

The Regulation of Paid Care Workers' Wages and Conditions in the Non-Profit Sector: A Toronto Case Study

La régulation des salaires et autres conditions de travail des salariés fournissant des soins dans le secteur sans but lucratif : une étude de cas à Toronto

La regulación de salarios y condiciones de los cuidadores personales asalariados en las organizaciones sin fines lucrativos: Un estudio de caso en Toronto

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Résumé de l'article

Cet article vise à améliorer la compréhension du contexte général de régulation dans lequel la rémunération pour le travail des fournisseurs de soins professionnels est négociée et déterminée. Il s'appuie pour cela sur une étude de cas du secteur à but non lucratif de Toronto et va au-delà d'un examen portant exclusivement sur le mode de régulation formelle de la relation d'emploi, pour inclure d'autres mécanismes qui s'avèrent tout aussi cruciaux. Il cherche à cartographier les espaces communs entre ces différentes formes de régulation et à identifier les effets qu'ils produisent en pratique.

L'article identifie quatre forces principales qui influent sur la base et l'ampleur des salaires et des avantages non salariaux du personnel de soins professionnels. Premièrement, la régulation des relations industrielles joue un rôle important non seulement à travers la traditionnelle démarcation entre agences syndiquées et agences non syndiquées, mais aussi entre les agences selon leur taille et entre les salariés selon leur statut d'emploi (à temps complet ou à temps partiel, permanents ou occasionnels). Deuxièmement, le financement des services sociaux limite directement la rémunération de ces salariés et contribue à freiner l'impact de la syndicalisation. Troisièmement, la force régulatrice de la sous-évaluation du travail des soignants, du fait qu'il est très majoritairement féminin, se reflète dans et s'entrelace avec les changements dans la protection offerte aux salariés via la réglementation du travail. Enfin, l'architecture sexuée du travail rémunéré dans ce secteur, incluant la taille des agences et selon que le travail est accompli à la maison ou en institution, contribue à produire des résultats différents pour différents groupes effectuant le même travail.

L'interaction entre ces forces régulatrices a un effet certain sur les salaires et les avantages non salariaux des salariés des services sociaux que ce soit au niveau du marché, de l'industrie ou du lieu de travail. Bien que le secteur sans but lucratif de Toronto constitue un contexte spécifique pour l'observation de ce phénomène, ces forces régulatrices, particulièrement l'effet normatif du sexe, sont aussi présentes dans d'autres environnements, qu'ils soient nationaux ou provinciaux. Il en est ainsi, en partie du moins, parce que le marché pour le financement des services communautaires dans d'autres pays développés repose sur les mêmes caractéristiques du nouveau management public que l'on retrouve au Canada.

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The Regulation of Paid Care Workers' Wages and Conditions in the Non-Profit Sector: A Toronto Case Study

Sara Charlesworth

The paper explores the distinctive regulatory space in which care workers' wages and conditions are determined. It draws on a case study of the non-profit sector of Toronto illustrated by the experience of four social services agencies located there. In doing so it examines the intersection between industrial regulation and practice, and other regulatory constraints or mechanisms identified by Lessig (1988). In community services these mechanisms include funding models, the gendered social norms that presume and underpin the valuation of paid care work and the organization of care work in diverse care settings. It is the mix of these regulatory forces and the specific contexts within which they interact that effect particular wage and non-wage outcomes for care work.

KEYWORDS: paid care work, funding models, gender, regulation, wages and non-wage benefits

Introduction

This paper aims to contribute to understandings of the broader regulatory context in which remuneration for care work is negotiated and determined by drawing on a case study of the non-profit (NP) social services sector in Toronto. In doing so it moves beyond the formal legal regulation of the employment relationship to include other crucial forces identified by Lessig (1998) including: markets; social norms; and architecture or the spatial and built environment. The direct and indirect ways these factors interact affect particular outcomes in particular contexts (Lessig, 1998: 666). This institutionalist approach underpins much of the new regulation scholarship recognizing that "social processes are influenced by a wide range of regulatory influences" (Frazer, 2006: 224). The paper focuses on the remuneration of workers who provide paid care in NP community services agencies in Toronto. It draws both on the literature and the experience of four different agencies to map the

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intersections between different forms of regulation and to identify the effects they produce in practice (Arup, 2006: 719). In this sense the NP sector in Toronto provides a specific formative context in which these intersections and interactions shape the remuneration of paid care workers.

The NP sector in Toronto, of course, sits within both a global and national context. Baines points to three forces that have provided the backdrop to the restructured social services sector since the 1970s. These include deinstitutionalization, the discourse of client and human rights and the market-oriented restructuring of the welfare state (2006). The Canadian experience of neoliberal restructuring, particularly in the NP sector, is broadly representative of the experience in other developed economies with the spread of privatization, decentralization and individualized responses to public needs common to all (Evans, Richmond and Shields, 2005). The New Public Management (NPM) philosophy that is reflected in these trends is associated with demands for efficiency, accountability and lean production and in the social services has been directed at reducing service costs by shifting service delivery from the public to the for-profit (FP) and NP sectors (Baines, 2004a). The neoliberal model of market-based regulation has introduced competitive practices or quasi markets, moving many NP organizations away from their community-orientated focus and towards a business model, with “negative consequences for non-profit mission, culture and labour-management practices” (Evans, Richmond and Shields, 2005: 73). In Canada the provincial context of regulation is crucial. This is reflected not only in the legal regulation of work in community services but also in the government funding of this work (Meinhard and Foster, 1998). For example, in response to the government deficit in 1995/96 the Ontario government decreased social assistance by 22%, cut transfer payments to municipalities and reduced payments to social services agencies by 7.5% (Clutterbuck and Howarth, 2007: 37).

