Difficile d'avoir l'heure juste sur Phénix, déplore l'AFPC

Paul Gaboury, Le Droit, le 6 octobre 2016

Les chiffres rendus publics jusqu'à maintenant par le ministère des Services publics et de l'Approvisionnement ne permettent pas de connaître l'ampleur des problèmes qui restent à régler avec le système de paye Phénix, déplore l'Alliance de la fonction publique du Canada (AFPC).

Mercredi, le ministère a confirmé qu'il reste encore plus de la moitié des 82 000 dossiers de fonctionnaires à régler et maintient toujours son objectif de traiter les cas toujours en arriéré d'ici le 31 octobre prochain.

«C'est clair que le ministère tente de rassurer les gens en faisant ces mises à jour et en donnant des chiffres. Nous demeurons toujours sceptiques, car on ne donne pas les détails sur les cas qui ont été résolus et sur le travail à faire. C'est quoi l'ampleur du travail qui doit être fait pour régler les problèmes de Phénix? On ne le dit pas. Ils ne sortent pas toute l'information», a commenté Larry Rousseau, vice-président exécutif de l'AFPC, région de la capitale nationale.

Les 82 000 cas mentionnés par le ministère représentent le nombre de cas qui se trouvaient sur la liste des arriérés à la fin juin. Mais il est encore difficile de savoir combien de cas problèmes se sont ajoutés depuis juillet.

«De quels chiffres parle-t-on vraiment? Ce que nous entendons, c'est qu'un dossier réglé peut mener à d'autres problèmes avec le système. Donc, même si on a réglé un cas qui était sur la liste avant juin, cela ne veut pas dire que le dossier d'un employé est nécessairement réglé et que sa paye est correcte. Mais c'est encore difficile d'avoir des détails à ce sujet», a expliqué M. Rousseau.

Certains cas à résoudre sont plus compliqués, comme ceux de gens qui ont quitté la fonction publique ou pris leur retraite et qui continuent à être payés par le système. «On n'a pas vraiment expliqué c'est quoi réellement le problème. Et si on règle ces cas, et qu'ils se

retrouvent ensuite avec d'autres problèmes, on est loin d'avoir réglé le dossier. Alors, c'est vraiment pas clair.»

Pour mieux illustrer son propos, M. Rousseau donne l'exemple d'un bidon dans lequel «l'eau entre et continue à couler».

«Est-ce qu'on parle ici d'un bidon qui ne se rempliera jamais? Est-ce qu'on est capable de colmater les brèches?» demande M. Rousseau.

Le dirigeant de l'AFPC soutient que la transparence dans le dossier devrait pousser les autorités à rendre compte de ce qui reste à résoudre en dévoilant ce qui ne fonctionne pas avec Phénix pour mieux comprendre la situation. «La transparence qu'on a promise dans ce dossier devrait être accompagnée par l'exactitude des données et l'ampleur du travail à faire», a-t-il souligné.

Au cours des dernières mises à jour, la sous-ministre Marie Lemay a répété que c'est à partir du 31 octobre que le ministère devrait être en mesure de savoir ce qu'il devra faire pour être dans un «état de stabilité» avec le système Phénix. On évaluera alors s'il est nécessaire de garder ou non les bureaux satellites et une partie des 200 employés embauchés pour faire face à la crise.

Reporter Notebook - Public servants clamming up about Phoenix plight

Why have federal employees stopped talking openly about the Phoenix fiasco?
Ashley Burke, CBC News, October 7 2016

She's a single mother of a three-year-old boy who's struggling to pay her daycare bill. With Christmas just 11 weeks away, she's already worrying there won't be any presents under the tree for her son.

The woman is a federal public servant who's owed $5,500 in acting pay for a job she's been performing since April.

We can't give you her name because her boss told her not to speak to the media. Speaking with her over the phone, I could tell she was upset, and eager to tell her story.

"I come to work every day like a good public servant and do my job," said the woman, who told me her situation has left her feeling depressed.

But she also feels that if she speaks out, her job could be in jeopardy. And she can't afford to lose it.

That chill is a growing problem for those of us who are covering the Phoenix pay system saga.

- Want to tell your story? Email **Ashley Burke.**

Something has changed

I began working on these stories in July, when public servants were freely sharing the details of their cases. For much of the summer they were more than willing to appear on camera, and didn't seem worried that speaking out could cost them their careers.

But something has changed.

'I have heard of certain departments reprimanding employees that have talked against the pay system.'- *Anonymous pay adviser*

It's becoming increasingly difficult to find a public servant who wants to go public. They still email our newsroom on an almost daily basis, but now they want anonymity.

"I worry about the repercussions it may have on my future career," wrote one pay adviser who has to deal with employees who are in tears over their pay issues. "I have heard of certain departments reprimanding employees that have talked against the pay system."

One woman who's been unable to retire due to a Phoenix-related problem told us her union representatives advised her not to talk.

A student who agreed to an interview with CBC earlier this week emailed the newsroom immediately after to request it not be aired.

"I do not feel comfortable having my interview broadcasted," he wrote.

Deputy minister gave assurances

All this despite assurances from the deputy minister responsible for Phoenix, Marie Lemay, that there would be no retribution for employees who spoke out.

"I've heard that employees are worried about reprisals for coming forward about their pay problems," Lemay said at a news conference on Aug. 11. "I have to say to you, that this for me is very concerning.

"We can't help if we don't know who you are," Lemay added. "I mean, your pay is your right and no one should feel intimidated about voicing their concerns."

Whenever public servants are wavering about letting me name them in a story, I remind them about what Lemay said. But many tell me that even if they believe Lemay, there's no assurance their managers will feel the same way.

Some say they don't want to be branded as trouble makers, and fear being overlooked the next time there's a promotion up for grabs.

One student struggling to pay her bills after being overtaxed $700 due to Phoenix told me she's not willing to kill her career before it even starts. Despite her pay problems, she's hoping for a permanent job after her contract runs out.

A more human place

No one is obliged to speak to the media, or step into the spotlight unwillingly. But the public servants who showed the confidence and courage to put their names and faces to this story are the ones who brought attention to it, and prompted action.

They've also made the federal public service seem like a more human place, instead of some uncaring bureaucracy.

One government employee said the Phoenix stories helped erase the stereotype of the lazy, entitled bureaucrat, replacing it with an image of hard workers who show up to their jobs despite going months without pay.

To be clear, no one I've interviewed about Phoenix has contacted me afterwards to say they faced repercussions at work. They all had their problem fixed, and received the money they were owed — often by the end of the day.

A cheque for cancer survivor Cecilia Delfino arrived by taxi shortly after she appeared on CBC News.

Jarrad Yardon, a student employee with the federal government, said his boss pulled him into his office and told him he was courageous for sharing his story.

It's a really noble thing, sticking your neck out like that. It's not about making my job easier. It's about showing the public there is a problem that persists and needs to be fixed.

A blurred face on TV, a distorted voice on radio, an anonymous quote online — none has the same power as a face, a name and a heart-breaking story honestly told when it comes to forcing change.

Encore plus de 43 000 cas à régler

Paul Gaboury, Le Droit, le 5 octobre 2016

Alors que le 31 octobre, la date fixée pour régler les cas en arriéré approche à grands pas, plus de la moitié des dossiers de 82 000 fonctionnaires fédéraux ne sont toujours pas résolus à la suite des problèmes liés au système de paye Phénix.

Sur les 81 977 employés fédéraux qui se trouvaient sur cette liste au début du décompte cet été, 38 228 ont été réglés. Il reste donc près 43 749 dossiers, soit 53 %, qui doivent passer dans les mains des agents de rémunération.

« Nous réalisons des progrès constants. Nous croyons toujours être en mesure d'atteindre l'objectif, soit de régler la liste des cas en arriéré d'ici le 31 octobre », a indiqué mardi Marie Lemay, sous-ministre de Services publics et de Approvisionnement Canada (SPAC).

Un total de 46 autres employés n'ont pas été payés cette semaine, mais devraient l'être d'ici la prochaine paye, alors que 173 autres cas liés à de divers congés et des pensions ont été signalés. Dans ces cas, ils ne devraient pas être réglés avant six semaines.

Jusqu'à maintenant, on ne connaît pas le nombre total de fonctionnaires qui ont demandé une avance salariale à leur ministère. Cette avance peut aller jusqu'à 60 % du salaire brut. Un peu moins de 300 fonctionnaires ont toutefois fait une demande au moyen du site internet de SPAC.

