

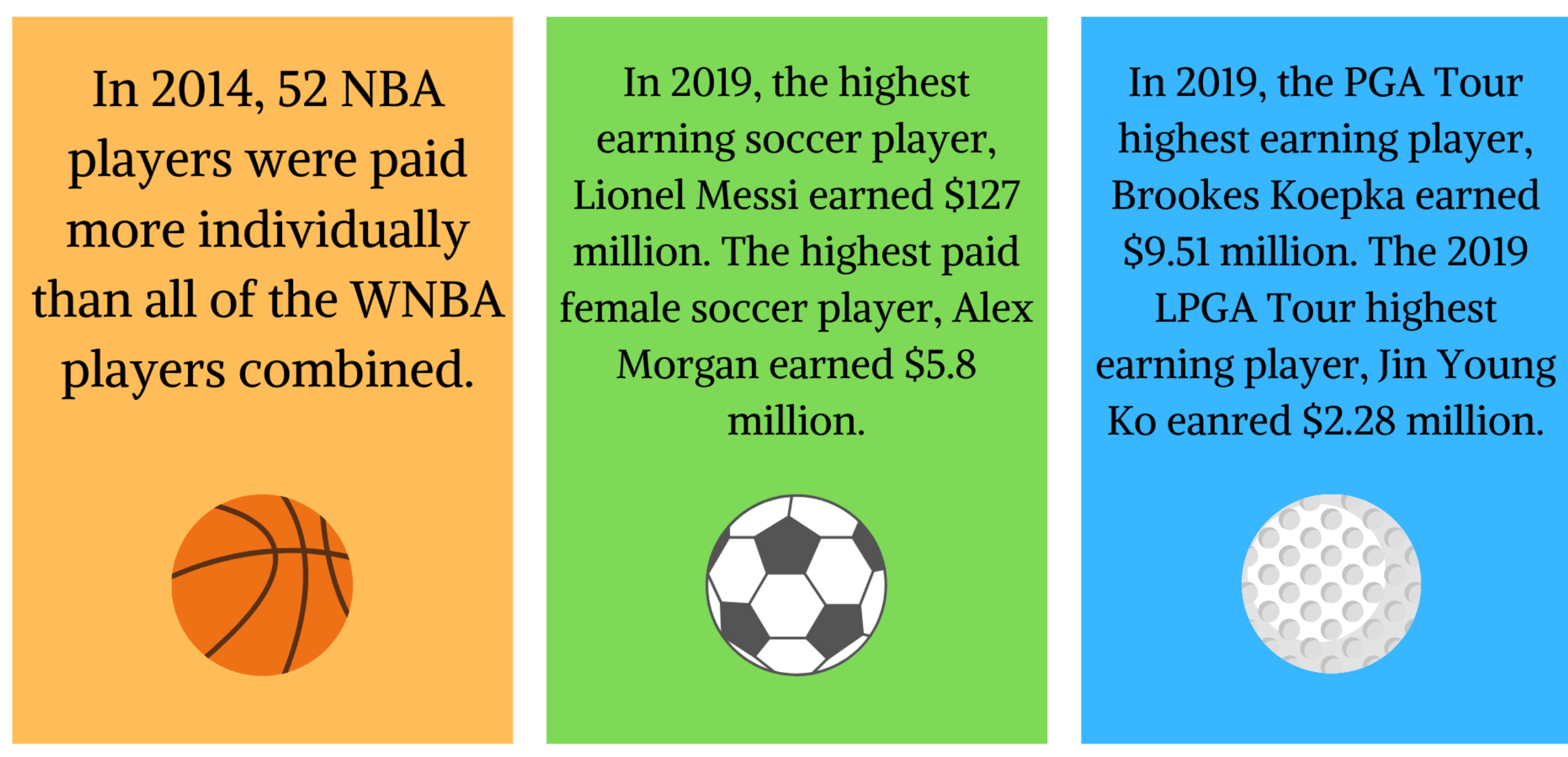
EQUAL PAY FOR EQUAL PLAY: AN ANALYSIS OF THE GENDER WAGE GAP IN PROFESSIONAL SPORTS

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INTRODUCTION

Women have historically faced many barriers in the workplace that are linked to gender discrimination. Although attempts have been made to eliminate gender inequality, it still exists in many forms. One of the most prominent examples in today's society is the gender pay gap. Research has shown that in Canada and the United States, women earn on average 80% – 87% of what their male counterparts do.

