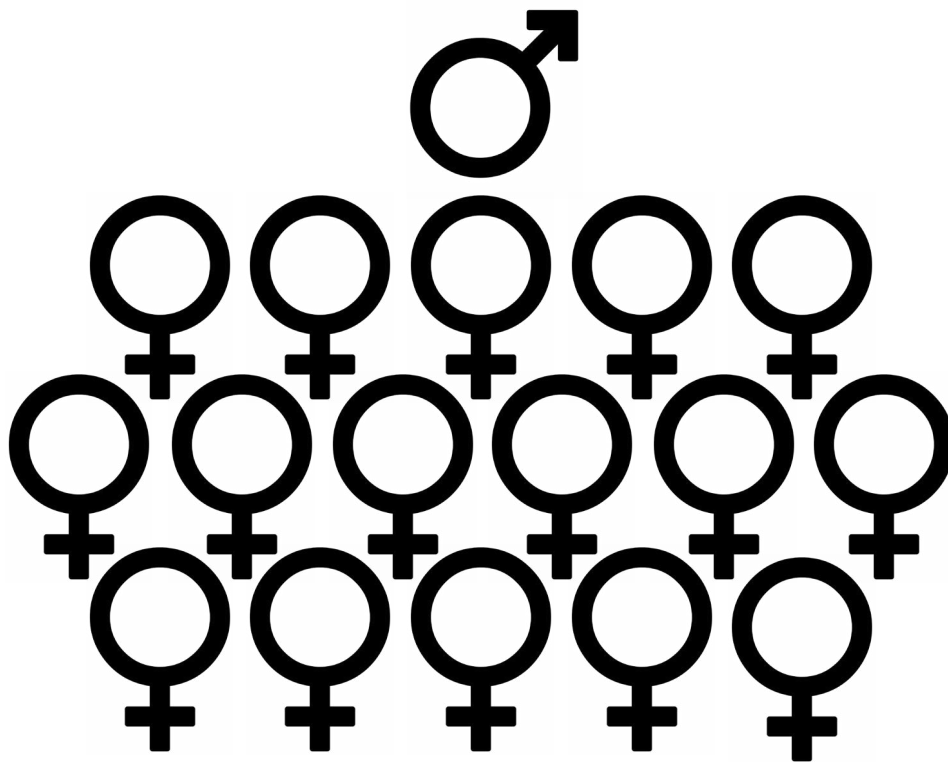


**The Gender Wage Gap in Ontario's Retail Sector:
Devaluing Women's Work and Women Workers**



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The contents of this report reflect the research findings and the authors' analyses and perspectives.

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Executive Summary

The term “gender wage gap” refers to the difference between what men and women are paid. In Ontario, the gap is at least 26% which means that women are still being paid significantly less than men for work of the same value, or even for the exact same work.

One of the reasons for the gender wage gap in the labour force overall is that many women work in poorly-paying sectors like retail which have low unionization rates. However, there is also a gender wage gap within the retail sector. The gender wage gap within retail is the focus of our study.

This report combines statistical data with the findings of an online survey to paint a clearer picture of the gender wage gap in retail. Women outnumber men across occupational categories, but men are paid more for doing the same jobs, often a lot more. Plus, although the retail sector relies heavily on part-time positions, the full-time positions that do exist are primarily held by men.

These factors, in combination with other concerns about the distribution of work, hours, and promotions, lead to a high degree of frustration among front-line workers. Workers feel that favouritism and nepotism are prevalent in their workplaces and this affects their morale.

This is not an isolated problem or simply the result of a few bad apples. There is an established pattern of discounting work in sectors like retail. There is a further undervaluing of women through lower hourly pay and the over-use of part-time hours.

This report is a wake-up call, yet it reflects what many workers have long known: there is a chronic problem within retail, and the largest number of workers – those on the front-lines in stores – often must endure a bitter combination of low pay, too few hours, and many kinds of disrespect.

The picture is not entirely bleak, however. There are workplaces where greater equity is the norm, and this is an important reminder of the potential to raise standards across the retail sector. There are clear opportunities for employers of all sizes, labour unions, and public policy makers to take meaningful action to challenge the enduring inequities within retail. This report concludes with five recommendations which would help challenge the gendered inequities in retail, and move towards fairness for this large group of workers.

The Gender Wage Gap and Retail

For good reason, the gender wage gap has been gaining attention again. The term “gender wage gap” refers to the difference between what men and women are paid. This dynamic may also be referred to as the gender pay gap or pay inequity. From actresses to soccer players to office workers, people of all genders have been calling for greater equality and an end to the gender wage gap.

