

Closing the Gender Wage Gap

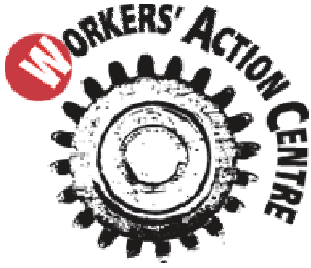
Requires building decent jobs from the ground up

Submission to the Ontario Gender Wage Gap Review

January 15, 2016

Workers' Action Centre

Parkdale Community Legal Services



<http://www.workersactioncentre.org/>

Workers' Action Centre

The Workers' Action Centre is a worker-based organization committed to improving the lives and working conditions of people in low-wage and unstable employment. We work with thousands of workers, predominantly recent immigrants, racialized workers, women and workers in precarious jobs that face problems at work. The Workers' Action Centre provides information about workplace rights, strategies to enforce those rights and participates in campaigns to improve wages and working conditions in workplaces and in labour legislation.

Parkdale Community Legal Services

Parkdale Legal Services is a poverty law clinic providing workers' rights assistance and legal representation. We work with communities in low-wage and precarious work to improve labour standards.

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Closing the Gender Wage Gap Requires building decent jobs from the ground up

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Introduction

Vashti¹

“I have three jobs. I work two hours at a public school taking care of the students over lunch. I work for a temp agency that places me either as a health care provider in a group home or with residents in a youth shelter. We provide evening relief shifts. Then my third job is through another agency where I am placed as a personal support worker in a hospital or in the community taking care of seniors. One day I’m in uniform working in a hospital, the next day I’m in street clothes working in a shelter. So every day, it’s on call.

I was working for minimum wage. Four years I worked for minimum wage. The only increase I got was when minimum wage went up. So I went back to school to upgrade myself. I spent one year upgrading myself, changing my career to become a Personal Support Worker. Finally, when I went back to work, what did I get? Minimum wage!”

Vashti’s experience is all too common for women working for low wages in part-time, temporary, or contract jobs without employment benefits or workplace protection.

The number of part-time jobs has risen much faster than that of full-time jobs. Many workers, like Vashti, are trapped in part-time work but would rather be working fulltime. Since the last recession, many of the full-time, better-paid jobs have been permanently lost. New full-time job growth is taking place in lower-paid sectors of the economy.²

Ontario is developing a low-wage economy. In 2014, 33 percent of workers had low wages compared to only 22 percent a decade earlier.³ The share of women making \$15 or less per hour increased from 26.7 to 34.3 percent over the same period. This compares to a rise from 15.8 to 24.5 percent for men.⁴ As the *Closing the Gender Wage Gap: A Background Paper* notes, women face a wage gap of 27.2 percent less than men; racialized women face a 36.8 percent wage gap and aboriginal females experience a 44 percent wage gap with men (average after-tax income).⁵ As studies have shown, precarious jobs are most often held by workers in certain locations, especially women, immigrants and racialized people.⁶

A review of precarious work found women are more likely to be in precarious jobs than men (39% for women compared to 28% for men); in part because women work more part-time or temporary work at lower wages than men. But even among full-time workers, women are more likely to hold precarious jobs than men. While 39 percent of women are in precarious jobs, 43 percent of racialized women and 48 percent of recent immigrant women are in precarious work.⁷

The Ontario government has launched the Closing the Gender Wage Gap Consultation to develop a strategy to close the wage gap between women and men. Like Vashti and many other women who work in low wage and precarious work, we believe that the gender wage gap must be addressed by

looking through the lens of precarious work. By precarious work, we mean work that is insecure, unstable, low income and without benefits, without union representation and has little effective labour regulation. Women, younger workers, migrant workers, racialized workers and workers with family responsibilities are disproportionately found in precarious work. Strategies to close the gender wage gap must start from building decent jobs from the ground up.

Over the past year, the Workers' Action Centre has held meetings with members, precarious workers and allies to identify key problems facing workers under Ontario's labour laws and to develop recommendations which have been submitted to the Changing Workplaces Review.⁸ Because of the gendered and racialized nature of precarious work, we believe that many of these recommendations are critical for strategies to address the gender wage gap. As such, this submission draws key issues and recommendations from our report, **Still Working on the Edge: Building decent jobs from the ground up.**⁹

Gaps in in the ESA: shifting risks and costs of employment to women

Changes in labour market regulation and practices have realigned the distribution of risks, costs, benefits, and power between employers and employees. Employers' goals of flexibility have become more paramount in shaping the employment relationship, a trend which is reinforced by current labour and employment law.

