

# Still Chasing Pay Equity

## Grievances by York University Faculty Women

JOAN ALLEN AND MONICA MULVIHILL

*Les auteures utilisent les combats des professeures de l'Université York pour démontrer que maintenir les gains de l'équité salariale présente un problème quand des éléments biaisés entrent en ligne de compte lorsqu'il s'agit de déterminer la rémunération. Elles ajoutent que c'est la responsabilité des associations des facultés universitaires et des syndicats dans d'autres milieux de travail de surveiller l'infiltration des inégalités salariales, d'en documenter les conséquences sur les pensions et autres effets financiers et de tenter de les redresser en innovant au-delà de la législation.*

*...And thy valuation for the male from twenty years old even unto sixty years old, even thy valuation shall be fifty shekels of silver, after the shekel of the sanctuary. And if it be a female, then thy valuation shall be thirty shekels.*

—Leviticus (27, 1-4)

Ontario enacted pay equity legislation in 1987 and university administrations and faculty since have grappled with the particularities of categorizing and evaluating academic work in order to implement and maintain the goals of this legislation. As a legislative remedy, the *Pay Equity Act* falls short in providing access to the goal of equity in significant ways. Indeed, legislation alone is seldom adequate in overcoming deeply

rooted institutional systemic discrimination. In academia, problems such as the lack of gender neutrality in means of assessing worth of contributions, the need to assign numerical value to expertise, and gendered variables in achieving or applying for academic rank all obfuscate the process.

Pay equity in the academic context raises questions of both equal pay for equal work and equal pay for comparable worth. As Pat McDermott observes:

The results [of pay equity exercises] either justify the current compensation practices or produce wage adjustments that represent only a small fraction of the true under-valuation of women's work. The real danger, of course, is that women, because of these practices will see their wages increase minimally, yet will be told that they now have "pay equity" and will, therefore, have no recourse but to engage in undoubtedly lengthy and expensive litigation over the issue of gender neutrality. (28)

Ursula Franklin reported that the monitoring mechanism set up after a pay review at University of Toronto in 1973 did not prevent the continued growth of inequities. Fifteen years later the pay gap had increased by 15 per cent, and evidence showed the

repetition of a widening gap in men's and women's salaries (cited in MacLachlan).

Similarly, the York University Faculty Association (YUFA) has noted that "2003/04 data show backsliding, except for the oldest group of YUFA members. Among all other groups, the sex gap had widened by \$900 to \$2500" (Bischoping 2004)

Maintenance of pay equity gains is an ongoing concern in most workplaces, and is a problem that occurs when biased factors re-enter the process of determining remuneration. As Gail Lawrence notes,

Most frequently, the need for maintenance is triggered by the creation of new positions or by significant changes in job content. These and other maintenance concerns are likely to come to light when an employee raises a concern or complaint. (20)

At York University there are currently 29 grievances alleging a breach of the *Ontario Employment Standards Act* (s. 42 (1)) due to the unequal pay suffered over time by women performing equal work to their male counterparts. There are two problem areas for pay equity exercises: identifying anomalously low salaries and determining how to measure and credit experience (Bischoping 1997). In the York University case, relevant

professional experience has to be quantified in order to create visible and “objective” male comparators. To pursue such a case requires reliance on cleanly demonstrable data, in its initial stages, sometimes sacrificing the stories behind the data.

This article will focus on the struggles of women faculty at York University to achieve and maintain pay equity as a means to explore the ways in which gender bias impacts the process of determining remuneration.

### Gendered Aspects of Pay Inequities

A major contributor to inequities in faculty salaries is differences in initial salary bargained for and accepted at starting levels. Lisa Barron summarizes the expanding body of work on gender differences in negotiation and notes three key areas contributing to the outcomes of gendered differentials in negotiating styles, these being attitudes toward negotiation, negotiation tactics, and a differing beliefs about desert or justice. Women tended to assume a lower monetary value of their contributions as employees. Barron’s study involves a simulated negotiation and includes accounts of reasons for how participants bargained. Gratitude for being appointed to the job may override attention to long-term implications of starting salary. Women often carry the stigma of the suspicion that they may not be as intense about their careers if they are contemplating reproduction and mothering, or if their career is atypical in any aspect, and thus they often do not bargain forcefully for contracts.

