

Fifth periodic report
Canada
Concluding observations: 28th session

325. The Committee considered the fifth periodic report of Canada (CEDAW/C/CAN/5 and Add.1) at its 603rd and 604th meetings, on 23 January 2003 (see CEDAW/C/SR.603 and 604).

Introduction by the State party

326. In introducing her country's fifth periodic report, the representative of Canada highlighted the importance Canada placed on eliminating gender discrimination and reported that the overall economic situation of women in Canada had continued to improve steadily, with women's relative earnings increasing from 52 per cent of men's in 1986 to 63 per cent in 1997. Women had made tremendous strides in education, making inroads into traditionally male-dominated professions and the large majority of women of all ages considered themselves to be in good health.

327. The representative of Canada said that women over the past century had become increasingly involved in the full range of social and economic aspects of life, most notably becoming a major and integral part of the paid labour force. The majority of women continued to be employed in predominantly female occupations, but the number was slowly declining. Their overall economic situation continued to improve steadily and their total earnings as a percentage of men's had increased. There was still a distinct division of labour between the sexes, in particular women with young children were spending more of their time on unpaid work.

328. The representative of Canada indicated that factors such as age, race, ethnicity, immigrant status and aboriginal heritage had significant effects on women's economic status. Aboriginal women were concentrated disproportionately in lower-skill and lower-paying occupations, and had lower rates of employment in the wage economy than aboriginal men or non-aboriginal women. Poverty among some groups of women in Canada was far too high but poverty, in general, had been declining since 1997.

329. The representative explained that the Federal Plan for Gender Equality, with its key long-term goal of undertaking gender-based analysis of policies and programmes across Government, came into effect in 1995 at a time when the Budget Act focused on expenditure reductions to ensure fiscal responsibility. However, the economic situation had improved since then and the Government had endorsed a dual approach to gender equality that combined both the integration of a gender perspective in government processes and the development of policies and programmes that were gender-specific, thus also providing a more systematic approach to address gender discrimination. In 2000 the Government adopted a new Agenda for Gender Equality. The Agenda was a multi-year strategy, with new funding spread over a five-year period. It was designed to engender current and new policy and programme initiatives, accelerate the implementation of gender-based analysis, enhance voluntary sector capacity, engage Canadians in the policy process and meet Canada's international commitments.

330. The representative provided a few examples to demonstrate that progress had been made in the past few years in process and results. The new Immigration and Refugee Protection Act promoted the mainstreaming of gender analysis through its requirements that gender impacts be reported annually in the federal immigration department's report to Parliament. As a part of the legislative process for the Immigration and Refugee Protection Act, a gender-based analysis of the potential impacts of the Act and its regulations

had been prepared. Several sections of the Act highlighted where gender considerations had been taken into consideration. Thus, for example, the Act included the offences for human smuggling and trafficking in persons, carrying a maximum penalty of life imprisonment, a fine of up to Can\$ 1 million, or both. The legislation recognized the context of trafficked women's lives by allowing a court to take into account aggravating factors such as humiliating or degrading treatment, including sexual exploitation, when determining an appropriate penalty for the crime.

331. With regard to the situation of indigenous women, the representative explained that in 1998, in response to the Royal Commission on Aboriginal Peoples, the Government had adopted an action plan called "Gathering Strength", a strategy to improve the quality of life of aboriginal people and to promote self-sufficiency with funding of Can\$ 965 million over five years. The Government had also introduced legislation to modernize the governance components of the historic Indian Act, adding to the First Nations' governance tools, which aimed at improving women's quality of life in their communities by offering them increased participation in the governance of the communities, broadening their protection from discrimination and providing additional remedies.

332. Turning to unpaid work, the representative stated that in December 2002, parental benefits under the Employment Insurance scheme were increased from 10 weeks to 35 weeks and that a disincentive that affected fathers was removed, doubling the combined maternity/parental benefit period to one full year. The number of Canadians accessing parental benefits increased by 24.3 per cent in 2001. The Government had also introduced and enhanced in the recent past a Child Tax benefit and National Child Benefit System, which included a supplement for lower-income families. Those benefits were particularly important in fostering parental employment in low-income families, where earnings alone would not be sufficient to meet family needs. The new child benefits thus directly addressed some key factors contributing to poverty among women — their lower average wages and predominance as primary care providers for children.