There is a strong argument that the gender pay gap in women's professional sports is greater than in other professions. When comparing the salaries of men and women competing in the same sport, the difference is substantial. Where men are earning millions of dollars, women are struggling to make a living. The following are examples of the prominence of the gender wage gap in professional sports:



EXPLANATIONS FOR THE WAGE GAP

- Revenue and media coverage:** The lack of media coverage for women's professional sports restricts revenue and inhibits the ability of women's professional sports to gain fan followings and sponsorship deals.
- Society's perception of women's professional sports:** Many argue that women earn less because their sports are less popular and not as good to watch.
- Female participation in sports:** Women's participation in sports has been historically limited. Despite efforts to increase female participation in sports, it is still uncommon for women to pursue sports as a career.
- Difference in pay structure:** There is an argument that the variance in pay results from a difference in pay structure. For example, the winners of the 2019 Scotties Tournament of Hearts received \$32,000 and custom jewellery, while the men's champions of the 2019 Tim Horton's Brier received \$70,000.

"I cannot think of any other industry that has such a wage gap, really. Depending on country context and sport, a man can be billionaire and a woman [in the same discipline] cannot even get a minimum salary"

- Beatrice Frey, Sport Partnership Manager at UN Women

ADDRESSING INEQUALITY IN LEGISLATION

Canada

- Canadian Human Rights Act, s 11
- Canadian Charter of Rights and Freedoms, s 15

United States of America

- Equal Pay Act
- Title VII of the Civil Rights Act

EFFORTS IN OVERCOMING THE WAGE GAP

United States Women's National Soccer Team v United States Soccer Federation

- 2016: 5 players file a complaint with the Equal Employment Opportunity Commission alleging wage discrimination (EEOC).
- 2017: new collective bargaining agreement is signed.
- 2019: The 5 players receive the right to sue letter from the EEOC. All 28 members of the National Team file a suit based on a claim of wage discrimination under the *Equal Pay Act* and *Title VII of the Civil Rights Act of 1964*. A claim of disparate treatment is also made.
- May 2020: Justice Klausner of the U.S. District Court for the Central District of California grants summary judgment on the EPA claim and the claim of unequal pay under *Title VII*. The Court denies the motion for summary judgment on the matter of disparate treatment under *Title VII*. The USWNT's motion for immediate appeal on the summary rulings is denied.
- December 2020: USWNT and USSF reached a settlement on working conditions that will be reviewed at a hearing on April 12, 2021.
- June 2021: delayed jury trial set for appeal on equal pay matter.



USA Women's Hockey

In 2017, the USA Women's Hockey Team threatened to boycott the International Ice Hockey Federation's Women's Hockey Championship if they did not make significant progress towards an agreement. The women sought an agreement that would move towards pay equity and help to support the growth of women's hockey. The new CBA included:

- An increase in earning potential (up to \$70,000 a year)
- The formation of a Women's High-Performance Group
- Terms to address issues of unequal treatment

Women's National Basketball Association

In 2020, the WNBA agreed to a new CBA. Prior to this CBA, many players chose to play overseas in the offseason to make a living. Players also lost pay if they took time off to have children. The new CBA included:

- An increase in the salary cap by 30%
- Full compensation for maternity leave and opportunities to be reimbursed for costs of adoption, surrogacy, fertility treatment, and preservation of eggs
- A guarantee of premium economy class for travel in the regular season



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RECOMMENDATIONS

Changes to Legislation

- Women are often unable to make a claim for wage discrimination under the legislation because of the requirement that the discrimination being claimed is based on wages of employees at their same establishment. To overcome this barrier, legislation can be changed to eliminate the "same establishment" requirement or be modified to read "similar establishment".
- Legislative exceptions for professional sports could also be created by enacting provisions that would treat separate but similar entities the same for the purpose of wage discrimination

Increase in Female Representation on Governing Bodies

- In 2016, only 18% of board members across 28 international sports federations were women. Research has found that for women to successfully influence the culture of an organization, a minimum of 30% representation by women is necessary on a board. As such, it can be argued that part of decreasing the wage gap between male and female athletes is to increase female leadership among governing bodies.

Role of Corporations

- There is a need for greater financial support for women's professional sports. In 2018, women's professional sports received only 0.4% of corporate sponsorships.
- Media corporations can increase the visibility of women's professional sports. For example, ESPN dedicated 16,000 hours to female sports in 2019 (up from 7,500 in 2015)

Role of Consumers

- Consumers can increase their support for women's professional sports by buying tickets to women's events, purchasing merchandise, wearing jerseys in public, and being vocal advocates.

