



PSAC  
*works  
for women!*



i ♦ PSAC works for women

# PSAC works for women

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# Introduction

**PSAC** women have many reasons to be proud! Thanks to their activism and commitment, our union has been able to win important improvements in the lives of all PSAC members.

From the 1980 groundbreaking strike by women federal public service workers in the Clerical and Regulatory (CR) bargaining unit to bargaining tables across the country, PSAC members have made employers provide decent working conditions and respect workers' human rights.

PSAC has used grievances, human rights complaints and referral to the courts including the Supreme Court of Canada, in order to ensure employers are living up to their obligations to our members.

In order to win systemic change that will benefit all women – and indeed all workers – PSAC members have lobbied and mobilized in the union and in their communities to support employment equity, to defend the long-gun registry, to adopt pro-active pay equity laws and to establish a national child care system.

PSAC women, collectively and individually, have ensured that a strong commitment to women's equality and to equity for all disadvantaged groups is a union priority.

In 1994, the union adopted a detailed policy, *Women and the Alliance: From the Margins to the Mainstream*, which was a blueprint for

achieving women's equality in the workplace, in society and in the union. Over the years, PSAC women have been active in Regional Women's Committees, the national Equal Opportunities Committee, and more recently the National Human Rights Committee. Through these committees and at regional and national women's conferences, they discuss, strategize, develop action plans and adopt resolutions that have resulted in the union's steadfast commitment to defend women's rights and to support the achievement of equality.

The union's Constitution now recognizes that every PSAC member is entitled to be free from harassment both in the union and the workplace. Education programs include courses and materials to better equip PSAC women members to take active leadership roles in their union.

There have been many victories, but many challenges still remain including the current concerted attempts to undermine the legitimacy of unions and workers' rights.

Together, PSAC women will continue to find ways to not only defend their rights but to challenge inequality and ensure all women and men benefit equally from better working conditions, better work/life balance and full respect for their human rights.



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pour nos services publics

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# PSAC leads the way in bargaining

Over the years, PSAC has bargained significant improvements in the lives of working women. We have negotiated collective agreement provisions that support women's responsibilities for child-rearing and families. We have bargained strong language against discrimination and harassment in the workplace.

We have been able to roll pay equity adjustments into wages before bargaining salary increases with long term results for our members on their paychecks and pensions. We have also integrated strong language on spousal and family benefits that include lesbians and other members of the GLBT communities.



## Family-friendly leave and benefits

In the late 1970s, women made up just over three-quarters of the almost 47,000 workers in the federal government's Clerical and Regulatory (CR) bargaining unit.

The members refused to accept the settlement package proposed by the leadership after their agreement expired in November 1979, and they were angered by the number of positions designated as essential services. They began a series of spontaneous "wild cat" strikes to show both the employer and their union they were serious about their demands and ready to take action. Their strike vote in September 1980 proved this when 75 per cent of the 90 per cent of the members who voted said yes to a strike.

A full-scale national strike that began on September 29 was declared illegal by the Public Service Staff Relations Board on October 4, yet the strike continued and the striking clerks were joined by other PSAC members in a sympathy walk-out in spite of government threats of suspensions. In the eyes of many, PSAC became a "real" union that fall.



Finally, after 30 hours of intense bargaining with Treasury Board, a tentative agreement was reached that included:

- ◆ pay increases of 10%, 9% and 4%, during the 2 year contract;
- ◆ a signing bonus;
- ◆ adoption leave, paternity leave, care and nurturing leave and family-related leave.

And this was just the beginning. Over the years, PSAC has been a leader in successfully negotiating provisions to help members balance work and family responsibilities.

They include:

- ◆ enhanced maternity and parental benefits;
- ◆ maternity-related reassignment leave;
- ◆ leave for custom adoption (Aboriginal families);
- ◆ leave for medical appointments for pregnant employees;
- ◆ leave for care of immediate family;
- ◆ family-related responsibilities leave;
- ◆ personal needs leave;
- ◆ leave for the relocation of spouse;
- ◆ bereavement leave;
- ◆ education and career advancement leave;
- ◆ personal and volunteer leave days;
- ◆ improvements to sick and vacation leaves;
- ◆ leave with income averaging;
- ◆ other leave, with or without pay;
- ◆ flexible work arrangements such as telework, compressed schedules and flexible hours.