Gaps in the *Employment Standard Act* (ESA) have enabled employers to develop strategies for work organization that evade core labour standards and that have pushed workers beyond the protection of the ESA. Work has grown outside of standard full-time permanent employment with a single employer. Yet our labour laws and employment benefits are still based almost exclusively on a standard employment relationship developed last century that linked decent wages, benefits, working conditions, and job security to the full time standard employment relationship.¹⁰ We need to seek a universal approach to coverage under the ESA, which effectively provides access to basic minimum standards for all workers. We also need to restore employer accountability for employment standards.

Recommendations

- Expand the definition of employee to ensure people are not excluded from ESA protection.¹¹
- Make employers liable for wages and all ESA entitlements, even when they use subcontractors, temporary help agencies and other intermediaries.

Temporary Agency Work

Nikita

“I work in a small group home where I work 48 hours in 3 days. This group home hires the majority of us through temp agencies. For giving us the assignment, the agency deducts 7 percent from our minimum wage pay.”

On the heels of the last recession, the temporary staffing industry is developing new practices that promise, as industry leader Apple One says, “Just-in-time staffing [that] enables you to produce maximum results without the overhead of a full-time employee.”¹² Women predominate in temp agency work and racialized women have a 4.5 times higher risk of being in temp agency work than non-racialized women.¹³ Temp agency workers earn 40 percent less than their permanent coworkers.¹⁴

Recommendations

- Ensure that temp agency workers receive the same wages, benefits, and working conditions as workers doing comparable work who are hired directly by the client company.
- Make client companies jointly responsible with temp agencies for *all* rights under the ESA, not just wages, overtime, and public holiday pay.
- Eliminate barriers to client companies directly hiring temp agency workers during the first six months.
- Prohibit long-term temporary assignments. Require that agency workers become directly-hired employees after working a cumulative total of six months for the client company. Limit temporary staffing to 20 percent of a company’s workforce.

Misclassification

When workers are misclassified as independent contractors, they get cheated out of vital benefits and protections. Workers lose out on decent wages, overtime pay, paid leave, employer-provided benefits, and pensions. Workers face problems trying to enforce their rights under the ESA when they have been misclassified, or accessing workers’ compensation if injured or sick on the job. Misclassification practices dominate in sectors where women work, such as cleaning, beauty services (e.g., nail salons), business services, and communications (e.g., copy editing).

Nikita

“The agency says we are independent contractors (at the group home). No public holiday pay. No vacation pay. No overtime pay. No paid sick days.”

Recommendations:

- Establish a reverse onus on employee status; a worker must be presumed to be an employee unless the employer demonstrates otherwise.
- Work with federal agencies and undertake inspections in sectors at risk for misclassification and undertake proactive inspections.

ESA Exemptions

Exemptions to the ESA have been introduced over the years that erode the floor of minimum standards. In an analysis of ESA exemptions and special rules, Vosko et al. conclude that “the ESA’s capacity to provide a floor of rights is eroding. . . . Other provisions, such as those related to minimum wage, working time (hours, rest periods, time off), and personal emergency leave, are weakened by an expanding series of partial and full exemptions. Finally, some provisions, such as those related to public holidays, overtime and severance pay, have become inaccessible to such a large proportion of employees that they can no longer be reasonably conceptualized as universal minimum protections.”¹⁵

The authors further conclude that exemptions and special rules disproportionately affect some groups, thus reinforcing existing labour market inequalities. Low-income employees are much less likely to be covered by most ESA provisions, including those related to minimum wage, overtime public holidays, personal emergency leave, and severance pay. Racialized and recent immigrant women and young workers are much less likely to be fully covered for minimum wage than their male counterparts. Racialized women and recent immigrant women are less likely to have full coverage for personal emergency leave (i.e., sick leave) than their male counterparts. This is troubling, as women are the most likely to take on responsibilities of caring for sick children and parents.¹⁶

Recommendation:

- No exemptions to the ESA

Gaps in the ESA: creating gender inequalities

The ESA has failed to regulate the growing predominance of part-time, temporary, and self-employed work. Without such regulation, employers have been allowed to discriminate against workers who do the same work but for fewer hours, creating huge wage gaps between full-time and other workers.