Par ailleurs, le Bureau de réclamations, mis sur pied par le Conseil du trésor à un coût de 1 million $, a reçu 52 demandes pour des frais financiers totalisant 30 400 $. Plus de 17 000 visites avaient été enregistrées sur le site web et on prévoit que le nombre de réclamations devrait augmenter au cours des prochaines semaines.

Le ministère estime toujours à 50 millions $ le coût des mesures pour faire face à la crise liée à Phénix. Lorsque l'état de stabilité sera atteint, le ministère évaluera s'il conservera les bureaux

satellites mis sur pied à Gatineau et d'autres villes, et une partie des 200 employés embauchés pour appuyer les 550 employés du centre de Miramichi, au Nouveau-Brunswick.

En attendant, le ministère a dû reporter le paiement automatique en argent des congés compensatoires non utilisés. Cette décision a été prise pour éviter de verser l'argent pour des congés déjà utilisés par des employés qui se trouvent toujours sur la liste des cas en arriéré.

Sécurité des données

Par ailleurs, le ministère a dévoilé qu'un problème de sécurité a été soumis au commissaire à la protection de la vie privée. Pour la seconde fois, des agents de rémunération auraient eu accès aux données d'employés de différents ministères, mais la violation de la confidentialité a été jugée « minime », a expliqué Mme Lemay.

Au sujet de la poursuite intentée par le gouvernement australien contre IBM pour un système de paye semblable à Phénix, la sous-ministre Lemay a indiqué que le recours a été initié alors que le processus pour attribuer le contrat était déjà sur la fin au Canada.

« IBM respecte son contrat et n'est pas responsable des problèmes actuels liés à l'implantation du système PeopleSoft. De plus, l'entreprise collabore pour trouver des solutions », a-t-elle souligné.

Phénix : un syndicat s'inquiète toujours de la progression des dossiers

ICI Radio-Canada, le 6 octobre 2016

L'Institut professionnel de la fonction publique doute de la capacité du gouvernement fédéral de régler tous les problèmes de paye engendrés par le système automatisé Phénix d'ici la fin du mois.

« Malgré que les choses s'améliorent très tranquillement, il reste quand même un grand nombre de personnes qui sont touchées », souligne Stéphane Aubry, vice-président national de l'Institut professionnel de la fonction publique. Il ajoute que l'échéancier fixé par le gouvernement ne semble pas être « très, très réalisable concernant le nombre de cas qui sont encore en suspens et les nouveaux qui se rajoutent à chaque paye ».

On craint qu'il va y avoir des problèmes pendant la prochaine année probablement.

Stéphane Aubry, vice-président national de l'Institut professionnel de la fonction publique

Selon le syndicat, la solution réside dans l'utilisation des ressources et de l'expertise internes pour régler les dossiers, plutôt que le recours à la sous-traitance.

Depuis février, plus de 80 000 fonctionnaires fédéraux ont connu des problèmes de paye avec la mise en place de Phénix. Certains ont été payés en trop, d'autres ont reçu moins d'argent que prévu tandis que d'autres encore n'ont pas reçu de paye du tout.

Plus de la moitié des dossiers ne sont toujours pas réglés

Lors d'une nouvelle mise à jour mercredi, Services publics et Approvisionnement Canada a laissé savoir que plus de la moitié des 80 000 fonctionnaires qui ont connu des problèmes de payes reliés au système Phénix attendent toujours une correction de leur dossier.

Jusqu'à maintenant, 38 228 dossiers ont été réglés.

La sous-ministre Marie Lemay a réitéré que le gouvernement s'entendait toujours à avoir réglé l'ensemble des problèmes avant le 31 octobre.

Une brèche à la sécurité

Par ailleurs, la sous-ministre Lemay a rapporté, mercredi, une brèche dans le système de paye Phénix.

Vendredi dernier, les conseillers en rémunération ont pu accéder aux documents de paye de tous les employés du pays, alors qu'ils n'auraient dû avoir accès qu'à ceux de certains ministères.
Elle a ajouté que les risques de dommages sont considérés comme faibles. Elle a précisé que le Commissariat à la protection de la vie privée du Canada avait été mis au courant de l'incident.

More than half of Phoenix pay backlog remains as Oct. 31 deadline looms

'We are on target … we believe we will hit the Oct. 31 target,' deputy minister says
Paul Cote Jay, CBC News, October 5 2016

More than half of the tens of thousands of federal workers who filed claims over payroll issues before June are still waiting for their problems to be resolved, according to the deputy minister in charge of fixing the Phoenix payroll system.

- **Conservatives took payroll training responsibilities away from Phoenix creator IBM**
- **Minister not briefed on more critical independent Phoenix payroll analysis before rollout**

With less than a month to go before the government's self-imposed Oct. 31 deadline to deal with the backlog of more than 80,000 cases, deputy minister of public services and procurement Marie Lemay said they have dealt with 38,228 cases, including close to 15,000 since the last update two weeks ago.

And despite the daunting task of dealing with the remaining cases, Lemay says the government continues to get through the claims faster and remains on target.

"Next month is a big month," said Lemay. "We are on target … we believe we will hit the Oct. 31 target."

Pay problems

What's less clear is how well the government is doing with cases that aren't part of the backlog.

When Phoenix was introduced across the country, employees began reporting pay problems and the government acknowledged in July that there were more than 80,000 public servants who had by June reported some pay problems, with the majority being underpaid, while some have been overpaid or not paid at all.

The government has set its target of Oct. 31 for dealing with that backlog, and took those cases away from the main pay centre in Miramichi, N.B., and gave them to satellite pay centres.It has also committed to dealing with new higher priority cases within two weeks of the claim.

But also in the mix are lower priority claims that were not issued before June.

Lemay said Miramichi compensation officers are dealing with those claims as they receive them, but admitted they aren't dealing with those claims as fast as the department would like,and wouldn't provide details on how many there were.

Once the government deals with the backlog, workers at the satellite centres will be able to help the Miramichi office deal with its caseload and help the department transition to its "steady state" of business as usual, she said.

Lemay says she expects things to get easier once employees and managers become more comfortable with new self-serve tools that will allow them to file overtime and other simple requests online.

She also noted that there was another data breach on Friday, when employee data became accessible to compensation officers across the country, regardless of department.

The risk was low but the privacy commissioner has been notified, she said.

Phoenix analysis not shared with minister a 'waste' of $221K, union says

Federal pay system problems also disrupting tens of thousands in union dues
Katie Simpson, CBC News, October 6 2016

The federal government paid nearly a quarter of a million dollars to a consulting firm for work on an independent analysis of the Phoenix pay system that was not given to the minister overseeing the project, CBC News has learned.

"The contract for Gartner Canada, completed in February 2016, was for $221,073.88," said Kelly James, a spokeswoman for the Treasury Board Secretariat.

Gartner Canada is one of two consulting firms hired by Ottawa to write independent reports on Phoenix, before the first wave of the pay system was rolled out in February.

Judy Foote, the minister of Public Services and Procurement, saw one of the reports but was never briefed on the Gartner report.

"It's absolutely a waste of taxpayers' money," said Chris Aylward, the national vice-president of the Public Service Alliance of Canada.

"When they go out and do these independent assessments, and they cost almost a quarter of a million dollars for one of them, and that's the one that the minister doesn't even see... a

responsible minister would have said, 'do I have all of the information here?' Obviously Minister Foote didn't do that here," Aylward added.

Foote defended the staffers who did not turn over the second analysis.

"Both reports, by the way, said similar things, had similar concerns, but neither report indicated that we should not proceed," Foote said.

"What I'm told is that the concerns that were raised were actually addressed," Foote added.

CBC News obtained both reports, and the Gartner analysis offers a wider range of criticism than the document presented to the minister.

"I think this latest mishap is just emblematic of the Phoenix boondoggle," said Erin Weir, the NDP's critic of Public Service and Procurement.

"Taxpayers should be very concerned about this waste of money. I think the study was a good one, and might have been worth the money if the government paid attention to it," Weir added.

The 60-page document flagged concerns about "accuracy and timeliness of pay" and suggested slowing down the roll-out of Phoenix to mitigate risk.

For the Canadian Taxpayers Federation, this development raises another concern.

"It suggested that it is either something that the minister should see at the very least so that we know that something came of that money, or it suggests when these types of reports are commissioned we need to think twice about exactly whether or not we need to do it," said Aaron Wudrick, the federal director of the CTF.

"I think somebody has some explaining to do for sure. At the end of the day somebody made a decision that was not a good one and in the private sector that would have consequences and it should here as well here too," Wudrick said.

Union to go after feds for unpaid dues

The unions representing public servants have not been able to collect their full dues because of problems with the Phoenix roll out.