The next two sections describe the fieldwork on which the paper draws and provide an overview of the main employment conditions of workers in Toronto NP community services agencies, illustrated by the experience of four social services agencies. The following section then turns to an analysis of four regulatory mechanisms that contribute to different outcomes for workers in the sector including: industrial regulation; funding markets for community services; the structuring effect of social norms that position paid care work as women’s work; and the gendered architecture of care work that underpins the organization of that work.

The Toronto Case Study

This paper draws on data gathered in Toronto in April 2009 as part of a study exploring the main features and consequences for employees of the practical operation of industrial relations in the Australian and Canadian community services sector. In-depth interviews were undertaken with 22 people to gain a range of perspectives on the challenges facing the sector in Toronto and the broader provincial and national contexts in which they operate. In particular, the focus in the interviews was on the ways in which these challenges have shaped agency employment practices and

employee conditions. To better understand the practical impact on wages and non-wage benefits, interviews were undertaken with the executive directors of three large and one smaller NP agencies (including in one case also with relevant managers and in another case a brief discussion with one of the agency workers). Two of these agencies, Neighbourhood Agency A and Neighbourhood Agency B, provide a range of services to people at several locations within particular neighbourhoods including day programmes, home care, employment and settlement services and other services for vulnerable groups. Neighbourhood Agency A employs around 100 workers of whom a large proportion work on a part-time basis. Neighbourhood Agency B employs over 200 workers of whom more than half work part-time. Family Agency provides a range of ethno-specific services across broader Toronto to families and children across a range of worksites, and employs more than 100 workers of whom approximately a quarter work part-time. Emergency Agency provides trauma counselling and support across Toronto. It has only one location and employs 18 full-time social workers, also using a pool of 30 paid relief social workers. Typical of the sector as a whole, the vast majority of employees in the four agencies were female.

Interviews were also undertaken with representatives from the two main unions in the sector, the municipal labour council and the local social planning and research council. No attempt was made to interview frontline workers, although the interviews and analysis were informed by insights from research conducted by Baines (2006), Aronson, Denton and Zeytinoglu (2004) and CSPCT (2006). Interviews were also undertaken with senior staff from the Ontario Labour Relations Board, the Pay Equity Commission, two relevant Ontario government departments, two freelance researcher/advocates, and five Canadian academics with active research projects in the sector. Detailed written notes were taken during the interviews, dictated shortly afterwards and transcribed. These interview records were later coded around the main factors and contexts identified by informants. The study also involved the collection and review of agency documents, collective agreements and other relevant reports as well as Statistics Canada data.

Employees, Wages and Employment Conditions in Toronto NP Community Services

In 2008 there were 53,610 employees in what is called the “social assistance subsector” in Toronto (City of Toronto, 2008),¹ an increase of more than 11% over the last decade. The overwhelming majority of employees are female (83%) and in some areas of Ontario up to a third of agencies have employees who identify as people of colour (Clutterbuck and Howarth, 2007: 19). City of Toronto data for 2006 indicate almost half of employees in the sector work in small establishments of less than 20 employees and that 27% of employees in the social assistance sector are unionized. Part-time employment makes up 24% of all employment in the sector and is unequally distributed between men and women – 25% of female employees work part-time compared with 17% of male employees. In agencies in Toronto 24% of employees were employed on a temporary basis (City of Toronto, 2008). The incidence of both

temporary and part-time work is higher in smaller agencies and among employees in frontline or administrative positions (Clutterbuck and Howarth, 2007: 48, 50).

Data on wage rates collected at the four agencies where the executive director (ED) was interviewed suggest there is considerable variation between agencies in the sector and between full-time and part-time employees *within* the same agency (see Table 1). The three unionized agencies, Neighbourhood Agencies A and B and Family Agency, pay significantly higher wages for social work or equivalent qualified employees than does the non-unionized Emergency Agency. Between the three unionized agencies there are also differences. Under the terms of its collective agreement, Family Agency not only pays higher rates for social work qualified employees and to others in less qualified frontline positions but also pays on the basis of incremental salary scales that are adjusted annually until the highest increment is reached. While part-time employees in Neighbourhood Agencies A and B have different job designations to full-time employees, on an annualized basis they earn far less than those in comparable full-time positions in these agencies and well under the 2008 median hourly wage in the Toronto social assistance sector of \$17.90 (City of Toronto, 2008). Relief social workers at Emergency Agency are paid a flat \$15 per hour, far less than the hourly wage paid to full-time social workers. Only Family Agency pays its part-time employees prorated wages.

TABLE 1
Wage Rates in Four Social Services Agencies

Agency	Positions	FT Wage Rates per annum	Designation of PT status	Designated PT positions	Wage Rates (PT) per hour
Neighbourhood Agency A ¹	<ul style="list-style-type: none"> Home support worker/Personal support worker Employment counsellor 	<ul style="list-style-type: none"> \$34,572 \$42,740 	Those employed for less than 17.5 hours per week	<ul style="list-style-type: none"> Home care worker 	Not specified in CA
Neighbourhood Agency B ²	<ul style="list-style-type: none"> Program assistant Women abuse program worker 	<ul style="list-style-type: none"> \$31,077 \$43,860 	Those employed for less than 24 hours per week. Although home support workers can be asked to work up to 40 hours per week	<ul style="list-style-type: none"> Program support worker Home help worker Home support workers 	<ul style="list-style-type: none"> \$12.13 \$13.53 \$15.27
Family Agency ³	<ul style="list-style-type: none"> Child and youth worker (min 3 months experience/training) Social worker (BSW) 	<ul style="list-style-type: none"> \$43,295 - \$58,813 \$47,575 - \$63,834 	Those working less than 35 hours		Pro rata
Emergency Agency ⁴	<ul style="list-style-type: none"> Social worker (qualified) 	<ul style="list-style-type: none"> \$36,500 		<ul style="list-style-type: none"> Relief social worker 	<ul style="list-style-type: none"> \$15.00

Notes: ¹ Rates as of January 2008; ² Rates as of April 2009; ³ Rates as of April 2008; ⁴ Rates as of April 2009.

