

STATEMENT

BY THE

ONTARIO FEDERATION OF LABOUR  
AFFIRMATIVE ACTION COALITION

TO THE

MINISTER OF LABOUR  
RUSS RAMSAY

AND THE

MINISTER RESPONSIBLE FOR WOMEN'S ISSUES, DENNIS TIMBRELL

"It is not that individuals in the designated groups are inherently unable to achieve equality on their own, it is that the obstacles in their way are so formidable and self-perpetuating that they cannot be overcome without intervention. It is both intolerable and insensitive if we simply wait and hope that the barriers will disappear with time. Equality in employment will not happen unless we make it happen."

Judge Rosalie Abella,  
Royal Commission on  
Equality in Employment.

March 1, 1985

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We are here today for several reasons. The first is to seek a response to the brief we submitted to you a full 10 months ago. We were at that time given assurances that its content would be considered, and that you would prepare a comprehensive response to our recommendations.

Secondly, we wish to raise concerns about the recent activities of the Ontario Human Rights Commission and Employment Standards Branch regarding the women who came forward to our public forums on Affirmative Action.

Finally, we would like to explore the potential for co-operation in bringing forward cases of sex discrimination as one means of starting to dismantle barriers to economic equality for women.

Our submission to you contains key questions. We forwarded a number of them to you in advance, in hopes that our meeting can clarify some issues relating to sex discrimination.

#### Making up the Difference

In April, 1984, the Ontario Federation of Labour and a coalition of women's, teachers', and community groups submitted a brief to Premier Bill Davis, to you, Mr. Ramsay, and other members of cabinet. The brief, "Making up the Difference", was the culmination of 10 public forums across Ontario and over 170 submissions that documented extensive discrimination against

working women. At that time, we made 42 recommendations for nuts and bolts action that would start to remove the barriers, give women access to training and jobs, and give them fair wages for their work.

Despite a promise to our representatives and later to the NDP in the Legislature to consider the recommendations, six months went by, without a word, by phone or letter. The OFL then held a press conference on October 25, 1984, with five of the women who originally made submissions.

Once again, they told their stories of continued discriminatory practices in training and hiring, wages and benefits. Gains made since "Making up the Difference" was published, are only those unions made at the bargaining table. There have been no legislative improvements.

On November 14, Mr. Ramsay wrote OFL president Cliff Pilkey to assure him there would be a comprehensive response in several weeks.

It is now three more months since that letter, still, we have no response. Can you please provide clarification on these concerns:

1. Has the government implemented any of our 42 recommendations in "Making up the Difference?"
2. When can we expect the comprehensive response to the brief?

3. Is the government planning to legislate any of these key equality requirements:

- mandatory affirmative action?
- equal pay for work of equal value?
- expansion of skills training opportunities with target of minimum 50 percent participation of women?
- vastly increased numbers of childcare spaces with a move towards universal, publicly-funded quality childcare?
- increased legislative provision for paid parental leave, and sick leave for parents of sick children?

Proposed Equal Employment Opportunity Code

Another issue we would like to raise is the draft Equal Employment Opportunity Code prepared by the Ontario Women's Directorate and sent out December 21, 1984. The covering letter said the government plans to ask Ontario employers to endorse the code as a first step in demonstrating their commitment to achieving employment equity. Can you please clarify:

1. Will you make a list available outlining which employers, women's organizations and unions were sent a copy of the draft for consideration?
2. What is the time frame for response on this code?
3. There is no mention of equal pay for work of equal value, a principle which is fundamental to women's employment equity and a principle which the Legislature unanimously endorsed in the fall of 1983. Do you plan to include this in the code?

4. How does this code differ from the government's current voluntary affirmative action program? It has been documented as ineffective. Do you plan to include monitoring and enforcement mechanisms?

Ontario Human Rights Commission/Employment Standards Branch - Recent Activities

Another important reason we requested this meeting was to discuss what appears to have been a very political response to our news conference in October. The day after the news conference, Mr. Ramsay wrote to the OFL, assuring us the comprehensive response to the brief was being prepared, but that most of the cases involved collective bargaining. Weeks later it was brought to our attention that the brief had been turned over to the Ontario Human Rights Commission and Employment Standards Branch.

