



Provincial Advisory Council
on the Status of Women
NEWFOUNDLAND & LABRADOR

**JURISDICTIONAL SCAN OF
PAY EQUITY LEGISLATION
IN CANADA AND ABROAD**

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I. Purpose

The purpose of this document is to provide information on pay equity legislation in Canada and internationally. The Provincial Advisory Council on the Status of Women Newfoundland and Labrador (PACSW) conducted this jurisdictional scan to explore the best practices in pay equity legislation for Newfoundland and Labrador. We identify this jurisdictional scan as a summary of information gathered from local, national, and international sources to present the most comprehensive pay equity recommendations.

This report uses a policy framework analysis to evaluate pay equity legislation to effectively address gender-based pay discrimination/the gender wage gap. Drawing on best practices from an international and national jurisdictional scan, key components of policy design are identified to be considered in the development of equal pay legislation in Newfoundland and Labrador.

A jurisdictional scan was conducted between October 2021 and January 2022, examining and evaluating legislation aimed to reduce the gender pay gap in Canada and internationally. The goal was to determine the optimal design of pay equity policies and legislation, identify any challenges associated with their implementation, and analyze the outcomes, where available. As many of the policies were quite recently, or not yet implemented, determining their effectiveness was not always possible. The jurisdictional scan was limited to publicly available resources and information available in English.

PACSW recognizes that addressing the gender wage gap is a fundamental step toward ending women's economic inequality, achieving inclusive societies, and sustaining economies. By developing effective pay equity legislation, the Government of Newfoundland and Labrador can play a significant role in reducing this gap.

II. Background

Across Canada and internationally, governments and policymakers have used a wide array of legislation to promote pay equality and pay equity (Bowers, Kosteckyi, Moses, & Muchka, 2020).

There is a lack of consistency in the terminology used to describe and analyze pay equity policies. In some jurisdictions, “pay equity” and “pay equality” are used interchangeably, and there can be a lack of agreement or consensus in the way terms are used, even within the same jurisdiction. **Pay equity** is about “equal pay for work of equal value.” This means that if two different jobs contribute equal value to an employer’s operations, then the employees in those jobs should receive equal pay. Pay equity is internationally recognized as a fundamental human right, and is important because it addresses the undervaluation of women’s work, which contributes to the **gender wage gap** (Canadian Human Rights Commission, 2021) – the differences in earnings between women and men in the workplace. It is recognized as an indicator of women’s economic inequality (Canadian Women’s Foundation, 2018).

Jobs that are commonly held by women tend to pay less than jobs commonly held by men – even when the work is comparable in value based on skill, effort, responsibility and working conditions. In 2020, a woman in Canada earned 0.89 cents for every dollar a man earned- this is equivalent to a \$3.52 hourly wage rate gap (11%) between men and women (Canadian Human Rights Commission, 2021).

Pay equality is about “equal pay for equal work” (Bowers, Kosteckyi, Moses, & Muchka, 2020), which compares the pay of similar jobs, where women and men are doing the same work (Canadian Human Rights Commission, 2021).

Pay transparency policies are predicated on improving access to pay information and awareness of gender pay differentials for individuals and firms. By making wages visible (in an anonymized fashion that protects individuals' privacy), pay transparency can help expose discrepancies in male and female earnings for work of comparable value (Bowers, Kostecky, Moses, & Muchka, 2020).

In most countries, there are laws that prevent men and women from being paid differently for doing the same job. While these laws may not always be respected, overt pay discrepancies for work of equal value is not the major cause of gender pay gaps. Gender discrimination often overlaps with other vulnerabilities and intersectional factors. Gender discrimination impacts women from different ethnicities, life stages, social backgrounds and sexual identities differently. Discrimination, bias and stereotyping put women at a disadvantage when applying for particular roles and leadership positions because of societal expectations around their other responsibilities and/or their ability to do the job (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Gender pay gaps have multiple negative outcomes. Gendered socioeconomic disparities are connected to issues such as poorer health outcomes for women and children, higher levels of infant mortality and higher rates of domestic violence and sexual assault. Women also tend to have significantly smaller occupational pensions than men as a result of having lower incomes over the course of their working lives. Addressing the gender pay gap should help to rebalance society. Increasing uptake of paternity leave by men can help boost women's career opportunities, which may in turn have improved health outcomes and other social inequalities (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Addressing pay gaps involves much more than guaranteeing equal pay for equal work. Even in countries where there are robust measures in place to guarantee equal pay for men and women, gender pay gaps persist. A wide range of measures are necessary to

address gender pay gaps, including the provision of equal parental leave, flexible working hours and conditions; affordable childcare; reassessing the minimum wage and pay in the care and education sectors; and reviewing the court system to make it more accessible for employment discrimination claims (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

III. Current Situation in Canada

Canada is ranked as having a pay gap of 16.1%, based on 2020 data - the 8th highest out of 43 countries examined by the Organisation for Economic Co-operation and Development (OECD). The pay gap for all OECD countries, reported in 2019, was 12.5%. The highest-ranking countries, based on 2020 data, are New Zealand (4.6%), and Norway (4.8%) (OECD, 2021).

The gender wage gap can be measured in several different ways. One way of reporting is to compare the annual earnings, by gender, for both full-time and part-time workers. This measurement results in the largest wage gap because more women work part-time, and part-time workers typically earn less than full-time workers (Canadian Women's Foundation, 2018). Using this measurement, women workers in Canada earn an average total income of \$41,400 compared to \$56,800 earned by men in 2019 (Statistics Canada, 2021a). Another way to measure the gap is to compare the annual earnings of full-time workers. Using this calculation, women workers in Canada earned an average employment income of \$56,300 compared to \$73,300 earned by men in 2019 (Statistics Canada, 2021b). Finally, we can compare the hourly wages of full-time working women to those of men, which gives a more accurate portrayal of the wage gap (Canadian Women's Foundation, 2018). Based on this comparison, women earned an average of 87 cents for every dollar earned by men in 2015 (Statistics Canada, 2017).

The OECD, which compares the gender wage gap across different countries, takes the difference between male and female full-time median weekly earnings as a share of male median full-time weekly earnings. The gap for the Canadian provinces and territories, reported by the Conference Board of Canada, was calculated the same way using Statistics Canada data.

Based on 2016 data on the weekly full-time earnings of men and women, among the Canadian provinces, Prince Edward Island (P.E.I.) is a standout performer with a wage gap of 10.7 per cent. P.E.I. is followed by Manitoba (13.2%), New Brunswick (14.4%), Ontario (16.2%), Quebec (16.4%), and Nova Scotia (16.4%), all performing better than the national average. Although Saskatchewan (21.6%), British Columbia (22.6%), and Alberta (24.6%) fall behind the national level, they perform better than Newfoundland and Labrador (28.5%) which had the highest pay gap among all the provinces (Conference Board of Canada, 2017).

Between 2000 and 2016, the overall gender pay gap in Canada decreased by 24 per cent, falling from 23.9 per cent to 18.9 per cent. The same narrowing tendency took place in Nova Scotia, New Brunswick, and Manitoba. The only province moving in the opposite direction was Newfoundland and Labrador, where the gender wage gap in 2016 was over 2 percentage points higher than in 2000 (Conference Board of Canada, 2017).

Based on the latest data from Statistics Canada in 2021, the gender wage gap, calculated based on the average hourly wages, by province, are as follows: Prince Edward Island (0%), New Brunswick (7%), Nova Scotia (7%), Quebec (9%), Manitoba (10%), Ontario (11%), Saskatchewan (11%), Newfoundland and Labrador (11%), British Columbia (14%), and Alberta (14%) (Government of Ontario, 2022).

The wage gap is not the same for all women. The gap increases significantly when intersecting with other forms of discrimination such as those experienced by Indigenous, racialized, immigrant and migrant, disabled, elderly, and LGBTQ women.

There are a number of explanations for why the gender wage gap exists, and continues to persist. The Canadian Women's Foundation and the Global Institute for Women's Leadership outline some of the factors that lead to the gender wage gap:

One of the main causes of the gender pay gap is the expectation that women will take on the main responsibility for unpaid care work. Women are more likely than men to take a career break after having children, leading to a loss of work experience and a widening pay gap; women are also more likely to work part-time when they have young children (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Occupational segregation is another cause of the gender pay gap (Cowper-Coles, Glennie, Borges, & Schmid, 2021). Traditional "women's work" pays less than traditional "men's work." Jobs performed by women are typically undervalued because many of the caregiving and domestic duties that characterize this work was, historically, and in many cases, continues to be unpaid work. Most women are also employed in occupations that pay less. Women make up the majority of Canada's minimum-wage workers, and a third of working women make less than \$15 an hour. Also contributing to the wage gap is the fact that more women than men work part-time; this is due to several reasons, including the lack of affordable childcare and family leave policies and gendered societal expectations about domestic responsibilities (Canadian Women's Foundation, 2018).

A significant portion of the wage gap is unaccounted for and can be partly explained by discrimination. This, despite the fact that in Canada the Pay Equity Act and the Employment Equity Act attempt to remove such workplace barriers. The former requires

employers to ensure men and women receive “equal pay for work of equal value,” while the latter requires that employers remove barriers to the workplace for women, Indigenous people, racialized groups, and people with disabilities (Canadian Women’s Foundation, 2018).

IV. Current Legislation in Canada

Pay Equity Legislation in Canada at the Federal Level

Canada’s first pay equity legislation was enacted in the federal jurisdiction in 1977 after Canada ratified the ILO Convention No.100.

The federal pay equity provision is found in s. 11 of the Canadian Human Rights Act (CHRA). The CHRA sets out a complaint-based model of pay equity that applied to both the public and private sector in federal jurisdiction.

Section 11 sets out freedom from discrimination for male and female employees employed in the same establishment who are performing work of equal value. The Canadian Human Rights Commission has also prepared brief Equal Wage Guidelines which help explain how the right in s.11 should be implemented. The enforcement of the federal law, though, has had a troubled history, plagued by protracted and costly litigation (Ontario Equal Pay Coalition, n.d.).

In 2000, the federal government established an expert Pay Equity Task Force to make recommendations for a workable, effective, pay equity law. Following years of consultation under all key stakeholders – including employers, unions, and women’s advocates – commissioned and expert research, the Task Force’s Report was released in May 2004. It recommended new, stand-alone pay equity legislation that is more in line with the pro-active laws that exist in some provinces (Ontario Equal Pay Coalition, n.d.).

Proactive pay equity legislation puts the onus on an employer to introduce a pay equity program, rather than relying on an individual or union to put the resources into pursuing a lengthy case. Proactive pay equity legislation requires an employer to work with the union, or with employees if no union exists, to introduce a program that raises women's wages by comparing and re-evaluating predominantly male and female jobs and adjusting differences in pay between those considered of the same value. Pay equity programs and adjustments need to be made within a specified time period, which avoids the lengthy delays now experienced under the federal complaint-based approach. This type of legislation exists now in Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island. (The provincial legislation applies to the public sector only, except in Ontario and Quebec, where all except the smallest private-sector workplaces are covered) (Ontario Equal Pay Coalition, n.d.).

The Task Force Report, entitled Pay Equity: A New Approach to a Fundamental Right, identified a number of steps which need to be taken to address the situation. The Task Force called on the federal government to:

1. Recognize that pay equity is a fundamental human right.
2. Adopt a new proactive pay equity law that will cover women as well as racially visible workers, Aboriginal workers and workers with disabilities.
3. Require that all federally regulated employers adopt a pay equity plan that will include all workers whether they work full or part-time, temporary or casual
4. Require employers, unions and workers' representatives to examine pay systems to make sure they are based on the principle of equal pay for work of equal value

5. Establish a new Pay Equity Commission and a Pay Equity Tribunal to enforce the law.

The Report's recommendations were key and represented an important step forward. The Report provided a comprehensive review of the wage gap in Canada and situated its analysis in a way that recognizes Canada's obligation under international law to eradicate wage discrimination. The Task Force acknowledged that employers have the responsibility to correct discriminatory wage disparities. It assigned an important role to unions where workers are represented, and mandates the creation of pay equity committees to prepare and monitor pay equity plans in all workplaces, unionized or not. It proposed the establishment of a separate pay equity commission to assist employees, employers, and unions, to provide education on pay equity issues and to resolve any disagreements. The recommendations were thorough and well researched. The women's movement and the labour movement welcomed the Task Force Report and have been working hard to win legislation to implement its recommendations. Employer organizations have mounted a powerful lobby to delay the introduction of this needed legislation (Ontario Equal Pay Coalition, n.d.).