Deep rifts have grown between the wages and benefits of part-time, temporary and full-time workers. There is a 57% wage gap in median hourly wages between women in part-time jobs and women in full-time jobs. For men, that gap is 47%. The median hourly wage for part timers is \$12.38. Temporary workers don't do much better. Temporary workers have a median hourly wage just over \$15 while their full-time counterparts earn \$24 an hour.¹⁷

The ESA has a role in establishing a framework for equality among workers doing comparable work. The government should not enable employers to impose inferior pay or conditions on part-time, contract, or casual workers simply because of the form of their employment.

Recommendation

- There should be no differential treatment in pay, benefits and working conditions for workers who are doing the same work but are classified differently, such as part-time, contract, temporary, or casual.

Section 42 of the ESA, the equal pay for equal work provision, was designed to prevent employers from paying women workers less than men when they perform substantially the same work. Given that gender, race, disability and other forms of discrimination intersect for many women in precarious work, Section 42 should be broadened. Saskatchewan's *Employment Act* is an example of such broader protection. It provides that, "No employer shall pay an employee a different rate of pay on the basis of any prohibited ground, as defined in The Saskatchewan Human Rights Code, unless The Saskatchewan *Human Rights Code* permits the different rate of pay."¹⁸ As the Ontario Human Rights Commission argued in its submission to the Changing Workplaces Review, changes should be made to the ESA to allow employment standards officers and arbitrators to deal with pay equity issues based on any ground of discrimination.

Recommendations:

- Section 42 of the ESA on equal pay for equal work, which currently only applies based on sex, should be expanded to cover all prohibited grounds of discrimination in reference to Ontario's *Human Rights Code*.¹⁹

Decent Hours, Decent Work

Almost 60 percent of women work less than 40 hours a week (compared to 41% for men). Low waged workers are more likely to work in jobs where their hours vary from week to week instead of secure, regular work hours.²⁰

There is no real floor on work hours in the ESA. There are no minimum hours per day. Nor does the ESA require employers to guarantee minimum hours of work in a week either. Employers can, and do, schedule workers for one or two hour shifts. As one WAC member asks, "Whose

responsibility is it” to provide decent hours? In the absence of regulation, this has been left to the discretion of employers and the growth of low-wage, part-time, insecure work is the consequence.

Sung

“I work for a large community mental health organization. My hours are quite random. I can get a call to do a shift at any time. In January I hardly got any hours. I saved up but it never seems enough. My friends help sometimes but everyone is in the same boat. Sometimes we rely on food banks.”

In the service sector, where women are over-represented, many employers expect workers to be available for 5 days but will only schedule them for 2 or 3 days. There is no ESA requirement to provide schedules of hours in advance of work. The expectation that workers will be available for erratic shifts creates underemployment as workers are prevented from taking on other work due to scheduling conflicts. Women bear the costs of unpredictable hours of work through underemployment, having to finance employers’ “just-in-time” scheduling by carrying debt through weeks of insufficient hours or relying on friends and family for financial support.

Recommendations

- Require two weeks’ advance posting of work schedules (including when work begins, ends, shifts, meal breaks).²¹
- Require that employees receive the equivalent of one hour’s pay if the schedule is changed with less than a week’s notice, and four hours’ pay for schedule changes made with less than 24 hours’ notice.²²
- Workers must be able to ask employers to change schedules without penalty (i.e., protection from reprisals).

Sung works two contracts for the same community mental health organization. One is part-time and one is casual relief. *“It’s crazy. My responsibilities are the same. But when I work part-time I get \$23 an hour and when I work relief I get paid \$16 an hour – for exactly the same responsibilities.”* Sung works only ten hours at the part-time rate but she can get close to 30 hours at the relief rate.

Other jurisdictions have chosen a different path, with a goal of reducing the discrimination against workers based on type or form of employment. The European Union (EU) adopted a Framework Agreement in 1997 that “sets out to eliminate unjustified discrimination against part-time workers and to improve the quality of part-time work. It also aims to facilitate the development of part-time work on a voluntary basis.”²³ Since then, most countries in the EU have adopted the EU Directive on Part-Time Work, which has the following goals:

- Eliminate discrimination against part-time workers;
- Improve the quality of part-time work;

- Facilitate development of part-time work on a voluntary basis; and
- Contribute to flexible organization of working time in a manner which takes into account the needs of employers and workers.

