



WHY SAYING "JUST GRIEVE IT" DOESN'T WORK

A PRELIMINARY FEMINIST INTERSECTIONAL ANALYSIS

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CRIAW acknowledges its presence and work on Indigenous Territories. We respectfully recognize the legacy of colonization upon Indigenous Peoples.

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Changing Public Services (CPS) has been a four-year feminist research project funded by the Canadian Research institute for the Advancement of Women (CRIA W) and the Social Sciences and Humanities Research Council (SSHRC). A Canadian bilingual network of academics, members of labour unions, community groups and individuals worked together to:

- 1) Track changes to public services and public sector employment in Canada since the 2008 global economic recession
- 2) Develop tools to identify and understand the impacts of these changes on different groups of Canadian women over time
- 3) Learn about changes across municipal, provincial and federal government services
- 4) Determine important areas for more research and action

A feminist approach called intersectionality guided the research and helped researchers find ways of working together to learn about the changes in public services and how they affect different women’s lives. This and other fact sheets share the findings of this work.

Summary

Access to formal workplace dispute resolution processes is important for workers to be able to challenge and potentially overturn employer decisions and practices they perceive to be inconsistent with workplace rules, discriminatory, or dangerous. Workers in unionized workplaces can use many formal procedures to address disputes on a wide variety of issues ranging from improper pay, disciplinary matters, and harassment, to health and safety concerns. First and foremost of these procedures is the grievance procedure. Its purpose is to resolve disputes regarding matters covered by the Collective Agreement. Many workers have access to a range of other formal workplace dispute resolution processes including:

- ▶ Harassment and discrimination processes;
- ▶ Complaints under the applicable Human Rights Act; and
- ▶ Complaints under health and safety legislation.

Federal employees have access to a range of additional formal procedures for resolving disputes including:

- ▶ An Informal Conflict Management System (ICMS) as required by the Public Service Labour Relations Act for the effective management and resolution of workplace conflict;
- ▶ Appeal procedures for addressing staffing complaints related to internal appointments, and;
- ▶ Complaints under the Official Languages Act

In this fact sheet, we:

- ▶ Report familiarity with the collective agreement and comfort with using formal recourse procedures, such as filing a grievance or other formal complaints, for diverse groups of women in the federal public sector;
- ▶ Discuss and assess factors that may influence familiarity and comfort levels; and
- ▶ Identify further actions and areas for research.

Intersectional analysis

A feminist intersectional policy analysis asks how well public policies, services and programs account for the perspectives, knowledges and experiences of diverse individuals who are disproportionately impacted by race, ability, and/or sexual orientation, just to name a few. An intersectional analysis helps to identify those whose needs are invisible, or not being met by the grievance process and other formal resolution procedures.

Unions and unionists may assume that the grievance procedure and other formal procedures to address workplace issues are equally accessible to all. On the face of it, these may be considered neutral processes and forums where workers feel equally willing and confident to launch an objection. However, it is important to look at these processes using an intersectional lens, which means considering how someone’s opportunity to use a formal workplace dispute resolution process might vary because of her gender, or his race, or their physical and mental abilities, and so on.

An intersectional analysis of data from the Public Service Employee Survey (PSES) reveals that the willingness and ability to use formal workplace dispute resolution processes is not universal. Knowledge about, confidence in, and access to, these procedures can vary based on a worker’s gender, language, race, Aboriginal status and ability.

Knowing this is crucial for unions, who spend considerable resources representing and advocating for people through formal workplace dispute resolution processes. The findings presented here underscore the importance for unions of re-examining workplace dispute resolution procedures and practices to find ways to ensure equitable access for women and men, Aboriginal and racialized people, women and men with disabilities, different language groups, and other under-represented groups.

Date on federal public sector workers

The CRIA W-ICREF “Changing Public Services” project prepared and analyzed custom data runs from the Government of Canada’s Public Service Employee Survey (PSES) from 2005, 2008, 2011, and 2014.¹ The PSES survey includes only federal public sector workers. This fact sheet reports on responses by diverse women to a few of the PSES survey questions relating to dispute resolution and familiarity with the collective agreement.