A recent study highlights differences in access to basic conditions such as vacation pay and sick pay for part-time workers in unionized workplaces (CSPCT, 2006: 8), a difference that is reflected in the collective agreements in the three unionized agencies interviewed. Neighbourhood Agency A's collective agreement excludes part-time employees from paid vacation leave, but according to the ED, they are paid 4% of their salary in lieu of this leave. In the collective agreement they are expressly excluded from sick leave as well as various other forms of leave such as bereavement, pregnancy and parental leave. At Neighbourhood Agency B, employees designated as part-time receive up to 5% pay in lieu of vacation leave. At Family Agency, all part-time employees are entitled to vacation and sick leave on a prorated basis. At Emergency Agency relief social work staff are not entitled to any separate sick or vacation pay or payment in lieu of these benefits.

While it is difficult to obtain data on access to non-wage benefits in community services agencies in Toronto, a review of collective agreements indicates such access is highly variable (CSPCT, 2006: 28-29). It is clear that access to such benefits *within* agencies is more limited for part-time and temporary employees, employees in smaller agencies and employees in non-unionized workplaces (McMullen and Schellenberg, 2003: 37). Certain groups of workers, such as home care workers, are also much less likely to get other conditions such as paid sick leave, annual leave or employer provided

TABLE 2
Non-Wage Benefits in Four Social Services Agencies

Agency	Benefits for FT employees	Benefits for PT employees
Neighbourhood Agency A	<ul style="list-style-type: none"> • 100% extended health care plan premiums • Life insurance • Vision care plan • Dental care plan • Employer contribution of 3-4% to RRSP 	<ul style="list-style-type: none"> • PT employees paid 5% in lieu of non-wage benefits
Neighbourhood Agency B	<ul style="list-style-type: none"> • 100% extended health care plan premiums • Life insurance • Dental care plan • Employer contribution of 6-8% to RRSP 	<ul style="list-style-type: none"> • PT employees paid 6-8% in lieu of non-wage benefits • Home support workers no non-wage benefits or payment in lieu • After 1 year's service PT and home support workers eligible for employer contribution of 2% to RRSP
Family Agency	<ul style="list-style-type: none"> • 100% pension plan and life insurance premiums • 100% extended care premiums • 100% long term disability premiums • Dental plan • Vision care plan 	<ul style="list-style-type: none"> • Same benefits pro-rata
Emergency Agency	<ul style="list-style-type: none"> • Extras health benefit plan includes some: <ul style="list-style-type: none"> - medical and dental cover - eye care cover - prescription cover 	<ul style="list-style-type: none"> • No PT employees • Relief employees receive no non-wage benefits or payment in lieu

benefits (HCSSC, 2003a). Even in collective agreements there is a wide variation among unionized agencies in the non-wage benefits provided (CSPCT, 2006).

These differences were reflected in the collective agreements in the three unionized agencies as highlighted in Table 2. While there is some variation, full-time employees in the unionized agencies have access to a similar range of benefits, while in the non-unionized Emergency Agency full-time employees have a smaller range of benefits and at a lower level with no employer contribution to any retirement savings plan (RRSP). Once again what is striking is the exclusion of part-time employees in Neighbourhood Agencies A and B from most non-wage benefits. Although most part-time employees at both agencies receive some payment in lieu of these benefits, home support workers at Neighbourhood Agency B are specifically excluded from any benefits other than a 2% employer RRSP contribution after one year's service. In contrast at Family Agency part-time employees receive these benefits on a prorata basis.

The Impact of Different Regulatory Forces

So what underpins the extent of this variation in care workers pay and conditions, not only between unionized and non-unionized agencies but also between unionized agencies providing a similar range of services? The next part of the paper turns to the regulatory space in which the NP community service sector in Toronto operates, identifying four main regulatory forces that contribute to different outcomes for workers in the sector.

Industrial Regulation

In Canada, provinces hold the primary authority to regulate industrial relations (Thompson and Taras, 2004). As Lessig points out, legal regulation like all forms of regulation has both a direct and indirect aspect (1998: 666). For example both the *Employment Standards Act 2000* (ESA) and collective agreements negotiated between unions and agencies directly regulate the wages and conditions by setting down not only care workers' wages and conditions, but to whom they are paid and on what basis. Less directly the implementation of other industrial regulation such as that governing the processes of unionization and collective bargaining also shapes which agencies are likely to be unionized and which employees are likely to be covered or excluded under collective agreements.

The Canadian industrial model is one where collective representation is tied to a single employer at a single workplace (Thompson and Taras, 2004). Collective bargaining laws require that employees take the initiative to bring collective bargaining into their workplaces and also that the majority of employees in a designated bargaining unit support a particular union (Fudge and Vosko, 2001: 342).

While workers employed in unionized and non-unionized workplaces may carry out similar work under similar conditions, their wages, non-wage benefits and conditions of work are very different as we see in the far higher level of remuneration paid to social work qualified employees in Family Agency in contrast to those in

Emergency Agency. However, as illustrated in Tables 1 and 2 above there are also differences *between* unionized workplaces and differences between full-time and part-time workers *within* unionized workplaces in terms of wages, non-wage benefits and conditions of work. The collective bargaining regime in Canada works in effect to exclude non-standard workers and those in smaller workplaces (Fudge and Vosko, 2001: 342).