In response, the former Liberal government stated that it accepted that pay equity is a human right, and that proactive legislation is needed. This is, of course, in line with Canadian law and international conventions Canada has signed. But, the Liberal government failed to introduce the needed legislation, and the Conservative government refused to implement the Task Force report. Also, the Public Sector Equitable Compensation Act was enacted, taking away the right of female public sector workers to file complaints under the CHRA (Ontario Equal Pay Coalition, n.d.).

The current Pay Equity Act was introduced as part of Bill C-86, the Budget Implementation Act, 2018, No.2. It was passed by Parliament and received Royal Assent on December 13,

2018 and came into force on August 31, 2021. The purpose of the Act is to achieve pay equity for employees in jobs that are commonly held by women by addressing gender-based discrimination in the pay practices and systems of employers. The federal Pay Equity Act is proactive, which means it puts the onus on employers to assess, at set points in time, whether employees in jobs commonly held by women are earning equal pay for work of equal value in their workplace (Canadian Human Rights Commission, 2021).

The new legislation requires that federally regulated employers with 10 or more employees ensure that men and women receive equal pay for work of equal value. Approximately 900,000 workers are subject to federal labour standards, 6% of all workers (Government of Canada, 2019). Employers will now be required to develop pay equity plans for their workplaces and take action to address systemic disparities, and a new Pay Equity Commissioner, a full-time member of the Canadian Human Rights Commission, has been appointed to administer and enforce the Act (Canadian Centre for Policy Alternatives, 2019). Employers will have three years to develop and implement their proactive pay equity plans. The Commissioner will work closely with federally regulated private- and public-sector workplace parties to provide support and guidance (Government of Canada, 2021b).

While the new Act is an important part of the Government of Canada's commitment to close the gender wage gap and ensure that workers receive equal pay for work of equal value, and a big step in the right direction, much more remains to be done to ensure pay equity across all sectors and all provinces.

Although equal pay for equal work has been a part of the Canadian Human Rights Act since 1977, the burden to file complaints with the Canadian Human Rights Commission was on employees. Cases have taken decades to adjudicate (Scott, 2019).

The Employment Equity Act underwent an extensive review in 2021, with a final report expected in early 2022 (Boisvert, 2021). New pay transparency measures in federally regulated workplaces came into effect under the Employment Equity Act in 2021; as part of the amendments, businesses with more than 100 employees will be mandated to provide more detailed salary data that will be made public beginning in 2022. These pay transparency measures are aimed at addressing wage gaps that affect four designated groups: women, Indigenous peoples, persons with disabilities and members of visible minorities. Canada is the first country to make this information for these groups in federally regulated workplaces publicly available (Government of Canada, 2021a).

Provincial Pay Legislation and Policy Frameworks Across Canada

To date, six Canadian provinces have enacted specific pay equity legislation – Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Ontario, and Quebec. Saskatchewan, Newfoundland and Labrador, and British Columbia, have not enacted pay equity laws but have developed policy frameworks for negotiating pay equity with specific public sector employees. Only Alberta has neither passed pay equity legislation nor developed a pay equity negotiation framework. All of Canada’s provinces and territories also have human rights legislation which prohibits discrimination in employment generally, and which, in the absence of or in addition to pay equity legislation, can be a tool for addressing pay discrimination (Ontario Equal Pay Coalition, n.d).

The Government of Ontario’s Pay Equity Office provide an overview of pay equity legislation in Canadian jurisdictions in their 2018 report (Government of Ontario, 2018).

It is worth noting that the six Canadian provinces with proactive pay equity legislation all had lower overall gender pay gaps in 2016, based on data from the Conference Board of Canada, supporting the conclusion that proactive pay equity legislation has an impact,

although the remaining pay gaps are still considerable (Bowers, Kosteckyi, Moses, & Muchka, 2020).

Until recently, Ontario was the only Canadian province to implement pay transparency legislation. Ontario passed such legislation in 2018, but its implementation has been indefinitely postponed by the Conservative government.

Ontario's systematic equal pay efforts are often held up as a model and have inspired other countries. In Ontario, the employer is required to set aside at least one percent of the previous year's payroll expenses to address unfair pay differences that are discovered; there is also a special supervisory authority, Ontario's Pay Equity Commission, which specifically monitors compliance with the equal pay legislation (Nordic Information on Gender, 2019).

Ontario's Pay Equity Act was passed in 1987; it covers all public and private sector employers with at least ten employees in the province. The Act requires that comparisons are made between female- and male-dominated occupational groups. The aim is to close the pay gap between men and women doing equal work at the same employer but also compares between different workplaces (Nordic Information on Gender, 2019).

Under the Act, employers are required to develop a pay equity plan, which must specify the method used for comparing occupational groups as well as how these should be classified by gender. Ontario's Pay Equity Commission, which was established at the same time as the Act was passed, monitors compliance with the Act. Complaints may be submitted to the commission (Nordic Information on Gender, 2019).

Under Ontario's laws, "pay equity" is different from "equal pay for equal work." Under the Employment Standards Act, 2000 (ESA), subject to certain exceptions, an employer

cannot pay one employee at a rate of pay less than another employee on the basis of sex when they perform substantially the same kind of work in the same establishment, their work requires substantially the same skill, effort and responsibility and their work is performed under similar working conditions. Under Ontario's Pay Equity Act, "pay equity" requires an assessment of all jobs in an organization and an unbiased comparison of the work done by women to the work done by men in order to determine whether the women are being compensated equitably (Government of Ontario, n.d.).

Manitoba was the first jurisdiction to pass proactive legislation in 1986, with the enactment of the Manitoba Pay Equity Act. Under this statute, which applies only to the provincial public sector, an obligation was placed on employers to ensure that there would be no difference between the wages of male and female employees performing work "of equal or comparable value." The process for eliminating discrimination involved negotiation with the unions representing public sector employees. The Act does not cover municipal governments or independent boards and commissions, or private sector employees (Ontario Equal Pay Coalition, n.d.).

Prince Edward Island's Pay Equity Act was passed in 1988, and provides for the establishment of a Pay Equity Bureau and the appointment of a Commissioner of Pay Equity to offer information and assistance in the achievement of pay equity by the parties named in the statute, which covers Crown corporations, universities and colleges, nursing homes, and other agencies to be identified in the regulations (Ontario Equal Pay Coalition, n.d.).

Prince Edward Island recently announced changes to the *Employment Standards Act* that incorporates pay transparency requirements. The addition of a new section (5.8) to the Act provides no employer may seek pay history information about an applicant. The

applicant may still voluntarily and without prompting disclose pay history information to an employer, and employers may still ask applicants about pay expectations.

New section (5.9) provides that employers who publish a publicly-advertised job posting must include information about the expected pay for the position or the range of expected pay for the position. Finally, new section (5.10) provides that no employer, or person acting on behalf of an employer, shall intimidate, dismiss, or otherwise penalize an employee or threaten to do so because the employee has done any of the following:

- made inquiries to the employer about the employee's pay, or made inquiries or requested information relating to the employer's pay policies;
- disclosed the employee's pay to another employee;
- given information about the employer's compliance or non-compliance with the requirements of the Pay Transparency provisions to an Inspector; or
- asked the employer to comply with the Pay Transparency provisions.

(Government of Prince Edward Island, 2022).

New Brunswick's Pay Equity Act was passed in 1989. New Brunswick's legislation requires that the employer negotiate with bargaining agents representing employees in the public service with respect to a job evaluation process and the implementation of any wage adjustments. The Pay equity Bureau represents the employer during the implementation phase, determining the process for dealing with unrepresented employees, maintaining statistical information, providing reports to the parties and so on. The New Brunswick statute applies only to the public service (Ontario Equal Pay Coalition, n.d).

In Nova Scotia, parties to an employment relationship covered by the statute are required to bargain in good faith with respect to the achievement of pay equity. A Pay Equity

Commission provides advice and assistance. The Commission may intervene to determine matters in dispute, or to direct the parties to comply with the Nova Scotia Pay Equity Act (1989), although no sanctions are indicated in the statute for failure to comply. The legislation contemplates a single wage adjustment, and makes no provision for maintenance, although the Commission continues to monitor the agreements which have been implemented. The Nova Scotia statute covers all public sector employers, including municipalities, health care facilities, and universities (Ontario Equal Pay Coalition, n.d).

Quebec's Pay Equity Act was passed in 1996. Like the Ontario statute, the legislation imposed a positive obligation on employers in the public and private sectors. In this case, employers with fewer than 10 employees are not covered under the statute. The statute considers different requirements for enterprises employing more than one hundred employees, enterprises employing between 50 and 99 employees, and enterprises with between 10 and 49 employees. Enterprises with between 10 and 49 employees are not required to develop a formal pay equity plan, but these employers are required to assess their compensation system and determine whether any wage adjustments are required. The statute provides that the employer has a responsibility to ensure that the pay equity plan is maintained as well, and considers that, with some situational exceptions, there will be a single pay equity plan covering all employees of an enterprise (Ontario Equal Pay Coalition, n.d).

Saskatchewan does not have pay equity legislation, but the Saskatchewan Pay Equity Coalition has been lobbying for legislation for years. The Saskatchewan Human Rights Commission has recommended that proactive and comprehensive pay equity legislation be enacted. This recommendation has not been pursued by the provincial government (Ontario Equal Pay Coalition, n.d). While the Saskatchewan Human Rights Code prohibits

gender-based discrimination, the complaint-driven process puts no positive obligation on employers (Horseman, 2021).

In 1999, the Saskatchewan government developed an Equal Pay for Work of Equal Value and Pay Equity Policy Framework. This applies to the public sector, and includes Crown corporations, Treasury Board agencies, boards and commissions, the Saskatchewan Institute of Applied Science and Technology, regional colleges and the health care sector (Ontario Equal Pay Coalition, n.d).

In April 2021, the Official Opposition NDP launched a petition calling on the Saskatchewan Party government to enact pay equity legislation in the province and was presented to the house within the Legislative Assembly (Horseman, 2021).

Newfoundland and Labrador does not have pay equity legislation. After years of lobbying from public sector unions, in 1988 the government began pay equity negotiations with public-sector unions as part of the collective bargaining process. Agreements were reached with unions representing some groups of health care workers, employees of Newfoundland Hydro, the Public Service and library workers. Legislation in the early 1990s rendered void any retroactive wage adjustments which were included in these agreements, and this legislation survived a constitutional challenge (Ontario Equal Pay Coalition, n.d).

British Columbia also does not have specific pay equity legislation. An approach similar to the one in Saskatchewan was adopted in 1995 under the Public Sector Employers' Council Pay Equity Policy Framework, which considered the conclusion of pay equity agreements in a range of public-sector employment relationships.

Under the Human Rights Code Amendment Act, the Government of British Columbia proposed to extend a pay equity obligation to the private sector. This legislation, which bore some resemblance to section 11 of the Canadian Human Rights Act, was to be administered by the British Columbia Human Rights Commission through a complaints-based process. The incoming government at the time repealed this legislation, and appointed a Task Force in 2001 to review pay equity, and to make recommendations for possible legislative change. The 2002 British Columbia Task Force report was met with considerable controversy and public debate. While the report's recommendations did not suggest that the government should be taking legislative action, they did propose that sectoral studies should be carried out to support a voluntary pay equity process. The provincial government indicated that it would formulate a response to the report (Ontario Equal Pay Coalition, n.d).

In 2018, opposition Liberal MLA Stephanie Cadieux introduced the *Equal Pay Certification Act* in BC's legislature. The bill proposed that firms with more than 50 employees be required to obtain certification from a registrar ensuring that they met the requirements of the BC Human Rights Code, and suggested sanctions against companies that failed to meet the certification requirements (Bowers, Kosteckyi, Moses, & Muchka, 2020).

After it failed to be adopted, Cadieux introduced a pay transparency bill in 2019 and again in 2020, the *Equal Pay Reporting Act*, which would require businesses that employ more than 50 people to disclose a breakdown of salaries and bonuses paid to all employees in order to identify gender disparities. It is a less intrusive form of legislation, which relies on companies to take initiative and self-regulate to address gender-based pay differences (Bowers, Kosteckyi, Moses, & Muchka, 2020).