## *No discrimination – no harassment*

In 1986, PSAC negotiated a Master Agreement with Treasury Board that included a no discrimination clause, as well as a clause prohibiting sexual harassment. This was a major breakthrough because sexual harassment had not yet been recognized by the Supreme Court of Canada as a form of discrimination.

Current collective agreements between PSAC and Treasury Board include clauses on sexual harassment, no discrimination, and health and safety. Variations of these prohibitions exist in virtually all PSAC collective agreements.

Despite good language in collective agreements, harassment is still an issue in the workplace. For example, 31 per cent of all women who completed the 2011 federal Public Service Employee Survey reported having experienced harassment.

## *Same-sex benefits*

PSAC bargained a travel insurance policy that recognized same-sex spouses in 1992. This was one of the union's first victories at the bargaining table for GLBT members.

In 1998, after a groundbreaking human rights victory in court in the Akerstrom case, the union negotiated changes to the collective agreements with Treasury Board to expand the definition of common-law spouse to include same-sex couples. Since then, PSAC has bargained spousal leave for lesbians and









gay men, as well as other benefits that were traditionally afforded only to heterosexual couples and families.

Recently, PSAC has been bargaining cutting-edge language for trans women and men who need to be accommodated in their gender transition while at work.

More information about these and other gains is available in the booklet *PSAC works for GLBT rights*.

## Workplace child care

In the 1980s, PSAC pushed Treasury Board to provide space for workplace child care centres in the federal public service. In 1986, the House of Commons Special Committee on Child Care recommended that the government “consider the establishment of a significant number of new child care centres in appropriate federal buildings over the next few years”.

It took time for the government to agree, but after pressure by the union, Treasury Board signed a letter of agreement in 1989

that lead to the adoption of the official Workplace Daycare Policy two years later.

The Policy provided for the creation of 10 new workplace centres within five years. It provided a start-up budget for a non-profit child care centre and a full rent subsidy if 70 percent of a centre’s spaces were taken by children of parents working in the federal public service. By the mid-1990s, there were a dozen such centres.

Since then, PSAC has attempted to negotiate workplace child care provisions and to improve the existing Policy. However, budget cuts and a lack of commitment by successive governments have so far prevented further expansion even though evaluations have shown the centres are offering quality services and contribute to the recruitment and retention of employees.

PSAC and our members are now in the process of fighting back against government efforts to replace the Workplace Day Care Policy and to undermine the existing centres.



## *Protective reassignment*

Starting with the 1998 negotiations with Treasury Board, PSAC began gaining maternity-related reassignment leave provisions in its collective agreements. When a job represents a threat to a woman's pregnancy, the employer must modify a worker's job functions, or reassign her to another position from the beginning of her pregnancy to the end of the 24th week following pregnancy. If this isn't practical, the employee is entitled to leave without pay.

While this does represent a victory, paid leave for protective reassignment is the ultimate goal. During bargaining with Treasury Board in 2004, PSAC argued that

the employer has an obligation to provide a safe work environment, as established through health and safety and human rights/ no harassment jurisprudence. If employers cannot provide a safe work environment, then they should pay for the employee's period of leave.

PSAC is still fighting for this demand at the bargaining table and also trying to win progressive law reform on the issue. Delegates to PSAC's 2012 national convention recommitted the union to its ongoing campaign to achieve paid leave for protective reassignment for pregnant and nursing women.





# PSAC makes gains on the legal front

## Pay Equity

### Treasury Board

PSAC started filing complaints almost immediately after equal pay for work of equal value – also known as pay equity – became federal law in 1977 (Section 11 of the *Canadian Human Rights Act*). A few early complaints against Treasury Board were settled relatively quickly, including a complaint for the Library Science workers in 1980 and for the Food Services and Laundry Services workers within the General Services group in 1982. The largest complaints took years to resolve, however, in some cases spanning decades.

In 1984, PSAC filed a pay equity complaint against Treasury Board with the Canadian Human Rights Commission on behalf of the Clerical and Regulatory (CR) group. A subsequent joint PSAC/Treasury Board pay equity study conducted over a four-year period confirmed there was pay discrimination.

When Treasury Board failed to implement the joint study results, the union filed another complaint with the Human Rights Commission, on behalf of the CR group and PSAC members in five other female-dominated groups. The Commission appointed a tribunal to hear the case in 1990. Six years later, the Tribunal ruled that the joint study data was valid and could be

used to analyse the complaint. During that time, members sent mock invoices to the government for the money they were owed, filed grievances and staged protests and events across the country.

