

# **Litigating Pay and Employment Equity: Strategic Uses and Limits**

By Mary Cornish and Fay Faraday

Presenter: Mary Cornish

## **Abstract**

This paper will address the strategic and legal issues involved in challenging workplace gender discrimination through litigation. Drawing upon the experience of Canadian unions and civil society before both courts and administrative tribunals, the paper will consider the benefits and limits of using litigation to advance the equality rights of women, including women who are multiply disadvantaged as a result of issues such as race and disability. Canadian cases that have strategically applied the *Canadian Charter of Rights and Freedoms*, collective agreement provisions, and existing pay, employment equity and human rights laws will be surveyed. The paper will reveal how litigation has won important new workplace rights, enforced existing rights and prevented governments from repealing equality rights or otherwise acting in a discriminatory manner. This paper will also review the drawbacks faced by litigants, such as high costs and lengthy adjudication delays, and stress the importance of approaching litigation as one of many tools for advancing the equality rights of women.