B.C.'s Human Rights Code prevents any form of discrimination based on gender identity and expression, but many people are unwilling to bring a human rights complaint against

their employers for fear of reprisal. According to Finance Minister Selina Robinson, the private member's bill won't address the pay equity gap, as 98% of businesses have fewer than 50 employees. Grace Lore, B.C.'s parliamentary secretary for gender equality, is calling on her work with the minister of labour to introduce pay transparency legislation to close the gender pay gap and address systemic discrimination in the workplace (DeRosa, 2021).

In March 2022, Cadieux, the current opposition critic for gender equity, accessibility, inclusion and sport, re-introduced the aforementioned private member's bill. Grace Lore, parliamentary secretary for gender equity, announced that the B.C. government will be addressing the ongoing issue of wage disparity between men and women in the province through the development of pay transparency legislation. The province plans to undertake consultations with Indigenous groups, public and private-sector employers, business and union organizations, and employers who have already established pay transparency policies (Weisgarber, 2022).

Alberta has not enacted any pay equity legislation, nor has it developed a framework approach to achieving pay equity for the public sector. The Human Rights Act contains a provision requiring that the "same rate of pay" be paid for "the same or substantially similar work," a provision of the kind which is included in labour standards statutes in many provinces. This provision offers workers two avenues of recourse: lodging a complaint with the Human Rights Commission, or bringing an action for the recovery of wages in the courts (Ontario Equal Pay Coalition, n.d).

V. Newfoundland and Labrador Pay Equity

While it does not have pay equity or pay transparency legislation, Newfoundland and Labrador does have legislation that addresses ‘equal pay for same or equal work’, addressed in section 16 of the Human Rights Act.

In 1988, the Newfoundland Association of Public Employees (NAPE) and the Newfoundland and Labrador Government negotiated a so-called “*Pay Equity Agreement*.” The government agreed that there had been systemic discrimination against female employees in the provincial public service for decades. The parties negotiated a partial repayment and a pay-equity process. The first wage increase was to be made effective April 1, 1988, and paid in increments over four years, with the full balance to achieve pay equity paid out in the fifth year, on April 1, 1992. Three years later, when the joint union/government Pay Equity Steering Committee completed the job classifications and wage-adjustment schedules, the provincial government estimated the immediate cost of the agreement at \$24 million (Moorcroft, 2005).

In 1991, however, the Government of Canada cut Newfoundland’s transfer payments by \$130 million. Threatened with a drop in its international credit rating, the Newfoundland and Labrador Government declared a “severe fiscal crisis” and passed the Public Sector Restraint Act in the House of Assembly, made retroactive to April 1, 1991. This act froze the wage scales of all public-sector employees for one year, and delayed the first pay-equity increases to its female workforce for an additional three years. This meant not only that women’s agreed-upon pay adjustments were confiscated by legislation, but also that the wage restraint was disproportionately worse for female employees, because their wages were frozen at the discriminatory rate (Moorcroft, 2005).

In December 2005, as the Newfoundland and Labrador economy continued to strengthen, the province's then- Premier, Danny Williams, agreed to a joint-Union request for a \$24 million ex-gratia payment, recognizing the importance of honouring affected public employees. This payment served as a recognition of the sacrifices made by certain public employees working in female-dominated health care and hydro classifications for the 1988 to 1991 period.

On March 8, 2017, all members from all parties in the House of Assembly unanimously supported a private member's motion which urged the provincial government to "start the process to enact pay equity legislation". Bringing an effective pay equity legislation to Newfoundland and Labrador is essential to achieve women's economic equality.

VI. International Outlook

International treaties and conventions began recognizing women's rights in the 1940s, when organizations started integrating gender into policies and practices. The United Nations (UN) has committed to achieving economic empowerment for women through three major agreements: the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (Article 11), the 1995 Beijing Platform for Action, and the 2030 Sustainable Development Agenda (Goal 5). These agreements reiterate the importance of the principles of equal pay for work of equal value, enshrined in the 1948 Universal Declaration of Human Rights (Article 23.2) and in the International Labour Organisation's 1951 Equal Remuneration Convention (Article 1) (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

In this section, we introduce national pay equity/pay transparency legislation of countries that are recognized as good or best practices. Some of these countries have pay equity

and/or pay transparency legislation(s), others have national action plans or pay equity and/or pay transparency programs in place.

In Europe, there are several different models for achieving pay equity. Increasing the transparency of wage setting has been recommended by the European Commission. Another model is public self-reporting to provide transparency; examples of countries that use this model are the UK and Germany, which have legislation on pay transparency and pay reporting. A third method is Iceland's certification model (Nordic Information on Gender, 2019).

In countries where fewer women work outside the home, the gender pay gap is smaller because those women who are part of the workforce are more likely to be in highly paid positions than in countries where more women work outside the home (Nordic Information on Gender, 2019).

Belgium

In Belgium, gender pay gap reporting in the private sector is regulated by the **Gender Pay Gap Law**, which was adopted in 2012 and amended in 2015 (the "Belgian Act"). There are no regulations regarding gender pay gap reporting in the public sector as initiatives have focused on enhancing gender neutrality in recruitment in the civil service as opposed to directly addressing the gender pay gap (The Global Institute for Women's Leadership, 2020).

Belgium has a long history of promoting gender equality via the Belgian institutional wage setting systems (e.g. The National Collective Bargaining Agreement of 1975 on equal pay) and through inter-professional and national agreements on addressing gender bias in job classification systems. The Belgian Act was an acknowledgement by the Federal

Parliament of these earlier social partner agreements and introduced mandatory gender pay gap reporting obligations for the first time in the country (The Global Institute for Women's Leadership, 2020).

Every company that has at least 50 employees on a regular basis (a "Belgian Relevant Employer") has reporting obligations under the Belgian Act. The term "employee" refers to a person employed through either an employment or an apprenticeship contract, but excludes independent contractors. Joint committees, consultative bodies that are established for each industry sector and are composed of an equal number of representatives from worker unions and businesses within that sector, as well as the Central Economic Council, a consultative body that is established across industries, also have reporting obligations under the Belgian Act (The Global Institute for Women's Leadership, 2020).

Each Belgian Relevant Employer must prepare a gender pay gap review report (the "Belgian Pay Report") every two years and submit it to its internal works committee (the "Belgian Company Council") in accordance with its number of employees. All reports generally must include wages, social benefits, supplementary insurance and other fringe benefits measured as full-time equivalents, and broken down by gender, blue/white-collar status, job level, seniority and level of qualification. All reports have to be communicated and discussed with the Belgian Company Council, and must be kept confidential. They are not made available to the public and cannot be provided to individual employees. Illegal disclosure carries a level two sanction under the Social Criminal Code, a fine of up to EUR 4,000 multiplied by the number of employees involved (The Global Institute for Women's Leadership, 2020).

Once a Belgian Pay Report has been drafted and communicated to the Belgian Company Council, the council will decide whether or not it is appropriate to draft an action plan

that can be adopted to ensure a gender neutral remuneration structure. Action plans are required in cases where women's remuneration is less than men's. The 2012 amendment to the Belgian Act requires employers to include the differences in salaries between women and men in their annual audits and reports, which are made publicly available via the national bank (The Global Institute for Women's Leadership, 2020).

There is no prescribed governmental body responsible for monitoring compliance, although the Act prescribes that Belgian Company Councils are in charge of reviewing pay reports and implementing action plans (The Global Institute for Women's Leadership, 2020).

Separately, under the Gender Act 2007, every Belgian Relevant Employer is voluntarily able to appoint a mediator from amongst their workforce to assist its various internal divisions with their implementation of measures to eliminate any gender pay gap along with possible solutions to address claims of gender pay discrimination (The Global Institute for Women's Leadership, 2020).

Failure to produce a pay report can result in a level two sanction under the Social Criminal Code. Due to the confidentiality restrictions, it is hard to measure the impact of the Belgian Act. There is no specific obligation on the Belgian government to evaluate the effectiveness of the gender pay gap reporting requirements and to make amendments to the regulatory provisions (The Global Institute for Women's Leadership, 2020).

Belgium has a unique pay system based on trade unions. An estimated 55% of all Belgian workers are members of a trade union and 96% are covered by collective bargaining agreements. Wage increases are linked to the cost of living so workers do not have to actively ask for a pay rise (The Global Institute for Women's Leadership, 2020).

According to the latest statistics from 2018, the wage gap in Belgium was 3.4 per cent (OECD, 2021).

New Zealand

In 2015, the Public Service Association (PSA) raised a claim under the Employment Relations Act 2000 against the then State Service Commissioner in the Employment Court. The claim sought a statement of general principles for inclusion in collective agreements in the Public Service, in order to implement the equal pay and pay equity provisions of the Act. The claim was put on hold while the JWG on Pay Equity developed principles for dealing with pay equity claims under the Act (New Zealand Government, 2020).

In 2017, the Government commissioned advice from the Ministry for Women and the Commission on how to substantially decrease the Public Service gender pay gap within the 2017-20 Parliamentary term. This led to the 2018 launch of the Public Service Gender Pay Gap Action Plan (New Zealand Government, 2020).

Pay equity and the gender pay gap, although addressed through separate processes and governed by different principles, are both situated within the wider context of equal pay. The long-term vision is that addressing all sources of inequality is necessary to ensure the sustainability of pay equity achievements (New Zealand Government, 2020).

The Employment (Pay Equity and Equal Pay) Bill was introduced and withdrawn in 2017. **The Equal Pay Amendment Bill** was introduced in September 2018 on Suffrage Day, passed in late July 2020, Royal Assent was August 6, and came into force on November 6, 2020. The Act aims to improve the process for employees and unions to raise, progress and resolve pay equity claims, aligned with New Zealand's existing bargaining framework. The Act seeks to make it easier to raise pay equity claims, and encourage collaboration

and evidence-based decision making to address pay inequity, rather than relying on the courts (New Zealand Government, 2020).

The equal pay legislation goes beyond ensuring men and women are paid the same for the same work – which has been a part of the Equal Pay Act since 1972. The amendment bill focuses on pay equity by ensuring women in historically underpaid female-dominated industries receive the same remuneration as men in different but equal-value work (Sanchez, Keck & Gralki, 2020).

According to the latest OECD Statistics from 2020, the gender wage gap in NZ was 4.6% (OECD, 2021).

The Nordic Countries

The Nordic countries boast some of the lowest gender wage gaps and strongest pay equity legislation in the world. Seventy years ago, in 1951, the International Labour Organisation (ILO) Convention No. 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value was ratified. All five of the Nordic countries have since adopted legislation that prohibits pay discrimination and have prioritized the issue. Yet, challenges to achieving equal pay still persist, including the extent to which employers comply with the rules, resources for enforcement of the rules, the extent to which sanctions are imposed on employers who do not comply with the law; and making employers aware of the rules (Nordic Information on Gender, 2019).

Gender equality in the labour market has been a priority in the Nordic countries for a long time. Family policies have aimed and succeeded in increasing women's participation in the workforce and getting men to take on a greater share of domestic and care work. Generous parental leave, subsidised childcare and care of the elderly have played a role in

seeing women in the Nordic countries have some of the highest rates of participation in the workforce in the world (Nordic Information on Gender, 2019).

Equal pay legislation in the Nordic countries focuses on gender-based pay differences; it is acknowledged that information-gathering and action is needed to address pay differences based on other grounds of discrimination (Nordic Information on Gender, 2019).

Gender-based pay differences are tied in with other equal opportunity challenges. A gender segregated labour market is still a reality in the Nordic region. Almost half of women work in traditionally female-dominated professions; these are often lower-paid. Although the proportion of women who have completed higher education is greater than men, the gender pay gap is 10 percent higher among the highly educated than among low-skilled workers. While fathers take more parental leave than other countries, women still take more parental leave and part-time work than men (Nordic Information on Gender, 2019).

The Nordic model is based on the autonomy of the labour market entailing cooperation between the state and the social partners. Employees are largely organized in trade unions, while employers are represented by employer organizations. Wages and salaries are set in negotiations between these parties, without the intervention of the state. Pay and conditions of employment are regulated in collective agreements. A consequence of this model has been a long-standing consensus that the involvement of the state in wage setting should be avoided as much as possible. It is not surprising then that conventions and legislation on equal pay met with resistance from social partners. This influences the degree to which the state can impose requirements on the employer and also compliance with equal pay legislation (Nordic Information on Gender, 2019).

It is worth noting that Denmark, Finland and Sweden are members of the European Union (EU), whereas Iceland and Norway are not, although they are members of the European Economic Area (EEA), of which EU countries are also a part.