In addition to the equal treatment provisions outlined above, we would recommend adopting the EU provisions.

Recommendations:

- Part-time workers may not be treated in a less favourable manner than comparable full-time workers solely because they work part-time, unless different treatment is justified on objective grounds;
- The ability for workers to request transfer from full-time to part-time work that becomes available;
- The ability for workers to request transfer from part-time to full-time work or to increase their working time should the opportunity arise; and
- Provision of timely information on the availability of part-time and full-time jobs.

These measures have been adopted by Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, and the United Kingdom. Some countries have gone further, such as Germany, which adopted measures to ensure part-time workers have access to training and further education in order to promote professional development and mobility.²⁴

Raise the Floor

Fair Wages

Many women workers are struggling to get by. More and more decent jobs are being replaced by low-wage work. The fastest growing jobs in Ontario are in the service sector, where wages are the lowest and women are more likely to work. The share of workers earning minimum wage has increased from 2.4 percent of all employees in 1997 to 11.9 percent in 2014. The share of women earning minimum wage has consistently been higher than the share of men.

The share of women making low wages²⁵ has increased from 24 to 34.3 percent over the past 20 years.²⁶ In 2014, over one in three women made low wages. Clearly raising the wage floor must be a central strategy of closing the gender wage gap.

Recommendation

- Raise the minimum wage to \$15 per hour in 2016.²⁷

Not all workers get minimum wage. Eleven percent of employees in Ontario are not fully covered by minimum wage. Employees who are low-income, women, youth, and recent immigrant workers

are most likely to be fully or partially exempt from the minimum wage protections, compared to those with higher incomes.²⁸

Recommendations:

- Repeal occupational exemptions to minimum wage.
- Repeal liquor servers' minimum wage.
- Repeal student minimum wage.

Paid Sick Leave

The Ontario Ministry of Health tells people to stay at home when sick for public health reasons. Yet for 1.6 million Ontario workers, that may not be possible. The ESA only requires employers with 50 or more employees to provide up to ten days of unpaid leave for employees who are sick, injured, have an emergency, or need to take care of family members.

Women work in sectors where they are most in contact with the public; these are also the sectors with the highest number of workers excluded from sick leave protection. Women are at the greatest disadvantage because they generally take care of sick family members. Racialized women are over-represented in health care, social services, accommodation, and food services.²⁹

Not only do workers need the right to take time off when sick, but workers need to have paid sick leave to make time off a viable option. For all the workers participating in this report, taking a sick day means losing wages. When earning minimum wage or low wages, few can afford to lose a day's pay.

Recommendations:

- Repeal the exemption for employers of 49 or less workers from providing personal emergency leave
- All employees shall accrue a minimum of one hour of paid sick time for every 35 hours worked. Employees will not accrue more than 52 hours of paid sick time in a calendar year, unless the employer selects a higher limit. For a full-time 35-hour per week employee, this works out to approximately seven paid sick days per year.
- Repeal Section 50(7) and amend the ESA to prohibit employers from requiring evidence to entitle workers to personal emergency leave or paid sick days.

Migrant Workers

Canadian employers have increasingly sought a flexible workforce of migrant workers. Between 2002 and 2012, the number of foreign workers in Canada increased more than three-fold from just over 100,000 to 338,000, with a pause only in 2009 during the recession.³⁰ Many of these workers

come through the Temporary Foreign Worker Program (TFWP), which is divided into four sections: the Temporary Foreign Workers Program (low-wage and high-wage); the Live-in Caregiver Program, recently changed to the Caregiver Program; and the Seasonal Agricultural Workers Program. Workers with temporary immigration status or temporary work authorization also include students, refugee claimants, and members of the International Mobility Program. While the Caregiver program is predominantly women workers, so too do women work under the other temporary foreign work programs.

There are key elements in the migrant worker program that structure and constrain working lives, creating conditions ripe for the abuse of minimum employment standards. Workers under the TFWP are tied to one employer and are restricted from moving from one job to the next when violations occur. That is because workers are required to get a new work permit tied to another employer who has been approved under the TFWP. Recruiters target migrant workers and charge exorbitant fees, creating huge debt bondage for many workers, which act as a further disincentive to workers asserting their rights.