Interviews with union representatives suggest such differences within unionized workplaces may reflect the priorities of individual union locals and some antipathy of full-time members to the inclusion of part-time workers in the bargaining unit. Ambivalence about unions proactively pursuing the interests of part-time and temporary workers was also expressed by one official from one of the major sector unions, with an official from the other union clearly seeing her role to educate full-time members about the rights of their part-time coworkers. Like the other regulatory mechanisms considered here, in a low-wage feminized sector characterized by the small size of employers and increasing non-standard employment the Canadian model of trade union representation and collective bargaining regime has gendered dimensions and gendered consequences.²

Employees in non-unionized workplaces have to rely on the ESA, which sets out the minimum standards for employees in Ontario workplaces.³ That is, the terms and conditions of their employment are required to meet certain minimum standards in respect of conditions such as minimum wages, hours of work, overtime pay, paid vacation leave, termination and severance pay, and rights to unpaid family, pregnancy and parental leave.⁴ Nevertheless individual agencies may provide conditions that are over and above the ESA minima. For example, Emergency Agency provides up to 50 recovery days per year where staff have been particularly traumatized by their work. According to the ED, however, staff rarely use this provision.

There are also exemptions in the ESA in terms of notice of termination and severance pay for certain groups of workers such as home care workers who are designated as elect-to-work employees. In reality this means that they have to be available around the clock but never know how many hours of work they will have in a given week (Kushner, Baranek and Dewar, 2008: 33). Until amendments in 2009, home care workers were exempt from the public holidays provisions of the ESA, and continue to be exempt from the requirement to provide notice of termination (or termination pay in lieu of notice) and severance pay. Further, while the ESA provides for non-discrimination in employment-related benefit plans this does not provide all employees with access to such plans nor extend them to part-time employees who may be expressly excluded from these plans, illustrated by the different provisions in the Neighbourhood Agencies A and B agreements.

There are other types of industrial regulation that impact on the wages and conditions of workers in the NP sector. These include pay equity regulation, industry-specific regulation such as the *Ontario Day Nurseries Act 1990*, the mandating of particular services under provincial legislation and employment insurance regulation.⁵ Pay equity adjustments are reflected in many current collective agreements in the NP

sector and pay equity regulation was raised in several of the interviews. Ontario's pay equity regulation has evolved considerably since its first enactment in 1951 to the *Pay Equity Act* introduced in 1987, which has been amended several times since.⁶ In essence the regulation requires that jobs in individual workplaces be evaluated and work mostly or traditionally done by women be compared to work mostly or traditionally done by men and then that workplaces put a pay equity plan in place to remedy any pay inequity identified.

However because there are few if any men's jobs to enable a comparison in the social services sector to be made, in 1991 a proxy comparison mechanism was introduced, where a similar larger workplace nearby is used as a proxy comparator, provided that workplace has already undertaken a pay equity job evaluation using the job-to-job method. According to two of the Agency EDs who were interviewed, agency comparisons were made with government provided-services such as hospitals. The Ontario government provided funds to the public sector, including the social services sector, to enable employers to meet pay equity adjustments (identified up to 3% of payroll in the first year and 1% for following years until pay equity is achieved). Pay equity adjustments were designed to encourage agencies in the sector to undertake pay equity reviews mandated by the legislation and have been factored into a number of collective agreements. There has been a waxing and waning of government commitment to fund pay equity adjustments with such funding being withdrawn at various points in time over the last decade.⁷ Feedback from the three unionized agencies and other informants points to the insecurity of such funding, where agencies have had to cover the shortfall in meeting pay equity adjustments which have not been provided for or have been absorbed in government funding. A long time sector activist also argued that the government in fact contributed to the pay equity problem by limiting funding for a position to a certain amount which meant an agency could only offer the position on a part-time basis.

A stark example of the effects of unionization on wages in the Canadian NP sector is the different wages rates received by home care workers. In 2002, the lowest average hourly wage received by home care workers was in non-unionized NP workplaces (\$11.52). This was well below the highest hourly wage paid in unionized workplaces of \$13.49 per hour (HCSSC, 2003a: 25). However, it is not only unionization that impacts on wages but also as highlighted below the way different service delivery models are funded.

The Funding Market as a Regulatory Mechanism

In 2003, 68% of the revenue of the province's NP community services agencies came from government (overwhelmingly provincial government), with 21% coming from earned income (such as membership fees, non-government fees for goods and services) and only 8% from gifts and donations (Scott *et al.*, 2006: 18, 20). The composition of revenue varies from agency to agency. In 2008 while government funding comprised only 53% of Family Agency's annual revenue, it made up almost 89% of Neighbourhood Agency A's revenue. The experience of the four Agencies in this study

suggests that the greater the reliance on government funding the less flexibility there is to pay wage and non wage benefits that reflect the value of the work carried out by care workers. Because of its historical links with major philanthropic organizations and relatively lesser reliance on program-specific government funding, Family Agency is able to provide for agency-wide wage classifications that are harmonized by discipline and for prorated benefits for part-time employees. While under the terms of their enterprise agreements, both Neighbourhood Agencies A and B provide for set wage levels for specific classifications, those classifications and the use of full-time employment are limited to a large extent by the funding available for specific programs. Union and labour council informants pointed to the ways in which limited funding not only limits the level of wage increases possible in collective agreements, but also whether or not an agency can afford to be unionized. With the inadequate government funding received by Emergency Agency and relatively low philanthropic or other funding, unionization is simply not an option. According to the ED: "when you get a grant it's not based on any recognition of wages and decisions about wages follow the amount of the grant given. If you're not unionized, the funding just has to be used as it can be."

The external funding of social services is critical to the way NP organizations operate. In 2003, the largest issue of concern about external funding for agencies was the reduction in government funding (reported by 81% of agencies surveyed), closely followed by the unwillingness of the funding bodies to fund core operations (reported by 78% of agencies) (Scott *et al.*, 2006: 56). Funding is increasingly provided for shorter periods of time and is increasingly unpredictable. In 2003, 75% of available funding was project based compared with 17% for core funding and 8% for seed funding (Clutterbuck and Howarth, 2007: 39). The sources of funding together with the quantum and structure of that funding, such as where funding is project-based or dependent on a competitive tendering process, impact directly on agencies and in turn on the wages and conditions in the sector (Scott *et al.*, 2006).⁸ Most of the revenue of these agencies is spent on wages and non wage benefits. For example in 2008 more than 70% of Neighbourhood Agency A's annual revenue, both government and philanthropic, was spent on these two items.