PSAC estimates it is being short changed by $150,000 a month, and if the issue is not resolved by the end of the year the union could be owed as much as $1.5-million.

"We will be pursuing the government to recover those funds," Aylward said.

He explained the union is preparing to go after the Treasury Board and PSPC to get the money the union is owed.

"We won't be going back to the members to say you're already in a financial hardship because you haven't been paid, we're not going to back and say 'now you owe us $600,'" Aylward added.

The Professional Institute of the Public Service of Canada says it is owed approximately half a million dollars. PIPSC has not said if it will be going after the government to recover funds.

Both unions say the government has committed to finding a solution to the dues problem.

Since Phoenix was fully implemented in April, more than 80,000 public servants have come forward with pay problems.

Most have been underpaid, while some have been overpaid or not paid at all.

The department of Public Services and Procurement Canada has promised to clear the backlog by the end of October. But the backlog only includes workers who have come forward with problems before July 1, and there is no timeline for public servants who have dealt with pay troubles after that date.

There is also no timeline for when the system will work as intended.

Government accused of hiding full scope of Phoenix fiasco

Union calling for updated data on payroll problems
Katie Simpson, CBC News, October 6 2016

The federal government is being accused of hiding the full scope of the Phoenix payroll fiasco.

The largest union representing public servants is demanding the government release updated information about the number of workers experiencing pay problems.

"What is it that they're trying to hide?" said Chris Aylward, the national vice-president of the Public Service Alliance of Canada.

- More than half of Phoenix backlog remains as Oct. 31 deadline looms
- Minister not briefed on more critical independent analysis of Phoenix system

Since trouble with the government's computerized pay system emerged, Public Services and Procurement Canada has said nearly 82,000 workers have experienced irregularities with their pay.

But that number only includes workers who came forward with problems before July 1, 2016.

The government has not publicly released the number of employees who have experienced trouble after that date.

"Why can't they provide the number of cases since July?" Aylward said.

During a Phoenix update on Wednesday, the deputy minister of PSPC was asked about new numbers, but didn't offer any details.

"It's an ongoing queue … I can't really answer the question specifically, it's an ongoing flow," said Marie Lemay, the deputy minister.

She explained the new cases are being dealt with separately from the backlog bulk.

"The others that are coming in, we're treating them, there's a queue. But sometimes we are not treating them as fast as we will when we'll be in our steady state."

Workers who formally registered problems before July 1 have been told their issue will be dealt with by the end of October. There is no solution timeline for employees who joined the queue after that date.

Deadline doubt

While PSPC appears confident it will clear the initial backlog of cases by Oct. 31 as promised, two separate unions are questioning that claim.

Aylward said the Public Service Alliance of Canada has "absolutely no confidence" in the government's ability to meet its target date.

"I say that it's going to be pretty tough for them to meet that target," said Debi Daviau, president of the Professional Institute of the Public Service of Canada.

"But even if they can, those are only the cases that have accumulated in the system, or that were logged in the system before the end of June," Daviau added.

"What of all of these cases that have been logged since June? A number of them [are] in really critical circumstances."

PSPC does not have a firm timeline as to when Phoenix will work as intended.

"Unfortunately we think we're going to be talking about this well into 2017," Aylward said.

Une loi fédérale pour imposer l'équité salariale en 2018

ICI Radio-Canada, le 5 octobre 2016

La ministre de l'Emploi, MaryAnn Mihychuk, a précisé que la loi adopterait une approche « proactive » pour assurer l'équité salariale, qui consistera à aider les employeurs à respecter la loi plutôt que de forcer les employés à formuler des plaintes sur leur rémunération.

Le fait de forcer les travailleurs à déposer des plaintes et même à se rendre devant les tribunaux pour réclamer un salaire équitable s'avère « lourd, coûteux et injuste », a plaidé la ministre Mihychuk.

En fait, les libéraux reprendront une démarche qui avait été proposée il y a 12 ans, avant que le gouvernement conservateur de Stephen Harper ne la mette de côté.

La loi touchera 874 000 travailleurs et 10 800 employeurs, dont les fonctionnaires, les employés des sociétés de la Couronne et les entreprises réglementées par le gouvernement fédéral, telles que les banques, les transporteurs aériens, les entreprises de câblodistribution et de téléphonie, ainsi que les diffuseurs publics.

D'ici 2018, le gouvernement prévoit mener des consultations avec les employeurs pour élaborer la loi afin de ne pas leur imposer un trop gros fardeau administratif, a indiqué le ministère de la Condition féminine.

Selon les dernières données de Statistique Canada, les femmes gagnaient 87 cents pour chaque dollar gagné par les hommes dans ces milieux de travail.

Le NPD s'impatiente

L'opposition néo-démocrate s'est toutefois dite déçue et frustrée que le gouvernement dise aux femmes d'attendre encore 18 mois avant de recevoir un salaire égal à celui des hommes.

Assez, c'est assez. L'équité salariale est un droit de la personne et les femmes canadiennes ne devraient pas attendre encore davantage pour faire respecter leurs droits.

Déclaration commune des députées néo-démocrates Sheri Benson et Karine Trudel.

La ministre de la Condition féminine, Patty Hajdu, a souligné qu'il était important de bien faire les choses pour mener à terme ce « processus complexe ».

Mme Hajdu a déjà travaillé pour un petit organisme sans but lucratif en Ontario, et quand le gouvernement provincial a imposé l'équité salariale, cela a été « incroyablement coûteux », selon elle.

« Nous voulons nous assurer que les employeurs de tous les secteurs aient la capacité et les outils, et que cela ne leur apporte pas un fardeau administratif excessif », a-t-elle soutenu.

Le président du Conseil du Trésor, Scott Brison, a reconnu que cette mesure engendrera des coûts pour le gouvernement et pour les employeurs, mais il ne s'est pas avancé sur un chiffre précis.

« Les employeurs devront réviser régulièrement leur système de compensation, identifier les disparités basées sur le genre et prendre des mesures pour remédier à celles-ci », a-t-il expliqué.

Liberals promise 'proactive' pay equity legislation to close wage gaps

Kathryn May, The Ottawa Citizen, October 5 2016

The Liberal government is promising new pay-equity legislation that will put the onus on employers in federally regulated industries to ensure men and women are paid equally for work of equal value.

But the government is being criticized for a timeline that won't see the legislation tabled until 2018.

The Liberals' approach will reverse the radical overhaul of pay equity the previous Conservative government took with the Public Service Equitable Compensation Act, which critics argued effectively killed workers' rights for equal pay for work of equal value.

Employment Minister MaryAnn Mihychuk said Wednesday the legislation will take a "proactive" approach that's aimed at helping employers comply with the law rather than forcing employees to lodge complaints about discriminatory wages.

Such complaints in the past have resulted in costly legal battles that are "burdensome, costly and unfair to workers," she said.

The government intends to draw on the recommendations of the special parliamentary committee on pay equity, as well as consultations it plans with experts and stakeholders for reforms that will force employers to review their compensation systems for gender-based wage disparities and fix them.

The government expects to table the legislation by the end of 2018. It will cover 874,000 workers and 10,800 employers, including public servants and employees of Crown corporations and federally regulated companies such as banks, airlines, telephone and cable companies, and radio and television broadcasters.

Treasury Board president Scott Brison said the government should be setting an example.

"The government of Canada is one of the largest employers in Canada. I can assure you that we will lead by example. Our government will move beyond the current complaint-based approach to pay equity," he said.

"Canadians deserve equal pay for work of equal value. They should receive it when it is earned, not years after through fighting in courts."

Public service unions strongly supported proactive legislation but were disappointed that it won't even be introduced until 2018.

"There's no need to wait. It is an issue that has been studied enough," said Debi Daviau, president of the Professional Institute of the Public Service of Canada.

Robyn Benson, president of the giant Public Service Alliance of Canada, said delaying the tabling of legislation until 2018 runs the risk of the law not being passed before the next federal election in 2019.

She argued there was no need for further study when Ontario and Quebec already have experience with proactive pay equity laws.

She also called on the government to immediately repeal the Tories' Public Sector Compensation Act, which took away the right of women in the federal public service to file pay equity complaints under the Canadian Human Rights Act.

"The least the government can do is restore this right immediately," Benson said.

PSAC won a historic $3.2-billion pay-equity settlement for federal public servants in 1999. That complaint, which took 15 years to settle, affected 230,000 current and retired federal employees in six female-dominated occupations, from clerks and secretaries to librarians.

After that, pay-equity issues languished in the political wilderness for years until a special parliamentary committee studied the issue.