Caregivers rely on employers for their pathway to permanent residency, while seasonal agricultural workers depend upon employers for a return to work the following season. When workers under the TFWP lose their jobs, they lose their residency status in Ontario and can be subject to deportation. Workers who have established themselves in Ontario but have lost their status and become undocumented due to changes in immigration rules are particularly vulnerable to abuse. No other sectors of our labour market face such substantial power imbalances.

“The employer who brought me to Canada released me upon arrival. That means there was no job for me. In the past 3 years, I have gotten 7 different employers. But only 3 of them got a work permit. One of them fired me because I refused to work without holiday pay. Another one fired me because I was sick. They wanted me to pay for my replacement - \$25 an hour while I earned minimum wage. Others just never completed the paperwork for the LMIA. So after 3 years, I only have 1 year of employment that counts for the program.” C.

Recommendations

- Authorize the Ministry of Labour to request bonds in cases where wages may go unpaid due to employer’s history of previous wage claim violation or sectors at high risk of violations such as caregivers and other migrant workers.
- Change the Canada-Ontario Immigration Agreement (COIA) to create an open work permit program for caregivers and migrant workers who have filed complaints against employers under the ESA and against recruiters under the *Employment Protection for Foreign Nationals Act*.

- Protect migrant workers from employers who reduce the conditions of work specified in their contract of employment under the TFWP, by allowing them to make claims under the ESA when conditions of the employment contract have been reduced or not complied with.
- “Ontario should adopt a proactive system of employer registration, recruiter licensing (including the mandatory provision of an irrevocable letter of credit or deposit), mandatory filing of information about recruitment and employment contracts, and proactive government inspection and investigation in line with the best practices model adopted in Manitoba’s *Worker Recruitment and Protection Act* and the enhancements developed in Saskatchewan and Nova Scotia.”³¹
- Repeal the *Agricultural Employees Protection Act* and ensure agricultural workers have the same rights to collective bargaining and union representation as other Ontario workers.

Caregivers are expressly excluded from the *Labour Relations Act (LRA)*. As caregivers are generally employed by an individual employer in the private home, they cannot access the LRA’s standard model of organizing. Caregivers need access to a sectoral platform for collective bargaining as recommended below.

Rights without Remedies³²

Closing the gender gap and raising the floor of minimum standards for women workers will do little if these rights are not enforced. But Ontario’s current system of enforcement relies on workers to enforce rights once violations occur. Without active enforcement of minimum standards in workplaces, workers have little protection when their employers violate employment standards. Increasingly workers are being conditioned to accept substandard working conditions.

Ontario’s compliance model of enforcing standards creates little risk of detecting violations, relatively no cost to violation and, as a consequence, little real incentive for employers to comply. This reactive compliance model is not able to address the structural features of the labour market that produce ESA violations. As the Law Commission of Ontario concludes, “There is a general consensus that proactive enforcement is a much more effective mechanism for ensuring the protections of the ESA than the reactive system of responding to individual complaints.”³³

Recommendations

- Increase the risk of detection of ESA violations. Move enforcement up the chain of subcontracting and enforce liability among multiple employers that are responsible for violations. Bring proactive enforcement into Ontario workplaces to protect works while they are still on the job.
- Increase the cost of employment violations.

- Support workers to enforce their rights. Remedy workers that bear the costs of unpaid wages and violations. Protect workers from unjust dismissal to give workers the ability to enforce their ESA rights.

Improve access to Collective Representation

Membership in unions gives women an effective way to have meaningful representation at work. Unionization gives women a 28 percent wage premium over non-unionized women workers – about \$6.43 per hour.³⁴

Rates of unionization differ among women. Non-racialized women averaged 28 percent unionization between 2000 and 2011. The rate drops for racialized women who averaged 20 percent unionization and recent immigrant women who averaged 15 percent unionization over the same period. For non-racialized men, the rate of unionization averaged 30 percent.³⁵ Women, racialized and immigrant women face greater barriers to unionization than do men. Factors such as part-time work, small establishments and private sector employers in the growing service sectors make it harder to unionize.