Ontario’s Pay Equity Commission has established that the gender wage gap in Ontario is 26% for full-time, full-year workers. This means that for every \$1.00 paid to male workers, female workers are paid 74 cents. The gap is even larger when factors such as the allocation of full and part-time positions are taken into account. The gap is further stretched for particular groups of women including women of colour, Aboriginal women, recent immigrants, lesbians, trans women, and women with disabilities. The gender wage gap has been decreasing, but slowly.

In the labour force as a whole, there are a range of factors that affect the gender wage gap.

- **Women are still socialized and directed into career paths or sectors with lower pay.**
- **Women may choose career paths or sectors with lower pay.**
- **Women make choices about occupations and their trajectories within a specific organization or sector that affect their pay. Their choices can be affected by a range of distinct or linked factors including their perceptions of themselves and their abilities, the requirements and expectations that accompany certain positions, and/or a need for predictable hours given family and caregiving responsibilities.**
- **Women often take time out of paid work to care for children and other dependents and this affects their earnings.**
- **Union membership – which contributes to higher pay - tends to be lower in the areas of the private sector where many women work.**
- **Women undervalue their own labour and often ask for less than their male co-workers in individual salary negotiations. Employers also undervalue women’s work (or overvalue men’s) when allocating raises.**
- **Women face discrimination in pay, hiring, and promotions based on gender and gendered ideas. Two people doing the exact same job may be paid differently because of their gender.**

A number of these dynamics are pertinent for this study.

This report focuses on gender, work, and pay in the retail sector. Retail is the largest employment sector in Canada. It includes stores of all sizes and types, from large international chains to small, locally-owned shops.

Retail is one of the employment sectors where many women work which does not pay well. Retail also has low rates of unionization at around 13%. The low pay in feminized sectors like retail contributes to the gender wage gap in the labour force overall. In other words, the concentration of women in low-paying sectors like retail contributes to the gender wage gap in the larger workforce. However, there is also a gender wage gap within the retail sector itself.

Gender and Pay in Ontario's Retail Sector: A Statistical Portrait

This report focuses on front-line retail workers in stores (not employees in warehouses or corporate offices). All statistical data is drawn from the Statistics Canada Census and Labour Force Survey.

Retail workers represent the full spectrum of society. Women and men of all kinds choose to work in retail, or are employed in the sector because there are few other options due to persistent high rates of unemployment and underemployment.

Young people often work in retail, but about forty percent of workers are 45 years of age or older. The median age for retail workers in Canada is 34.

In 2015 there were over a million people in Ontario working in retail: 685,000 women and 483,000 men. Women outnumber men in all front-line occupational categories, except for manager.

Table 1. Retail occupations by gender, Ontario

	Men	Women	% Women
Managers	99,500	75,300	43%
Supervisors	53,200	65,800	55%
Salespersons	83,700	134,800	62%
Cashiers	21,100	108,800	84%
Other	225,500	300,400	57%
Total	483,000	685,100	59%

Source: Labour Force Survey microdata, 2015

It is only in the highest paying position that men outnumber women. Retail salesperson is the most common occupation for both women and men in Canada, although there are many more women in such positions.

In terms of pay in retail, a gender wage gap is clear. Men are paid more per hour than women across every front-line retail occupation.

Table 2. Average wages per hour, Ontario

	Men	Women
Managers in Retail, Food, and Accommodation	\$30.79	\$25.06
Sales and Service Supervisors	\$21.22	\$16.69
Retail Salespersons and Clerks	\$15.51	\$13.10
Cashiers	\$12.34	\$11.84
Sales and Service, Other	\$14.48	\$13.75

Source: Labour Force Survey microdata, 2015

Of the retail workers who are paid \$12 or less per hour, 65% are women.

When we look at the data by age, gender, and occupation group, the only instance when women's wages are higher is for managers, supervisors, and workers in the miscellaneous "other sales and service" category aged 15-24. The difference in average wages for young workers employed as salespersons and cashiers is present but small. However, the wage gap grows for workers over 25, and is largest for workers over 55.

Table 3. Wage gap by age and occupation

	Men	Women	Wage Gap	Gap as % of men's wages	
15-24	Managers	\$14.92	\$17.95	-\$3.03	
	Supervisors	\$12.21	\$13.56	-\$1.35	
	Salespersons	\$11.86	\$11.53	\$0.34	3%
	Cashiers	\$11.15	\$11.06	\$0.09	
	Other	\$11.42	\$11.70	-\$0.28	
25-54	Managers	\$31.27	\$25.36	\$5.91	19%
	Supervisors	\$22.22	\$17.38	\$4.84	22%
	Salespersons	\$18.43	\$14.53	\$3.90	21%
	Cashiers	\$14.06	\$12.71	\$1.36	10%
	Other	\$16.73	\$14.60	\$2.13	13%
55+	Managers	\$33.37	\$28.68	\$4.69	14%
	Supervisors	\$25.90	\$18.11	\$7.79	30%
	Salespersons	\$17.35	\$13.69	\$3.66	21%
	Cashiers	\$18.73	\$12.69	\$6.04	32%
	Other	\$16.42	\$15.02	\$1.40	9%

Source: Labour Force Survey microdata, 2015

Along with hourly wages, the number of hours workers are assigned affects their total pay. The retail sector has a high proportion of part-time workers in comparison to the labour force as a whole. 50% of all retail salespeople and 73% of all cashiers in Ontario are part-time, a percentage that has been growing over time.