Denmark

The **Danish Equal Pay Act** states that wage and salary setting should be based on the same criteria, regardless of gender. The Act is part of Denmark's fundamental gender equality legislation. The Danish model is based on the social partners controlling the labour market as much as possible through their agreements; the state is less active in reducing the gender pay gap compared to Sweden and Finland (Nordic Information on Gender, 2019).

The Minister for Employment is responsible for the legislation and for reporting on trends and problems. They, along with the minister responsible for gender equality are required under the legislation to report on their efforts every three years (Nordic Information on Gender, 2019).

Legislation was enacted in 2006 allowing employers to choose if they wanted to produce gender-disaggregated pay statistics every year or if they would rather submit a broader wages and salaries report every three years, the intention being to encourage dialogue and transparency concerning pay differences. Workplaces with at least 35 employees are covered by the rules. The legislation was revised in 2014 to cover more workplaces with fewer employees, but was then changed back in 2015. Most employers subject to the rules choose to report the gender-disaggregated statistics (Nordic Information on Gender, 2019).

In Denmark, there is no state supervisory authority responsible for ensuring compliance with the law, but the Danish Institute for Human Rights works to prevent gender-based discrimination and produces information. Their goal is to promote, evaluate and monitor gender equality initiatives and combat discrimination. The Institute has no powers to check or monitor compliance with the law, but non-compliance may result in a fine (Nordic Information on Gender, 2019).

According to the latest OECD Statistics from 2019, the wage gap in Denmark was 5.1 per cent (OECD, 2021).

Finland

The first equal pay program in Finland ran between 2006 and 2015 and had the goal of reducing the average gender pay gap from 20 percent to 15 percent. The program included the introduction of pay scales which do not discriminate based on gender, reforms to the requirements on employers to produce gender equality plans and pay surveys, as well as changes in the law to increase the amount of parental leave taken by fathers. At the conclusion of the program, the gender-based pay gap did decrease by three percent, but the goal was not reached (Nordic Information on Gender, 2019).

In 2016, a new equal pay program was implemented and concluded in 2019. It included measures to improve gender equality planning in the workplace, increase knowledge and transparency around pay, and addressed gendered choices of study programs (Nordic Information on Gender, 2019).

The objective of the current **Act on Equality between Women and Men** is to prevent gender-based discrimination and promote equality between women and men, thereby improving the status of women, particularly in working life. It also aims to prevent

discrimination based on gender identity or the expression of gender (Finnish Institute for Health and Welfare, 2021). The Act requires all employers to promote gender equality; employers who have at least 30 employees are required to prepare a gender equality plan and to survey pay differences every two years to uncover any unfair pay discrepancies between women and men working for the same employer and engaged in either the same work or work of equal value (Nordic Information on Gender, 2019).

Finland's Ombudsman for Equality is an independent authority which supervises compliance with and the implementation of the Act, including providing guidance to employers. If an employer does not comply with the Act, the ombudsman can order it to do so; the matter can be referred on to a higher authority and a fine can be imposed if the required documentation is not submitted (Nordic Information on Gender, 2019).

According to the latest OECD Statistics from 2019, the wage gap in Finland was 17.2 per cent (OECD, 2021).

Iceland

The **Act on the Equal Status and Equal Rights for Women and Men** states that "equal pay" means that pay shall be determined in the same way for women and men – the criteria may not discriminate on the grounds of gender (Nordic Information on Gender, 2019).

In 2008, representatives of the Government, the Icelandic Confederation of Labour and the Confederation of Icelandic Employers came together to create an equal pay standard, an international standard based on the same model as an ISO standard for environmental management systems that assists companies to improve their

environmental efforts. The standard was completed in 2012 and a committee – the action group on equal pay – was set up to implement it (Nordic Information on Gender, 2019).

As of 2018, all employers with at least 25 employees must certify their pay scales under the Equal Pay Standard. The Government's goal is to eliminate the gender pay gap entirely by 2022. The Standard was phased on gradually, starting with the largest employers, and finishing with the smallest group of employers, those with 25-89 employees, who must be certified by the end of 2021 (Nordic Information on Gender, 2019).

According to the Icelandic Act, employees must set up a pay scale to ensure that pay is set in the same way for men and women. The goal of the standard is to make wage setting in the workplace more clear and transparent. Accredited auditors check that employers' pay scales meet the criteria set in the Equal Pay Standard' once the employer has passed and been certified, the certification is sent to the Gender Equality Agency, responsible for administering the Act on the Equal Status and Equal Rights for Women and Men, which grants the employer an equal pay symbol. Certification is checked and renewed every three years (Nordic Information on Gender, 2019).

According to the latest OECD Statistics from 2018, the wage gap in Iceland was 12.9 per cent (OECD, 2021).

Norway

The **Norwegian Equality and Anti-Discrimination Act** states that the women and men in the same undertaking are to receive equal pay for the same work or work of equal value. Pay is to be set in the same way, without consideration to gender. Employers are to make

active, targeted and systematic efforts to promote equality and prevent discrimination (Nordic Information on Gender, 2019).

The Equality and Anti-Discrimination Ombudsman (LDO) is to provide guidance on this duty and support employers so that they comply with the law. The LDO reviews annual reports and budgets to ensure compliance, and provide guidance to employers (Nordic Information on Gender, 2019).

Changes to the Equality and Anti-Discrimination Act, which took effect on January 1, 2020, mean that employers with 50 or more employees must report biannually on their progress toward achieving gender pay equity and gender equality. Smaller organizations – those that regularly employ between 20 and 50 employees – could report voluntarily and would be required to do so if requested by employee representatives. Employers must publish their reports, but currently won't face sanctions for con-compliance (Nordic Information on Gender, 2019).

According to the latest OECD Statistics from 2020, the wage gap in Norway was 4.8 per cent (OECD, 2021).

Sweden

The Swedish Gender Equality Agency was established in 2018 for the implementation of the country's gender equality policy. In Sweden, the rules governing equal pay and pay surveys have been part of the **Discrimination Act** since 1994; it was amended in 2017. According to the Act, all employers are required to conduct goal-oriented work to actively promote equal rights and opportunities in working life regardless of sex, ethnicity, religion or other belief. There is also a requirement to survey differences in pay between women and men performing work that is regarded as equal or of equal value. The analysis must

also look at the differences in pay between women and men among groups of employees performing work that is or is generally considered to be dominated by women and work that is not dominated by women; as well as situations where work that is not dominated by women attracts higher pay despite the requirements of the work being assessed as lower (Nordic Information on Gender, 2019).

All employers with at least ten employees must also document their pay surveys and report the results of their surveys and analyses, indicating pay adjustments and other measures needed to be implemented to address gender-based pay gaps; a cost estimate and a schedule to make necessary pay adjustments as soon as possible and within three years at the most (Nordic Information on Gender, 2019).

The Equality Ombudsman (DO) is the supervisory authority tasked with supervising compliance with the Act. They can audit employers and request additional information be provided. Non-compliance may result in a penalty. Issues with non-compliance has led to an inquiry to address the need for additional sanctions (Nordic Information on Gender, 2019).

The main issue with the Swedish system is the level of compliance with the legislation – because employers are not required to report their pay surveys, there is no reliable data on how many employers complete them. Research conducted by the Global Institute for Women’s Leadership indicates that stakeholders believe the low compliance may be the result of a lack of monitoring by the DO. Doing the calculations for equal pay for work of equal value is also complicated and time consuming. A broader issue is that this legislation is not able to address the major causes of the gender pay gap; is unable to examine occupational segregation and the undervaluation of women’s work (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

A key strength of the Swedish system is that it includes a survey of equal pay for work of equal value – important for addressing gender pay gaps – and many reporting systems do not include this. Another identified strength of the legislation is that it applies to all employers (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Sweden has one of the most unionized labour forces; wages are usually set through collective bargaining between trade unions and employers' representatives (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

According to the latest OECD Statistics from 2020, the wage gap in Sweden was 7.4 per cent (OECD, 2021).

Spain

Despite the fact that the first law in Spain targeting the gender pay gap came into effect in 2007, compliance levels have been low in the absence of sanctions. Starting in 2022, companies with more than 50 employees will have to negotiate Equality Plans with trade union representatives, aiming to achieve equality in training, pay, work-life balance and representation. This includes a pay audit. Some concerns have been raised with respect to monitoring and compliance, as well as a lack of support for small companies (Cowper-Coles, Glennie, Borges, & Schmid, 2021). Only time will tell how effective the new laws and amendments will be in bridging the gender pay gap in Spain.

The current legal framework is based on the **Ley de Igualdad 3/2007**, which requires private entities to produce Equality Plans. The **Real Decreto-Ley 6/2019** defines, for the first time in the Spanish legal system, the concept of equal pay for work of equal value. The **Real Decreto 901/2020**, which came into effect on January 14, 2021, designated which types of companies are required to have Equality Plans and stipulated that for all

companies negotiations with employee representatives must put in place measures to avoid and prevent gender discrimination, sexual or gender harassment. The **Decreto de igualdad salarial, Real Decreto 902/2020**, which came into effect on April 14, 2021, promotes pay transparency to enable companies and employees to identify discrepancies in pay and address them. Equality Plans will be available through a public registry (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

A challenge with the information published is that there is no structure or specific criteria: companies publish the information on their own terms and it is difficult to assess the level of gap in relation to different companies and to follow up on how the gap is evolving over time. Over 90 percent of companies in Spain have fewer than 50 employees, and will not be subject to the new Equality Plan requirements. It would be difficult to negotiate Equality Plans, however, as smaller companies often have no employee trade union representation. While the current system does not allow for comparison between different companies, there is a plan for an Index to be created (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

According to the latest OECD Statistics from 2018, the wage gap in Spain was 8.6% (OECD, 2021).

Australia

Australia has had gender equality reporting for private sector organizations with more than 100 employees since the **Affirmative Action Act 1986**. The **Workplace Gender Equality Act 2012** shifted focus towards quantitative outcome measures, such as the gender pay gap; workforce composition by occupational group; employment type and managerial level; and recruitment, promotion and resignations by gender (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

While women's rights advocates, unions and academics have been critical of the lack of mandated action, employers and business groups have been critical of the reporting requirement. There have generally been high compliance rates, despite the lack of strong sanctions for non-compliance; despite high compliance by international standards, non-compliance rates have doubled since reporting under WGEA was initiated (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Under the Workplace Gender Equality Act 2012, non-public sector employers with 100 or more employees are required to report annually to the Workplace Gender Equality Agency (WGEA) against a range of indicators. WGEA provides reporting entities with an industry benchmark report contextualizing their performance against industry peers. The Act grants the relevant Minister authority to set minimum standards of performance for reporting entities, and to adjust these over time. Only employers with over 500 employees are required to meet minimum requirements. Non-compliant employers may be named in parliament and on the WGEA website and may not be eligible for certain government supports or contracts. Yet, recent audits found non-compliant organizations to be in receipt of government contracts (Crowe, 2021), showing the need for strengthened administrative controls. In May of 2021 the federal government announced an expansion of the reporting mandate to public sector employers, who have long been covered by separate federal or state legislation (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

The objectives of the Act are as follows: to promote and improve gender equality (including equal remuneration between women and men) in employment and in the workplace; to support employers to remove barriers to the full and equal participation of women in the workplace; to promote, among employers, the elimination of discrimination on the basis of gender in relation to employment matters; to foster

workplace consultation between employers and employees on issues concerning gender equality in employment and in the workplace; and to improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

All data are publicly available, with the exception of organization-level gender pay gaps, and can be found on the interactive WGEA DataExplorer. The WGEA data set is considered world-leading due to the comprehensiveness of the data collected and the requirement for submission of raw data on remuneration and workforce composition. Despite this, the gender pay gap has changed little in forty years. Based on interviews with stakeholders conducted by the Global Institute for Women's Leadership, the key strengths of the Australian model are its comprehensiveness and transparency, while the key weaknesses are the lack of mandated positive action and non-disclosure of organization-level gender pay gaps (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Based on research conducted by the Global Institute for Women's Leadership, three key barriers were identified in stakeholders' interpretations of the gender pay gap in Australia: the over-representation of women in part-time and casual roles, which are usually lower paid and have fewer advancement opportunities – a pattern that is a reflection on unaffordable childcare or aged care; the undervaluation of women's work, which perpetuates inequalities between male and female-dominated occupations and industries in a highly gender segregated workforce; individualistic cultural norms, which emphasize individual merit and choice over group (dis)advantage (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

On its own, Australian legislation is not enough to bring about significant change as there is no mandate for positive action. Government intervention is seen as being key to achieving gender equality. As has been noted, policies are no way to guarantee gender

equality, and “employers that appear active through a policy lens may be lacking when it comes to taking concerted action to address gender equality” (Cowper-Coles, Glennie, Borges, & Schmid, 2021, p.64). Failure to enact the nominated sanctions for non-compliance shows a lack of commitment to gender equality by the federal government and may discourage compliance by reporting entities.