Instead of contacting the OFL or the affiliated unions to ask about the submissions individuals seem to have been tracked down and in some cases asked to put in writing why they were not prepared to launch a human rights complaint. While the brief, "Making up the Difference", contained individual case histories, the forums and brief were done as a collective statement on women's problems. A collective response by the Ministry would have been more appropriate.

As Cliff Pilkey responded to Mr. Ramsay on November 12, "Although we fully endorse any effort by the Ontario Human Rights Commission to inform people of their rights and options under the

law, we are concerned about the welfare of the individuals being tracked down in this manner. We have received calls from community organizations and unions expressing concern that the organization was not officially approached in this matter."

He went on to say:

"While we believe the human rights code can and should be used to fight cases of discrimination, one of the principle points we have made in the past two years is that the process of laying and pursuing these complaints is one that often leaves an individual open to harassment, fear and isolation. Yet you, in your response, by again pursuing the individual and ignoring the larger process questions, have once again ignored major structural barriers to women's equality."

We would like to briefly itemize our concerns:

1. The OFL was never contacted by the OHRC. We were only made aware of these phone calls when individuals phoned their unions or women's organizations to complain. Surely, as the initiating organization, direct contact with us, to seek our co-operation in documenting cases, would have been more appropriate. example: A Peel Region teacher was contacted about laying complaints, not the Federation of Women's Teacher's Association of Ontario. This happened even though it would have to be the central body that would decide on resources to document and proceed with a legal action.
2. Individuals have been called at work. Investigators told management the Human Rights Commission was calling. In some cases this has created tensions between the worker and management.

Example: The OHRC contacted one employer, the Hamilton Board of Education. In asking for one worker, it helped to aggravate an already tense work situation. The OFL received a letter from this woman on January 17, 1985 which states that the OHRC officer said the OFL had handed over all the briefs and they were going through them. We have two major concerns with this: first, to protect individuals, the OFL did not publish the full briefs; second, such statements imply the OFL endorsed these OHRC activities.

3. Despite our request of November 12, 1984 that the organizations be approached, individuals are still being called and asked about complaints.

Example: Geri Sheedy (RWDSU) contacted through Dominion Stores in Brockville, received a call January 3, 1985 and Jill Pflanzner (OPSEU), of St. Clair College in Windsor was contacted in January, 1985.

4. In some cases, the investigators have entered a workplace, asked management for information and began interviewing workers without explaining the purpose of their investigation. It has in some cases, created fear and tension among workers, and has set back the efforts of women in the local who have been attempting for some time to do educational work to promote the idea of affirmative action.

Example: Yvonne Earle (CUPE) of North York Public Library has written us a complaint. In early November, 1984 an investigator from Employment Standards requested and was given job descriptions and salary scales for positions of Clerk Caretaker and Public Service Clerk I from management. He began interviewing workers

without explaining who he was or why their job descriptions and wage rates were being investigated. This caused a great deal of consternation.

When Ms. Earle requested the investigator come to the union executive meeting the next week to explain what the Ministry was doing, he replied that his report had to be written quickly and he did not have time to postpone the process. Despite Ms. Earle's request for results of the investigation, she has still received no information. To quote her letter: "It is the union's concern that this type of investigation conducted with such secrecy could impair positive reaction to affirmative action within our workplace."

5. In at least one case, a union officer was called and asked if he was aware that a woman from his union who presented to the OFL Forum in Hamilton had made anti-union remarks. Clearly, this is not the business or mandate of the Commission.

6. In at least one case, the woman contacted was told that if she laid a complaint to the Commission her union would probably be charged as well for agreeing to a collective agreement with a wage gap.

Example: Geri Sheedy (RWDSU) of Dominion Stores was contacted by the Kingston OHRC office. She was informed that her case of unequal wages between Clerks A and B (women and men respectively) in the stores did appear on the surface to look like a sex discrimination case. He also informed her that if she filed a complaint, most likely the union would be charged as well as management for agreeing to the wage gap in the contract. When Geri asked "Is this how you get people not to file complaints?"



the officer apparently then backed off and said perhaps the union would just be contacted and asked to explain why discrimination was negotiated.

Clearly, comments such as this makes huge assumptions that workers and their unions have the power or control in the kinds of wages they can negotiate with employers.