Men hold more of the full-time positions than women across all occupational categories except cashier, the occupation with the lowest hourly wages.

Table 4. Proportion of positions that are full time

	Men	Women
Managers	91%	81%
Supervisors	89%	84%
Salespersons	59%	38%
Cashiers	25%	28%
Other	60%	54%

Source: Labour Force Survey microdata, 2015

Key Findings

- Men are being paid more than women in retail in every occupational category.
- Men only outnumber women in the highest paying front-line retail position, that of manager.
- Retail has fewer full-time positions, but the positions that do exist are disproportionately given to men.

Survey of Workers

Between February and March 2016, retail workers in Ontario were invited to complete an online survey. The survey supplements the larger statistical data and provides an opportunity for workers to share their experiences and perspectives.

Participation in the survey was voluntary and dependent on a) workers' knowledge of the survey, and b) their willingness to participate. The results thus reflect the particulars of those who participated. A small percentage of responses were eliminated as ineligible.

There are noteworthy similarities between the demography of the participants and the retail sector as a whole, however. Therefore although the survey was not a fully randomized sample, in terms of general characteristics as well as types of sub-sectors, the respondents reflect the larger retail labour force in key ways. Specifics and exceptions are outlined below.

Profile of Respondents

Nearly 400 workers from all regions of the province participated, with the Niagara region and the GTA most heavily represented.

72% of survey respondents were women. This is somewhat larger than the proportion of women in front-line retail overall (59% in Ontario). Therefore the survey provides a stronger picture of women's experiences within the sector. Given the topic of the survey, this is not surprising.

A large majority of respondents (92%) identified as white, therefore the results are not a good representation of the experiences of workers of colour who comprise about 18% of the larger retail work force (and a higher percentage in large urban centres). Yet racial and ethnic discrimination was raised as an issue by workers of all racial identities.

80% of the women who participated in the survey are salespeople/clerks or cashiers, therefore its findings offer insights into the perspectives and experiences of this large group of front-line retail workers in particular.

61% of the respondents work part-time, and 59% of them would like to be full-time.

The median age of respondents was 31, slightly lower than the median age of the larger retail workforce (34), but workers of all ages participated.

Most respondents have been working in retail for quite some time. The median was 10 years for time worked in the retail sector. The median was 4 years for time in current

position. In other words, the respondents have many years of experience in retail from which to draw. This correctly reflects the fact that retail is not merely temporary or transitional employment for many people.

Respondents were most likely to work for the following types of employers:

- Canadian chain (43%)
- international chain (21%)
- independent business (14%)

68% of respondents are not represented by a union. The fact that 32% of respondents are union members is not unexpected since many labour organizations shared information about the survey. This is higher than the percentage of unionized retail workers in the sector at large.

Key Findings

Hiring

Most respondents (70%) feel that hiring in their workplace is fair. Among those who feel that hiring is not fair, favouritism and nepotism are highlighted as the most significant inequity.

“It’s a game of favourites, whoever the boss likes best on a personal level not talent wise.”

“It’s solely based on people you know.”

“Only hires people he knows or has a personal connection with.”

Respondents also identified gender as a key determining factor in who was hired, and who was hired for which departments. About 10% of respondents feel that preference is either given to women in some cases, and to men in others. Women’s perceived attractiveness was noted as a factor affecting or determining hiring by a small percentage of respondents.

“Sexist based on location. Female cashiers, male maintenance, etc.”

“Male staff are exclusively hired for stockroom positions while female staff are exclusively hired for customer service positions.”

“Preference for women workers in my department; job is seen as feminine. Expectation that women will be good at cleaning tasks and nurture clients.”

“The majority of employees are female. If they hire one or two males, they become favourites.”

“My boss will only hire girls because he says the pay is too low for a man.”

“Boss hires young pretty girls with no work ethic to look at.”

“Appearance matters - very expensive/difficult to meet dress code.”

“Only hires whites and Asians.”

“Boss hires girls because he expects them to be submissive and not stand up to him when he is unfair.”