The Conservatives' legislation took pay equity out of the Canadian Human Rights Act for workers in the broader federal public sector — including departments, Crown corporations, agencies and commissions. The regulations were never finalized and the legislation hasn't come into force.

In February, the NDP proposed a motion calling for special parliamentary committee to study pay equity, which the Liberals backed. The committee delivered its final report to Parliament in June.

With a proactive pay equity, employees don't have to file complaints, which have been bogged down in long, costly battles. Rather, the onus is on employers to assess their wages and close any gaps.

Earlier this year, the federal government agreed to pay as much as $45 million in backpay to thousands of mostly female employees at a Statistics Canada agency to settle a longstanding pay-equity complaint that went back to 1985.

PSAC still has outstanding pay equity complaints against a handful federal agencies, which fall under the Canada Labour Code — Canadian Centre for Occupational Health and Safety; Museum of Science and Technology, National Gallery, Museum of History and NavCanada.

Avocats et notaires - Une grève qui pourrait paralyser l'État

La rédaction de nouveaux projets de loi risque d'être retardée par les moyens de pression
Marie-Michèle Sioui, Le Devoir, le 11 octobre 2016

Plus d'un millier d'avocats et de notaires doivent se prononcer ce mardi sur une grève qui paralyserait en partie le fonctionnement de l'État et bousculerait les travaux de l'Assemblée nationale.

Le président du syndicat Les avocats et notaires de l'État québécois (LANEQ), l'avocat Jean Denis, a déclaré au *Devoir* lundi qu'il avait *« bon espoir que les membres votent fortement pour la grève »*, et ce, même si *« ça ne nous tente pas »*, a-t-il précisé.

Une grève des avocats et notaires de la fonction publique, de l'Autorité des marchés financiers, de la Régie de l'Énergie, d'Investissement Québec et de l'Agence du revenu — tous membres du syndicat LANEQ — retarderait notamment la rédaction de nouveaux projets de loi et règlements. Seuls les projets de loi qui ont déjà cheminé à l'Assemblée nationale ne seraient pas touchés par un arrêt de travail.

Le syndicat ne s'en cache pas : le vote de grève coïncide avec l'arrivée, le 4 novembre, de la date limite pour le dépôt des projets de loi à l'Assemblée nationale pour la session en cours. *« On sait que les légistes sont en* rush *dans leurs bureaux en ce moment »*, a résumé Me Denis pour justifier ce choix stratégique. *« C'est la rentrée : c'est pour ça qu'on a ciblé ce moment-là. »*

Un arbitre réclamé

Le coeur du litige entre le syndicat LANEQ et le gouvernement concerne le mode de négociation des conditions de travail. Les avocats et notaires de l'État réclament la mise en place d'un processus d'arbitrage pour remplacer celui de médiation, qui a cours actuellement. Selon le syndicat, la nomination d'un arbitre choisi par les deux parties permettrait d'éviter que les

conflits de travail non réglés mènent à des grèves, qui peuvent ensuite être achevées par des lois spéciales. *« Dans les années passées, notre droit de grève a été nié parce qu'une loi spéciale nous a obligés à retourner au travail »*, a dénoncé Me Denis, dont le syndicat ne veut plus être contraint à recourir au droit de grève en période de négociation afin d'*« équilibrer les forces »* entre les employés et les employeurs.

Le processus d'arbitrage réclamé par le syndicat LANEQ est utilisé en Ontario, en Colombie-Britannique, au Manitoba et en Nouvelle-Écosse. *« Ce qui est choquant, c'est que ça ne coûte rien* [de plus] *au gouvernement de faire ça »*, a déclaré Me Denis.

Les membres de LANEQ, qui sont sans convention collective depuis le 31 mars 2015, se réuniront à Montréal et à Québec pour voter sur la question d'une grève générale illimitée.

Les juristes de l'État pourraient aller en grève générale

Louis-Denis Ebacher, Le Droit, le 4 octobre 2016

Les juristes de l'État pourraient déclencher une grève générale illimitée, cet automne, paralysant ainsi tous les travaux sur les projets de lois et de règlements au Québec.

Les avocats et notaires de l'État québécois (LANEQ) se réuniront le 11 octobre en assemblée générale extraordinaire, pour un vote à ce sujet.

Les juristes de la fonction publique, de Revenu Québec et d'Investissement Québec sont appelés aux urnes.

Non seulement les projets de lois seraient suspendus, selon LANEQ, mais les avis juridiques, la représentation devant les tribunaux et les règlements de conflits judiciaires seraient affectés.

LANEQ, qui regroupe 1100 avocats et notaires, réclame «un changement au mode de négociation des conditions de travail, afin de prévoir un arbitrage liant les parties, soutenu par un comité de rémunération, dont le président sera choisi et nommé par les parties».

Hear no evil: C-51 and speech - How can you tackle terrorist ideology without talking about it?

Micheal Vonn, iPolitics.ca, October 3 2016

The Anti-Terrorism Act passed by the Conservative federal government last year — Bill C-51 — created a new law criminalizing speech that "advocates or promotes the commission of terrorism offences in general."

Unlike the hate propaganda offence that it is based on, the new offence contains no exemptions for private conversations or provisions for legal defences (such as a public interest defence).

The federal government's national security consultation Green Paper offers a suggestion as to what "terrorism offences in general" might mean, but the Canadian legal community has no clear agreement on how courts would interpret this troublingly open-ended language.

Presumably "terrorism offences in general" goes beyond the already broad definition of "terrorist activity" set out in Section 83.01 of the Criminal Code. Leading legal scholars in the field note "this is a potentially infinite number of offences."

The federal government has announced "$35 million over five years, with $10 million per year ongoing, to create an office of the community outreach and counter-radicalization coordinator."

The government has indicated that it is committed to supporting credible voices within communities to develop programs and messages that counter radicalization that leads to violence.

The government Green Paper describes a model in which law enforcement plays an important role in supporting individuals at risk of radicalization to violence and responding if individuals progress to criminal activities. Community capacity-building could include "mentorship, multi-agency interventions and training and support for front-line intervention work (such as youth workers, corrections and parole officers, social service providers, faith leaders and mental health practitioners)."

Many countries are stressing the importance of measures to counter radicalization to violence. Unfortunately, we really don't know at this point which measures are effective. So far, the

limited research and the experience of other countries have mostly served to show us what is *not* effective.

For example, the U.K.'s counter-radicalization program has been soundly criticized as "irretrievably tainted" and actually undermining the work of Muslim civil society. As Frances Webber, vice-chair of the Institute of Race Relations said, "the government's counter-radicalization policy is trying to channel thought, speech and ideas into a fairly narrow concept of what's acceptable, and everything else is becoming potentially 'pre-criminal.'"

If it wasn't already obvious, one of the clear 'lessons learned' thus far is that counter-radicalization programs cannot be credible to communities, cannot earn the trust and confidence of people at risk of radicalization to violence, by criminalizing them for speaking about their views. Social intervention/support roles and policing/intelligence roles must be clearly separated.

Imagine trying to work within a community to support individuals at risk of radicalization to violence when even a *discussion* to understand their views puts them in the position of potentially committing a crime. This is the situation that currently exists in Canada, where it is a crime to promote or advocate the commission of terrorist offences in general.

The reach of this law goes well beyond "active encouragement" to engage in terrorism. The law makes criminals of people who have neither committed, nor plan to commit, any criminal or violent act. They don't have to actively incite or counsel acts of terror or violence, nor does the law require that the speaker even intend for a terrorist offence to be committed.

The government and police may say 'we aren't going to prosecute people for statements made in the context of community support work or go after rash comments made by teenagers on social media.' In fact, the government's Green Paper takes the interesting and counter-intuitive position that the "offence is not an attempt to criminalize glorification of terrorism or praise for terrorism."

However, what the government says it intends is not determinative of the law's *effects* — especially not the effects of a law that is a speech offence.

Thinking about any speech offence, we must consider not only who might get prosecuted, but which forms of expression are being chilled because of the threat of prosecution.

Here, the scope of the law is not only vast, but unknown. And while any chill on free speech has serious consequences for democratic life, this type of offence also has very particular impacts on security and public safety.

To the extent that paying attention to extremist speech can sometimes aid in intervention and investigating security threats, the chilling effect can drive speech offline and underground, making intervention and investigation more difficult.

The new offence of advocating or promoting the commission of terrorism offences in general should be repealed. We can see no security interest in further criminalizing expression that was already an offence prior to the new law. The Criminal Code makes it illegal to counsel anyone to commit a terrorism offence — and considering that terrorism offences include acts that fall well short of violence, such as preparing to commit terrorism acts or supporting terrorist activity, this already captures a broad range of terrorism-related expression.