Gender equality reporting was recently enacted by the Victorian state government through the **Gender Equality Act 2020**, which commenced on March 31, 2021. It covers the public sector, universities, and local councils, and recognizes the intersectionality of gender discrimination, requiring organisations to consider ethnicity, Indigenous status, religion, disability, age, sexual orientation and gender identity when developing strategies and measures to promote gender equality (Commission for Gender Equality in the Public Sector, 2021; Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Under Australian legislation, the **Fair Work Act (2009)** protects people from being discriminated on the basis of sex. When pay equity disparities exist in a workplace, the Fair Work Commission can make an equal remuneration order requiring certain employees be provided equal remuneration for work of equal or comparable value. An application for an equal remuneration order can be made by an affected employee, a union which is entitled to represent an affected employee, or the Sex Discrimination Commissioner (Commonwealth Government of Australia, n.d.).

According to the latest OECD Statistics from 2020, the wage gap in Australia was 9.9% (OECD, 2021).

The European Union

Addressing the gender pay gap is one of the key objectives of the Gender Equality Strategy 2020-2025.

The European Union (EU) has recently proposed new measures for member states that would require pay transparency.

The European Commission first began promoting pay transparency in a 2014 recommendation, which encouraged EU member states to give employees the right to request information on pay levels, to ensure companies regularly report on pay and conduct audits, and to include equal pay in collective bargaining. Although some member states responded positively, many did not; with limited progress, the Commission is now proposing a legal approach (Smith, Masselot, Rubery, & Foubert, 2021).

Under the proposed new measures, employers will need to provide greater transparency to job seekers about the criteria by which they set pay and will not be able to ask about a candidate's previous salaries during job interviews. Employees will have the right to request information about pay averages in their firm for workers doing the same work or work of equal value. Larger employers will have to publish information on internal pay gaps and, where pay gaps exceed 5%, employer and employee representatives will have to access the reasons behind them (Smith, Masselot, Rubery, & Foubert, 2021).

The new measures would only apply to companies employing at least 250 people and will only apply to pay differentials within firms, so the segregation of women and men between low and high-paying firms and sectors is unlikely to be affected (Smith, Masselot, Rubery, & Foubert, 2021).

The right to equal pay between women and men is one of the oldest EU principles. Yet, difficulties with implementation persist. It is costly to enforce and is also controversial because it is seen as infringing on the autonomy and freedom of businesses (Smith, Masselot, Rubery, & Foubert, 2021).

In 2019, the gender wage gap for the EU, consisting of 27 countries, was 11.2%, according to OECD data (OECD, 2021).

France

The **Index de l'égalité professionnelle entre les hommes et les femmes**, was introduced in 2019. Private sector employers of more than 50 employees must annually submit their results on four criteria, or five for employers of more than 250 employees. These criteria include gender differences in pay gaps, promotions, and top employees, and whether women on maternity leave are considered for promotions. Results for these criteria give employers a score out of 100. Companies which do not achieve a score of at least 75 must address their shortcomings and improve their score within three years. In addition, gender equality agreements must be negotiated with trade unions. It has been argued that the strength of the Index lies in the simplicity of presenting a single score, which helps companies compare progress against each other. One of its weaknesses that has been highlighted is that the pass and fail mechanism hides persistent gendered wage inequalities (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

The Index is comprehensive; it includes bonuses and performance shares as remuneration and it is possible to identify the impact that part-time employment has on the pay gap. Maternity leave, often excluded from gender pay inequality analysis, is included to highlight it as one of the main causes of the pay gap. There is a serious penalty for companies that do not publish the Index, or do not pass the minimum score of 75 – up to

1 percent of the company's annual payroll. Being singled out by the media as non-compliant is also an effective deterrent (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

As 85 percent of companies in France have less than five employees, the majority of businesses are not included in the Index. Another drawback is that the gender pay gap legislation in France does not apply to the public sector. The Index is also not able to address the structural challenges of the gender pay gap or the principle of equal pay for work of equal value. The focus remains on women at the top levels of employment, an elitist approach to equality (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

It is constitutionally prohibited in France to collect data on ethnicity, but it has been noted that an intersectional approach to the gender pay gap would be advantageous; social class, age, disability, and sexual orientation should also be considered (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

According to the latest OECD Statistics from 2018, the wage gap in France was 11.8% (OECD, 2021).

United Kingdom

The **Equal Pay Act** came into effect in the UK in 1976; the aim was to equalize pay between men and women engaged in the same work, or work of equal value. In 1975, the Sex Discrimination Act made it unlawful for employers to treat women less favourably than men; required equal treatment of married versus single women. With the Equal Pay Amendment Act of 1983 came the implementation of work of equal value Directive. This still required female employees to compare themselves with male employees in the same establishment. The 2010 Equalities Act consolidated anti-discrimination law; included compulsory gender wage reports from 2013. Shared Parental Leave in 2015 made it a

legal right for parents to share maternity leave entitlement, but as of 2020 had not yet been evaluated (Bryson, Joshi, Wielgoszewska, & Wilkinson, 2020).

In 2017, the British government introduced a new Act requiring all employers with 250 or more employees to publish their statistics – which are to cover the differences in pay and bonuses - on the gender pay gap. Reports are prepared on an annual basis and figures published on the government’s website. The aim of the Act is to generate pressure on employers, drive women’s pay higher, and speed up the trend towards equal pay (Nordic Information on Gender, 2019).

The amended **Equality Act 2010** requires public sector employers with at least 250 employees in England to report, while in Scotland the threshold for the public sector is 20 employees. No threshold is set for the Welsh public sector (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

The Equalities and Human Rights Commission (EHRC) have the statutory powers to oversee the compliance with these reporting systems. None of the regulations include sanctions against employers that do not comply with the reporting obligations. Enforcement of the reporting duty was suspended for the period 2019/20 due to the Covid-19 pandemic (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

The UK system – which does not apply to Northern Ireland, had 100% compliance in both 2017/18 and 2018/19. All reported information is publicly available on the UK government’s Gender Pay Gap Service website and is required to be published on company websites. This allows for comparisons between companies and between the public and private sectors, and allows analysis and commentary by the media and current and potential employees, which increases accountability (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Two weaknesses identified with the UK system are that, firstly, employers are not required to take any action to reduce their gaps; there are no thresholds or penalties for high gaps; secondly, a large portion of the workforce is not covered in these gender pay gap reports – everyone who works for a company with fewer than 250 employees. And again, in line with similar systems in other countries, the gender pay reporting system does not consider structural factors, such as the undervaluation of women’s work or the overrepresentation of women in part-time and low-paid employment (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

According to the latest OECD Statistics from 2020, the wage gap in the UK was 12.3% (OECD, 2021).

Germany

In Germany, gender pay gap reporting in the private sector is regulated by the **General Act on Equal Treatment of 2006** (the “AGG”), and the recently enacted **Transparency in Wage Structures Act of 2017** (the “German Act”).

There are no regulations on gender gap reporting in the public sector, which is a direct addressee of the German Constitution, which contains articles that specifically protect all persons from discrimination, provide for equal rights for men and women, prohibit any favoured or unfavoured treatment because of gender, and promotes the implementation of equal rights of women and men along with steps to eliminate existing disadvantages. In addition, state legislation sets out legal requirements in regards to equality as between women and men within the states. Where the public sector is organized under private law and has business filing reporting requirements, the regulations regarding gender pay gap reporting are the same as those for private sector employers identified above under the German Act (The Global Institute for Women’s Leadership, 2020).

The German Act was introduced to enforce the right to equal pay for women and men for equal work or work of equal value. Reporting obligations apply to any employer with more than 500 employees (a “German Relevant Employer”). The term “employer” refers to natural and legal persons as well as business partnerships with legal capacity employing persons defined as “employees” under the German Act, which includes persons in dependent employment, public officers of the federal government (as well as other bodies, institutions and foundations under public law placed under the supervision of the federal government), federal judges, servicewomen and men, persons employed in the context of vocational training, and home workers and those equated with them (The Global Institute for Women’s Leadership, 2020).

Each German Relevant Employer must prepare and publish a gender equality and equal pay status report (the “German Equality Report”) in the German Federal Gazette. The Report covers the preceding five or three years depending upon the time period in which it is to be prepared, and must include the total number of full and part-time employees broken down by gender as well as measures on promoting gender equality (and results), along with measures taken to achieve equal pay. There is no requirement on a German Relevant Employer to consult employees, unions, workers’ representatives (or similar internal groups) and/or have these parties help prepare the Report prior to it being finalized and issued. A separate action plan does not need to be prepared (The Global Institute for Women’s Leadership, 2020).

While there is not a specific individual tasked with overseeing compliance with the national gender pay gap regulations, the German Act prescribes that Equal Opportunities Officers of the federal administration, the federal establishments, the federal courts and the officers who are responsible for gender equality in individual companies must promote the implementation of the Act with respect to the enforcement of the right to

equal pay for women and men for equal work or work of equal value (The Global Institute for Women's Leadership, 2020).

The federal government must evaluate the effectiveness of the German Act every four years. The first effectiveness evaluation study was conducted and published in 2019. Results indicate that the Act is not widely known amongst employees and that it has done little to achieve its goals as many companies ignore their obligations due to the lack of sanctions. The German legislature has been called to reform the German Act and make the legal instruments more binding; however, the recommended changes are unlikely to happen, due to criticism from many companies (The Global Institute for Women's Leadership, 2020).

The **Federal Act on Gender Equality of 2001** (the "German Federal Act") provides that in every federal department with at least 100 employees, and Equal Opportunities Commissioner is to be appointed from among the female employees after secret election by the female employees. The Equal Opportunities Commissioner is responsible for promoting and monitoring the implementation of the AGG (with regard to discrimination on grounds of gender and sexual harassment) and participates in all matters which concern the equality of women and men and the compatibility of family and employment. She is involved in the preparation of the German Equality Report (The Global Institute for Women's Leadership, 2020).

According to the latest OECD Statistics from 2019, the wage gap in Germany was 13.9% (OECD, 2021).

Austria

Both the **Austrian Act** and the **Federal Law on Equal Treatment** were originally introduced to end gender discrimination and to realize gender equality (amongst other objectives), however, they were each amended in 2011 to specifically implement provisions on gender pay gap reporting. There is no specific obligation on the Austrian government to evaluate the effectiveness of the gender pay gap reporting requirements and to make amendments to the regulatory provisions (The Global Institute for Women's Leadership, 2020).

Gender pay gap reporting in the private sector in Austria is regulated by the **Gleichbehandlungsgesetz (BGBl., Nr. 108/1979)**, as amended (the "Austrian Act"). The reporting obligations under the Act apply to private sector employees with more than 150 employees on a continuous basis. The term "employee" includes part-time workers and independent contractors, if the relevant employment relationship is based on a private law agreement. Each Austrian Relevant Employer must prepare a company income report (an "Austrian Income Report") and issue it every two years to its central works council in the first quarter of the following year. The report sets out the income of women and men in the company (as adjusted by their working hours) as classified by specific groups within the company. The report is confidential and not made public. An administrative penalty of up to EUR 360 can be imposed on employees who communicate details of the report externally. Austrian Relevant Employers are not required under the Austrian Act to prepare an action plan that sets out how their identified gender pay gaps will be reduced. Between 2007 and 2017 there was only a 3.4% decrease in the overall gender pay gap in the private sector for gross annual mean income (from 40.7% to 37.3%). (The Global Institute for Women's Leadership, 2020).

In the public sector, gender pay gap reporting is regulated by the **Bundes-Gleichbehandlungsgesetz (BGBl. I Nr.100/1993)** (the “Federal Law on Equal Treatment”) and various state and municipal laws dealing with gender-based discrimination with respect to state employees, advancing women and the elimination of the underrepresentation of women. The Austrian Federal Constitution separately prescribes that the Austrian federation, federal states and municipalities must all commit to aiming for the equal status of women and men (The Global Institute for Women’s Leadership, 2020).