Helen Breslauer calls this the “messy vita syndrome.” She suggests women internalize conventions for linear academic career goals and their pursuit of an alternate, or non-linear, career path may lead them to experience self-doubt about their value as “serious scholars” (132). Jeannette Lynes speaks of her experience in finally securing a tenure-stream job after almost a decade of working as

sessional and contract faculty while trying at various points to coordinate work in the same geographic area as her husband. She states: “Never, in any of these hiring situations, did I feel confident enough to negotiate my salary or any other terms of my employment” (134).

Some of the reasons Lynes cites for women faculty’s failure to treat beginning salary as even an issue at the

aggressive stances or “aggrandized” claims about their remunerative worth.

The vicissitudes of categories of job expertise and their concomitant remuneration are also problematic for women faculty seeking pay equity. Rank can represent another discriminatory instrument, even as an unintended consequence, which masks gendered assumptions.

---

**“I was hired at a salary \$4,000 lower than my husband’s, even though I had received my PhD three years earlier and had more teaching experience. I did not negotiate my salary; the situation seemed too delicate.”**

---

start of their careers are low expectations born of naiveté, lack of a mentoring network, gendered institutional assumptions, and a survivor-like guilt that one has obtained the job over many other qualified applicants. Lynes reports:

I was hired at a salary \$4,000 lower than my husband’s, even though I had received my PhD three years earlier and had more teaching experience. Once again, much to my chagrin now, I did not negotiate my salary; the situation seemed too delicate. Every situation seemed like eggshells, in those days. (135)

Deborah Kolb has extensively studied the factors influencing women’s reluctance to be aggressive bargainers for salary and conditions. In “Gender and the Shadow Negotiation” she explores the gendered aspects of negotiations that can hinder the process. She suggests that behind the substantive issues on the table in negotiations, a parallel story exists about how the negotiations will occur. The question of whether each side is worthy enough to be permitted any room in negotiation forms the subtext, as does the potential for gendered sanctions against women displaying overly

In the language of the *Pay Equity Act*, the question is which factors are “gender neutral” and which are not. There is general agreement that rank is not gender neutral because one cannot assume that the procedures for promotion from associate to full professor are unbiased. (Ornstein 2)

Anne Forrest also suggests that traditional strategies such as collective bargaining fail to protect women workers from discrimination occurring by such means as categories of job categories.

Given job segregation by gender, union bargaining strategies designed to achieve fair pay (for example, “pay the job, not the worker” and across-the-board wage increases) narrow but do not eliminate the gender gap in pay. (3)

Forrest points to the need for preventative measures that include “the identification of key female-male wage comparisons to be maintained over time” (3). At York University, YUFA has done this through a series of investigations demonstrating that typical exercises which successfully

redress salary inequities for a time, slip away with new inequities re-emerging a few years later. Such inequities appear due to a variety of factors, including merit raises and marketability adjustments as well as salary at point of hire.

The Canadian Association of University Teachers (CAUT) observes that disciplinary areas are another potential cover for gendered job seg-

settlement of \$650,000 to provide partial compensation for gender-based pay discrimination to women faculty who were employed and members of the bargaining unit on 1 July 1996. The payment was retroactive to July 1, 1995. The exercise at York was not under the *Pay Equity Act*, but was the result of a collective bargaining effort addressing gender that benefited only the most severely under-

nation grievance. In the 1999-2001 Collective Agreement, YUFA and the employer negotiated an additional \$450,000 to address pay equity. This additional funding was distributed using the same methodology as the earlier pay equity exercise. As a condition, the Employer required that YUFA agree to drop the pay discrimination grievance. It did not, however, preclude individual women

---

**“The difficulties of putting pay equity’s vision of gender-wage equity into practice is the greatest stumbling block to achieving substantive equality for women in the workplace.”**

---

regation and justifications for pay inequities. Female and male faculty may sometimes cluster in different areas, as for example in engineering. There are also gendered concentrations in

the *forms* of employment (contract v. full-time, non-tenure track v. tenure track, assistant and associate v. full professor), resulting in an unintentional *occupational segregation*. (13)

Thus, even when pay equity is implemented we still need to scrutinize for fairness using both the Employment Standards Act and other creative means of achieving a just evaluation of work.

### **The York University Grievance**

This fight for pay equity for women faculty at York has been long and fraught with many challenges. Although York University was required to post a pay equity plan on January 1, 1990, the parties did not commence negotiations until the Spring of 1992 (Baar). In 1995, YUFA requested the intervention of the Pay Equity Commission. The collective agreement that ended the YUFA strike in 1997 included a pay equity

paid female, not male, faculty.