In June 1998, the Human Rights Tribunal ruled that Treasury Board had discriminated against PSAC members and ordered that pay equity adjustments be paid out retroactive to March 8, 1985 – the date of the original joint pay equity study announcement. It also ordered that pay equity adjustments be integrated into wage rates as of July 1998. After so many years, PSAC members told the federal government: “Don’t delay – just pay!”

The government chose to fight the Tribunal’s decision and appealed it to the Federal Court. It took 10 days to hear the case in June 1999. In his October 9 decision, Justice Evans fully upheld the Tribunal’s decision.

Twenty days later, PSAC and Treasury Board had negotiated and signed an agreement to implement the Tribunal decision. In 2000, more than 15 years after the initial complaint, some \$3.2 billion in salaries and interest was paid out to over 230,000 current and former PSAC members – the largest pay equity case in Canadian history.



## Government of the Northwest Territories

PSAC achieved a \$50 million settlement with the Government of the Northwest Territories as a result of a complaint filed in 1989 that covered employees in female-dominated occupational groups in various departments, boards and agencies.

Like other pay equity complaints, it had its share of delays and legal battles. After a joint study was completed in 1991, various attempts over the next two years to negotiate a settlement and negotiate a new job evaluation plan proved unsuccessful.

The following five years were spent in legal wrangles, which delayed a Canadian Human Rights Tribunal from starting its work. Hearings finally started in 1999, and by early 2002, over 100 days of hearings had been held. While the Tribunal process proceeded, the two parties, assisted by the Canadian Human Rights Commission, negotiated a settlement that was approved by the Tribunal on June 25, 2002.

## Canada Post

A pay equity case that took 30 years to reach a successful conclusion started in September 1983 when PSAC filed a complaint on behalf of the Clerical and Regulatory Group (CR) at Canada Post. The union argued that the work of benefits clerks, accounts payable clerks and frontline contact centre workers was undervalued when compared to workers in the Postal Operations Group, a male-dominated group that included letter carriers, mail handlers and mail sorters.



– Photo: Jacques Boissinot/GetStock.com

The Canadian Human Rights Commission started investigating the complaint in October 1985, but from the outset, Canada Post refused to cooperate. Three years later, the Commission had to threaten to take court action if the employer continued to refuse to provide the information necessary for its investigation. It took until March 1992 for the Commission to refer the complaint to a Human Rights Tribunal.

The Tribunal started hearings in February 1993. From then until 2003, there were 415 days of hearings with the transcripts exceeding 46,000 pages. In the meantime, Canada Post persisted in using the courts – unsuccessfully – to try to derail the Tribunal's work. Finally, on October 7, 2005, the Tribunal issued a 279-page decision upholding the complaint.

Literally within minutes of the Tribunal's decision being made public, Canada Post filed an appeal with the Federal Court. The Federal Court agreed with Canada Post and overturned the Tribunal decision. PSAC lost



when it appealed to the Federal Court of Appeal, but the union persisted and asked the Supreme Court to hear the case.

The Supreme Court agreed and the union's appeal was heard on November 17, 2011. In a rare move, Chief Justice Beverly McLaughlin issued the Court's unanimous decision directly from the bench that same day. The Supreme Court restored the original decision of the Human Rights Tribunal.

Despite this resounding victory, Canada Post continued to delay and it took until August 2013 for the Tribunal's decision to be implemented and for PSAC members or, in too many cases, their estates, to start being paid the money they were owed.

## *Sexual Harassment*

In a ground breaking 1987 decision, the Supreme Court of Canada acknowledged that sexual harassment is one of the many forms that discrimination against women can take, and that it is prohibited under the *Canadian Human Rights Act*. It was the courageous action of PSAC member Bonnie Robichaud that led to the Court's ruling.

In 1980, Robichaud filed a complaint with the Canadian Human Rights Commission alleging that she had been sexually harassed, discriminated against and intimidated in the Department of National Defence by the actions of her supervisor, who had sexually harassed her. This was a bold argument, since sexual harassment was not officially recognized in the Canadian Human Rights Act and often dismissed as a "normal" interaction between men and women.