The potential sweep of the terrorist speech offence presents not only a serious chill on speech, but a genuine risk of unintentionally undermining security.

The message of tolerance and democracy, which is the counter-narrative to violence, has no credibility where it criminalizes general extremist views. Criminalizing these views alienates from their communities individuals at risk of radicalization to violence, increasing their risk and decreasing the potential for meaningful intervention and prevention.

Security watchdog legislation passes first stage in Commons, opposed by Conservative party

The Public Safety and National Security Committee takes ups a separate 'security framework' study.
Tim Naumetz, Hill Times, October 5 2016

Contentious government legislation crafted to deliver on a Liberal election promise to establish parliamentary oversight over federal intelligence and security agencies passed its first hurdle in the Commons Tuesday.

MPs voted 200-81 to send the bill to the Commons Public Safety and National Security Committee for in-depth witness evidence and possible amendments.

Coincidentally, the committee only half an hour later held its first meeting under a new study titled Canada's National Security Framework—but a spokesperson for Government House Leader Bardish Chagger told *The Hill Times* the security framework review was unrelated to the committee's task on the proposed oversight legislation.

It appears, a spokesperson for Public Safety Minister Ralph Goodale said, that the committee will be tasked with an overall review of Canada's national security agencies at the same time it conducts witness hearings on the security oversight bill.

The first hour of the committee meeting was in private, and the final hour featured evidence from Privacy Commissioner Daniel Therrien, who focused a recent report to Parliament on threats to personal privacy under sweeping new security laws passed by the previous Conservative government, and also questioned the new Liberal government's emphasis on problems facing security agencies rather than privacy concerns under the Conservative government's Bill C-51 anti-terrorism legislation.

Only Conservative MPs voted against the oversight legislation, Bill C-22, as the NDP supported the government in approving the bill in principle and sending it to committee hearings, a position the New Democrats staked out last week when debate over the bill began.

The legislation has come under opposition criticism for clauses that would require a review by the prime minister of all reports produced by the proposed National Security and Intelligence Committee of Parliamentarians, and would allow the prime minister to direct the committee to redact any information the prime minister rules would be "injurious" to national security, national defence, or international relations, as well as confidential legal information.

Any minister in charge of any of the 17 departments and three main security agencies covered by the legislation could refuse to comply with a request for information if the minister believes the information would be "injurious" to national security, or if it falls among seven classes of individuals or government secrets, including military operations in respect of "potential, imminent, or present armed conflicts."

The sweeping restriction also would prevent the committee from access to information about any "means" the government "has used, uses or intends to use, or is capable of using" to covertly gather or decipher, even handle or report or communicate or deal with information or intelligence.

The minister could also refuse to disclose information on whether a place, person, agency, group, body, or entity was or is intended to be the object of a covert investigation or a covert collection of information or intelligence by the government.

Aside from criticism over its potential for blanket refusals of access to information about security and intelligence work, opposition MPs also questioned the structure of the committee, and the prime minister's authority to designate its chair and select all nine members following consultation with opposition party leaders, in the case of the three opposition MPs who will be appointed to the committee, and with individual Senators, in the case of the two Senators who will also be appointed.

The government will have four MPs on the nine-member committee, including Liberal MP David McGuinty (Ottawa South, Ont.), whom Mr. Trudeau (Papineau, Que.) appointed as the chair earlier this year.

NDP and Conservative MPs also criticized the fact that the legislation includes an additional salary of $42,200 for the committee chair, on top of their yearly MP allowance of $170,400. The other members of the committee would each receive additional salaries of $11,900, equivalent to the additional pay currently received by chairs of committees of the House of Commons.

Despite NDP criticism of government control over the committee appointments, and the leeway for cabinet ministers to prevent access to information, human rights lawyer Paul Champ, a vocal critic of the secrecy and vast powers of CSIS to collect information on private citizens, said he believes the committee may offer new avenues to monitor the intelligence agency.

Mr. Champ noted the committee would have authority, if allowed, to oversee current activities of security agencies and branches, unlike civilian review agencies.

"Here is the big thing about accountability with CSIS, and why frankly, whatever form it takes, I'm glad that there will be a parliamentary committee on this: because CSIS defines its own legal authority, and they are constantly coming up with new legal interpretations that are all

secret and internal, where they are trying to constantly push the boundaries of the CSIS Act and their legal authority."

"It's based on their own assessment, and no one really has an opportunity to do that," said Mr. Champ.

C-51: le SCRS recueille de l'information de Canadiens détenus à l'étranger

Jim Bronskill, La Presse Canadienne, le 3 octobre 2016

L'agence canadienne d'espionnage utilise les pouvoirs controversés que lui confère la loi antiterroriste C-51 pour recueillir des renseignements provenant de Canadiens détenus à l'étranger, indique une note de service.

Amnistie internationale Canada et le Nouveau Parti démocratique (NPD) s'inquiètent des pièges que peut renfermer cette entente jusque-là méconnue entre le Service canadien du renseignement de sécurité (SCRS) et Affaires mondiales Canada.

L'agence d'espionnage et Affaires mondiales ont conclu cette entente de partage, cette semaine, par le biais de la Loi sur la communication d'information ayant trait à la sécurité du Canada - qui fait partie de la loi omnibus C-51 -, révèle une note de service du directeur du SCRS Michel Coulombe, transmise au ministre de la Sécurité publique Ralph Goodale.

Les dispositions législatives, mises en place par le gouvernement conservateur précédent, ont élargi la possibilité d'échanges d'information détenue par le fédéral sur des activités qui «menacent la sécurité du Canada».

La note de service lourdement caviardée, obtenue par La Presse canadienne grâce à la Loi sur l'accès à l'information, souligne que «les renseignements recueillis par (Affaires mondiales Canada) par le biais de services consulaires peuvent être pertinents pour les enquêtes sur la sécurité du Canada».

Il est cependant souvent difficile pour les représentants consulaires de déterminer quand un détenu canadien a été torturé et quel impact cette torture peut avoir sur l'information qu'il peut partager, selon le secrétaire général d'Amnistie internationale Canada, Alex Neve.

Cette lacune est devenue évidente dans le cas de Maher Arar, cet ingénieur en télécommunications d'Ottawa ayant faussement avoué qu'il était impliqué dans des activités terroristes alors qu'il était torturé dans une prison syrienne, a noté M. Neve.

En général, la nouvelle entente semble s'appuyer sur le fait que des renseignements obtenus par des représentants consulaires travaillant avec un Canadien détenu à l'étranger «pourront et seront partagés avec le SCRS lorsque pertinents pour la sécurité nationale», explique M. Neve.

«Cela soulève des inquiétudes évidentes quant au droit à la vie privée d'individus recevant une aide consulaire.»

Le commissaire à la vie privée, Daniel Therrien, a estimé récemment que le gouvernement n'en avait pas fait suffisamment pour protéger «les Canadiens respectueux des lois» des partages de renseignements en vertu de la Loi sur la communication d'information ayant trait à la sécurité du Canada.

Dans son rapport annuel, le commissaire a noté que la loi était formulée en termes généraux, ce qui laisse beaucoup de latitude aux institutions fédérales pour définir les activités portant atteinte à la sécurité du pays.

Cette entente de partage entre le SCRS et Affaires mondiales met en lumière les inquiétudes soulevées par le commissaire à la vie privée et réaffirme le souhait du NPD de voir la loi révoquée, a déclaré le porte-parole du parti en matière de sécurité publique, Matthew Dubé.

Ni Affaires mondiales Canada ni le SCRS n'ont voulu donner davantage de détails sur le type d'information que l'agence d'espionnage espère obtenir grâce à cette nouvelle entente de partage.

Les libéraux ont promis de régler certains «éléments problématiques» de la loi C-51, et le ministre Goodale a récemment lancé une consultation publique sur la sécurité nationale.

Bill C-51 used to gather intel on Canadians detained overseas

Jim Bronskill, The Canadian Press, October 3 2016

Canada’s spy agency is using controversial powers under the C-51 anti-terrorism legislation to gather intelligence from Canadians held in foreign prisons, a newly released memo reveals.

Amnesty International Canada and the NDP are expressing concerns about the potential pitfalls of the previously unknown information-sharing arrangement between the Canadian Security Intelligence Service and Global Affairs Canada.

In the House of Commons, Public Safety Minister Ralph Goodale stopped short of defending the arrangement Monday, saying a federal national security review would ensure the government's approach is consistent with "what Canadians want."