The YUFA-Employer Committee on Pay Equity negotiated for some time to determine which variables to use as a basis of comparison (Bishoping 1997). YUFA was concerned that the Employer’s initial position, that years since first full-time university teaching appointment should be the primary basis for comparison, was gender biased. Because women’s career paths differ from men’s, with women often entering academe later, YUFA proposed that age should be the primary variable. A third variable, the year that women began their first completed graduate degree, was proposed as the most gender neutral. Using regression analysis, for each female faculty member, three different measures of distance below the male salary line was calculated. The two highest “differences” of the three were averaged together, thereby yielding a pay equity discrepancy for each eligible female faculty member. Discrepancies below \$2,500.00 were not compensated. Due to the limited pot of money available, 34 per cent of the discrepancies above that amount were compensated.

In December of 1998, the York University Faculty Association filed a systemic gender based pay discrimi-

nation grievance under the *Employment Standards Act* (ESA).

In the late Fall of 1999, several women thus filed grievances under the Equal Pay for Equal Work section of the *Employment Standards Act*. This section prohibits an Employer from paying a woman less than a man for substantially the same work in the same establishment, the performance of which requires substantially the same skill, effort, and responsibility, and which is performed under similar working conditions except where such payment is made pursuant to: a seniority system; a merit system; a system that measures earning by quantity or quality of production; or a differential based on any factor other than sex. Therefore, it was necessary for women faculty members to identify male comparators as much like themselves as possible. This in itself is a complex process for the reasons discussed earlier.

YUFA proceeded to arbitration with 12 grievances. To date there have been several days of hearings and two days of mediation. The next scheduled hearing dates do not occur until the Fall of 2004/the Winter of 2005. YUFA has also filed historical grievances for the original 12 women and a subsequent additional 17. These grievances cite every collective agree-

ment since the date each of the women was appointed at York. YUFA is currently awaiting a decision on this issue of retroactivity to past collective agreements. These grievances under the *Employment Standards Act* over gender inequities in salaries, and pension payouts, are ongoing.

## Conclusion

Jan Kainer captures the subtext of equity problems in all workplaces:

Pay equity is most likely to meet with success when the reform effectively challenges liberal assumptions about the market, the male worker and systemic forms of employment discrimination. Conversely, it is unlikely to be an effective reform strategy when liberal ideologies are not adequately challenged. The difficulties of putting pay equity's vision of gender-wage equity into practice is the greatest stumbling block to achieving substantive equality for women in the workplace. (16)

The retired University of Toronto professors brought an unjust enrichment claim against their employer, meaning that the university as a whole benefited from the lag in settling compensation issues to the resultant detriment to the pensions of the women involved. The case of *Franklin et. al. v. University of Toronto (Shyrer)* was able to bring to light the most egregious consequence of wage inequities: the resulting pension differentials. Their claim invoked the need for a remedy given the prolonged nature of the time between the awareness of the issue and the ultimate response from the university. The pension gaps for these women in relation to their male comparators were the ultimate effect of not settling pay differences more efficiently. Their case, based on their claim for equal pay for same or similar work, involved a request for revision of their ultimate pensions. Thus the

combination effects of lower salary and protracted inequities were highlighted in terms of their secondary effects in benefits that extend far beyond direct compensation. Other retired female professors from the university shared in this settlement, and no doubt future academic and other workers will benefit from the University of Toronto's professors having highlighted the resulting consequence of pension issues where pay inequities persist (Grosskurth).

The York University case demonstrates the need for the willingness to bear the expense, and the perseverance to commit resources of time and energy over a protracted period. It also requires dedicated creativity in finding means of addressing the issue of alleged gender neutrality to which Patricia McDermott refers (29).

The onus is on faculty associations in academe and unions in other workplaces to watchdog incipient pay inequities, to document their consequences in pensions and other financial effects, and to use creative means beyond existing pay equity legislation to address them. The ultimate remedy will be in aiding employees and their representatives in the workplace to remain vigilant and proactive in acknowledging the root causes of valuing work differently according to gender.

*Joan Allen is an Assistant Professor of Sociology at York University. She has worked on racial equity issues for the Ministry of the Attorney General of Ontario and has served as the faculty representative for the ongoing York University Faculty Association's Employment Standards grievance.*

*Monica Mulvihill is a staff member of the York University Faculty Association. She has been working on equity issues for many years.*

## References

Baar, Ellen. "A Short History of Recurring Attempts to Address Gendered Salary Inequities at York

(1975-1998)." *Active Voice* 9 (5) (October 1998): 20.

Barron, Lisa A. "Ask and You Shall Receive? Gender Difference in Negotiators' Beliefs about Request for a Higher Salary." *Human Relations* 56 (6) (2003): 635-662.