We need to update the Labour Relations Act (LRA) to address changing labour market practices. The rise of precarious work requires that we develop new models of collective representation and bargaining. An International Labour Organization review of 57 countries concludes that sectoral or “multi-employer bargaining at the sectoral or national level is the most inclusive form of collective bargaining.”³⁶

Alongside enterprise-based bargaining, models for multi-employer and sectoral strategies seek to raise standards for workers throughout a sector of work or occupation. As the International Labour Organization notes, sectoral or “multi-employer bargaining tends to offer more inclusive labour protection for vulnerable categories of workers, such as women and migrant workers, those in non-standards forms of employment and workers in small firms. It can also help to establish minimum standards for working conditions in an industry or sector, taking these out of competition.”³⁷

Many women work in sectors where the power imbalance between employers and workers is so great that the right to unionize and collectively bargain is practically impossible. Some workers such as Live-in Caregivers are explicitly excluded by the LRA from unionization. The *Agricultural Employees Protection Act* fails to give agricultural workers effective rights to bargain collectively. These structural impediments to collective bargaining must be eliminated.

Canada has a long history of sectoral-based bargaining. For example, the sectoral-based bargaining is the basis for collective representation in Ontario’s construction industry. Quebec’s long-standing decree system establishes sectoral standards and broader-based sectoral extension of collective

agreements. The federal *Status of the Artist* legislation provides another sectoral-based strategy for freelance self-employed and often precarious cultural workers.

Now is the time to take legislative action to enable sectoral strategies to raise standards, and to facilitate collective bargaining and representation.

In developing models of multi-employer and sectoral bargaining we need to ensure that we address the structural barriers and mitigate power imbalances facing workers in precarious work to ensure we are creating meaningful worker representation, bargaining and advocacy.

Recommendation

Sectoral strategies should be based on the following principles:

1. All workers need access to effective and meaningful collective bargaining. Laws and regulations must:
 - a. Protect and facilitate collective bargaining and union membership; and
 - b. Provide workers with timely protection from reprisals for collective bargaining, collective action and individual advocacy.
2. Where standards have been improved through union collective bargaining, such standards should be extended to protect all workers in the sector.
3. In sectors un- or under-represented by unions, workers need alternative mechanisms to raise sectoral standards. Providing workers a “voice” is insufficient. To be meaningful for workers, sectoral strategies must:
 - a. Address the power imbalances that produce vulnerability for workers;
 - b. Provide workers with meaningful collective representation, engagement, and advocacy; and
 - c. Include meaningful, proactive and timely enforcement of relevant rules and regulations.

Employment Equity

The *Employment Equity Act*, 2003, preamble states that Aboriginal people, people with disabilities, racialized communities, and women experience discrimination in finding and retaining employment and in being promoted. As a result, they are underrepresented in most areas of employment, especially senior and management positions and, they are overrepresented in those areas of employment that provide low pay and little chance of advancement. The lack of

employment equity is caused by systemic and intentional discrimination in employment. The Act sought to remedy discrimination in employment.³⁸ The Employment Equity Act was repealed by the government in 1995.

As documented above, women and racialized women workers continue to be over-represented in low wage and precarious work. Systematic discrimination in the labour market must be addressed to enable the equal opportunity to succeed.

Recommendation

Implement employment equity laws and policies to require employers to end discriminatory practices facing women, racialized and Aboriginal peoples, and people with disabilities.

Women's Care Work

Almost 70 percent of mothers with children under five are working. Women still do the majority of unpaid care work, from domestic work to caregiving for children and elderly family members. Women often withdraw from the labour force or work part-time to do unpaid care work.

There is only enough regulated child care space for about 20 percent of kids under five. A recent study found that barriers to childcare negatively affect people in precarious work's ability to work.³⁹ The lack of affordable, accessible public childcare limits women's ability to further education, skills training, foreign credential recognition, and pursue stable employment. Child care is recognized internationally as fundamental to women's equality and as good for child development.

Women also care for ageing family members and persons with disabilities. Yet the piecemeal approach to support care for family members is out-of-touch with the challenges facing women and people requiring care.

Some higher income families address the lack of publically-funded care services by hiring women workers to provide services in their private homes. This is predominantly done through the federal Caregiver Program. As addressed above, the constraints of the immigration program create conditions of work that are ripe for abuse of the largely racialized migrant women workers.