■ The Distribution of Work and Hours

Perceptions of unfairness increase in response to questions about work within the store. 43% of respondents feel that the distribution of hours within their stores is unevenly distributed. 45% feel that work is unfairly distributed.

Favouritism and nepotism are again perceived to be the primary cause of both inequities. Men and women feel there was inequity based on arbitrary individual preferences and personalities. Because of the gendering of particular kinds of stores, some of them are staffed entirely by women or men.

There is a palpable sense of frustration evident in the participants’ responses about how tasks are divided, who is rewarded, and who is recognized within stores. Respondents also expressed frustration about their co-workers (both men and women) who were perceived to be lazy and yet getting rewarded. The power managers and supervisors have over both workloads and schedules is repeatedly noted.

“Women are on cash and men do labour. [It is] unfair.”

“Gender segregation in departments. Many fulltime positions are held by men. Highest paying positions like butchers, and grocery/produce dept heads are mainly men. Women often hired for cashier work where less hours are given - and shorter shifts.”

“Few men at the store and the ones who are there generally get promoted faster and have decent hours/schedule.”

“Managers favour their own fiefdoms. Managerial hiring practices encourage the behaviour.”

“Managers pick and choose favourites not based on performance but personality.”

“I often have to work without pay as a ‘visual merchandiser.’”

“I am the only merchandiser making me work harder and faster, where we need more workers in this position.”

“Sales associates are expected to do more [than] managers on a daily basis.”

“Most of the casual workforce are women. We do the same work as the full-time employees, even given keys to the store as shift-leaders, but we don’t get the same pay.”

“I often take over for my manager. I am only given an extra \$1 hourly to do the job my manager gets paid nearly \$25/hr to do and I’m expected to hustle just as hard. For what? It’s not like they actually appreciate it...and for an extra \$1? No thanks.”

“Part timers all the way up to managers and supervisors are essentially doing the same work for different rates of pay.”

Many respondents raise concerns about a general sense of store mis-management. The high number of part-time workers and shortage of full-time positions is widely noted, as is the unpredictability of schedules.

“Everyone is overworked.”

“Seniority means nothing. There is favouritism. One week I had one shift of 4 hours and other part-timers had 3 shifts with about 16 hours. Some are full-time students with much less availability. I don’t want more hours than others, just fairness.”

“I am a 10 year employee and work the same hours as new hires.”

“Hours are all over the place and sometimes newer part-timers get more than experienced ones and full-timers.”

“The hours have been cut from 8 hour shift to mostly 4 or 5 hour shifts. They have hired more casuals and spread the hours among them instead of giving a full shift to someone. This way they don’t have to give them a 1/2 hour lunch, and they only have to pay one for break.”

“New people get hired instead of giving adequate hours to current employees.”

“Too many employees with too few hours.”

“The only time that I have gotten a raise recently is when the minimum wage went up. People that started years after me make the same as I do.”

“Not nearly enough for anyone not in management to make a living.”

“Hours are always being cut back and we are expected to do the same work with less people.”

Promotions

48% of respondents identify inequities in promotions within their workplace, and predominantly cite favouritism and a “boys’ club” mentality as the cause. A very small proportion of respondents (2%) feel that women were favoured for promotions.

“Women are not paid the same as men nor do they have the opportunities like men to get promoted.”

“Promoted a guy not with company long [who] now makes more money than me.”

“The district manager picks and chooses based on what he hears from others. He tends to lean toward the young male employees first.”

“More promotions for men. All managers are male.”

“Our store is mainly female workers. The majority of senior staff at a corporate level are male.”

Some respondents feel that younger men without experience were being disproportionately favoured, and workers noted that the challenge of family responsibilities affects their attractiveness for and interest in higher-level positions.

“Young men with no attachments (i.e. kids) get most of the opportunities.”

“You are expected to travel unconditionally to other locations, and expense wise and the time you have to put in is unreasonable. I will not travel - still have 4 children living at home.”

“In a lot of the minds of men who have been with the company for their entire lives, women are not capable of supervisory roles or departmental heads. I have been told personally that I have to watch what I say to my male colleagues. I know that the dynamic has been of a ‘boys’ club’ mentality and that women are not seen as capable.”

“More women as cashiers and store managers are often men. Some women have shown interest in moving departments but management discourages them in a subtle way. This impedes on women being promoted to higher positions (such as a manager of a department).”

“A raise is only granted once a year, and the amount is decided by the manager. The turnover rate is large but hard workers like myself who would bend over backwards for work receive promotion and more responsibility without [a] raise.”

Notably, a common response was “what promotions?”