The spy service and Global Affairs made the sharing deal this year through the Security of Canada Information Sharing Act — part of the omnibus security legislation known as C-51, says a secret May memo to Goodale from CSIS director Michel Coulombe.

The provisions, ushered in by the previous Conservative government, expanded the exchange of federally held information about activity that "undermines the security of Canada."

"Information collected by (Global Affairs Canada) through the provision of consular services can be directly relevant to investigations of threats to the security of Canada," says the heavily censored CSIS memo, obtained by The Canadian Press under the Access to Information Act.

However, it is often difficult for consular officials to determine when a detained Canadian has been tortured and what impact that has on the information they may be sharing, said Alex Neve, secretary general of Amnesty International Canada.

That became glaringly evident in the case of Maher Arar, an Ottawa communications engineer who made false confessions of terrorist involvement while being tortured by his captors in a Syrian prison, Neve noted.

In general, the new arrangement seems based on an understanding that information obtained by consular officers while working with or interviewing Canadians detained abroad "can and will be shared with CSIS when relevant to national security," Neve said.

"That gives rise to very obvious concerns about the privacy rights of individuals receiving consular assistance."

Justice Dennis O'Connor, who led a federal inquiry into the Arar case, recommended that consular officials clearly advise detainees in foreign countries of the circumstances under which information obtained from them may be shared with others outside the consular affairs bureau, before any such information is obtained.

Privacy commissioner Daniel Therrien warned last week the government hadn't done enough to protect "law-abiding Canadians" from exchanges under the Security of Canada Information Sharing Act.

In his annual report, Therrien said the law is broadly worded and leaves much discretion to agencies to define what sort of activities undermine security.

The sharing arrangement between CSIS and Global Affairs underscores the concerns raised by the privacy commissioner and reaffirms the NDP's desire to see C-51 repealed, said Matthew Dube, the party's public safety critic.

"The appropriate safeguards aren't in place."

Neither Global Affairs Canada nor CSIS would discuss the sort of information the spy service hoped to obtain through the new sharing arrangement. Both agencies say they carry out their duties in accordance with relevant legal and privacy obligations.

The C-51 provisions are intended to improve domestic information sharing for national security purposes while respecting the privacy rights of Canadians "no matter where they are," said Global Affairs spokeswoman Kristine Racicot.

During question period Monday, Dube pressed Goodale on the type of information exchanges taking place, but the minister did not provide details.

The Liberals have promised to fix "problematic elements" of C-51, and Goodale recently launched public consultations on the overall national security framework.

QUESTIONS ABOUT C-51

In its recently published consultation paper on the national security framework, the Liberal government poses several questions about the sharing provisions:

— The law explicitly states that the activities of advocacy, protest, dissent, and artistic expression do not fall within the definition of activity that undermines the security of Canada. Should this be further clarified?

— Should the government further clarify that institutions receiving information must use that information only as the lawful authorities that apply to them allow?

— Do existing review mechanisms, such as the authority of the privacy commissioner to conduct reviews, provide sufficient accountability for the sharing act provisions? If not, what would you propose?

— Should the government introduce regulations requiring institutions to keep a record of disclosures under the sharing provisions?

— Should the list of agencies eligible to receive information through the provisions be reduced or expanded?

Canadian Judicial Council wants more options for disciplining judges

Joanna Smith, the Globe and Mail, October 5 2016

The Canadian Judicial Council wants more flexibility when it comes to deciding how a federally appointed judge should be disciplined for misconduct.

“At the present time, the only true sanction that can be imposed on a judge who engages in misconduct is bleak: recommend their removal,” the council wrote in a position paper released Wednesday.

The council is asking the Liberal government to amend the Judicial Act to give it the formal authority to impose range of remedial measures or sanctions instead, while also retaining the authority to recommend that the federal justice minister remove a judge if necessary.

“We reject the notion that any transgression must be ignored unless it is so grave as to warrant a judge’s removal,” the council wrote.

The ideas for reform come as a panel is in deliberations following a disciplinary hearing for Federal Court Justice Robin Camp, who was a provincial court judge in Calgary when he asked a sex assault complainant why she didn’t keep her knees together.

Public disciplinary hearings that consider whether a judge should be removed from the bench are rare.

The vast majority of the 150 complaints the council receives every year are either dismissed or dealt with behind closed doors.

The council argued that having the authority to use more disciplinary tools — such as issuing a private or public reprimand, forcing a judge to apologize, undergo counselling, coaching or treatment, or imposing a suspension without pay for up to 30 days — would not only boost public confidence in its ability to oversee the conduct of judges, but in the judiciary as a whole.

The council also said that should a judge receive one of these lesser punishments, it could also increase faith in both the judge and the process because it represents a decision that no further action should be taken and that the judge remains fit to stay in the role.

Some of these alternative measures have been used in the past, but Norman Sabourin, the council's executive director and senior general counsel, said there is merit to having them formally included in the legislation.

"As some matters become more complex, as some matters become sometimes litigious, we think it's important that these authorities be defined in the legislation, so that the council's authority to do these things is recognized by Parliament," Sabourin said.

Sabourin said making them formal would also mean being able to tell the public what happened.

The council is also asking for a change in the way it conducts disciplinary hearings so that it functions more like a court, with a lawyer presenting all the evidence against the judge in question, and that the decision of a judicial discipline committee be final, subject only to a right of appeal.

Justice Minister Jody Wilson-Raybould said the recommendations would be helpful and thanked the council for their leadership on this issue.

"The government is committed to encouraging the participation of all Canadians and justice-sector stakeholders in the development of law, policy and programs," she said in a statement emailed by her spokeswoman, Valerie Gervais. "We have been consulting with Canadians on what changes, including legislative amendments, may be needed to improve the accountability, transparency, fairness and efficiency of judicial discipline."

Quebec works to curb long waits for court dates

'Supreme Court told us we have to pick up our pace,' says Court of Quebec's chief judge
CBC News, October 3 2016

Quebec is working to speed up access to its courts, with a new plan put forward by Justice Minister Stéphanie Vallée, along with the province's top judges and lawyers.

They announced 22 measures to improve efficiency and collaboration in the justice system in order to get cases moving through the justice system more quickly.

"It's not a question of numbers. It's question of how we do things, how we address an issue," Vallée said.

"Can we be more efficient? The message we are sending is, 'Yes, we can.'"

- **Supreme Court sets new deadlines for completing trials**

Some of the measures include getting paperwork done earlier and more quickly, bringing back retired judges to handle administrative tasks related to some cases and making use of alternative measures to the courts for certain infractions.

There is no plan to hire more staff, however.

Supreme Court rapped 'culture of complacency'

In a decision last July, the Supreme Court of Canada set new rules for an accused's right to be tried within a reasonable time frame, which included the use of restorative justice and therapeutic or alternative courts for people dealing with mental health issues.

Superior Court cases will now have up to 30 months to be completed, from the time the charge is laid to the conclusion of a trial.

Provincial court trials should be completed within 18 months of charges being laid, but can be extended to 30 months if there is a preliminary inquiry.

"A culture of complacency towards delay has emerged in the criminal justice system," admonished the high court in its ruling.

"The Supreme Court told us we have to pick up our pace," said the Court of Quebec's chief judge, Elizabeth Corte, saying she is confident everyone is willing to work together to improve the system.

"The earlier you are ready to proceed, the earlier you have all facts, the earlier it will be settled," said Quebec Superior Court Chief Justice Jacques Fournier.

- **Fill judicial vacancies to end trial delays: committee report**

Young lawyers face tough financial choices

Many burdened by student loans, and more debt still to come

Simon Hally, The Lawyers Weekly, October 7 2016

Most people make the biggest decisions of their lives between the ages of 28 and 32 — career, marriage, buying a home — and rack up some pretty big debts too. So a plan to pay down those debts is a necessity, says financial adviser Kurt Rosentreter of Manulife Securities.

For most lawyers in that critical age range, the need for financial planning is compounded by debts incurred at university.

A 2014 report from the Law Students' Society of Ontario reported that only 30 per cent of law students expected to graduate with no outstanding loans to government or financial institutions. The other 70 per cent owed an average of more than $71,000 in government and bank debt at the end of three years of law school.

That figure happens to be the midpoint of the average salary range for first-year associates at small- to mid-size Canadian law firms — approximately $68,000 to $74,000 — according to Robert Half Legal's *2016 Salary Guide for the Legal Field.* Lawyers starting out in very small firms or solo practice are likely to earn less.

Considering that income taxes, living and work-related expenses and other unavoidable costs must be deducted from those gross salaries before any remaining income can be applied to debt, it's evident that many young lawyers will need several years to pay off their student loans. Even for those who land jobs at large firms, where the starting range is $87,000 to $100,000, getting out of the hole will take time.