The reporting obligations under the Federal Law on Equal Treatment apply to federal departments and the highest bodies of the federal government (an “Austrian Government Employer”). Each Austrian Government Employer is required to prepare and publicize its plan to promote women (the “Austrian Women Advancement Plans”) every two years. These plans contain anonymized income data and are not specifically aimed at identifying and reporting on the existence of gender pay gaps. Instead, the objective of the Austrian Women Advancement Plans is to increase the proportion of women within certain public sector positions and across every public sector salary group (The Global Institute for Women’s Leadership, 2020).

The plans are drafted by a working group of equal opportunities officers who are selected by department heads; they are not obligated to consult with employees, unions, or other workers’ representatives when preparing the plan. The plans are made public and each central office head must report to the Federal Chancellor on the status of their implementation of equal treatment and policies advancing women in their department during the last reporting period by March 31 of the year following the expiry of each two-year reporting period (The Global Institute for Women’s Leadership, 2020).

Public sector employees can also request information on gender equality topics, including equal pay, from their equal opportunities officer, but there is no requirement for payment data to be provided to the employee making the request (The Global Institute for Women's Leadership, 2020).

According to the latest statistics from 2019, the wage gap in Austria was 14 per cent (OECD, 2021).

Switzerland

Since 1981 the Federal Constitution in Switzerland has included a specific provision on gender equality (Article 8, paragraph 3). The **Gender Equality Act** (GEA), which came into effect in 1996, is designed to promote actual equality of men and women. It prohibits any form of discrimination on the basis of gender and is applicable to all employment relationships (Federal Office for Gender Equality, 2017).

The revised Gender Equality Act came into effect in 2020, and requires employers with 100 or more employees to conduct an internal wage equality analysis, to have the results of the analysis reviewed by an external body, and confirm the results in writing. For the analysis, all employed people except apprentices are considered as full employees even if they work on a part-time basis. The Swiss federal government provides a free tool (Logib) for the standard statistical procedure that employers can use. The analysis must record all paid wages and personal and job-related characteristics of all employees, including age, qualifications, experience, duties, and benefits (Sommer & Wyss, 2020).

Differences between women's and men's wages for work of equal value are considered wage inequalities if they cannot be explained by objective reasons. The standard statistical procedure can tolerate up to a five percent wage difference. The first analysis

must have been conducted no later than June 30, 2021, and must be repeated every four years. The analysis is subject to the Swiss Code of Obligations and must be reviewed by an independent body. Only accredited auditors, employee representatives according to their status, promote equality between women and men or safeguard the interests of employees (trade unions) and have existed for at least 2 years, are authorized to review an analysis (Sommer & Wyss, 2020).

The independent body must review the analysis in terms of formal compliance rather than material assessment. The details of the review (e.g. scope, requirement, procedure, etc.) are only stipulated for accredited auditors and must be determined on an individual basis by agreement from the other bodies. Employers are obligated to inform their employees in writing of the results of the analysis within one year. The results must also be published to shareholders of listed companies as part of their annual financial statement (Sommer & Wyss, 2020).

The Federal Council adopted the 2030 gender equality strategy in April 2021. This is the Swiss government's first national strategy specifically aimed at promoting gender equality. It focuses on four central themes: promoting equality in the workplace, improving work-life balance, preventing violence, and fighting discrimination. Key measures of the strategy are expected to be adopted or implemented by 2023 and an interim review will be conducted at the end of 2025 (Federal Office for Gender Equality, 2021).

According to the latest statistics from 2018, the wage gap in Switzerland was 15.1 per cent (OECD, 2021).

United States

The U.S. is deliberately excluded in this report, due to the fact that the country is currently ranked the 5th highest (behind Canada) among the OECD member countries, with a wage gap of 17.7% in 2020 (OECD, 2021).

The Biden administration reintroduced the **Paycheck Fairness Act**, which passed the House of Representatives in April 2021, although it failed to pass the Senate in June 2021 (Cowper-Coles, Glennie, Borges, & Schmid, 2021). The proposed labour law would add procedural protections to the **Equal Pay Act of 1963** and the **Fair Labor Standards Act**.

VII. Key Features of a Successful Gender Pay Gap Reporting Regime

Nine recommendations for the development and improvement of gender pay gap reporting regimes come from research conducted by the Global Institute for Women's Leadership (Cowper-Coles, Glennie, Borges, & Schmid, 2021):

1. Employers must be made *accountable* to government agencies and employees and gender pay gap reports should be *transparent*

Without clear mechanisms for accountability and transparency, gender pay gap reporting legislation may be ineffective. Employers should be accountable up to the government, as well as to their owners and governance body. Gender pay gap surveys and reports should be submitted to the government agency responsible for monitoring, and gender pay gap reports should be included in a company's annual report and sent to shareholders, investors, and other interested parties. Employers should also be accountable down to their employees.

Transparency goes hand in hand with accountability. Transparency should be built into accountability mechanisms, ensuring that both the government reporting body and the employees, or employees' representatives, are given sufficient detail in the gender pay gap report. Transparency with the public more broadly is also recommended.

2. Action plans are essential for change

Without mandating action plans with clear, time-bound and measurable goals for narrowing the gender pay gap, reporting regimes will be limited in their effectiveness. Action plans should be developed in consultation with employees or employee representatives and name monitoring committees, including someone from senior leadership, and an employee representative or trade union spokesperson as a minimum. The committees would be responsible for agreeing to action plans, monitoring their progress, and ensuring they are carried out appropriately. Government agencies could also follow up on and monitor these action plans.

3. A dedicated, well-funded body with the authority to impose sanctions will shift the dial

Strict enforcement is key to the success of gender pay gap reporting regimes. It has been demonstrated that when reporting is voluntary, or poorly monitored, compliance is poor. In order for legislation to be effective, a well funded, dedicated government body is needed for monitoring and enforcing compliance. Government departments must be able to publicly name companies that do not comply with legislation, as well as to impose financial sanctions.

4. Include all employers

Small to medium-sized businesses make up the majority of employers globally (International Labour Organisation, 2019), thus limiting policies trying to address the gender pay gap to only the largest employers minimizes their effect. Gender pay gap calculations and clear equality statements should be built-in to the accounting and human resources processes of all employers, with obligations for reporting and accountability applying for employers with fifty or more employees.

5. Gender pay gaps do not provide the whole picture – government and employers need to take an intersectional approach

Data that looks at different social categories should be collected to understand where particular points of difficulty are in individual organizations and sectors. Gender interacts with other social categories meaning that some women face much greater obstacles than others. In most countries women in certain groups will face additional overlapping degrees of discrimination, and addressing this may require different policies. It is recommended that employers include intersectional data and analysis in their reports and action plans, considering the cultural and legal context of the country, and individuals' right to privacy. Information collected could include self-disclosed ethnicity, first language, place of birth, and level or type of education. This will allow for more specific approaches to addressing the gender pay gap by identifying barriers to particular groups of women.

6. Go beyond the headline figure

In order to understand the gender pay gap, government and employers need to outline the context for how the figure was arrived at. Additional data provided should

include the proportion of men and women in each pay quartile, bonus gaps and shares, the impact of part-time and full-time work, of the score for individual indicators are used, as in France. Appending a narrative to support the data allows for the gender pay gap to be placed in comparative context. Action plans should be included with required reported information and both should be available on employer websites and attached to annual reports. Pay gap analyses should include instructions of how to calculate equal pay for work of equal value. Reported information should be integrated into a central system which allows for the comparison between companies, between companies and the sector more broadly, at regional levels, across time and across types of measures used in action plans, as in Australia.

Reported information should be clearly displayed on employer websites and attached to their annual reports. This is an important element of transparency and one of the key places where data should be provided to improve accountability.

7. Raise standards to raise results

Where gender pay gap reporting systems include minimum thresholds or “pass marks,” they can lead to complacency among companies who meet the minimum standard but may still have a large gender pay gap. Instead of pass marks, reporting should be applicable to all employers to prevent complacency.

8. Clearer support from government for employers and trade unions

Guidance should be provided explaining how to undertake: gender pay gap calculations; definitions of equal pay for work of equal value; and example actions to

address gender pay gaps and unequal pay. Sector-level organizations should be supported by governments to engage with their sectors on this guidance.

Engagement with employees through employee representatives or trade unions and associations can help create robust and accountable gender pay gap reporting systems. Where trade unions and employee representatives lack the skills or capacity to monitor gender pay gaps and action plans, government support to carry out this role may be of benefit.

9. Gender pay gap reporting must be seen by governments and employers as one element of a wider package of support to tackle gender inequality in the workplace and beyond

Gender pay gap reporting can encourage employers to take action to promote gender equality in the workplace, which can contribute to reducing national gender pay gaps, raising awareness and initiating social change. But government action is needed to support progress towards gender equality. Focus should be geared towards improving parental leave; affordable childcare; addressing the undervaluation of women’s work; and occupational segregation, as well as actions such as increasing pay transparency and ensuring a living minimum wage.

VIII. Components of Effective Pay Equity Legislation

Legislation is most effective if it does not place the onus on individual litigants; this involves working with employers to bring about change (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Pay equity laws are designed to provide remedies for wage differentials for work that is described as “work of equal or comparable value.”

First and foremost, it is essential to understand that developing effective pay equity policies to eliminate gendered pay discrimination is only one part of the solution, which itself is not enough. All factors, structural and cultural ones that play significant roles in creating and maintaining gendered wage gaps and women's overall economic inequalities, should be addressed on a massive scale. A long-term gender mainstreaming process is needed to grapple with all these factors.

It is worth noting that even the laws and policies that are considered the most effective and the best regulations worldwide (including the Ontario and Quebec Pay Equity Acts), have not yet been able to end gendered economic discrimination in their jurisdiction.

Clearly, pay equity policies cannot fully address all issues that contribute to the gender wage gap. Nor cannot they redress the deficiencies of other relevant policies such as tax, transportation and childcare policies. However, until pay equity laws are implemented and enforced effectively, none of these initiatives will be able to solve the problem alone either.

Six components of effective pay equity legislation are identified by Lahey (2016):

1. Comprehensive scope and focus

The scope of pay equity laws is the extent to which employers are subject to pay equity compliance. Pay equity laws originally applied to public sector employers, such as government departments, schools, agencies, services, and municipalities. However, the most effective pay equity laws apply to both public and private sector employers with 10 or more employees, such as the Ontario and Quebec Pay Equity Acts.

The focus of pay equity law is a very important structural decision. Some pay equity laws focus on wage adjustments at the most undervalued common women's jobs, while other

pay equity policies do not aim specifically to correct the undervaluation of women's paid work, but they are part of a structural overhaul of government-wide workplace policies. The first results in higher wage adjustments at a lower cost; whereas the latter results in lower wage adjustment for women at a higher total cost. The most effective pay equity laws also focus on factors other than gender, such as race, Indigeneity, and disability.

2. Effective enforcement mechanisms

In terms of enforcement mechanisms, there are three categories of laws to distinguish between. These include compulsory compliance laws (Ontario, Quebec), voluntary compliance laws (UK), and imprecise or incomplete models (lack of enforceability). As the aim of this jurisdictional scan is to explore the best pay equity practices, we discuss only the category of compulsory compliance. Compulsory compliance policies are considered to be the best practices, because they have the force of law behind them in the legislation, and there are also enforcement and sanctioning measures provided in the laws. Proactive laws, such as the Ontario and Quebec Pay Equity Laws, require employers with more than 10 employees to initiate and carry out pay equity reports and make wage adjustments. This increases compliance level, and also reduces government program costs.

A study conducted by the ILO (2006) concluded that enforcement is one of the least developed aspects of all pay equity laws, which requires further attention.

3. Identifying gender-predominant job categories

The focus of pay equity laws is on the size of gender wage gaps in female predominant occupations, and on finding appropriate male-dominant occupations with which to compare them in order to calibrate the size of gender wage gaps.

Restrictive pay equity laws such as the one in Manitoba consider a job class or occupation to be female or male dominated if at least the 70 per cent of the workers in that job class are either female or male.

Other provinces define gender predominance at 60 per cent, while the Human Right Commission equal wages guidelines use a range from 55 to 70 per cent, depending on the size of the occupational group in question. The **Quebec Pay Equity Act** goes further from defining gender predominance only by percentage, as it takes factors of historical incumbency and gender stereotypes into consideration.

4. Determination of “value” in comparable jobs across gender lines

Most Canadian legislations use the same criteria system to determine the “value” of comparable jobs. The four comparators usually are: skills, effort, responsibility, and working conditions of the job class in question. The **Quebec Pay Equity Act** goes into more details, saying that the qualification required to fill the position, the responsibilities undertaken, physical/mental effort, and working conditions are all taken into consideration when it comes to determining the comparable job classes. In addition, the values of these job classes need to be determined in a gender-neutral way.