Recommendations

- Build universally accessible, publically funded and managed, high quality not-for-profit childcare services.

- Ensure that care work conditions and wages are decent, reflecting the value of the work.
- Create a care strategy for elderly, ill and disabled family members that provide access to quality, dignified, affordable care choices **and** decent, stable care jobs at a living wage.

Conclusion

Women are over-represented in low wage and precarious work. A key strategy to address the growing wage gap should be to start where women are most precarious and to build decent jobs from the ground up. We need a new statutory architecture for equality and decency ay work. This submission provides some key building blocks to begin this process.

Endnotes

¹ The experiences of Vashti and other workers in this submission are from our report, *Still Working on the Edge: Building Decent jobs from the ground up*, Workers' Action Centre, 2015.

² Benjamin Tal, *Employment Quality – Trending Down*, *Canadian Employment Quality Index* CIBC, March 5, 2015 http://research.cibcwm.com/economic_public/download/eqi_20150305.pdf

³ Low income is defined as 1.5 times the minimum wage. Leah Vosko, as quoted by Sara Mojtehdzadeh, "Ontario sees hike in underemployment, low-wage workers." *Toronto Star* Tuesday February 17, 2015. <http://www.thestar.com/news/gta/2015/02/17/ontario-sees-hike-in-underemployment-low-wage-workers.html>

⁴ Sheila Block (2015) *A Higher Standard: The case for holding low-wage employers in Ontario to a higher standard*. Toronto: Canadian Centre for Policy Alternatives.

⁵ Ministry of Labour, *Closing the Gender Wage Gap: A Background Paper*, October 2015. P 21

⁶ See, for example: Cynthia J. Cranford and Leah F. Vosko, "Conceptualizing Precarious Employment: Mapping Wage Work across Social Location and Occupational Context" in Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada* (Montreal and Kingston: McGill-Queen's University Press, 2006) 43; Tania Das Gupta, "Union Renewal and Precarious Employment: A Case Study of Hotel Workers" in Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada* (Montreal: McGill-Queens University Press, 2006) 318; Leah F. Vosko and Nancy Zukewich, "Precarious by Choice? Gender and Self-Employment" in Leah F. Vosko, ed., *Precarious Employment: Understanding Labour Market Insecurity in Canada* (Montreal and Kingston: McGill-Queen's University Press, 2006) 67; Grace Edward Galabuzi, "Racializing the Division of Labour: Neoliberal Restructuring and the Economic Segregation of Canada's Racialized Groups" in Jim Stanford and Leah F. Vosko, ed., *Challenging the Market: The Struggle to Regulate Work and Income* (Montreal and Kingston, McGill-Queen's University Press, 2004) 175.

⁷ Andrea Noack and Leah Vosko, (2011) *Precarious Jobs in Ontario: Mapping Dimensions of Labour Market Insecurity by Workers' Social Location and Context*. Commissioned by the Law Commission of Ontario. <http://www.lco-cdo.org/vulnerable-workers-call-for-papers-noack-vosko.pdf>

⁸ Mary Gellatly (2015) *Still Working on the Edge: Building decent jobs from the ground up*. Toronto: Worker's Action Centre.

⁹ Mary Gellatly (2015) *Still Working on the Edge: Building decent jobs from the ground up*. Toronto: Worker's Action Centre.

¹⁰ Leah Vosko (2006) "Precarious Employment: Towards an Improved Understanding of Labour Market Insecurity." In Leah Vosko, ed. *Precarious Employment: Understanding Labour Market Insecurity in Canada*. (Kingston: McGill & Queen's University Press)

¹¹ Broaden the definition of employee along the lines of Ontario's *Occupational Health and Safety Act*, which defines a worker as "a person who is paid to perform work or supply services for monetary compensation."

¹² Apple One, (nd) "Temp-to-Hire – The Sensible Hire Program," <https://www.appleone.ca/Employers/Services/Temp-to-Hire.aspx>

¹³ Leah Vosko (2010) A New Approach to Regulating Temporary Agency Work in Ontario or Back to the Future? *Relations industrielles / Industrial Relations* vol 65 no 4.

¹⁴ Statistics Canada, "Earnings of Temporary Versus Permanent Employees" *The Daily* (Wednesday, January 26, 2005).