The PSES asks for a response to the statement, “I feel I can initiate a formal recourse process (e.g., grievance, complaint, appeal) without fear of reprisal”. Respondents can choose one of five answers, from “strongly agree” to “strongly disagree” (they can also choose not to answer).

¹ We present all of the analyses with caution. The results come from an exploratory data analysis to see the types of relationships that emerged from the data. As we note below, more concrete claims will require further analyses. For example, the analyses do not include controls.

The 2005 and 2008 PSES surveys gave examples of formal redress as “grievance, right of appeal, health and safety, etc.”. The 2011 and 2014 PSES surveys gave examples of formal recourse as “grievance, complaint, appeal”. Respondents to the PSES survey could have been referring to any or all of the formal dispute resolution procedures listed above when they answered the question about being able to initiate formal recourse.

Different findings for different groups of women workers

When we analyzed respondents’ answers regarding comfort in accessing formal recourse procedures, we found that:

- ▶ French speaking women in full and part-time permanent positions in the federal public sector are generally comfortable using formal workplace recourse procedures.
- ▶ English speaking women in full and part-time permanent positions in the federal public sector are less comfortable using formal workplace recourse procedures than French speaking women and men and English-speaking men.
- ▶ Aboriginal women in full and part-time permanent positions in the federal public sector are less likely to be comfortable taking formal recourse than non-Aboriginal women and men. However, they are as likely to be comfortable using formal recourse procedures as Aboriginal men in full and part-time permanent positions. This has been true since 2005.
- ▶ Women with disabilities in full and part-time permanent positions in the federal public sector are less likely to be comfortable using formal recourse procedures than men with disabilities, women without disabilities, and men without disabilities.
- ▶ Racialized women in full and part-time permanent positions in the federal public sector are also less likely to be comfortable using formal recourse procedures than racialized men, non-racialized men, and non-racialized women.²

Our findings show that not all employees are equally comfortable using formal workplace dispute resolution processes to address workplace concerns. The findings remind us that the lack of formal recourse action in a specific workplace or workplaces may not be the result of workplace harmony but may reflect a deep lack of comfort and trust with using formal workplace resolution processes.

Collective Agreements and Dispute Resolution

We also looked at a question about familiarity with the Collective Agreement in the same four cycles of the Public Service Employees Survey (2005, 2008, 2011, and 2014). A Collective Agreement is a written contract of employment covering a group of employees who are represented by a trade union. This agreement contains provisions governing wages and working conditions. It also contains the rights, privileges and duties of the employer, the union and the employees. Collective Agreements provide information about access to bereavement

² We did not directly compare one designated group’s (e.g., racialized women) comfort taking formal recourse with another’s (e.g., women with disabilities) because we did not want to pit one designated group against another.

leave, vacation leave, and protections regarding harassment and discrimination, work rules, and much more, including the procedure for bringing forward a grievance that the collective agreement has not been followed.

Familiarity with the provisions of the Agreement is essential for supervisors, managers, and employees. The Collective Agreement sets a framework for how the employer can manage the workplace and makes clear the rights and benefits of workers. The Collective Agreement also provides a formal workplace procedure where workers can seek recourse and resolution against the actions, or lack of actions, of the employer in matters covered by the Collective Agreement.

Awareness of the provisions of the Collective Agreement is necessary for ensuring the respectful functioning of the workplace. Knowledge of the Collective Agreement is also important for workers to assert their rights in the workplace. Unions and employers spend a great deal of time, effort, and money negotiating Collective Agreements. This is one of the primary legal obligations of both unions and employers in a unionized workplace.

Familiarity with the Collective Agreements

The PSES survey asks people completing the questionnaire to respond to the statement, “I am familiar with the provisions of my Collective Agreement”. Respondents can choose one of five answers from “strongly agree” to “strongly disagree” (they can also choose not to answer). When we looked at the answers to this question, we found:

- ▶ English speaking women in permanent (full-time and part-time) positions are more likely than all other identified groups to be familiar with their Collective Agreement.
- ▶ Aboriginal women in permanent positions (full-time or part-time) are as or more likely to be familiar with their Collective Agreement than non-Aboriginal women and men.
- ▶ Racialized women in permanent (full-time or part-time) positions are less likely to be familiar with their Collective Agreement than non-racialized men and women.
- ▶ French-Speaking women in permanent (full-time or part-time) positions are less likely to be familiar with their Collective Agreement than English-speaking men and women.
- ▶ Women with disabilities in permanent positions (full-time or part-time) are more likely to be familiar with their collective agreement than are men with disabilities, and women and men without disabilities in permanent and non-permanent positions.