Funding constraints impact on the NP sector in a way that shapes wage and conditions outcomes. Firstly, NP agencies may be unwilling or unable to offer employees full-time hours or permanent positions relying instead on part-time and temporary workers and volunteers. Secondly, limited revenues and financial uncertainty may place a low ceiling on the wage and benefit packages NP agencies are able to offer (McMullen and Schellenberg, 2003: 14) A number of those interviewed were of the view that that the mandating of particular services, such as Children's Aid, ensures better and more constant funding for such services which is reflected in better wage rates than in non-mandated services. However, the mandating of the service provided by Emergency Agency has not provided that service with the funding base to provide NP sector-level wage rates for its social workers as noted above.

Along with increased demands for the accountability of agencies for the funding they receive, there has been a growth in government-funded regulatory bodies. For example the central Local Health Integration Networks (LHINs), designated by the Ministry of Health and Long-Term Care to plan, integrate and fund local health services, including Community Care Access Centres (CCACs), is also funded by the Ministry which in turn coordinates the provision of in-home community-based health care services at the local level. Despite the stated focus on coordination, a regulatory link between the quality of care and the quality of paid care work is rarely made. Senior staff interviewed at one of the funding agencies stressed that government “stood outside” collective agreement negotiations. There was some sympathetic recognition of the struggle agencies faced especially during the period where there were no living wage increases included in government funding. There was also some awareness and concern as to how the employment of part-time and temporary workers might impact on skill shortages in the medium to long term. Nevertheless the view was expressed that it is up to the agencies to allocate their funding and organize the employment of paid care workers. While funding bodies may view themselves as having no role in determining wages and conditions, they do however require detailed documentation as to how any funding is expended. Neighbourhood Agency A’s ED pointed to the irony that funding bodies always wanted to know in detail how much the agency paid its staff but that “this did not lead to any increase in funding.”

While there are differences between unionized and non-unionized workplaces as highlighted above, it would appear that funding structures and models can effectively undercut the impact of unionization. Managers in both unionized and non-unionized agencies have reported that funding constraints meant that they could not improve pay equity and benefits for workers even though they wanted to do so (CSPCT, 2006: 6). Even in unionized workplaces the trend towards project, as opposed to core, funding contributes to inconsistency in salaries across the sector (CSPCT, 2006) and within agencies as illustrated in the decrease in wages and conditions for home care workers employed by Neighbourhood Agency B outlined below. Where agencies do not have sufficient core funding or are not able to cross-subsidize from one program to another, as can Family Agency B because of its large revenue from philanthropic sources, it contributes to inconsistency between salaries within agencies. Feedback from the Labour Council and union officials also indicated that low levels of funding made it very difficult to organize in the sector, not just because of management reluctance but because care workers identified strongly with their clients and did not want to jeopardize the viability of the services their agency provided.

In many ways the impact of funding models on care workers’ wages and conditions could be seen as having a gendered effect on the regulation of employment that may work to trump the effect of unionization.⁹ This can be seen clearly in the case of home care workers where in the traditional public provider model, where services are delivered mainly by publicly funded employees such as in Quebec, average hourly wage rates for home care workers were \$14.47 per hour. In contrast under the contractual model employed in Ontario – where home support services are coordinated by independent

CCACs but contracted out to FP and NP agencies – average hourly wages for home care workers were \$12.08 (HCSSC, 2003b: 164). The neoliberal programmatic efforts that have underpinned the restructuring of community services “constitute many women as flexible economic actors and members of the peripheral labour market” (Ilcan, Oliver and O’Connor, 2007: 88). The low wages and poor conditions in the NP community services sector together with the weak degree of regulatory protection afforded many care workers are directly linked to the gendered composition of the sector and the gendered work that is performed as highlighted below.

Gender as a Regulatory Mechanism

One of the regulatory mechanisms identified by Lessig is the constraint of social norms. Social norms constrain behaviour through enforcement by the community rather than the state (1998: 662). That is, they constrain by informal social disapproval rather than formal sanctions (Braithwaite, Makkai and Braithwaite, 2007: 8). An example of a powerful gendered norm in paid work employment is the “ideal worker” norm around which work is organized. An ideal worker is a worker who is able to work full-time (and often overtime) unencumbered by family or domestic responsibilities (Williams, 2000). This ideal worker norm has deep historical roots. In Canada, as in many other developed countries, it draws on a gender regime or contract that until the 1970s was centred on a male breadwinner / female caregiver model (Fudge and Vosko, 2001: 332). It was assumed that under this contract women would be responsible for social reproduction and would have access to subsistence through the male wage (Ilcan, Oliver and O’Connor, 2007: 78). While the male breadwinner / female caregiver model no longer reflects the increased participation of women in paid employment, it remains a powerful “imaginary” underpinning the devaluation of much of the paid work women undertake, particularly care work.

Gender is a key structuring regulatory force in the delivery of social services and in the wages and conditions of care workers. Social norms such as caring work as women’s work exert regulatory force through social meaning, “constituting understandings that set up the terms on which people understand the world” (Lessig, 1998: 683). The normative force of gender is reflected in the overwhelming presence of female employees, particularly in the frontline work of caring and in the nature of work that is carried out. Put simply, paid care work is women’s work. Such a statement “refers to what women do, what we say they do and what we think they should do” (Armstrong, Armstrong and Scott-Dixon, 2008: 88). For many of those interviewed the gendered nature of the sector’s workforce, the type of work care workers perform and the undervaluation of that work is so pervasive as to be unremarkable.

The undervaluing of paid caring work as work is reflected in and intertwined with changes in the protection offered to employees via industrial regulation. The increase in female labour force participation coincided with an erosion of the standard employment relationship and the growth of temporary and part-time work. Women continue to be the large majority of workers in non-standard or precarious work and remain disproportionately concentrated in low-paying jobs with little prospect of

career advancement (Fudge and Vosko, 2001: 347) or the protections of unions and the ESA.

