frame and strategies for meeting those targets. It must also be coordinated with the Province's Poverty Reduction Plan. Step 1 of the Coalition's Framework for Action calls for immediate policy shifts. This will signal to the people of Ontario that the Government is shifting the direction of the past decade and will concretely support an end to pay discrimination. Step 2 will take gender mainstreaming steps so that closing Ontario's gender pay gap becomes enshrined in all public laws, policies and practices and workplace practices. This two step approach will help to ensure that women's pay equity rights are not a victim of the fiscal crisis but rather a measure to protect Ontario's disadvantaged and to leverage the value of the contribution of women's work as Ontario rebuilds its economy.

#### **Step 1: Immediate Policy Shifts**

1. Bringing in (emergency legislation to increase the minimum wage to \$10 per hour effective immediately as a pay equity down payment for women workers;
2. Fully funding the pay equity adjustments owing to women providing important public services to Ontarians;
3. Fully funding the Pay Equity Commission and Pay Equity Hearings Tribunal so that the Pay Equity Act can be vigilantly enforced; and
4. Restoring funding to the Pay Equity Legal Clinic to provide support for women filing pay discrimination complaints.

#### **Step 2: Mainstreaming Non-Discriminatory Pay into Ontario's Economic Life**

Step 2 of the Plan highlights the many different considerations which should be taken into account in building a culture of non-discriminatory pay including:

- Central focus – Enable Women to Realize their Human Rights;
- Recognize the Equality Role of the Government;
- Need for Planned, Integrated and Multi-Faceted Approach;
- Ensure Pro-Active, Preventative and Results-Based Approach;
- Build Equality into Government Public Policies;
- Map Women's Work and its Pay Constraints;
- Address the Diversity of Women and their Disadvantages;
- Ensure Women's Empowerment as both a Strategy and Goal;
- Promotion of Capacity Building and Training;
- Reconciling Work and Women's Unequal Family/Home Life;
- Develop Mechanisms for Precarious Work;
- Enhance Complementary Role of other Rights;

- Focus also on Employment Equity Measures;
- Ensure Effective Complaint Mechanisms to Enforce the Right;
- Role of Employers and Business; and
- Role of Trade Unions and other Women’s Voice Organizations;

## Appendix B - UN and ILO International Pay Equity Standards

These standards require state governments to take the following actions:

- The principle of *equal pay for work of equal value* or pay equity must be guaranteed, requiring that women’s jobs where comparable to men’s jobs must have equal compensation.<sup>1</sup>
- Equal pay for work of equal value is a fundamental labour standard of the highest priority, necessary for building a sustainable, just and developed society.<sup>2</sup>
- Governments must ensure the full and practical realization of the right to equal pay for work of equal value.<sup>3</sup>
- Governments must enact pay equity legislation to ensure that the right is guaranteed.<sup>4</sup>
- Pay equity or the elimination of the “compensation gap” between men’s and women’s jobs must be achieved “without delay”.<sup>5</sup>
- Pay equity measure must break the cycle of systemic discrimination by providing a framework to challenge systemic assumptions and practices that lead to the undervaluing and under-compensating of women’s work.<sup>6</sup>
- Governments must signal that they have made a strong commitment to achieving pay equity, that they have dedicated themselves unreservedly to achieving pay equity, and that they have mobilized adequate resources to achieving pay equity.<sup>7</sup>
- Employers have a proactive obligation to achieve pay equity in their workplaces.<sup>8</sup>
- Pay equity must be achieved in both the public sector and the private sector.<sup>9</sup>
- Special measures are required to ensure that public authorities and public institutions act in compliance with pay equity obligations.<sup>10</sup>

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<sup>1</sup>ILO *Equal Remuneration Convention (No. 100)* (ILO Convention No. 100), Article 1; *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, Article 7; *Convention on the Elimination of Discrimination Against Women (CEDAW)*, Article 11; *Beijing Platform for Action (Beijing Platform)*, Paras. 165, 166, 175, 178.

<sup>2</sup>ILO *Declaration on Fundamental Principles and Rights at Work (ILO Declaration)*; *CEDAW*, Preamble; *Beijing Platform*, Para. 41.

<sup>3</sup>*CEDAW*, Articles 2, 24; *Beijing Platform*, Para. 175(k); *ICESCR*, Articles 3, 7.

<sup>4</sup>ILO *Convention No. 100*, Article 2(2); *CEDAW*, Articles 2(b), 2(f); *Beijing Platform*, Paras. 165(a), 178(a).

<sup>5</sup>*CEDAW*, Article 2.

<sup>6</sup>*CEDAW*, Preamble.

<sup>7</sup>*CEDAW*, Articles 2, 24; *ICESCR*, Article 2; *Beijing Declaration*, Para. 7; *Beijing Platform*, Paras. 4, 5.

<sup>8</sup>*Beijing Platform*, Para. 178(a), (h), (l), (o); *Beijing +5 Resolution*, Para. 82(h).

<sup>9</sup>*CEDAW*, Articles 2(d), (e); *Beijing Platform*, Para. 178(a), (h), (l), (o).

<sup>10</sup>*CEDAW*, Article 2(d).

- k. Pay equity laws should require specific gender inclusive or gender neutral methodologies for evaluating and comparing the different jobs that men and women do and for reformulating wage structures of female-dominated jobs. ILO *Convention No. 100*, Article 3; *Beijing Platform*, Para. 178(k), (o)
- l. Unions must be afforded an active role in developing and enforcing pay equity.<sup>11</sup>
- m. Protection for the most vulnerable workers must be ensured including providing reasonable opportunity for representatives/agents of non-unionized employees to participate in developing and enforcing pay equity.<sup>12</sup>
- n. An effective remedy for systemic pay discrimination must be provided for all women; Complaints regarding lack of pay equity and meaningful sanctions and remedies must be enforceable before a competent and expert tribunal<sup>13</sup>
- o. A mechanism for external oversight and auditing of employers' compliance with pay equity should be provided.<sup>14</sup>

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<sup>11</sup>ILO *Convention No. 100*, Article 4; *Beijing Declaration*, Para. 20; *Beijing Platform*, Paras. 166(l), 178(h).

<sup>12</sup>*Beijing Platform*, Para. 45.

<sup>13</sup>*ICCPR*, Article 3; *CEDAW*, Articles 2 (b) (c), *Beijing Platform*, Para. 178(l).

<sup>14</sup>*ICESCR*, Articles 16, 17; *CEDAW*, Part V; *Beijing Platform for Action*, Para. 178 (c)