Although we did not look at correlations between peoples’ familiarity with the Collective Agreement and their comfort taking formal recourse, our findings indicate that the existence of a Collective Agreement does not mean that diverse groups of workers are necessarily familiar with it, or that familiarity with the Collective Agreement is enough to make someone comfortable taking formal recourse. For example, English speaking women in permanent (full-time and part-time) positions are more likely than all other identified groups to be familiar with their Collective Agreement but they are less comfortable using formal workplace recourse procedures than French speaking women and men and English-speaking men. This is significant and deserves further study.

We also found that:

- ▶ Racialized women are less likely than other women to take formal recourse, and less likely than other women to be familiar with the Collective Agreement, which may suggest that knowing about the contents of the Collective Agreement would help racialized women feel more comfortable taking formal recourse.
- ▶ Aboriginal women and women with disabilities are more likely than other women to be familiar with the Collective Agreement but are still less likely to be comfortable taking formal recourse.

Equity Seeking Groups in the Federal Public Sector

The 2017 “Progress Update: Joint Union/Management Task Force on Diversity and Inclusion in the Public Service” reported on the 2015-2016 portrait of the federal public service. It found:

- ▶ Women were 54.4% of the employees;
- ▶ “Visible Minorities” were 14.45% of the employees;
- ▶ Persons with disabilities were 5.6% of the employees; and
- ▶ Aboriginal peoples were 5.2% of the employees.

The report notes that “[s]ince the adoption of the Employment Equity Act and the institution of the Treasury Board’s Employment Equity Policy, the public service has made significant progress in addressing equity issues over the past 10 years, particularly in representation levels for members of visible minorities (a 75% increase) and Indigenous peoples (a 25% increase). The federal public service continues to be a leader in [employment equity], comparing favourably with the private sector. For the fourth consecutive year, four [employment equity] groups in the federal public service exceeded their workforce availability”.

Despite progress in diversifying the federal public-sector workforce, a recent survey of over 12,000 respondents³ found that most felt that there were still significant barriers to diversity and inclusion in the federal public sector. When asked to identify barriers to diversity and inclusion in the workplace, the top 3 responses were: bias (73%), discrimination (60%), and harassment (38%). More research is needed to determine if these barriers influence familiarity with the Collective Agreement or contribute to the lack of comfort in taking formal workplace recourse.

³ Treasury Board (December 2017). *Joint Union/Management Task Force on Diversity and Inclusion Final Report*. Available online at: <https://www.canada.ca/en/treasury-board-secretariat/corporate/reports/building-diverse-inclusive-public-service-final-report-joint-union-management-task-force-diversity-inclusion.html>

Further investigation needed

The relationship between familiarity with the Collective Agreement and comfort taking formal recourse requires further investigation. Diverse groups of women may have familiarity with the Collective Agreement but still lack comfort in taking formal recourse. Knowledge of one’s rights and obligations does not necessarily translate into comfort with accessing those rights. Why are some groups of women who are familiar with the Collective Agreement comfortable accessing formal recourse while others are not? Why are racialized women less familiar with the Collective Agreement than non-racialized women or men? And how can we increase their familiarity with the Collective Agreement? Are there specific and nuanced differences that impact diverse women’s decisions to access formal recourse?

Unions could benefit from research to learn more about why these differences exist. Meeting with groups of workers to explore the reasons for these survey findings could help unions develop effective strategies to increase diverse groups of women’s and men’s familiarity with the rights outlined in their collective agreement and willingness to access the wide range of workplace dispute resolution processes.

As well, discussions within workplaces could help to explain how to encourage diverse groups of workers to feel more confidence in using formal workplace resolution processes. These discussions need to take place at all levels of the union, including at the shop steward level. The voices of marginalized workers need to be central in these discussions.