Gender and Retail

Respondents had many things to say about how gender affects their workplace overall, both positively and negatively. A very small percentage of male respondents (2%) felt that they were discriminated against and/or do more work than the women in their workplace without getting credit. Of his workplace experience, one said the following:

“As a male in a female dominated workplace I am often micromanaged more heavily. I’m also socially isolated from other workers due to my gender.”

Harassment was a theme identified by a number of respondents. Female workers have experienced harassment from customers, managers, and co-workers.

“I work at [Store Name] and our boss (who is also our location’s owner and pharmacist) will only hire girls because he says retail is too degrading [a place] for a man to work. He constantly comments on our clothing/hair etc..... We get severely underpaid for the amount of work that we do, and feel discriminated against by our own employer the whole time doing it.”

“I have been in workplaces where my gender meant I was harassed, sexually and physically, by managers and owners but in my current position I am treated like I can’t do certain jobs, like work in the tech department because I am female. There are restrictions on what I am capable or able to do based on my gender. I am also treated like I will take more time off.”

“I have been removed from a task I am trained to do so a man can do it. I have received sexist comments not only from customers, but also from coworkers. All my superiors are men. I’ve only ever worked with one female manager at the company before.”

“As a woman, customers sometimes make sexual comments toward me and I am without recourse. I sometimes feel threatened and uncomfortable but because I am a lone worker there is no one there to back me up except by phoning the police, which seems extreme in most cases.”

“As a woman, I get harassed by male customers on a regular basis. When reported to head office and to the police, even when a customer keyed my car, nothing was done about it.”

Because most respondents had worked in retail for many years, a number of them commented on changes they have witnessed over time – or a lack thereof.

“When I started at this store, young male employees were always given various assignments while I was at cash. I spent my first 8 years at cash, while they learned every other duty in the store. It is funny [because] now, two of the males that were hired well after me are now district trainers, and in acting management positions. I had to file a grievance to be trained on use of the power lift equipment [in the stockroom]. After the grievance was heard, and I was awarded training, it took two years more before they trained and allowed me to use the equipment. They have now changed the training practices and train all employees but they still favour the males.”

“I had a male district manager, [and] if you did not talk sweet or cute to him, you put a bull’s eye on your back. I found the behaviour repulsive, and extremely unfair to have a male in management for a women’s retail chain. [But] women are [also] often against each other in retail. Any suggestions I have provided for improved service to our customers and workplace were construed as not aligning with company ideals. Retail is terribly unjust, underpaid, and stressful.”

“We generally have the ‘Boys’ Club.’ If you are male there are different rules. If you are female you get very little help and support. At present I feel like (with the amount of hours I don’t get, I run around like a chicken with its head cut off) I am being set up to fail. My department manager salary is one of the lowest paid compared to other departments that have less responsibilities and more hours and more staff. The male department heads get all the hours and all the extra help they need.”

“I have not seen any evidence to suggest that gender affects my employment, as all employees are treated equally by management and gender is not a deciding factor in which position one is hired for. However, there are certain male customers who have refused help from female employees. Unfortunately, I have also interacted with male customers who ask me (a female) a question, decide that my answer is not good enough, and then ask the same question to a male employee.”

Some workers also had positive things to say about their workplaces and co-workers.

“Where I work, the hiring is very inclusive. Gender has not been an issue.”

“I am lucky to work somewhere that gender doesn’t seem to affect our workplace much. It’s pretty equal for both genders.”

“Being in a unionized store I make equal or above some of the men.”

We sell women’s clothing, so only women are employed. I found the workplace more collaborative and open compared to work places with mixed genders.”

“I work in a plus size women’s fashion store. Only women are employed there, and mostly women shop there. It is one of the most fun, supportive, and energized places I have ever worked! The company is focused of providing great products and services to female customers, and I guess by association we’ve become a strong female team of coworkers.”

Because the retail sector is one of low pay, the following comments are not surprising:

“Being involved in some of the hiring myself, I see no difference in hiring a man or a woman in our situation. Minimum wages are offered for both genders. Unless new employee brings special skills to the table, rarely are they given more than minimum wage.”

“The pay gap among non-management is equal. We all get minimum wage. ;)”

Discussion

The results from our survey reflect broader trends in retail and in other employment sectors when it comes to gender. The findings are similar to those in other jurisdictions and are consistent with earlier and comparative research on retail work.

It is particularly noteworthy that nearly half of respondents have concerns about unfairness, including a clear perception of gendered inequities. It is also important to remember that gender is not solely one’s biological sex or identity, but also a set of ideas and social relations. Particular kinds of characteristics and expectations considered to be more or less “feminine” or “masculine” shape people of all kinds.