7. Human rights investigators have asked women they were contacting to put policy cases together and they might proceed with a complaint. Carrol Anne Sceviour (USWA) of Central Precision Ltd., was asked to document and compile six or seven cases and the OHRC would assess them and maybe lay some complaints. When she objected that she as a plant worker did not have the resources to do the commission's work, the officer just dropped the idea. In Laura Easdale's (UAW) case, her submission to our forum was about general recruiting practices on the shop floor of Smith and Stone, men being asked specifically to apply for so-called men's jobs. When the human rights officer contacted her at her work, the conversation was very polite, but after Laura explained the problem was systemic and not a specific case, the officer did not offer any suggestion that the company could still be looked at or assessed on a policy basis.

The contact seems to have been highly erratic across the province, and unfortunately smacks more of a quick effort to respond to Ministry pressure to answer our brief, after no activity for many months. We raise these concerns, because we are concerned about the well-being of those individuals and the way in which many

have been approached. We cannot stress enough that individuals came forward, not to be placed under pressure by the Commission, but rather to help us as a coalition of trade unions, women's and community groups give the government a collective analysis of the problems and inequalities women face in Ontario workplaces.

The OFL and its affiliates and members of the Affirmative Action Coalition are willing to co-operate to help the Human Rights Commission identify and eliminate sex discrimination in hiring, training and promotion practices. Yet we need clarification on several key issues.

- Is the Ontario Human Rights Commission prepared to take forward cases based on systemic discrimination? For example, if in one school board, 67 percent of the teachers are women, yet less than 10 percent of principals are women, is the Commission willing to investigate possible systemic discrimination, using just imbalanced numbers such as these, as an indicator of long standing promotion practices? Similarly, in Ontario there are 217 Steel-worker locals that have no women working at all. Another 83 have less than 10 women. Clearly, the union does not have the resources to mount campaigns such as it did to help support women trying to get into Stelco for this many workplaces. Is the Commission prepared to initiate such investigative action in these cases?

- The definition section of the Human Rights Code says that "person" can mean union. Is the Minister prepared to have this definition

used to allow unions to directly lay complaints to the Commission?

- Does the Minister believe that section 10 of the Ontario Human Rights Code could be utilized to allow groups of women to lay complaints to the Commission in cases where actions which have benefitted one group of people, have inadvertently discriminated against a group of women. Is the Ministry amenable to allowing such complaints?

- Will the OHRC add investigative personnel, support staff and resources to ensure complaints are processed and resolved within a reasonable time frame? Very often complaints take a long time before being processed. For example, Sue Pitz (UAW) in Kitchener filed a complaint with the Commission in June, 1984. The first phone call to her was in December, to say they could not handle her complaint in Kitchener because of lack of staff. It was transferred to London. Still to date, she has only been mailed her complaint form to verify. Eight months after the complaint has been laid, she still has not been interviewed, nor has the investigation, to her knowledge, been started. Needless to say, it is much harder for investigative officers to receive accurate accounts from eyewitnesses, when that large time span passes before complaints are processed. We understand that there are only 49 human rights officers in Ontario, compared for example with more than four times that number of employment standards officers. Yet the OHRC received 1,237 formal complaints last year and 51,000 inquiries.

- Will the OHRC investigate sex discrimination complaints while grievances are still outstanding? The tendency in the past has been to discourage women from laying complaints if they have filed grievances.

- Will the OHRC investigate and resolve policy complaints that are submitted, even after a grievance is successfully resolved in favour of the workers?

(eg) Karen Davies (UAW) has submitted a 1985 complaint regarding a job interview at McDonnell Douglas Canada Ltd., during which a woman was asked questions such as: "How do you feel about working with all men?" "How would you feel if the men swore?" Despite the fact that the woman won the grievance and got the job, will the Commission pursue and act on this complaint to ensure management does not continue these practices?

- Is the OHRC prepared to order an affirmative action program to remedy discriminatory practices where they are discovered?

Example: One possible example for investigation is the Hamilton Board of Education, which has a history of wage gaps, segregation of men and women caretakers and cleaners, an eight-day sick day difference, lay-off protection inequities pension inequities, etc. There are possibly 25 job openings this year. Would this Government order a target or quota of

women already working for the board to be promoted as remedy if the board is found to be systematically discriminating?