5. Measuring gender pay gaps, determining pay adjustments, and follow-up

Employers under the legislation of the Ontario and Quebec Pay Equity Laws are required to calibrate gender pay gaps and schedule pay adjustments. The simplest way is when the employer identifies a female predominant job class in the workplace and compares this to an equal value male predominant job class.

Employers with no identifiable comparator groups are required to conduct “proportional-value” comparisons, when female predominant jobs have no male comparators (in the

same business establishment). This involves comparison between the unmatched female predominant job and the array of male job classes closest in factor values and then adjust the female job class factor values proportionately. This is called proportional value method.

In some cases, when even the proportional value method cannot be used, because there is no male job classes to apply, the so-called “proxy-method” of pay equity evaluation can be used. In this case, the public sector employer is required to find another public sector employer who conduct a similar business that has already achieved pay equity and make the comparison and the adjustment. It is worth noting that proxy (or other-establishment) pay equity adjustments are not imposed on private sector employers, although pay equity professionals suggest this way as a further advancement in pay equity legislation.

6. Timelines for carrying out pay adjustments and follow-up monitoring

Timelines are timeframes within which pay adjustments are to be made and follow-up reports and monitoring are to be executed. It is worth noting that not only the initial reports and adjustments in a timely manner are important. Timelines within which pay adjustments are to be made and provisions for follow-up monitoring have been identified as weaknesses of pay equity legislation. Proactive laws are far superior to complaint-driven models. Once an employer becomes compliant under a proactive law, it is still important for the legislation to require that employers actively report back, document their pay equity results on ongoing reports, and monitor all job class pay rates consistent with the initial pay adjustments on an ongoing basis. Present penalties for noncompliance are weak and often discretionary, and studies frequently reveal low levels of compliance in the longer term.

IX. What Can Be Done to Help to Close the Gender Wage Gap in Addition to Legislation

“Even in some of the globe’s most gender equal contexts, the impact of gender pay legislation may be diminished if sufficient mechanisms are not in place to ensure the legislation is properly monitored and employers are held accountable.” (Cowper-Coles, Glennie, Borges, & Schmid, 2021, p. 119).

- Encouraging women to seek employment in higher-wage occupations
- Encouraging more women to pursue degrees in traditionally male-dominated fields, such as science, technology, engineering, and mathematics (STEM)
- Providing mentorship programs for young girls
- Ensuring that workplaces (both public and private) provide clear paths for employee advancement; give employees challenging assignments that help develop and strengthen their skills, and that they value and recognize their employees
- Improving workplace policies with regard to flexible hours, telecommuting, and parental leave that help women to balance between their career and family life
- Making child care affordable (Quebec has a subsidized child care system)
- Encouraging men to take parental leave (Quebec is the only province to offer leave specifically for fathers; 76% of fathers in Quebec take parental leave, compared to 26% of fathers in the rest of the country) (McInterriff & Macdonald, 2015).
- Requiring governments and private organisations to be transparent and to disclose information on their hiring and firing practices; salaries and wages; benefits; requirements for promotions; practices to schedule work hours; how

they prohibit discrimination, harassment, and unequal rates of pay for the job of equal worth (annual or bi-annual gender pay gap report)

- Exposing the issue and opening up a dialogue through education and leadership

X. Impacts of the Covid-19 Pandemic

The COVID-19 pandemic is having a disproportionate economic impact on women. There are several reasons for this: first, business shutdowns and layoffs most severely affected occupations and sectors that predominately employ women; second, these sectors are those in which women entrepreneurs are more likely to operate, and their businesses tend to be newer, smaller, and less well-financed than those owned by men; third, restrictions on schools and paid child care facilities have shifted additional hours of unpaid family care onto parents, and this work has largely been taken up by mothers; fourth, while women are dominating the frontline responses to the pandemic, they have not been included in the planning for recovery (Dessanti, 2020).

The economic effects of Covid-19 have affected women disproportionately as they have taken on additional childcare, have been more likely to lose their jobs and have been vulnerable to increased levels of domestic violence. The pandemic has highlighted the undervaluation of women's work, as its impact has been especially felt by women working in frontline roles essential to society, such as those working in those sectors deemed 'essential': store clerks, those working in healthcare, education, and carer roles more broadly (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

The pandemic has also exacerbated existing inequalities and has been especially challenging for certain groups of women, including racialized women, Indigenous women, single mothers, low-income women, immigrant women, women with disabilities, and those living in rural areas. Applying a gender and diversity lens to the problems created by

COVID-19 as well as the solutions is critical to an effective rebuilding strategy (Dessanti, 2020).

The Covid-19 pandemic has highlighted the acute need for workplace gender equality to be taken seriously. The disparity between men's and women's pay continues to underpin the power imbalance that defines the world's working populations and will hinder global efforts to recover economies in the wake of the Covid-19 pandemic (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

Julia Gillard, former Prime Minister of Australia and Chair of the Global Institute for Women's Leadership, notes that while "the gendered impacts of the pandemic have set many women back... they have also shone a light on what [needs to be done] differently" (Cowper-Coles, Glennie, Borges, & Schmid, 2021).

According to the European Commission, a gender-sensitive recovery from the pandemic must address the gender pay gap by implementing pay transparency, promoting equal share of care responsibilities, breaking the glass ceiling, and better valorising women's skills, efforts and responsibilities.

In Canada, the federal government, through the Throne Speech promise of an Action Plan for Women in the Economy, has committed to ensuring an intersectional feminist response to economic recovery from the pandemic.

Only time will reveal the full effects and long-term impacts of the COVID-19 pandemic on gender equality, the gender wage gap, and pay equity legislation.

XI. Pay Legislation Best Practices

In the report, *Mind the Pay Gap* (Bowers, Kostecky, Moses, & Muchka, 2020), a legislative approach to ending pay discrimination in BC is outlined. Their considerations for the application and implementation of pay equity and pay transparency legislation are outlined below.

An important consideration are a province's societal and governmental objectives, which may include effectiveness in reducing the gender pay gap; the impact of pay legislation on various intersecting identities; the feasibility of the legislation's implementation with minimal financial or administrative burden; compliance by businesses, and the impact of the legislation on employers.

As has been seen, there are several types of legislation that can be used to reduce the gender pay gap. Drawing on the experience of jurisdictions that have implemented these policies, Bowers, Kostecky, Moses, and Muchka (2020) describe and analyze both pay transparency and proactive pay equity legislation, but first discuss some important aspects of legislative design that apply to both types of legislation. References to "pay legislation" apply to both pay transparency and pay equity legislation.

Application & Implementation of Pay Legislation

Threshold for Application – In countries with pay legislation, policy mandates which companies must comply; typically, legislation does not apply to all businesses, and thresholds are set based on company size. The employee-size threshold number varies considerably across jurisdictions, and there is some variation between thresholds for pay equity legislation and pay transparency legislation. It is important to consider what percent of businesses fall within the threshold – if only a small percentage do, the impact

of any legislation implemented will thus be limited in its effect on the gender wage gap; thus, jurisdictions should consider higher thresholds for this reason. However, this may impose a greater burden on government resources or monitoring capacities.

Option for Staggered Implementation – One way of mitigating the burden placed on both government and businesses would be to stagger the implementation of the policy, starting with the largest firms and organizations and gradually lowering the threshold to include a greater proportion of the workforce. This approach was used by Iceland when introducing their Equal Pay Certification.

Impact on Small Businesses/Stakeholders – the main challenge for policymakers and governments is to manage the short-term difficulties and potential costs of implementing pay legislation, both to government and businesses, in order to realize some of the longer-term benefits of reducing the gender pay gap. Strategies should be developed to mitigate the impact of burdens placed on businesses. One such strategy is pilot implementation with a specific business or sector of the economy, in order to study its impacts and to make changes before it is implemented in full.

Oversight & Compliance

Compliance from businesses is essential for any sort of pay legislation; without it, legislation would only be symbolic and would have little impact on the gender pay gap. Research indicates that many businesses will fail to comply with regulatory requirements if there are no consequences for non-compliance. It is important to ensure that the requirements for employers are clear and that guidance is provided. Oversight is needed, including incentives- both positive and negative, to encourage compliance.

Oversight Bodies

In many jurisdictions, pay legislation relies on an oversight body to review firms' progress on meeting legislative requirements. An oversight body monitors and holds businesses accountable to comply with requirements.

Institutional Structure – There are several different models for oversight bodies. It could be a standalone statutory agency or could exist within an existing government Ministry. Most jurisdictions choose to establish a statutory agency directly through their pay legislation, which ties the agency directly to the policy's objectives. An example is Ontario's Pay Equity Commission, which includes a Pay Equity Office and a Pay Equity Hearings Tribunal. Oversight could alternatively come from a judicial body, such as the BC Human Rights Commission, an established legal authority with the power to penalize companies that fail to comply with equality measures in the BC Human Rights Code. However, it is an adjudication body, not a monitoring body, and would require additional resources and enhanced capacity to be equipped to monitor companies' compliance with pay legislation and adjudicate more pay cases. The government could also contract a private firm to assist with oversight. A link to government or the judiciary would likely still be necessary for enforcement, as a private firm would not have the power to mandate companies to comply with legislation. Iceland is an example of a jurisdiction that uses private firms to assist with compliance monitoring.

Mandate – Oversight bodies vary in their mandate and the activities they carry out. Some have a fairly narrow mandate, with a heavy focus on monitoring and enforcement, while others have a much broader mandate, working to promote and improve all aspects of gender equality in workplaces.

Funding – For oversight bodies to carry out their activities effectively, they must be adequately funded. Without adequate funding, oversight bodies, and any form of pay legislation, will be less effective. A cost estimate of an oversight body for NL is outside the scope of this report, and would depend on the type of legislation implemented.

Pay Transparency Legislation

Overview & Objectives of Legislation

Pay transparency legislation can help to expose discrepancies in male and female earnings for either comparable work (pay equality) or work of comparable value (pay equity). This type of legislation has been implemented in various forms in numerous jurisdictions featured in this report, including the Nordic countries, Australia, and the UK. Each jurisdiction uses different measures, tools, and instruments in their pay transparency policies to meet various legislative objectives. How frequently companies must report, what they must report, and how these requirements are enforced are elements of legislative design that vary between jurisdictions.

Exposing gender pay differentials should be the first objective of pay transparency legislation. Second should be promoting action to close unjustifiable gaps. In this regard, the design of legislation is important and should include a mechanism that mandates compliance from businesses on both these fronts.

Legislative Design

Reporting requirements

Pay transparency legislation mandates the type of information that companies must report on, and also determines how frequently companies must report gender pay data

and to whom. Amongst the jurisdictions examined in this report, most pay transparency policies mandate annual reporting requirements. Public reporting to a central monitoring agency generates more transparency and a higher degree of accountability than if firms only report internally to employees. It is also beneficial to have all data collected in a single location, making it easily accessible for individuals and firms.

Enforcement Mechanisms

In order to ensure that companies comply with pay transparency legislation, policies are often designed with some form of enforcement mechanism. They vary across jurisdictions and include encouraging self-regulation, issuing sanctions, and setting standards that companies must comply with. Enforcement mechanisms need to ensure that companies both report gaps and also encourage them to act to close unjustified ones.

Voluntary Initiatives & Self-Regulation

Some jurisdictions, such as Denmark, do not penalize companies for failing to meet reporting requirements or for failing to close gender pay gaps. Self-regulation can be encouraged; in the UK and Australia, pay reports are published publicly and companies that do not comply leave themselves open to being “named and shamed,” which attracts negative attention to their firm and brand. Self-regulation on its own, however, does not appear to be sufficient to encourage companies to close gaps and additional mechanisms are recommended.

Issuing Fines & Sanctions

In some jurisdictions, fines and other financial penalties are used to enforce compliance. In Quebec, companies that fail to comply with pay equity laws are subject to fines, the amount being tied to the size of the company. In Australia, companies are not fined for

non-compliance with pay transparency legislation, but firms that do not meet reporting requirements may be ineligible to compete for government contracts and other forms of financial benefit or assistance, which provides a further financial disincentive against noncompliance.

Setting Standards

Standards establish a minimum requirement to report and/or reduce workplace gender inequities to a particular level. Standards for pay transparency are seen in Australia and in Iceland. Compliance with a pay equality standard would need to be monitored, and monitoring requires government resources.