The fact that workers have different perceptions and experiences reflects the diversity that exists within the sector. It reaffirms that different management approaches, workplace cultures, and individual actions can affect how stores operate and the working conditions therein. The fact remains, however, that noteworthy inequities are present, not only in workers’ perceptions, but in hourly wages, the allocation of full-time positions, and the gendered division of occupations. There is a chronic problem of unfairness in retail.

Retail Matters: The Larger Context

As the place of work for over a million Ontarians, what happens to people in the retail sector matters. The undervaluing of retail workers as a whole has a material impact on the lives of real people, families, and communities across Ontario. The additional devaluation of women within the sector further exacerbates the problem.

Retail Workers and the Problem of “Hours Equity”

Front-line retail workers, particularly in the highly feminized positions of salesperson and cashier, face a double or even triple burden:

low wages + a high proportion of part-time hours, along with persistent part-time status

To capture this dynamic, American legal researchers Nancy Reichman and Nantiya Ruan have proposed the term “hours equity” as an important element in the gender wage gap mix. They call for a re-framing of the question of pay equity in order to recognize the impact that both hourly wages and the number of hours assigned have on the gender wage gap. In other words, only comparing full-time work to full-time work does not accurately capture the depth of pay inequities, nor does it properly reflect the working lives of the many women and men who cannot obtain full-time hours.

These factors act as a one-two combination that effectively widens the gender pay gap, particularly because the retail workforce is increasingly made up of women who work in part-time positions with lower wages whose supervisors use scheduling restrictions as a way to fulfill their cost-containment mandates.

Women represent almost three out of every four people in part-time employment in OECD countries. The International Labour Organization has found that the pay gap tends to be larger in countries with high part-time employment rates.

Workers are further disadvantaged due to the instability and unpredictability of last minute schedules, combined with the need to keep open availability, regardless of how many hours they are assigned. Workers are often expected to have full-time availability without any of the benefits (financial and otherwise) that come with being employed full-time.

Working Conditions and Employment Standards

The problems associated with low-wages and unpredictable “wild west” scheduling are widespread in Ontario. The minimum wage is determined by the provincial government. The Employment Standards Act (ESA) sets “the floor” and provides the minimum requirements established in law. The ESA is noteworthy because of what is included –

and what is not included. And what is not included in the ESA affects retail workers in significant ways, particularly part-time workers, a majority of whom are women. This lack of protection has an impact on take home pay and on quality of life.

- Employers don't have to provide workers with schedules a clear or set period in advance.
- Shifts can be cancelled at the last minute and/or workers sent home early.
- There are no minimum hour guarantees for many workers.
- There is no guarantee that part-time workers will be offered more hours before new people are hired.
- Part-time, temporary, or contract workers can be paid less than full-time workers for the same work.
- Many workers are not entitled to even a single day of paid sick leave, or to be guaranteed their jobs upon return if they take unpaid sick leave.

Labour Unions and Collective Agreements

Unions have been shown to play a role in shrinking the wage gap for women and racialized workers. In 2014 in Ontario, women with a union earned \$7.96 per hour more than women without a union. Not only were unionized women's wages higher, but the gap between unionized men and women was \$87/week smaller than the gap between non-unionized men and women.

Approximately 30% of workers in Canada belong to unions, but this varies widely by industry and occupation. Retail unionization in Ontario is concentrated primarily in grocery stores and the LCBO, although there are workers in apparel, eyewear, general merchandise, and other specialty stores who are organized.

Table 5. Union density by gender

	Men	Women	Total
Managers in Retail, Food, and Accommodation	4%	3%	4%
Sales and Service Supervisors	13%	14%	13%
Retail Salespersons and Clerks	10%	9%	9%
Cashiers	8%	16%	15%
Sales and Service, Other	24%	21%	22%

Source: Labour Force Survey microdata, 2015

Workers can use their unions to improve their working conditions and have done so in retail to varying degrees. Unionized retail workers have struggled to combat employers' push for more part-time positions, but recent rounds of collective bargaining in Ontario involving UFCW Canada (the United Food and Commercial Workers Union) and Unifor have made some gains, particularly in terms of scheduling notice and hour guarantees for part-time workers.

Unions are vehicles; where they go and at what speed depends on the members. If more retail workers were organized, this would contribute to their collective strength and increase the likelihood of making further gains that could help narrow the gender wage gap.

Systemic Discrimination and Gender Equity

Systemic discrimination is real in retail. It exacerbates the gender pay gap by channeling women into low-paying jobs, departments, and stores with few opportunities for promotion or higher incomes. And women are being paid less for the same work across the sector.