More research is also needed to understand why diverse groups of workers do not feel comfortable using these resolution processes. Based on the experiences of our team members, it would be helpful for researchers to investigate a number of questions, including:

- ▶ Does the fear of employer retaliation explain the reluctance to take formal recourse?
- ▶ Does concern and/or fear about the reaction of co-workers explains some of the reluctance to take formal recourse?
- ▶ Have the Official Languages Act and Commission played a role in the comfort level Francophone women have in accessing formal workplace recourse procedures?
- ▶ Does a critical mass of women workers in a workplace, from one of the above groups, play a role in determining comfort level in accessing formal workplace recourse procedures or familiarity with the collective agreement?
- ▶ Do obstacles or problems within unions lead to groups of workers being more or less comfortable taking formal recourse?
- ▶ Do specific groups of workers judge the formal workplace resolution processes differently than others (e.g., as being historically biased, ineffective, too time intensive and/or emotionally consuming)?
- ▶ Would a standalone Federal Commissioner on Diversity and Inclusion in federal public sector workplaces address any of these issues?

Conclusion

Intersectional policy analyses are critical for examining how public sector workplace issues – including the use of formal recourse procedures – take into account, and are welcoming to, the perspectives, knowledges and experiences of diverse workers. It provides a starting point for discussing where and how to make changes. The data presented in this paper on different groups of women workers’ comfort with workplace dispute resolution processes and their familiarity with their Collective Agreement provide a good place to start.

The primary goal of an intersectional policy analysis in this context is to make the Collective Agreement, grievance procedure and other formal resolution processes more accessible and inclusive for all people. To contribute to answering some of the above questions, and to develop effective strategies for creating equity in access to formal dispute resolution procedures, unions, organizations, governments, and researchers can start by:

- ▶ Undertaking further research to learn more about what differences in workers’ experiences exist and why.
- ▶ Meeting with groups of workers to explore why they lack familiarity with their collective agreement and why there is discomfort in using workplace dispute resolution processes.
- ▶ Hosting discussions within workplaces to understand how to encourage diverse groups of workers to feel more confidence in using formal workplace resolution processes.
- ▶ Hosting discussions within unions at all levels, including with shop stewards, about how to encourage diverse groups of workers to feel more confidence in using formal workplace resolution processes.

Appendix 1: Data from Public Service Employees Survey 2005, 2008, 2011 & 2014

Table 1. Comfort Taking Formal Recourse⁴: Aboriginal Women

Aboriginal women in permanent ⁵ positions were less likely to feel comfortable taking formal recourse than...	
...non-Aboriginal women in permanent positions.	True in all years of the study (2005 – 2014); p < 0.01 ⁶
...non-Aboriginal women in non-permanent ⁷ positions.	True in all years of the study (2005 – 2014); p < 0.001
...non-Aboriginal men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...Aboriginal women in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.05
...Aboriginal men in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.01

BUT

Aboriginal women in permanent positions were as likely to feel comfortable taking formal recourse as...	
...Aboriginal men in permanent positions.	True in all years of the study (2005 – 2014); ns ⁸

Table 2. Comfort Taking Formal Recourse: Women with Disabilities

Women with disabilities in permanent positions were less likely to feel comfortable taking formal recourse than...	
...Men with disabilities in permanent positions.	True in three most recent years of the study (2008-2014) ⁹ ; p < 0.01
...Women and men without disabilities in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...Women with disabilities in non-permanent positions.	True in three most recent years of the study (2008-2014) ¹⁰ ; p < 0.05
...Men with disabilities in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.01

⁴ All references to comfort taking formal recourse pertain to federal public sector workers only.

⁵ All references to permanent workers include permanent full-time and part-time.

⁶ The p-value in these tables represents the level of significance for each of the regression results (regression coefficients). A smaller number indicates a greater level of significance (i.e. the smaller the number, the more significant the result). In general, a result is considered statistically significant at the p < 0.05 level. Where resulting p-values differ across years, we have included the largest p-value.

⁷ All references to non-permanent workers include non-permanent full-time and part-time.

⁸ ns = no significant difference; in other words, the regression analysis found no significant difference between the likelihood of Aboriginal women and Aboriginal men feeling comfortable taking formal recourse

⁹ In 2005, the difference between the two groups in permanent positions was not significant.