Analysis for Application

There is mixed evidence about whether pay transparency alone will reduce gender wage and earning gaps. Legislation also needs to mandate action on closing unjustified gender pay gaps. A benefit of pay transparency legislation is its relative ease of implementation. The concept is straightforward and there are several existing models to work from. There is still a level of uncertainty when it comes to projected compliance levels by businesses, both in terms of meeting reporting requirements and acting to close gender pay gaps. Establishing an agency or body to monitor and assist businesses in meeting their statutory requirements would increase compliance and acceptance of legislation among business stakeholders. Reporting requirements also need to be clear and reasonable, so as not to unduly burden businesses. At the same time, businesses cannot be relied on to self-regulate gender pay gaps.

Legislation that includes an enforced-upon compliance mechanism, like a fine or penalty, is expected to increase the number of firms following the policy's requirements. It is

worth considering how a lower threshold of application for legislation might reduce anonymity for members of gender diverse people and other minorities, and how legislation might not be broad enough to fully grasp the unique employment challenges faced by these groups.

Pay transparency legislation has only begun to be implemented internationally in the last decade, and there is limited data to support the claims that it can mitigate a systemic economic and social problem like pay inequity. Pay transparency is also limited in its ability to address women working in female-dominated sectors, whose occupations are traditionally undervalued.

Proactive pay equity legislation

While pay transparency legislation helps make pay disparities viable for individual employees, pay equity legislation goes further in tackling pay discrimination by addressing the systematic undervaluation of female-dominated occupations both within firms and in society at large. This form of legislation can incorporate best practices, while recognizing that many international jurisdictions do not draw as straight a line between pay equality (equal pay for equal work) and pay equity (referring to undervaluation of women's work, or equal pay for work of comparable value).

While Canada has enacted pay equity legislation federally, due to its limited scope (only applies to federally regulated companies), its relative newness (became law in December 2018), and the fact that provincial examples would likely be more relevant to our analysis for NL, we have not included the federal legislation in this analysis. Similarly, though other provinces besides Ontario and Quebec have a form of proactive pay equity legislation in place, those two provinces are the only ones where the legislation applies to the private

sector as well as the public sector. Due to this comprehensiveness, they are therefore generally seen as the model for proactive pay equity legislation.

Canada is the only country studied in this analysis where jurisdictions (provinces and the federal government) have begun adopting legislation aimed specifically at addressing the systematic undervaluation of many female-dominated occupations in a proactive manner. This type of proactive pay equity legislation aims to ensure that workers in female-dominated job classes and jobs traditionally carried out by women are paid at similar rates as male-dominated job classes of equivalent value, following the principle of “equal pay for work of equal value.” Two aspects of this type of legislation are particularly unique and worth highlighting:

- This approach can help address the undervaluing of women’s labour in entire sectors, such as education, healthcare, hospitality; and
- It puts the onus on employers to prove that they are addressing any pay equity gaps, in contrast to the complaints-based system (currently in place in BC) and is what is meant by the term “proactive.”

Legislative design

There is a lot of similarity in how proactive pay equity legislation is implemented in Canadian jurisdictions. In Ontario and Quebec, as well as in the new federal legislation, employers are required to:

1. Identify job classes within their workplace.
2. Determine whether each job class is female-dominated or male-dominated (or gender-neutral).

3. Use an objective methodology to evaluate the “value” of each job class, as based on the level of skill, effort, responsibility, and working conditions of the job.
4. Determine if a pay gap exists by comparing the compensation of female-dominated and male-dominated classes of equivalent value.
5. Develop a pay equity plan in order to address any pay gaps.
6. Maintain pay equity over time.

Although the definition of a “female-dominated” job class can vary by jurisdiction, a 60% threshold is the most commonly used threshold. In other words, if 60% or more of a job class is occupied by female workers, it is determined to be a “female-dominated job class.”

When comparing male- and female-job classes of equivalent value, a direct comparison is ideal. If there are no male-dominated job classes of equivalent value at a firm, legislation should allow for a “proportional value” method of comparing the compensation of job classes.

The “proxy method” of comparison is an option if there are no male-dominated job classes at all within a company. Proxy comparison allows employers to compare their female-dominated job classes to the same female job classes in another organization.

Maintenance Provisions

This research has shown that the maintenance aspects of pay equity legislation – to ensure that once pay disparities have been addressed that pay equity is maintained – is an area that needs to be strengthened in existing provincial models. The lack of clear, regular reporting structures has been highlighted as a weakness of the Ontario model (Vandenbeld, 2016, p.29).

Quebec made amendments to their Pay Equity Act in 2009 to strengthen its maintenance provisions. Now, employers must conduct a pay equity audit every 5 years to ensure that they are maintaining pay equity within their organizations, as well as fill out a short, online form each year. Compliance has significantly improved since these amendments were introduced with “little administrative burden for employers” (Vandenbald, 2016, p.31).

Enforcement Mechanisms

As this jurisdictional scan shows, legislation without enforcement will result in lower compliance levels amongst firms. As the 2016 federal Report of the Special Committee on Pay Equity stated: “the key to the successful implementation of a pay equity regime is that there be the ability to monitor compliance” (p.29).

In Ontario, if an employer does not implement or achieve pay equity by their compliance deadline, the employer is liable for pay equity payments retroactive to the date when pay equity should have been achieved in the company. The Pay Equity Commission, to which employees or bargaining agents can make complaints, has dedicated Review Officers with powers to investigate complaints, settle disputes, and issues compliance orders.

In Quebec, there is a similar complaint process to an Equity Commission. The key difference is that in Quebec, there is also a range of fines that can be imposed on companies for non-compliance, depending on the size of the company. Furthermore, the names of companies that have been fined are published online. NL may wish to implement similar fines to help induce higher rates of compliance.

Analysis for Application

Proactive pay equity legislation has been shown to have some degree of success. For example, the six Canadian provinces with such legislation have the smallest pay gaps. However, the overall effect on the gender pay gap may be relatively small and will depend heavily on the degree of compliance. Despite this, we still consider this form of legislation to be an effective approach to reducing gender pay inequity, because its effective implementation would likely result in considerable pay raises for many women. One limitation of this policy is that due to its focus on pay inequity at the level of job classes, it does not address pay discrimination between individuals, or help women working in male-dominated professions who still might experience pay discrimination.

Although this legislation would raise the wages for many women whose work is currently being undervalued, it does not include any intersectional lens or address forms of pay discrimination for other marginalized groups. While it would help raise wages for people of all genders, including gender diverse people, working in undervalued sectors, it does this by using binary-focused language.

Due to the complexity of the job class pay comparisons that this type of legislation requires, including determining the “value” of each job class, the smooth implementation of this legislation would require a significant amount of effort on the part of government, including providing support and resources to help businesses understand and comply with the new regulations. However, as mentioned there is similar legislation in other Canadian jurisdictions to look at for best practices in this regard.

Additional government resources would be required to ensure that the legislative requirements are being enforced and maintained. This would include ongoing funding for an oversight body, as discussed above. As this research has demonstrated, compliance for

this type of legislation is very dependent on the robustness of monitoring and enforcement mechanisms.

As with the introduction of any form of regulatory requirements, some initial pushback from businesses is expected. However, Ontario and Quebec both have found that the cost of their provincial proactive pay equity laws was not significant and not as costly as employers had initially feared. Since the regimes were introduced, the average cost to private sector companies has been approximately 1.5% of payroll (Vandenbeld, 2016, p.13). Furthermore, Ontario introduced government funding to assist community-based organizations in making their pay equity adjustments and meet their pay equity obligations (Singh and Peng, 2010, p.577).

Additional Approaches to Reducing the Pay Gap

Iceland's Equal Pay Certification Model

In 2018, Iceland introduced a new legislative approach to reduce gender-based pay discrimination, which requires firms and organizations with more than 25 employees to actively prove their pay practices are free of discrimination. They must obtain an equal pay certification to confirm that they are paying their employees according to their skills, qualifications, and the demands of the job. Companies are required to connect pay to gender-neutral job descriptions and associated roles and responsibilities, ensuring that no discrimination on the basis of gender and other identity factors exists when determining employee remuneration.

The pay equality certification framework fills some of the gaps left open by both pay transparency and pay equity legislation. Where pay transparency merely mandates that pay disparities be brought to light, and pay equity focuses on rectifying the under-

remuneration of female-predominant sectors, Iceland's approach calls on employers to eliminate disparities in all job positions, regardless of their gender composition.

Equal pay certification, performed by accredited auditors, is intended to confirm that when decisions about pay are taken, they are based on relevant considerations and not the identity of employees. Currently, Iceland is the only jurisdiction that has implemented this framework.

In terms of effectiveness, we expect pay equality certification would lead to the greatest reductions in pay discrimination, whether based on gender or any other identity. The rigorous criteria, where every job in a firm must be classified and valued, would make it difficult for pay discrimination to continue without firms facing sanctions. If a reasonable level of compliance were attained, we would also expect to see an impact on poverty reduction.

This is the only type of legislation that is guaranteed to directly benefit people of diverse gender identities. Pay discrimination on the basis of race, ethnicity or indigeneity would therefore also be addressed through this policy model.

One risk of the equal pay certification process is that although it ensures that all employees are paid equally if they are creating equal value in their work, it does not address the occupational segregation which concentrates women in lower-paid positions within firms.

The challenges of implementing this legislation are quite significant and resistance from business groups would likely also be strong. The certification process in Iceland is relatively new and untested, making it difficult to assess the full impacts and effectiveness of the new law.

Complementary Policies & Considerations

The literature suggests that other policies may complement pay legislation and be highly effective in further reducing the gender pay gap. It is important to note that in jurisdictions where pay legislation exists, other factors may be impacting the overall pay gap and contributing to its mitigation; thus, it is important to consider some of these additional factors and policies that can also contribute to reducing gender-based pay disparities.

Strong Unions

Collective bargaining by strong unions that ensures the inclusion of strict equal pay clauses in collective agreements is very effective at minimizing pay gaps, but it requires there to be a relatively high rate of union coverage to have an effect on a jurisdiction's overall pay gap.

Parental Leave

In 2018, the World Economic Forum ranked countries for gender wage parity and the five top-ranked countries were all jurisdictions that offered paid parental leave for both parents (World Economic Forum, 2018). The Nordic countries have been leaders in the introduction of “family-friendly” policies. In addition, they have implemented policies to promote employment opportunities for women.

Childcare

Quebec provides a unique perspective on childcare policy in Canada, as it is the only province to have a universal child daycare program, where the cost of daycare is subsidized; Quebec has the highest labour force participation rates for mothers.

Education & Awareness

Some jurisdictions such as Ontario as well as some EU countries, implemented “soft law” practices, which involve raising awareness through implementing an “Equal Pay Day”. Considering the low level of public knowledge of the gender pay gap in some countries, this may be an effective approach to adopt as a small step towards pay gap mitigation.

Fair Minimum Wage

Information from the International Labor Organization (ILO) suggests that women are over-represented in low-paying jobs around the world, making minimum wage policies important to support the reduction of the gender wage gap. Six out of ten minimum wage earners in Canada are women; most minimum wage employees work in accommodations or food service, or the retail sector (Statistics Canada, 2018).

XII. Conclusion

Gender-based pay discrimination is still a major global social problem, with women and gender diverse people continuing to earn lower rates of pay than men working in similar positions. There are also entire sectors of the economy with workforces dominated by women and other marginalized populations, that are chronically undervalued compared to their essential role in society (Bowers, Kostecy, Moses, & Muchka, 2020). This has been made ever more apparent since the onset of the COVID-19 pandemic and as it continues to devastate the social and economic well-being of nations around the world. Meanwhile, women continue to be under-represented in certain sectors and in leadership roles.

Pay equity and pay transparency legislation are an important part of the overall policy toolkit available for tackling pay discrimination (Bowers, Kostecy, Moses, & Muchka,

2020). It is important that legislation be robustly designed, and that governments are ready to address any pushback from businesses.

Based on the findings of this jurisdictional scan, we conclude that the most effective approach to address the gender wage gap and gender-based pay discrimination in Newfoundland and Labrador would be to implement both pay transparency and proactive pay equity legislation. No one policy alone will eliminate pay discrimination in the province.

Additionally, acknowledging that many factors contribute to the gender wage gap – of which pay discrimination is just one – we recommend taking a comprehensive approach that includes public policy interventions in child care, parental leave, labour unions, education and awareness, and a fair minimum wage – in order to attain gender equality in our province’s workplaces.

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