The equitable participation of women in the labour market is well-established in international and domestic human rights law. Canada has ratified a number of international instruments that address the issue of equity for women in work, establishing obligations with respect to gender equity and labour. Equality rights are also entrenched in the Constitution of Canada through the *Charter of Rights and Freedom*. The Supreme Court of Canada has established the quasi-constitutional status of human rights law; that is, its fundamental importance as law. In Ontario, the *Human Rights Code*, *Pay Equity Act*, and *Employment Standards Act* establish the provincial legal framework for gender equity in the workplace. To put it another way, there is no returns or exchange policy when it comes to gender equity in the workplace. Not only is equity the law, it is the only ethical and fair option.

The *Human Rights Code* and the *Employment Standards Act* both provide protection against employment and wage discrimination. The Ontario Public Service Employees Union (OPSEU) represents workers at the LCBO, a Crown retail corporation. OPSEU is challenging systemic discrimination in an application to the Human Rights Tribunal. The union is arguing that systemic discrimination exists at the LCBO because women have been disproportionately assigned to jobs with 'casual' status which means lower pay and perpetual precarity. OPSEU's position is that this discrimination affects those who are Casual Customer Service Representatives, a job class comprised of almost 70% women.

Legal challenges such as OPSEU's case will be important in determining the scope of statutory protection against discrimination, as well as for holding employers to account under complaints-based legal mechanisms. Class action suits have been pursued on behalf of women workers with varying degrees of success. In 2014, women launched a class action suit alleging wage discrimination at Britain's second largest retailer. Such mechanisms can and have helped identify systemic gender inequities, but are expensive and lengthy routes. Where feasible, they can play a role in challenging pay inequity, but other strategies are needed, and many stakeholders must be involved.

Recommendations

Recent initiatives in the public sector and civil society that are putting pay equity back on the agenda are laudable and sorely needed. Larger conversations about feminism, anti-racism, and the need to combat all types of interpersonal and systemic discrimination are an encouraging sign that more people take inequities seriously and want to build a society rooted in fairness and solidarity. Workers of all kinds, including those in retail, benefit from such movements and initiatives.

The enduring gender wage gap requires a multi-faceted approach which addresses workplace inequities, as well as the broader social context. Discussions about child care, accessible post-secondary education, and the creation of good, green, and humane jobs all contribute to improving the quality of life and choices available to the people of Ontario.

Here we offer five retail-specific recommendations.

1. Retail employers must acknowledge the role that the retail sector plays in perpetuating the gender wage gap, and the inequities that exist within retail itself. Retailers should commit to combating inequities in their hiring, management, and promotion practices, and to improving pay.

The statistical data is crystal clear about the inequitable distribution of work, pay, and hours in retail. The pyramid pattern which sees large numbers of women represented at the bottom, and men in the highest-paying positions at the top is not unique to retail, but it is present and prevalent in retail. Yet simply elevating more women into management and higher-end positions will not fix the problem on its own because there are so few good paying positions in retail overall.

Many retail employers employ “low-road” strategies that constrain pay and hours. This is one way to run a business, but it contributes to low morale, high turnover, and unhappier workers who are not keen to provide good quality service.

There are retailers of all sizes proving that good jobs do not hurt businesses. In fact, good jobs often help, both directly and indirectly. Better quality jobs cultivate a culture of loyalty and commitment within which workers feel respected and valued, monetarily and interpersonally. When working people are paid better wages and given more hours, they have more money to spend. They spend that money in their communities, including in retail stores.

Retail employers would benefit from supporting progressive policies that reduce social inequality, and by raising the rates of pay and number of full-time positions in their own stores. Some retailers, often the women and men who run small, independent businesses, understand this dynamic. Good employers have much to teach other retailers.

Retail employers also ought to take a hard look at their human resources practices and ensure they are complying with their legal obligations. Workplaces must be spaces free from discrimination and harassment, first and foremost. The gender wage gap stems from explicit sexism. It also is the result of subtle perceptions, incorrect assumptions, and insidious patterns that privilege some while dismissing others. These patterns emerge in hiring, work distribution, scheduling, responses to complaints, and in daily behaviours. They can and should be challenged in each of these arenas. Larger retailers can employ pay equity specialists to help change policies and store-level practices.

Individually and collectively, employers ought to adopt a clear and multi-faceted action plan to tackle the gender wage gap within retail.

2. The minimum wage must be increased – and should become a living wage.

The minimum wage sets the floor of what we as a province deem to be the minimal that is acceptable. Poverty is not acceptable. Many retail workers only make the minimum wage, particularly the large ranks of women in sales associate and cashier positions. A low minimum wage directly contributes to the gender wage gap.

Recent increases to the minimum wage in Ontario are a start, but are insufficient. The minimum wage was frozen for eight years between 1995 and 2003, thus lags well below inflation. Evidence from a number of jurisdictions and research by economists makes clear that increases to the minimum wage do not harm employment and have a positive effect in narrowing the wage gap. Workers spend their pay cheques in their communities and this grows local economies. Workers are healthier and happier with fair pay.