Gender norms around care are extremely powerful even more so when they intersect with the market. Caring and the relationship between the care provider and the care recipient is thought to present rewards unique to paid care work, rewards that may help buffer or compensate for the stress and pressure of this work (Baines, 2006: 131). Yet while the specific characteristics of care transcend the boundaries of the market, the intrinsic motivation in care work can be turned against paid care workers, undermining their rights as workers (Folbre, 2008: 376).

The Gendered Architecture of Paid Care Work

The fourth regulatory constraint described by Lessig is architecture: a term he uses to mean "the world as I find it, understanding as I find it, much of this world is made" (1998: 663). Architecture is a useful way of thinking about the way in which care work is organized which has different gendered outcomes for different groups of workers. One of the ways in which the architecture of paid care work is revealed is in the organization of care services around seemingly distinct groups of clients. These include developmental disabilities services (Baines, 2006), immigrant and settlement services (CSPCT, 2006) and home care (Aronson and Neysmith, 2006; Aronson, Denton and Zeytinoglu, 2004). All these services display different characteristics not only in the nature of the work performed but also in the gender composition of the workforce, the gendered organization of work into full-time, part-time and temporary work and in the wages and conditions that are paid. This industrial architecture of care work then determines the inclusion and exclusion of groups of workers in the protection offered through employment standards, unionization and collective agreements.

Agency size can be seen as a form of paid care architecture that interacts with other regulatory forces such as unionization to produce different outcomes for workers. This is exemplified in the difficulties unions face in organizing smaller agencies with flow-on consequences for the remuneration of the workers in these agencies. Agency size also intersects with service viability and the greater capacity that larger agencies have to cross-subsidize services to provide for better wage outcomes for paid workers. However as set out in the next section below the positive effects of size can be trumped by the way in which specific services are contracted out.

The location where care is performed is yet another form of gendered architecture vividly illustrated in the demarcation between care delivered in institutions and in the home. Apart from home-making duties undertaken by home carers, both personal service workers and home carers perform a similar range of duties primarily relating to personal hygiene and grooming, assisting with dressing and toileting. A recent study shows this group of workers earns significantly different wages according to their employment setting and it is the setting rather than factors such as educational qualifications and difficulty of work that explains this difference (Lily, 2008). In 2005 the mean hourly wage for Toronto-based personal service workers working in the homes of elderly clients was \$12.24 compared with those working in government

or quasi government hospital settings who received a mean hourly wage of \$16.38. Compounding these wage differentials is differential access to non-wage benefits, working conditions and opportunities for advancement. This is clearly related to unionization with hospital-based personal service workers generally unionized and those working in homes non-unionized. Thus the role of place both underscores and reinforces the role of industrial regulation in maintaining wage inequality (Lily, 2008). The wage differentials also clearly relate to the different funding models and markets for the provision of institutional care and care in home settings. And underpinning and intersecting with industrial and funding-market regulatory forces that shape remuneration is the normative force of gender – with the least value assigned to work that is closest to the unpaid caring work women do in the home.

The “Mix” of Regulatory Forces

The different regulatory forces outlined in this paper have a tangible impact on wage and benefit outcomes for workers in the NP community services sector. This is not to argue that these different regulatory constraints necessarily work in a direct or a cumulative way. Indeed, regulation in the labour market can be seen as “a mix of institutions and techniques, sometimes complementing and co-operating, harmoniously, sometimes competing at cross purposes and even running on a collision course” (Arup, 2006: 719). In some contexts funding markets will trump industrial regulation while in others the gendered architecture of particular care services means that the regulatory force of gender will be more important. The following illustrations suggest that the ways these different regulatory forces interact work in context-specific ways.

One of the many services provided by Neighbourhood Agency B is a home care service to elderly residents. Home care workers, who are overwhelmingly immigrant women, had been employed under the Agency’s collective agreement, most on a full-time basis. As such they benefited from the wages and non-wage benefits provided under the terms of this agreement. The implementation of the competitive procurement process employed by the provincial government and managed by the CCACs has meant that agencies are required to tender to provide such services. Because of the limited funding available, the Agency tendered in a consortium with other agencies. It became apparent that it was not viable for Neighbourhood Agency B to tender on the basis of full-time employment of its home care workers. After discussion with the relevant union and the home care workers, the workers opted to go part-time, losing hours and pay as well as most of their former non-wage benefits in order to maintain continuity of care for Agency clients and some Agency oversight of the service. Today available hours for home care are mainly allocated on the basis of client language and distributed across the consortium of agencies. While the Agency successfully argued for workers to continue to see the same clients their hours are not guaranteed nor are their hours necessarily rostered consecutively. The Agency was able to secure travel time for its home care workers but to win this they had to trade off their entitlements to sick leave time.

Neighbourhood Agency B's experience suggests that the implementation of market regulation through the tendering out of home care services can undercut the protective effect of unionization and agency size. The home care workers remain employed by the Agency covered by the same union and doing the same work. However, the tendering out process that led to their loss of hours and benefits means they are now exposed more directly to the effects of the gendered architecture that places the least value in terms of wages on personal service work performed in clients' homes. A case study of the "local reverberations" of Ontario's managed competition in home care suggests that the price paid by home care workers employed by Neighbourhood Agency B may have been worth it, in at least maintaining employment (Aronson, Denton and Zeytinoglu, 2004; Aronson and Neysmith, 2006). That study, which tracks the outcomes of the failure of VHA, a large home care provider, to secure CCAC funding and the devastating impact on the displaced home care workers is a rich example of market ritualism that permeates government funding of care services (Braithwaite, Makkai and Braithwaite, 2007: 7).