The Human Rights Tribunal dismissed the complaint, but Robichaud persisted and appealed. A Review Tribunal found that she had been sexually harassed and also ruled that the Department of National Defence was liable for the actions of its supervisory personnel.

The case eventually ended up in the Supreme Court. The Court focused its attention on whether or not an employer is responsible under the Canadian Human Rights Act for the unauthorized discriminatory acts of its employees in the course of their employment.

As well as recognizing sexual harassment as a form of discrimination, the Court ruled that since the Act's purpose was to redress socially undesirable conditions such as discrimination against women, employers are responsible for maintaining a harassment-free work environment. The Court wrote: *"only an employer can remedy undesirable effects and only an employer can provide the most important remedy--a healthy work environment."*

## *Racism in the workplace*

PSAC member Mary Pitawanakwat worked as a social development officer for the Secretary of State in Regina until 1986. She had always received favorable performance reviews until she lodged a complaint for racial harassment against her supervisor. She was fired by the department two years later, after her complaint was rejected by the Public Service Commission.



Pitawanakwat had also filed a complaint with the Canadian Human Rights Commission. It was initially refused, but a successful appeal forced the Commission to proceed with her complaint.

Stalling tactics by federal government lawyers delayed a Human Rights Tribunal decision until 1992. While her complaint was allowed in part, the Tribunal blamed Pitawanakwat for the way she had coped with the discrimination she constantly faced in the workplace. Having lost six years' pay, she was awarded the equivalent of two years' salary. The Tribunal also ordered that she find work in another province, claiming there was "far too much bitterness" in her former workplace.

The unfairness of the decision shocked many activists and a defense committee assembled to support Pitawanakwat. The case also sparked outrage across the country and galvanized the women's movement. She received support from the National Action Committee on the Status of Women, the Native Women's Association of Canada and LEAF, the Women's Legal Education and Action Fund.

Defending Pitawanakwat, PSAC took the case to the Federal Court, arguing that the Human Rights Tribunal had failed to go far enough to resolve the complaint adequately. The Federal Court agreed with union's position and, in April 1994, ordered that she be reinstated in her former position of Social Development Officer together with an award for lost wages and benefits, as well as for hurt feelings. In a subsequent agreement with the employer, she received a \$200,000 settlement.



Pitawanakwat believed that "our victory is a very significant step in obtaining justice for Aboriginal people, particularly in the area of workplace discrimination". Sadly, this courageous woman, who was described as an inspiration to others to seek justice and equality for all, died not long after her victory, in 1995.

## *Childcare and the duty of employers to accommodate*

Finding child care can be difficult at the best of times. For PSAC member Fiona Johnstone, it was a nightmare.

Johnstone worked an unpredictable and frequently variable shift for the Canada Border Services Agency at Pearson International Airport. Her husband also worked for CBSA on rotating shifts. With her shift changing day to day, it was almost impossible for her to make childcare arrangements in spite of her extensive







– Photo: Blair Gable Photography

efforts to do so. Her family members were ready to help, but even they needed a fixed routine.

When she asked for a fixed shift – day, evening or night – her employer refused to accommodate her. Her only alternative was to be reduced to part-time work.

In 2004, Johnstone filed a human rights complaint against CBSA, alleging discrimination on the basis of family status because her employer failed to accommodate her family obligations. In 2010, a Canadian Human Rights Tribunal agreed that CBSA's policy requiring employees with childcare obligations to become part-time employees and lose their full-time status and pension entitlements just to be able to meet their child care needs was discriminatory. Accommodating her would not create 'undue hardship'.

*"This Tribunal finds that the freedom to choose to become a parent is so vital that it should not be constrained by the*

*fear of discriminatory consequences. As a society, Canada should recognize this fundamental freedom and support that choice wherever possible."*

The Tribunal ordered CBSA to stop its discriminatory practices against employees who need accommodation for childcare responsibilities and to establish a written policy to address these kinds of requests including a process for assessing individual situations. It also ordered CBSA to pay Johnstone for lost wages and benefits, including the overtime she would have received and the pension contributions that would have been made had she been able to work full time. Johnstone also received \$15,000 for pain and suffering and \$20,000 for CBSA's willful and reckless misconduct.

After two unsuccessful appeal attempts, the federal government finally decided in May 2014 to stop trying to have the Tribunal's decision overturned.