¹⁰ In 2005, the difference between the two groups was not significant.

Table 3. Comfort Taking Formal Recourse: Racialized Women

Racialized women in permanent positions were less likely to feel comfortable taking formal recourse than...	
...Racialized and non-racialized women in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...Non-Racialized women in permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...Racialized and non-racialized men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001

Table 4. Comfort Taking Formal Recourse: French-speaking Women

French-speaking women in permanent positions were less likely to feel comfortable taking formal recourse than...	
...French-speaking men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...French-speaking women in non-permanent positions.	True in three most recent years of the study (2008-2014) ¹¹ ; p < 0.001
...English-speaking men in permanent positions.	True in all years of the study (2005 – 2014); p < 0.05
...English-speaking women in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001

BUT

French-speaking women in permanent positions were more likely to feel comfortable taking formal recourse than...	
...English-speaking women in permanent positions.	True in all years of the study (2005 – 2014); p < 0.05

Table 5. Comfort Taking Formal Recourse: English-speaking Women

English-speaking women in permanent positions were less likely to feel comfortable taking formal recourse than...	
...English-speaking and French-speaking men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...French-speaking women in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.05
...English-speaking women in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001

Table 6. Familiarity with the Collective Agreement¹²: Aboriginal Women

Aboriginal women in permanent positions were more likely to be familiar with the collective agreement than...	
...Aboriginal women and men in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001

¹¹ Overall, French-speaking women in permanent positions were less likely than French-speaking women in non-permanent positions to be comfortable taking formal recourse, but in 2005, the difference between the two groups was not significant.

¹² All references to familiarity with the Collective Agreement pertain to federal public sector workers only.

...Non-Aboriginal women in permanent and non-permanent positions.	True in three most recent years of the study (2008-2014) ¹³ ; $p < 0.001$
...Non-Aboriginal men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); $p < 0.001$

BUT

Aboriginal women in permanent positions were as likely to be familiar with the collective agreement as...	
... Aboriginal men in permanent positions.	True in three years of the study (2005, 2008, 2014) ¹⁴ ; ns

Table 7. Familiarity with the Collective Agreement: Women with Disabilities

Women with disabilities in permanent positions were more likely to be familiar with the collective agreement than...	
...Women with disabilities in non-permanent positions.	True in all years of the study (2005 – 2014); $p < 0.01$
...Men with disabilities in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); $p < 0.01$
...Women without disabilities in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); $p < 0.01$
...Men without disabilities in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); $p < 0.001$

Table 8. Familiarity with the Collective Agreement: Racialized Women

Racialized women in permanent positions were less likely to be familiar with the collective agreement than...	
...Non-racialized women and men in permanent positions.	True in all years of the study (2005 – 2014); $p < 0.001$

BUT

Racialized women in permanent positions were more likely to be familiar with the collective agreement than...	
...Racialized women and men in non-permanent positions.	True in all years of the study (2005 – 2014); $p < 0.001$
...Non-racialized women and men in non-permanent positions.	True in all years of the study (2005 – 2014); $p < 0.001$

AND

Racialized women in permanent positions were as likely to be familiar with the collective agreement as...	
...Racialized men in permanent positions.	True in all years of the study (2005 – 2014); ns

¹³ In 2005, the difference between Aboriginal and non-Aboriginal women in permanent positions was not significant.

¹⁴ In 2011, Aboriginal women were more likely to be familiar with the collective agreement than Aboriginal men; $p < 0.01$.

Table 9. Familiarity with the Collective Agreement: French-speaking Women

French-speaking women in permanent positions were less likely to be familiar with the collective agreement than...	
...English-speaking women and men in permanent positions.	True in all years of the study (2005 – 2014); p < 0.001

BUT

French-speaking women in permanent positions were more likely to be familiar with the collective agreement than...	
...French-speaking men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...French-speaking women in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...English-speaking women and men in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001

Table 10. Familiarity with the Collective Agreement: English-speaking Women

English-speaking women in permanent positions were more likely to be familiar with the collective agreement than...	
...English-speaking men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...English-speaking women in non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...French-speaking women in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001
...French-speaking men in permanent and non-permanent positions.	True in all years of the study (2005 – 2014); p < 0.001