Emergency Agency provides a mandated immediate crisis response service. It receives some provincial and city funding, as well as some funding from philanthropic foundations. The Agency also relies on significant fundraising it and third parties undertake on behalf of the agency. Unlike many other mandated services such as Children's Aid, the Agency is not unionized. In 2005 the full-time social workers who deliver agency's service were paid \$33,000 per annum and the relief social workers \$12 per hour. According to the Agency ED, the main funding grants had not increased for 20 years and the agency carried a large deficit. Faced with cuts to the service, the Agency ED and Board embarked on an advocacy campaign leading up to the 2007 provincial election. The evidently inadequate pay rates for social workers and the fact that there had been no increase in funding for 20 years was used to create a sense of urgency. The campaign led to an increase in funding and to an increase in the annual salary paid to social workers (to \$36,500). According to the Agency ED since that time there have been no further funding increases and while the service delivered has not been cut further increases in staff wages or benefits are highly unlikely. The example of Emergency Agency may be an atypical one. Nevertheless, it highlights a situation where the regulatory force of the particular funding market in which the agency is located is unmodified by industrial regulation through unionization, directly driving the decisions made about the remuneration of staff.

The apparent pre-eminence of the market regulatory mechanism in this case literally depends on the acceptance of the social workers who work in the agency that the intrinsic value in the work is worth the sacrifice in wages and conditions. One of the agency social workers said she had consciously traded the type of work where she had better wages and conditions in a Children's Aid agency for what she found to be much more valued and rewarding work in Emergency Agency. Her own circumstances meant she was "able to afford" to make this financial sacrifice. However, she reported that other former colleagues who had expressed interest in the Agency's work were not a position where they could financially manage on such low wages and poor benefits. Even in care work recognized as highly skilled, the

intrinsic motives and interests in the work can make it easier for funding bodies to decline any responsibility for inadequate wages and benefits such as those paid to Emergency Agency's social workers.

Conclusion

The regulation of the wages and conditions of paid care work could be described as “the sum total of numerous intersecting interests and value systems each modifying or attenuating the others” (Frazer, 2006: 226). While it is not possible to canvass all these interests and value systems this paper has identified four main regulatory forces that directly and indirectly regulate the quantum and basis of the wages and non-wage benefits paid to care workers. These regulatory mechanisms are industrial regulation, the sources and structure of the community services “market,” the regulatory force of gender norms and the gendered architecture of care work.

The interaction of these regulatory forces arguably plays out in the wage and non-wage outcomes in all community services work at the labour market, industry and workplace levels. That is, while the NP sector in Toronto provides a specific formative context in which this occurs, these regulatory forces, particularly the normative effect of gender, are certainly present in other provincial and national contexts. This is despite profound differences in the content of employment regulation, the coverage and role of unions, different configurations of employment and social welfare safety nets, and the ways in which funding care markets or care regimes are constructed. While the social services funding market has different features in different countries it is underpinned by the same global features of new public management present in Canada. Its regulatory force is intertwined with the normative force of gender and is as powerful in directly and indirectly structuring the wages and conditions of paid care work. Change is unlikely unless governments at all levels rethink funding and service models beyond those that depend on and assume the gendered undervaluation of paid care work.

Notes

- 1 The City of Toronto CMA 2008 Industry Profile Data provides industry breakdowns using the Statistics Canada North American Industry Classification System (NAICS). This classifies the Social Assistance Industry (code 624) as including individual and family services, community food and housing, and emergency and other relief services, vocational rehabilitation services and child day-care services (City of Toronto, 2008).
- 2 These consequences go beyond the workplace. Part-time status also limits access to other protection, as eligibility for, and the level of, certain social benefits is often tied to hours of work (Vosko and Clark, 2009).
- 3 In Ontario collective agreements must meet or exceed the standards in the ESA (Fairey, 2009: 116).
- 4 In the NP social services sector rights to unpaid family leave are limited to those who work in workplaces with over 50 employees unless otherwise stipulated in union contracts.
- 5 The gendered impact of changes to employment insurance regulation are detailed in Vosko and Clark (2009). These changes have made it harder for part-time workers to qualify for

- benefits while the hours-based formula for calculating the duration of the benefits negatively affects the level of benefits paid.
- 6 See the Ontario Equal Pay Coalition for details of this history: <<http://www.equalpaycoalition.org/ontario.php>> (accessed 20 June 2009).
 - 7 After being frozen for some time, funding for public sector pay increases was once again reinstated after a 2003 Charter challenge by a number of unions although the government once again ceased pay equity adjustments in 2006 (Cornish, 2008).
 - 8 Funding structures and models also have a direct impact on workers' conditions of work beyond wages and non-wage benefits. An analysis of these effects is well documented in a number of studies including Baines (2004a, 2004b); Aronson, Denton and Zeytinoglu (2004); Aronson and Smith (2009), Evans, Richmond and Shields (2005); CSPCT (2006); Ontario Health Coalition (2005).
 - 9 While a number of studies point to the persistence of unionization mark up effects on wage and non wage benefits (see, for a summary Blanchflower and Bryson, 2003) these effects in social services can be modified by the funding models used for the delivery of different services.

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SUMMARY

The Regulation of Paid Care Workers' Wages and Conditions in the Non-Profit Sector: A Toronto Case Study

This paper aims to contribute to understandings of the broader regulatory context in which remuneration for care work is negotiated and determined. It draws on a case study of the non-profit sector of Toronto and moves beyond an exclusive focus on the formal regulation of the employment relationship to include other crucial regulatory mechanisms in the analysis. The paper attempts to map the intersections between these different forms of regulation and to identify the effects they produce in practice.

The paper identifies four main regulatory forces that shape the quantum and basis of the wages and non-wage benefits paid to care workers. Firstly, industrial relations regulation plays an important role not only through the demarcation between unionized and non-unionized agencies, but in demarcations between smaller and larger agencies, between full-time and part-time workers and between regular and elect-to work workers. Secondly, the sources and structure of the social services funding market directly limit care worker remuneration and can work to trump the impact of unionization. Thirdly, the regulatory force of the gendered undervaluing of paid care work is reflected in and intertwined with changes in the protection offered to employees via industrial regulation. Finally, the gendered architecture of paid care work, including size of agency or whether the care work is undertaken in the home or in an institution, contributes to different outcomes for different groups of workers undertaking similar work.