How much time depends on individual priorities and choices.

"A priority for me is to avoid debt in my life. When I graduated I made the decision to invest in my business as opposed to buying a home and taking on a gigantic mortgage," says Usman Sadiq, who has been in solo family law practice in Toronto since he was called to the bar in 2013.

"Lawyers running their own practices need to be prudent managers of money. That's why I made it a priority to pay off my student debt as quickly as possible," Sadiq says.

"The best way to avoid debt is to lead a simple life. Yes, as a lawyer you do need to dress professionally and you likely need a car to get around. However, that doesn't mean you need to go into debt by buying the most expensive suit or driving a luxury car."

Anar Dewshi, another solo practitioner in Toronto, agrees: "My business is a priority for me. Paying off debt is another one. Owning a home or taking a vacation is not a reality at this point. I have overheads to consider.

"I've been in practice for over a year, doing real estate, estate planning and family law. I went on my own because it's tough to find work with a large firm. You have to incur expenses in the start-up but I don't regret my choice to go solo. Paying debt down over time seems doable. I expect to be in much better financial shape in about five years.

"It's a struggle but I don't focus on that. The work is satisfying. It's about how you can help people. If your only focus is money, that's a disservice to your clients," Dewshi says.

"Some of my colleagues have a one-track mind about paying off debt. I'm trying to find a balance," says Meghann Melito, who started practising family law in 2015 as an associate at MacDonald & Partners LLP in Toronto.

"I'm also hoping to buy a house. I've been saving for that as well as paying down loans. And I got married recently, so I was saving for the wedding and honeymoon. My lifestyle hasn't changed much from being a student to being a lawyer.

"You have to accept certain realities. I'm from Montreal and sometimes my family asks why I don't move back there, but I need the higher income I can get in Toronto to pay off debt," says Melito, who was a financial adviser for a couple of years before turning to law.

Her advice to other young lawyers is to prioritize what you want and think where you want to be in a few years. Specifically, she says, compare interest rates on different types of debt and pay down the highest first. Look for any income tax benefits, such as tax relief for payments on government student loans. And check your life insurance: if you have coverage through your firm, you may not need insurance you bought with a bank loan.

Rosentreter makes the case for seeking professional advice: "Financial planning is like losing weight. It's difficult to do on your own without a trainer or adviser. Talking about money can be very emotional and especially difficult to do with a partner. Talking to a neutral coach is less confrontational.

"The first thing I tell people is start with a summary of your financial goals: short-term, mid-term and long-term. Think about timelines, then cost out your goals.

"You may realize some goals aren't achievable right now. Early on, it's better to reduce debt than save for retirement. Paying off debt is relatively easy to cost since you know how much you owe. You'll need to commit four to eight hours a year to financial planning with good advice and a good, disciplined plan to follow."

It's never too early to start financial planning, Rosentreter adds.

"Failure to plan is very common in all high-income professions: doctors, accountants, lawyers. They're earning lots of money so they think, why worry? That will catch up with them. They often don't have pension plans and end up working past their planned retirement age just to maintain their lifestyle," he says.

"Family lawyers like me have concerns about clients with too much debt," says Sadiq. "We have to make budgets for our clients so we see their finances in detail. With low interest rates and high housing prices, it's common to see families becoming very comfortable with debt. In some cases it's shocking to see how much debt families are taking on.

"There's a trend for Canadians, including some lawyers, to be overleveraged. It's very dangerous in terms of long-term financial security and very likely contributes to increased stress levels."

Canadian government claims residential school lawyer committed fraud over fees

Jennifer Graham, The Canadian Press, October 4 2016

The Canadian government says a law firm that represented thousands of residential school survivors should have to pay back legal fees because it inflated its billings.

But the government's argument that accuses the Merchant Law Group of fraud, deceit and misrepresentation won't go any further unless Saskatchewan's highest court agrees to reinstate the case.

Lawyers for Canada's attorney general told the Saskatchewan Court of Appeal on Tuesday that the government would not have entered into an agreement a decade ago to pay the firm $25 million if it had known there were concerns about how much time the company spent working on residential school claims.

"What we're saying is we wouldn't have agreed to that amount if we had known the truth, so we want some damages for that," lawyer Kelly Keenan told the three Appeal Court judges.

The Appeal Court reserved its decision, which will not affect payments for survivors.

The case goes back about a decade, when courts in each province approved the Indian Residential Schools Settlement Agreement.

In the Saskatchewan settlement approval hearing, Canada argued that the agreement did not require that it pay Merchant Law Group a minimum of $25 million. But Justice Dennis Ball disagreed and found the amount reasonable, noting that substantial time had been spent on the case and the complexity of the litigation.

Canada's appeal was dismissed by the Saskatchewan Court of Appeal in March 2007.

Canada went back to court in December 2007, arguing it shouldn't have to pay Merchant until a verification process to review the firm's billing records was complete.

Justice Neil Gabrielson, who was overseeing implementation of the settlement agreement in Saskatchewan, ruled in 2008 that the verification process was not complete but that Canada must pay.

The federal government filed a new lawsuit against Merchant Law Group in January 2015 to try to get the money back.

Justice Brian Barrington-Foote tossed out the claim, saying Canada did not have the information it now claims to have about Merchant's billing records, but that it was well aware of the possibility there had been misrepresentations and agreed to pay $25 million regardless.

Keenan said no one knew there was fraud in 2006 or 2008.

"Canada's claim is about what arrangement it would have entered into, not whether the arrangement it entered into was fair and reasonable," she said.

The review process was done after the agreement was signed, Keenan said, and it found Merchant's billing records were "replete with the illegitimate time entries and excessive disbursement records."

Merchant's lawyer, Gordon Kuski, said the government knew there were concerns about billing and went into negotiations with its eyes wide open.

"Each of the courts were fully informed and hip about the concerns but, pursuant to the contract, found out that the $25 million was fair and responsible," Kuski told the Appeal Court on Tuesday.

He also said dragging the case into court again is an abuse of process.

"The torturous journey that MLG has been on since 2006, relative to this matter, and here 10 years later — they're being vexed by the same issue."

Kuski said the government can't have its money back. "The court ordered that we were entitled to it," he said.

"I mean there has to be some end to litigation."

'We have been heard': Federal inquiry brings hope to vigil for missing and murdered Indigenous women

'We have been standing up shoulder to shoulder each year, and we have been heard'
Laura Chapin, CBC News, October 4 2016

There was new hope at Tuesday's 11th annual Sisters in Spirit vigil in Charlottetown — thanks to a federal inquiry that's underway into missing and murdered Indigenous women.

"We have been standing up shoulder to shoulder each year, and we have been heard," said Lennox Island chief Mathilda Ramjattan, who has attended each of the vigils held in P.E.I. since 2006.

This year, at least 100 people took part in the ceremony at Confederation Landing.

They made an "honour walk" in a circle on the park's path, while women sang and drummed. At the end of the vigil, there was a moment of silence.

'A very special event'

"And today is really a very special event. Because of all the advocating that aboriginal women across Canada has done, today we can move forward, we're moving forward with a national inquiry," said Judy Clark, president of the Aboriginal Women's Association of P.E.I.

Clark knows first hand the pain of having a missing loved one. Her aunt, Josephine Thomas McCormack, was missing for two-and-a-half months in 1968.

"My mom would call the RCMP every second day, and then when she was found we had closure and we were able to bury her," said Clark.

Stories will finally be heard

Her aunt's body was found on the shores of the Hillsborough River, but her cause of death was never determined.

Clark said the inquiry means family's stories will finally be heard.

The Sisters in Spirit vigil was first held on the Island in 2006, after the Native Women's Association of Canada started its detailed research into the alarming rate and violence against Indigenous women and girls.

RCMP taps former Supreme Court judge for sexual-harassment settlement

Daniel LeBlanc, The Globe and Mail, October 7 2016

The RCMP is calling on former Supreme Court judge Michel Bastarache to settle hundreds of sexual harassment complaints by current and former female Mounties.

Mr. Bastarache will be a key player in the RCMP's efforts to "turn the page" on the dark chapter in the history of the national police force, in which female officers were routinely bullied and harassed by male colleagues and superiors.

The RCMP is set to announce a major settlement of hundreds of complaints of sexual harassment at a cost of tens of millions of dollars on Thursday, sources said.

RCMP Commissioner Bob Paulson will appear alongside Public Safety Minister Ralph Goodale and Employment Minister MaryAnn Mihychuk in Ottawa to provide the "update on harassment related litigation." Also in attendance will be former Mounties Janet Merlo and Linda Gillis Davidson.