Increase in Female Participation in Sports

- To increase female participation in sports, society needs to decrease the negative gender stereotypes associated with females in sport. Women should be encouraged to participate in sports from a young age by their parents and at school.
- Female professional athletes have a positive influence on participation in sports when they are seen as role models.
- Increase in initiatives to grow women's sport.

REFERENCES

- Any Alvarez, "I Thought the Main Issue in Women's Sports Was Equal Pay. I Was Wrong", *The Guardian* (9 May 2019), online: <<https://www.theguardian.com/sport/2019/may/09/i-thought-the-main-issue-in-womens-sports-was-equal-pay-i-was-wrong>>.
- Douglas Ross, "Opinion: Fans Are The Root of The Wage Gap in Sports", *University Wire* (9 April 2018), online: <cyber.usask.ca/login?url=https://www.proquest.com/docview/2022922082?accountid=14739> .
- Ivana Katsarova, "Gender Equality in Sport" (March 2019) at 3, online (pdf): *European Parliamentary Research Service* <[www.europarl.europa.eu/RegData/etudes/BRIE/2019/635560/EPRS_BRI\(2019\)635560_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635560/EPRS_BRI(2019)635560_EN.pdf)>.
- Michelle Kaufman, "How Big is the Gender Pay Gap in Sports? It's Much Bigger Than You Think. Here's Proof", *Miami Herald* (28 August 2019), online: <www.miamiherald.com/sports/article234425642.html>.
- Morgan v United States Soccer Fed'n, Inc.*, 445 F Supp (3d) 635 (CD Cal 2020).
- Nicole Zerunyan, "Time's Up: Addressing Gender-Based Wage Discrimination in Professional Sports" (2017) 38 *Loyola of Los Angeles Entertainment Law Review* 229.
- Patrick C. Coyne, "Comment: A Huge Win for Equal Pay: Women's National Teams Grad Their Biggest Victories Yet in Recent Contract Disputes" (2018) 25 *Jeffrey S. Moorad Sports Law Journal* 315.
- Peter Keating, "Analysis: What Equal Pay in Sports Really Means, As the Fight Goes On For U.S. Women's Soccer" (14 May 2020), online: *ESPN* <www.espn.com/espnw/story/_/id/28971949/analysis-equal-pay-sports-really-means-fight-goes-us-women-soccer>.
- Rachelle Pelletier & Martha Patterson, "The gender wage gap in Canada: 1998 to 2018" (11 October 2019), online: *Statistics Canada* <www150.statcan.gc.ca/n1/pub/75-004-m/75-004-m2019004-eng.htm>.
- Richard Eisenberg, "Closing the Gender Pay Gap: What Women, Employers And Government Can Do" (4 April 2019), online: *Forbes* <www.forbes.com/sites/nextavenue/2019/04/04/closing-the-gender-pay-gap-what-women-employers-and-government-can-do/?sh=3e830aa66c73>.
- The Associated Press, "U.S. Women's Hockey Reaches Deal in Pay Dispute" (28 March 2017), online: *CBC* <www.cbc.ca/sports/olympics/u-s-women-s-hockey-reaches-deal-1.4044109>.
- The Canadian Press, "Delayed trial of USWNT v US Soccer Pushed Back to June 15" (19 February 2021), online: *TSN* <<https://www.tsn.ca/delayed-trial-of-women-v-us-soccer-pushed-back-to-june-15-1.1595898>>.
- "USWNT Lawsuit versus U.S. Soccer Explained: Defining the Pay Gaps, What's at Stake for Both Sides" (3 June 2020), online: *ESPN* <www.espn.com/soccer/united-states-usaw/story/4071258/uswnt-lawsuit-versus-us-soccer-explained-defining-the-pay-gaps-whats-at-stake-for-both-sides>.
- Valeria Perasso, "100 Women: Is the Gender Pay Gap in Sport Really Closing?" (23 October 2017), online: *BBC* <www.bbc.com/news/world-41685042>.
- "Wage Gap Continues to Affect Sports World: Female Sports Expert" (27 March 2019), online: *Global News*: <globalnews.ca/news/5103939/wage-gap-continues-to-affect-sports-world-female-sports-expert/>.