The interaction of these regulatory forces plays out in the wage and non-wage outcomes in all social services work at the labour market, industry and workplace levels. While the non-profit sector in Toronto provides one specific context in which this occurs, these regulatory forces, particularly the normative effect of gender, are present in other provincial and national contexts. This is at least partly because the community services funding market in other developed countries is underpinned by the same features of new public management present in Canada.

KEYWORDS: paid care work, funding models, gender, regulation, wages and non-wage benefits

RÉSUMÉ

La régulation des salaires et autres conditions de travail des salariés fournissant des soins dans le secteur sans but lucratif : une étude de cas à Toronto

Cet article vise à améliorer la compréhension du contexte général de régulation dans lequel la rémunération pour le travail des fournisseurs de soins professionnels est négociée et déterminée. Il s'appuie pour cela sur une étude de cas du secteur à but non lucratif de Toronto et va au-delà d'un examen portant exclusivement sur le mode de régulation formelle de la relation d'emploi, pour inclure d'autres mécanismes qui s'avèrent tout aussi cruciaux. Il cherche à cartographier les espaces communs entre ces différentes formes de régulation et à identifier les effets qu'ils produisent en pratique.

L'article identifie quatre forces principales qui influent sur la base et l'ampleur des salaires et des avantages non salariaux du personnel de soins professionnels. Premièrement, la régulation des relations industrielles joue un rôle important non seulement à travers la traditionnelle démarcation entre agences syndiquées et agences non syndiquées, mais aussi entre les agences selon leur taille et entre les salariés selon leur statut d'emploi (à temps complet ou à temps partiel, permanents ou occasionnels). Deuxièmement, le financement des services sociaux limite directement la rémunération de ces salariés et contribue à freiner l'impact de la syndicalisation. Troisièmement, la force régulatrice de la sous-évaluation du travail des soignants, du fait qu'il est très majoritairement féminin, se reflète dans et s'entrelace avec les changements dans la protection offerte aux salariés via la réglementation du travail. Enfin, l'architecture sexuée du travail rémunéré dans ce secteur, incluant la taille des agences et selon que le travail est accompli à la maison ou en institution, contribue à produire des résultats différents pour différents groupes effectuant le même travail.

L'interaction entre ces forces régulatrices a un effet certain sur les salaires et les avantages non salariaux des et salariés des services sociaux que ce soit au niveau du marché, de l'industrie ou du lieu de travail. Bien que le secteur sans but lucratif de Toronto constitue un contexte spécifique pour l'observation de ce phénomène, ces forces régulatrices, particulièrement l'effet normatif du sexe, sont aussi présentes dans d'autres environnements, qu'ils soient nationaux ou provinciaux. Il en est ainsi, en partie du moins, parce que le marché pour le financement des services communautaires dans d'autres pays développés repose sur les mêmes caractéristiques du nouveau management public que l'on retrouve au Canada.

MOTS CLÉS : travail des soignants professionnels, modèles de financement, genre, régulation, salaires et avantages sociaux

RESUMEN

La regulación de salarios y condiciones de los cuidadores personales asalariados en las organizaciones sin fines lucrativos: Un estudio de caso en Toronto

Este documento busca contribuir a la comprensión del vasto contexto de regulación en que la remuneración del trabajo de cuidador es negociada y determinada. Se basa en un estudio de caso en el sector de organizaciones sin fines lucrativos de Toronto y va más allá de la regulación formal de las relaciones de empleo para incluir en el análisis otros mecanismos cruciales de regulación. Este documento intenta trazar un plano de las intersecciones existentes entre esas diferentes formas de regulación e identificar sus respectivos efectos en la práctica.

Se identifican cuatro principales fuerzas de regulación que modulan el monto y la base de los salarios y de los beneficios no salariales pagados a los trabajadores cuidadores. Primero, la regulación de las relaciones industriales juega un rol importante no solo a través de la demarcación entre agencias sindicalizadas y no sindicalizadas, pero también en las demarcaciones entre pequeñas y grandes agencias, entre trabajadores a tiempo completo y a tiempo parcial y entre trabajadores regulares y trabajadores temporarios o de agencia. Segundo, las fuentes y estructura de los servicios sociales que financian directamente el mercado limitan la remuneración de los trabajadores cuidadores y pueden trabajar para superar el impacto de la sindicalización. Tercero, la fuerza reguladora de la sub-valorización sexista del salario de los trabajadores cuidadores se refleja y se entrelaza con los cambios en la protección ofrecida a los empleados mediante la regulación industrial. Finalmente, la arquitectura de tipo sexista que adopta el pago del trabajo de cuidador, incluyendo la talla de la agencia o el hecho que el trabajo de cuidar se haga a domicilio o en una institución, contribuyen a diferentes resultados para los diferentes grupos de trabajadores comprendidos en este tipo de trabajo.

La interacción de estas fuerzas reguladoras interviene en la definición de los beneficios salariales y no salariales del conjunto de trabajadores de servicios sociales en los diferentes niveles del mercado de trabajo, de la industria y del lugar de trabajo. Mientras el sector de organizaciones sin fines lucrativos en Toronto procura un contexto específico para ello, esas fuerzas reguladoras, particularmente el efecto normativo del género, son presentes en otros contextos provinciales y nacionales. Esto es así, al menos parcialmente, por que el mercado de servicios comunitarios en otros países desarrollados se basa en las mismas características de la nueva gestión pública presente en Canadá.

PALABRAS CLAVES: trabajo pagado de cuidador, modelos de fondos, género, regulación, beneficios salariales y no salariales