Commissioner Paulson took over in 2011 as the RCMP was struggling to deal with hundreds of cases of sexual harassment involving female Mounties who complained of abuse at the hands of colleagues and superiors. In 2013, he said the force suffered from "cultural dysfunction."

Ms. Merlo, who as an officer was based in Nanaimo, B.C., filed a lawsuit on behalf of other complainants, saying she suffered bullying and harassment throughout her career of nearly 20 years.

Ms. Davidson spent more than two decades in the RCMP and was the lead plaintiff in another proposed class action suit over systemic discrimination and harassment. She worked at one point in the prime minister's protective detail.

Hundreds of other women came forward with similar complaints, which were brought into a planned class action lawsuit.

"When we hit 100, I was surprised," said lawyer David Klein of Klein Lyons, the firm handling the class action, in 2014. "As we hit 200, I was less surprised, and then 300 even less, because we were beginning to have a sense of the magnitude of the internal problem at the RCMP with women in the force."

Former B.C. RCMP Corporal Catherine Galliford, who in 2011 spoke out about sexual harassment and bullying over her then-20 years of service, is credited with having opened the door for hundreds of other women to come forward. The once-prominent spokeswoman for the Mounties in British Columbia said she hopes the complainants receive an official apology from the force.

"I am so proud of these women for coming forward in the first place, especially not knowing what the outcome was going to be," Ms. Galliford said in an interview on Wednesday.

"I want there to be some form of resolution, because at the end of the day, what all of these women and men, who have not really been acknowledged yet, what they want is an apology, an acknowledgment from the RCMP: 'You know what? We did you wrong. We're apologizing publicly. We're sorry.' If something like that happens, then I applaud it and I am holding it close to me."

Ms. Galliford had been on sick leave since 2006 and was medically discharged from the force this spring, shortly after settling her lawsuit with the force. She said she has participated in support groups for post-traumatic stress disorder developed as a result of the harassment and will begin PTSD treatment next month.

The class action lawsuit has not been certified. The federal government argued last year in a B.C. court that the cases should be settled individually.

"The proposed class is overly broad, encompassing every woman who has ever worked in one of three categories within the RCMP in the history of this organization," the federal submission said.

An internal RCMP report released in 2012 suggested gender-based harassment happened frequently to the female officers who participated in a study of their experiences of being bullied by colleagues and superiors.

In 2013, Commissioner Paulson told a parliamentary committee that he was pushing a "zero tolerance" policy toward sexual harassment. "What it means is that there are going to be consequences for managers and leaders and supervisors who don't act when they observe traits and behaviours of people in the workplace, but also don't act when people make complaints," he said. "That's our approach to the zero tolerance idea, but what we're really shooting for is a fully engaged work force with all employees alive to the issue of workplace conflict and harassment and who are willing to intervene at the outset when these things are known or can reasonably be known."

The RCMP agreed at the time to modernize its procedures to deal with harassment complaints inside the force, setting out a 37-point action plan that includes training and a centralized process to deal with all complaints.

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New Brunswick judges among leading Supreme Court contenders: sources

Sean Fine, The Globe and Mail, October 11 2016

Two judges in New Brunswick who were appointed by previous federal Liberal governments are among the leading contenders from Atlantic Canada for an opening on the Supreme Court of Canada, Liberal insiders say.

They are Marc Richard, one of two remaining Liberal appointees on New Brunswick's Court of Appeal, and Lucie LaVigne, who was named by the Liberals to the next highest level of court, the Court of Queen's Bench. Both applied for the Supreme Court job under the federal Liberals' new appointment process that for the first time invited applications from the public, the sources said. If Justice LaVigne is chosen, the nine-member Supreme Court would for the first time since its creation in 1875 have a majority of women.

Of the two, Justice Richard is the better known. He was a high-profile litigator before he joined the appeal court in 2003, while Justice LaVigne specialized in family law. And as a court of appeal member, he belongs to the level of court from which most Supreme Court judges are chosen. Justice LaVigne joined the Court of Queen's Bench in 2001.

Related: Canada's bench strength: Meet the judges, new and old, of the Supreme Court

New Brunswick Attorney-General Serge Rousselle, an advocate for minority-language rights, is also among the nine applicants from the Atlantic provinces, sources in the region say.

Prime Minister Justin Trudeau has stipulated that functional bilingualism is a requirement for appointees to the Supreme Court.

Mr. Trudeau is expected to announce the appointment soon. He has received a short list of three to five names from an advisory committee, which had a deadline of Sept. 23. He has not said whether the new Supreme Court judge will be from Atlantic Canada. The region has always had a seat on the court, and is without one because of the retirement of Thomas Cromwell of Nova Scotia. Mr. Trudeau invited applications from anywhere in Canada. In a fact sheet, the government promised the short list would include Atlantic Canadians.

Because of Mr. Trudeau's bilingualism requirement, attention is turning to New Brunswick, the only officially bilingual province.

(In Nova Scotia, leading jurists include Court of Appeal Chief Justice Michael MacDonald and Court of Appeal Justice Joel Fichaud, both Liberal appointees.)

Justice Richard has a powerful advocate in his corner: the province's Chief Justice, Ernest Drapeau. The Chief Justice is the only other Liberal appointee on the province's Court of Appeal, and he has privately urged the government to appoint Justice Richard to the Supreme Court, multiple sources told The Globe. The Chief Justice also speaks very highly in private of Justice LaVigne, legal sources said.

Some legal observers consider Chief Justice Drapeau the most brilliant jurist the province's top court has ever had, but he is in his mid-60s and has told friends he is not seeking the Supreme Court job. He is friends with Dominic LeBlanc, a federal Liberal cabinet minister from New Brunswick who is close to Mr. Trudeau. Mr. LeBlanc's wife, Justice Jolène Richard of the New Brunswick Provincial Court, worked for Ernest Drapeau's law firm when both were still in private practice. (Mr. Rousselle has his own connection to Mr. LeBlanc; he retained the federal cabinet minister's brother-in-law, André Richard, to argue a case for the provincial government at the appeal court.)

Justice Marc Richard was a Crown prosecutor before becoming one of the province's top litigators, with a well-rounded practice. In one of his best-known cases, he defended William Stillman in a major 1997 search-and-seizure case at the Supreme Court. Mr. Stillman, 17, had been accused of a rape-murder of a 14-year-old girl, and police had taken hair samples and an imprint of his teeth by threat of force. The defence argued that police violated Mr. Stillman's constitutional rights. (Mr. Stillman's conviction by a jury was upheld by the province's Court of Appeal.) The Supreme Court overturned the acquittal and ordered a new trial.

As an appeal-court judge, Justice Richard denied bail to convicted murderer Dennis Oland last February, saying it would harm public confidence in the justice system to grant him release while he appeals his conviction.

"Marc's biggest hurdle may be that he's not a woman," one Liberal insider said on condition of anonymity, in reference to a widespread view that diversity is a priority in the government's judicial appointments. (In its first 15 appointments to the federal bench, just three were white men.) But as an Acadian – a descendant of French colonists – he can claim to be a member of a minority.

Justice LaVigne, a graduate of the University of New Brunswick law school, was appointed by the Liberal government of Jean Chrétien in 2001. She has been president of the Canadian chapter of the International Association of Women Judges, and has served on the organizing

committee of judicial-education conferences on gender and the law. She was a lawyer in private practice from 1980 to 2001.

In August, Justice LaVigne rejected a case brought by Mi'kmaq communities in the Gaspé peninsula against the province of New Brunswick and a Calgary-based company, Chaleur Terminals Inc., to stop a project to bring oil by rail to a nearby port, which they feared would harm salmon in the event of a spill.

"The government was required to make reasonable efforts to inform, consult and, if necessary, accommodate Aboriginal peoples," she wrote. "I conclude the Applicants were informed, they had reasonable opportunities to express their concerns and their concerns were taken seriously. The fact that the Crown could have done more to consult or accommodate does not necessarily render the Crown's efforts unreasonable."

One of Justice LaVigne's two daughters is a lawyer who articled at the Supreme Court.

Mr. Rousselle is at the centre of a controversy over whether French- and English-speaking children should ride school buses together. He was education minister last year when he learned that a community in the southeastern part of the province had eight buses carrying a total of 92 francophone and anglophone children, a violation of provincial policy mandating separate bus systems for children in the country's two official language groups. He said publicly that he would seek to enforce the policy out of concern that the majority language would dominate conversation on the buses. And he asked the province's Court of Appeal to rule on whether the Constitution requires separate busing in New Brunswick. That case is still before the court.