# PSAC works for laws and policies that promote equality

## Employment Equity

Employment equity has been an ongoing priority for PSAC women. In the 1980s, as part of the National Employment Equity Network (a coalition of equality-seeking groups), PSAC called for new laws to address the under-representation of women and other equity groups in the federal public service.

Together with the Canadian Labour Congress and other unions, PSAC took an active role in the consultations of the Abella Commission. The recommendations in Justice Abella's report led to the federal *Employment Equity Act* (EEA) in 1986.

This law imposes mandatory review of an employers' labour force and provides for measures to ensure a better representation of four equity groups – women, visible minorities, people with a disability and Aboriginal persons. Because the law did not apply at first to the federal public service, PSAC played a critical role in having the law changed during a subsequent review of the Act to include the largest employer in the country.

PSAC's work on this important issue continues through its participation on the National Joint Council (NJC) Employment Equity Committee. The union was successful

in ensuring that the NJC Travel Directive recognized traditional Aboriginal custom adoption practices. It has also taken on the issue of accessible parking for PSAC members with a disability.

The union continues to monitor the application of the *Employment Equity Act* and regularly provides information and recommendations to Parliamentary Committees.





## Pro-active pay equity law

Despite the fact that it has been over three decades since the *Canadian Human Rights Act* was adopted in 1977, women working full time still earn an average of 70 per cent of wages men earn. The situation is even worse for women of colour, Aboriginal women and women with a disability.

PSAC's experience of pursuing pay equity complaints for more than 35 years shows just how difficult it is to bridge the wage gap using a complaint-based process.

In 2001, a federal Pay Equity Task Force was set up to look into the problem. PSAC played an active role with the Task Force, which

spent several years commissioning research and consulting extensively. Their 2004 report, *Pay Equity: A Fundamental Human Right*, recommended the adoption of a new, stand-alone pay equity law requiring employers to proactively examine their compensation practices and to develop pay equity plans in collaboration with unions.

The Task Force's recommendations received the full support of the labour movement, women's groups and human rights organizations, but they have yet to be implemented. Nevertheless, PSAC is committed to keeping up the fight for a federal pay equity law that works.

A 2010 federal budget bill that included the *Public Service Equitable Compensation Act* removed the right of federal public service workers and their unions to file pay equity complaints with the Canadian Human Rights Commission. PSAC is in the process of taking the government to court to challenge this unjust law.

In the meantime, the union continues to pursue unresolved complaints and has been successful in reaching settlements that include salary adjustments and retroactive payments for current and former members working at the Office of the Auditor General (OAG), the Communications Security Establishment, the Canadian Institutes of Health Research (CIHR) formerly Medical Research Council (MRC), the Office of the Superintendent of Financial Institutions (OSFI), the Social Sciences and Humanities Research Council (SSHRC), and the Canadian Security Intelligence Service (CSIS).