- If labour puts time and energy into assisting in the processing of complaints, is there some guarantee that the penalty will act as a deterrent to the employer?

Example: Fleet Industries. Ten women with the assistance of their union (IAM) laid complaints in July 1980 charging Fleet Industries with discrimination. After several years of investigation, time and energy of these women and the OFL there were no end results. In fact, Fleet was given an award by another branch of government the same year it was found guilty.

- Will the OHRC open up the process for laying complaints, specifically:

- the availability of complaint forms;
- the accessibility to offices for workers who must travel to OHRC after work hours;
- willingness to work with unions involved in an organized workplace;
- willingness to impose concrete solutions once the case is processed.

An example that highlights some of these structural hurdles that women must overcome is in the case of Central Precision Ltd. In 1981 when the company was hiring, one woman went to the plant to apply. This woman had industrial experience related to the job. The woman was told bluntly that the company didn't have any applications for women. It wanted men. (The company has not hired a woman in the past seven years.)

The woman contacted Carrol Anne Sceviour who was and still is a worker in the plant. She, in turn, contacted the United Steelworkers of America, the union representing workers there. A law student with the union helped the woman fill out a copy of a human rights complaint form he had on hand. Three times the union called the OHRC on University Avenue, and three times was told no appointment was needed - officers were in over the lunch hour. When the woman and Carrol Anne arrived, they were told they needed an appointment. The officer was also upset that they had a copy of the complaint form, saying it was not for public circulation. Finally, they were told they couldn't file downtown, rather they had to file at the east office, because Central Precision was located out there. It did not matter that the woman lived downtown, had no car and was an unemployed worker without a lot of financial resources. Only after the union stepped in as advocate for the woman, did the Commission agree to accept her initial complaint on University Avenue. During the rest of the process she had to travel up to Mississauga.

As the case proceeded through the bureaucracy, the investigative officer contacted the woman several times to see if she didn't want to drop the case. It amounted to verbal pressure. Similarly, fact finding meetings included the woman, the officer, the company vice-president, the company business manager, and the company lawyer. Again, if the Steelworkers had not sent an advocate, the women would have been overwhelmed. In most cases a complainant does not have such an advocate because she isn't unionized. It sets up an investigative procedure that is highly intimidating for the individual.

In this case the final resolution was that the company's hiring practices were "suspect" and the woman's application was to be kept on file for a year. With such weak remedies, and bureaucratic hurdles, it is no wonder more women do not file complaints.

- Will the Minister give a clear policy statement to the effect that it recognizes collective agreement clauses are the best a union can do for its workers, and that that should not be a barrier to the Commission or Employment Standards Branch to initiating or responding to complaints of discrimination? For the public sector, which largely does not have the right to strike and therefore is even more limited in what it can negotiate with management, strong enforcement of anti-discrimination laws becomes even more critical.

- Can you indicate whether the Human Rights Code will be amended in the future to allow for class complaints? As it is now, a woman must individually lay a complaint, often an intimidating procedure.

- Can you please give us (as requested in our letter of February 7, 1985) a statistical breakdown of the number of sexual harassment complaints received by the Commission in the past two years, the number resolved and the types of resolutions?

- Can the OHRC explain what we understand is a new administrative procedure that gives complainants some access to the files now? Can you please confirm this? We know that previously complainants had no rights to information. Will this include access to employers' statements? Will it include access to company hiring records and wage rates? If not, is the Minister prepared to consider giving this right of access to information?

- Clearly, women have had many problems in the past in filing complaints. Can you provide us with key information on how best we develop and process a case, to get results?

In summary, we wish to emphasize that working women face two problems. The first is with existing laws and administrative barriers. Simple practices mean hurdles for complainants. Sue Pitz, from Kitchener for example, was sent her complaint form by registered mail. Since the post office is only open during working hours, it means lost wages and working time to book off



and go pick it up. We urge you to review your procedures vis a vis accessibility and sensitivity to the workers' needs.

Even more important is the need for broader legislative change. The Ontario Federation of Labour, its affiliates and the women's groups and teachers associations that have been working with it are convinced more than ever that equality will not be achieved without strong legislative initiative, without mandatory affirmative action, equal pay for work of equal value and a range of other tough measures to give women a fair chance to Make up the Difference.

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