¹⁵ Leah F. Vosko, Andrea Noack, John Grundy, Azar Masoumi & Jennifer Mussell, "Who's Covered by Ontario's Employment Standards Act? Assessing the Relationships between Workers' Characteristics and Levels of Protection". Paper presented at Canadian Association for Work and Labour Studies, May 29, 2014.

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¹⁶ See Vosko 2014 et al., for a fuller discussion of exemptions.

¹⁷ Author's calculations with data from Statistics Canada, CANSIM tables [282-0069](#) and [282-0073](#).

¹⁸ *The Saskatchewan Employment Act*.

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/S15-1.pdf>

¹⁹ Ontario Human Rights Commission, "Submission to the Ministry of Labour Changing Workplace Review. September 18, 2015. <http://www.ohrc.on.ca/en/ohrc-submission-ministry-labour-changing-workplace-review>

²⁰ Sheila Block (2015) A Higher Standard: The case for holding low-wage employers in Ontario to a higher standard. Toronto: Canadian Centre for Policy Alternatives.

²¹ Saskatchewan's Employment Act requires employers to provide one week advance notice of scheduling. See s. 2-11. *The Saskatchewan Employment Act*.

<http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/S15-1.pdf>

²² The *Retail Workers Bill of Rights* came into effect January 5, 2015 in San Francisco; Fair Scheduling and Treatment of Formula Retail Employees.

<https://sfgov.legistar.com/View.ashx?M=F&ID=3380419&GUID=B48FC740-2942-4D2C-B639-DE687653413C>

²³ Europa: Summaries of EU legislation. Part-time Work

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²⁴ Global Policy (2009) “Measures that Affect the Quality of Part-time or Reduced-Hour Work” http://www.bc.edu/content/dam/files/research_sites/agingandwork/pdf/publications/GPS02_Quality_of_PTorRH.pdf,

²⁵ Defined as within \$4 of the minimum wage

²⁶ Sheila Block (2015) *A Higher Standard: The case for holding low-wage employers in Ontario to a higher standard*. Toronto: Canadian Centre for Policy Alternatives.

²⁷ This would raise the minimum wage 10% above the poverty line (low income measure) for a full time 35-hour per week worker.

²⁸ Vosko et al., (2014) “Who’s Covered by Ontario’s Employment Standards Act? Assessing the Relationship between Workers’ Characteristics and levels of Protection”

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³¹ Fay Faraday (2014) *Profiting from the Precarious: How recruitment practices exploit migrant workers* (Toronto: Metcalf Foundation)

³² As Honourable Chris Bentley, former Ontario Minister of Labour, said, “Rights without remedies will not be rights for long. Remedies that are not used are not remedies at all ... a more effective approach to ESA enforcement is long overdue.” Bentley, Chris, Statement to the Legislature Regarding 60-Hour Work Week in Ontario. Legislative Assembly. *Legislative Debates (Hansard)*. 38th Parl, 1st Session (April 26, 2004). <http://hansardindex.ontla.on.ca/hansardeissue/38-1/1037.htm>.

³³ Law Commission of Ontario (2012) *Vulnerable Workers and Precarious Work* 56

³⁴ Mary Cornish and Janet Borowy, “Equality, Fairness and Transparency in Ontario Workplaces” Submission to the Changing Workplace Review, September 18, 2015. Equal Pay Coalition. https://cirhr.library.utoronto.ca/sites/cirhr.library.utoronto.ca/files/documents/ontariochangingworkplacesreview_equalpaycoalition_2015-09-18.pdf

³⁵ Sheila Block,(2015) *A Higher Standard: The case for holding low-wage employers in Ontario to a higher standard*. Toronto: Canadian Centre for Policy Alternatives.

³⁶ International Labour Office (October 2015) Trends in Collective Bargaining Coverage: Stability, Erosion or Decline? Issue Brief No. 1. P. 6. Online: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_409422.pdf

³⁷ International Labour Office (October 2015) Trends in Collective Bargaining Coverage: Stability, Erosion or Decline? Issue Brief No. 1. Online: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_409422.pdf

³⁸ *Employment Equity Act, 1993* <http://www.ontario.ca/laws/statute/93e35>

³⁹ PEPSO. (2015). The Precarity Penalty: The impact of employment precarity on individuals, households and communities – and what to do about it. Report available at www.PEPSO.ca.