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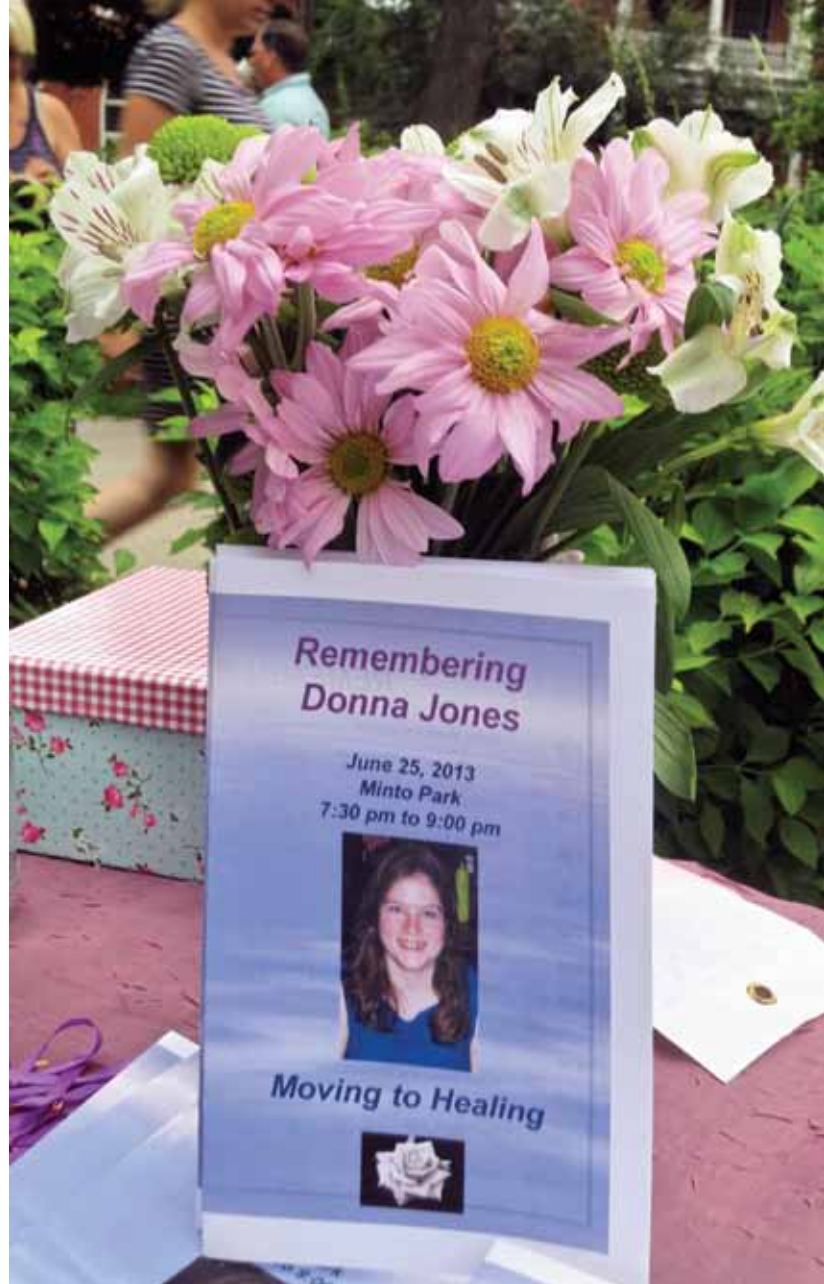
## Violence against women

PSAC members were shaken and outraged by the massacre at the École Polytechnique on December 6, 1989 and they promised to work to end violence against women. Over the years, members have organized vigils on the *National Day of Remembrance and Action on Violence against Women* and participated in *Take Back the Night* marches.

In 1996, PSAC women supported the *Bread and Roses March*, and, in 2000, were actively involved in the organization of the World March of Women against *Poverty and Violence against Women*.

The union worked hard to save the long-gun registry from abolition by the federal Conservative government. PSAC made its case to the House of Commons Standing Committee on Public Security in May 2010, against Bill C-391. Later that year, PSAC members who had first-hand experience with the registry met Members of Parliament to brief them on the benefits of the registry and its role in combating violence. The registry was eventually shut down and Canada lost an important tool for keeping women safe from violence.

On December 6, 2012 the PSAC joined a coalition that included, among others, national unions, Amnesty International Canada, the YWCA and the Canadian Association of Elizabeth Fry Societies, calling for a national action plan on violence against women and an inquiry into the tragedy of the hundreds of missing and murdered Aboriginal women.





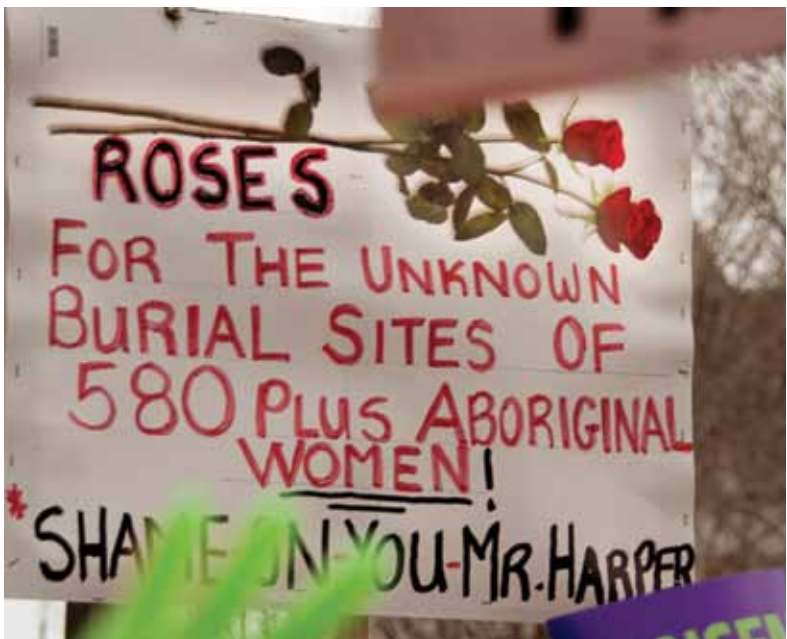
PSAC representatives were also very active in the international union delegation to the UN Commission of the Status of Women that was meeting on violence against women in March 2013. Working together, union women from around the world obtained strong language on violence in the workplace that prohibits sexual harassment, recognizes the importance of unions and acknowledges that the effects of domestic violence have an impact on the workplace.