Large retailer living wage bills have focused on the most profitable businesses in the U.S. These are an option for Ontario. However, the size of a business is no guarantee of its profitability. At the same time, all people deserve decent pay regardless of where they work, where they come from, and how much training they have obtained. In keeping with the spirit of equality, the minimum wage should become a living wage for all workers.

3. The Employment Standards Act must set higher standards.

As the primary legislation governing conditions of work in Ontario, the Employment Standards Act (ESA) needs to set higher standards. Most retail workers do not currently have union protections, so the ESA is crucial for establishing their basic rights. The ESA must be improved to reflect the realities of the contemporary workforce and economy, the growing number of precarious jobs, and the increasing importance of sectors like retail. One of the main reasons the gender wage gap persists is because of the poor conditions in sectors where many women work. A weak ESA directly contributes to the persistent gender wage gap.

The ESA is currently being reviewed, and this is the ideal time to create legislation that better protects workers. The legislation ought to include requirements for employers to offer existing part-time workers more hours before new part-time positions are added. At minimum, the ESA should eliminate pay inequities based on status (temporary, contract, part-time), guarantee five paid sick days a year to all workers, and require employers to provide workers with at least two weeks notice of their schedules.

4. Card-check certification should be reinstated in Ontario.

The numbers are clear: women’s pay increases when they are in unions. Card-check certification has been found to allow workers the best chance to assess the prospects of joining a union without interference from their employers. In jurisdictions with card-check certification, workers talk about and research unions to determine if they would like to be a member. If they decide that a union would benefit them and their coworkers, they sign a confidential union card. The totality of signed cards are submitted to the provincial labour board and if the threshold has been met (generally 50% or higher), a union can be certified. This method was used in Ontario until 1995.

Ontario’s current mandatory-vote model requires the signing of union cards and their submission to the labour board, but then there is another step. Workers must again vote for or against unionization, usually in their workplace after a one week period. Employers are told about workers’ application to form a union, and often interfere with the process. Workers have been threatened, manipulated, and otherwise negatively affected. Research on the retail sector has found that some employers behave in less than scrupulous ways, and that women in particular are targeted simply for seeking to exercise their fundamental right to unionize.

Notably, one group of workers in Ontario is afforded card-check certification – those in the construction industry. This is a male-dominated industry. The right to more safely consider union membership should be extended to workers in all sectors, particularly those with high numbers of women workers like retail. Card-check certification does not guarantee any specific outcome; it simply allows workers to more independently and securely weigh their options. Women and men should have the same rights.

5. Unions should recommit to combating inequities in their own workplaces, organizations, and in the province at large.

Many labour unions have a good track record when it comes to challenging many forms of discrimination at work, at home, and in society, including inequities based on gender. Through women’s committees within unions, lobbying campaigns, broader coalitions, and other strategies, workers’ organizations have, to differing degrees, taken a leadership role by challenging inequities and promoting fairness. There is more to do.

The growing public interest in the gender wage gap is a clear opportunity for union members and leaders to take a good look at their own priorities and practices to determine whether equity is firmly and widely promoted.

- ✓ **Does the union leadership reflect the union membership?**
- ✓ **Are commitments to pay equity and recognition of the feminization of part-time positions at the heart of collective bargaining?**
- ✓ **Are women’s perspectives and experiences being taken seriously in organizing campaigns?**
- ✓ **Are assumptions about female-dominated workplaces deterring or negatively shaping interactions with women workers in explicit or subtle ways?**
- ✓ **Are gendered and other differences being properly represented within union structures on a daily basis?**
- ✓ **Are men perpetuating or challenging the tendency to “mansplain” and to marginalize perspectives that challenge their privilege?**

The country of Sweden offers important lessons about the shared role of employers, government, and unions in improving retail jobs. Many Swedish retailers balance their desire for profits with a commitment to being fair employers. Swedish public policy affords all workers, including those in retail, paid sick days and five weeks of paid vacation. Swedish retail unions have secured living wages, over-time pay for evening and weekend work, and the right for workers to know their schedules one year in advance. The collective agreement governing the retail sector in Sweden requires that pay equity analysis be undertaken in keeping with the country’s Anti-Discrimination Act, and that any gendered inequities must be corrected.

Retail can mean decent work. Retail jobs can even be good jobs. Improving the quality of jobs in Ontario’s retail sector benefits everyone. Raising the retail floor is essential to finally closing the gender wage gap; so too is recognizing and eliminating the gender wage gap within retail. The working conditions in retail will have an even greater affect on people and our society in the years to come. The time to confront the gender wage gap is now.

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