Bible, King James. *Leviticus, The Holy Bible, King James version*, Chapter 27, 1-4.

Bischoping, Kathy. "Issues in the Faculty Pay Equity Exercise." *Active Voice*. (September 1997). Online: <http://www.yufa.org/pubs>. Date Accessed April 15, 2004.

Bischoping, Kathy. "Equity x 5 in the Collective Agreement." York University Faculty Association, [http://www.yufa.org/contract/faq\\_equity.html](http://www.yufa.org/contract/faq_equity.html). Date accessed, July 1, 2004.

Breslauer, Helen. "Women in the Professoriate: The Case of Multiple Disadvantage." Higher Education Group, OISE. *The Professoriate in Crisis*. Toronto: OISE/HEG, 1985. 82-102.

Canadian Association of University Teachers (CAUT), "Submission Of The Canadian Association Of University Teachers To The Pay Equity Task Force." Department of Justice, Canada, November 2002.

Forrest, Anne. "After the Pay Equity Award: Can Collective Bargaining Maintain Equal Pay for Work of Equal Value?" Executive Summary, Minister of Justice and Attorney General of Canada, 2003.

*Franklin et. al. v. University of Toronto*. Grosskurth, Phyllis. "Born Too Soon: Reflections on my Underpaid Academic Career and its Impact on my Retirement." *Ivory Towers, Feminist Issues: Selected Papers from the WIN Symposia, 2000-2001*. Ed. Susan Heald. Ottawa: Humanities and Social Science Research Federation of Canada, 2002.

Kainer, Jan. *Cashing In on Pay Equity: Supermarket Restructuring and Gender Inequality*. Toronto: Sumach Press, 2002.

Kolb, Deborah. *Gender and the Shadow Negotiation*. Boston: Centre for Gender in Organizations, Simmons School of Management, 1998.

Lawrence, Gail E. "Models and Best Practices for Pay Equity." Government of Canada, Pay Equity Review, Department of Justice, 2003.

Lynes, Jeanette, "Downsize This ... and This and This: Women and Academic Hiring." *Women in the Canadian Academic Tundra: Challenging the Chill*. Eds. Elena Hannah, Linda Paul, and Swani Vethamany-Globus. Montreal: Queen's University Press, 2002. 133-138.

MacLachlan, Bonnie, "Notes from CAUT Status of Women Conference: Gender Equity ... From Graduate Student to Professor Emerita." 2002. <http://www.uwo.ca/uwofa/articles>. Date accessed May 4, 2004.

McDermott, Pat. "Pay Equity in Canada: Assessing the Commitment to Reducing the Wage Gap." *Just Wages: A Feminist Assessment of Pay Equity*. Eds. Judy Fudge and Patricia McDermott. Toronto: University of Toronto Press, 1991. 21-32.

Ornstein, Michael D. "The Gender Gap in the Pay of Faculty and Librarians." *Active Voice*, (September 1995). Online: <http://www.math.yorku.ca/Who/Faculty/Monette/PayEquity/Ornstein.html>, Date accessed March 30, 2004.

York University Faculty Association (YUFA). "What Has Pay Equity Done for Women?" 2003. <http://www.yufa.org/contract/>. Date Accessed April 21, 2004.

Shyrer, Catherine. "Equity in the Workplace." *Faculty Association of the University of Waterloo* 118 (Nov/Dec 2002): 3.

## NAN BRYNE

### What the Swans Know

The human mind fails  
to make sense of human violence

improvises using the tools at hand.  
A hate crime becomes the consequence of  
immorality,

an ambush of the unworthy by the worthy.  
Historical art form; the silhouette

of one man blithely sitting atop the head of  
another.

Rape becomes an error in judgement,

a critical analysis of specific actions taken  
or not taken, a plotted trajectory of glances

and words down an invisible path.  
For example if a girl, let's call her Jennifer

sits in a car with a boy. Enters there *willingly*  
as a sister might sit with a brother

at a basketball game or a pie eating contest.  
Two children from the same tribe

attending some ritual, and the boy  
reaches up to seize her throat.

Then through some untraceable signal  
she has incited him to violence.

Unlike the swan who brain at one-eighth  
the size of the human brain knows

the shape of the predator informed only  
by the unalterable tendency of instinct.

The human mind resists the pull of  
predictability  
involves itself with reasons,

carries only the remnant of inheritance,  
the fingers on the throat.

*Nan Byrne's poetry appears earlier in this volume.*