## *Work with Aboriginal women*

At the 2010 PSAC National Women's Conference, delegates adopted a resolution calling for a lobby of the federal government to ensure effective responses from the police, the courts, victim services, the media and other service providers when Aboriginal women and girls go missing or are found murdered.

The issue of violence against Aboriginal women is an important one for PSAC women. They have been supporting and participating in the Sisters in Spirit vigils that are held across the country each year on October 4.

Working in coalition with the Native Women's Association of Canada and the Feminist Alliance for International Action, PSAC and the Canadian Labour Congress and other unions have been pushing the federal government for an inquiry into the tragedy of the missing and murdered Aboriginal



women. In February 2012, PSAC joined a number of organizations in a collective letter to the United Nations Committee on the Elimination of Discrimination against Women, urging them to inquire into this situation.

On International Women's Day 2013, PSAC members sent postcards to the Prime Minister, urging him to support the Native Women's Association of Canada (NWAC) by establishing a national inquiry into the missing and murdered Aboriginal women.

The union has also been actively supporting work of NWAC and the Feminist Alliance for International Action to bring international attention to issues affecting Aboriginal women.

## Reproductive justice

PSAC has been a strong ally in the defense of women's reproductive justice and an active partner in coalitions against the re-criminalization of abortion.

Since 2008, PSAC has worked with the Canadian Labour Congress, the Abortion Rights Coalition of Canada and other unions and organizations to respond to proposed laws that are thinly-disguised attempts to re-criminalize abortion or to restrict women's control over their own bodies.

While there has been no official move to date to re-open the abortion debate, Members of Parliament continue to introduce private Member's bills that would have an impact on women's reproductive rights.







## Quality affordable child care

Access to child care is an important factor for most families' economic well-being, in addition to being essential in promoting women's equality. Child care is an issue that concerns all women, from all communities, regions and nations. Quality child care is increasingly recognized as being good for children, yet, outside of Quebec, it is still often difficult to find and often unaffordable.

At PSAC's conventions, delegates have mandated the union to mobilize and lobby in favour of a quality, not-for-profit pan-Canadian child care system. For over 20 years, the PSAC has worked with child care advocates, women's groups and other unions to push the federal government to provide funding to help the provinces and territories develop a comprehensive public childcare system.

In 2006, the federal government abolished the funding agreements with the provinces and territories that had been put in place just a year earlier.

Those agreements were replaced with a \$100 a month payment to parents for every child under age 6.

Following this action, PSAC met with members over a two-year period who made it clear this amount does not come even close to covering the real costs of child care. It is also of no help in expanding the number of child care facilities.

In the last three years, PSAC members have strategized and built significant organizational capacity on child care issues. The 2010 National Women's Conference adopted an extensive action plan with child care a central issue.

After the 2012 PSAC convention unanimously called for the union to take action and a campaign to promote a national child care system, the union became an active partner in "Rethink Child Care". The Canadian Labour Congress and unions in both the private and public sector, representing three million workers, are involved in this multi-year campaign. Joined by the Child Care Advocacy Association of Canada and others, the campaign is using kitchen-table conversations, personal testimony and videos, among other tools, to promote public understanding of the need for child care and its social and economic benefits in order to influence current and future governments.





## *Women need unions and unions need women*

Unions can make a big difference in women's lives. Unions support women to gain equal pay for work of equal value and paid time off to look after their needs and the needs of their families. They help women make their workplaces safe and free of harassment or discrimination. They offer opportunities for women to develop their skills and leadership abilities.

They work with women to push for changes in laws and challenge injustice in the courts. Ultimately all women workers benefit.

**PSAC is proud to be a union that is committed to making that difference.**





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