333. Regarding women's health, the representative noted recent investments in the areas of disabilities and health research. The Institute for Gender and Health, established in 2000, offered an unprecedented opportunity to investigate the influence of gender and sex on health. The 1997 Guidelines on the Inclusion of Women in Clinical Trials were an important step forward in the light of women's greater reporting of chronic health conditions and greater use of medication than men. The Guidelines aimed to ensure that drug manufacturers seeking market approval for their products based their application on research representing the full range of patients likely to receive the drug and that women were enrolled in clinical trials at all stages of drug development. Such procedures helped to define the risks and benefits associated with drug therapy to women, including women with childbearing potential and post-menopausal women.

334. The representative stated that another major government priority was to eliminate systematic violence against women. In 2002, federal, provincial and territorial ministers released a document entitled "Assessing Violence Against Women: A Statistical Profile", which provided reasons to believe that Canada's efforts to address violence against women might have had some positive effects. In 1993, some 12 per cent of women had indicated they had been assaulted by a marital or common-law partner in the preceding five years, whereas in 1999 the figure dropped to 8 per cent. The Government had initiated a number of criminal law reforms aimed at providing protection for victims of sexual assault and other violent offences. In addition, the Criminal Code and related legislation had been amended to facilitate the testimony of young victims of sexual or violent crime and to expand the role of victim impact statements.

335. Lastly, the representative of Canada said that Domestic Violence Courts had been created in many jurisdictions, with the aim of improving the justice system's response to domestic violence. They provided a range of specialized services, such as advocacy and support for women and children, expedited court processing, better victim cooperation and support, greater conviction rates and appropriate sentencing, including treatment for abusers.

Concluding comments of the Committee

Introduction

336. The Committee commends the State party for preparing and presenting its fifth periodic report, which contains input from the federal, provincial and territorial governments.¹ It also commends the State party for the written replies to the questions of the Committee's pre-session working group. However, it regrets that not all questions listed by the pre-session working group were answered by the State party.

337. The Committee congratulates the State party for the large delegation representing various governments headed by the Coordinator of Status of Women Canada. The Committee appreciates the open dialogue that took place between the delegation and the members of the Committee.

338. The Committee notes that the State party introduced gender-based impact analysis programmes and published Economic Gender Equality Indicators as a follow-up to the Fourth World Conference on Women.

Positive aspects

339. The Committee welcomes the accession, in October 2002, to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the acceptance of the amendment to article 20, paragraph 1, in November 1997.

340. The Committee commends the State party's policy, at the international level, in setting women's human rights standards, providing financial and other assistance to women's rights projects in developing countries as well as mainstreaming gender in its development assistance programmes and projects.

341. The Committee commends the State party for ongoing efforts towards improving the legal and de facto situation of women in Canada; in particular, it notes that the Canadian Human Rights Act as well as provincial and territorial human rights legislation have been amended or reinterpreted through court rulings and that additional laws have been formulated, all of which are directed towards the prohibition of all kinds of discrimination, including, inter alia, the practice of female genital mutilation.

342. The Committee notes with appreciation the recruitment and promotion measures taken to increase women's participation in the Foreign Service.

343. The Committee expresses satisfaction to the State party with the efforts undertaken in some provincial jurisdictions in order to increase the number of female students in the technical and scientific disciplines at the universities.

344. The Committee, through the State party, commends the province of Quebec for having made available full-time kindergarten to all children in the province since 1997 and for making early childhood services available at a nominal cost in general and free of charge for parents on social assistance.

345. The Committee welcomes the creation of domestic family violence courts in some jurisdictions as a way to improve the justice system's response to domestic violence.

346. The Committee commends the State party for the creation, in 2000, of the Institute of Gender and Health to contribute to the reduction of health disparities and the promotion of equity for vulnerable populations of women,

including women with disabilities. The Committee notes with appreciation the adoption of the Guidelines on the Inclusion of Women in Clinical Trials to ensure that women are enrolled in such trials at all stages of drug development.

Principal areas of concern and recommendations

347. The Committee regrets that the report, covering the period 1994-1998, was submitted in 2002 and that it does not fully comply with the Committee's guidelines on the format of periodic reports. **The report does not provide integrated information from federal to provincial and territorial levels, article by article, as recommended by the Committee in its previous concluding comments.** Moreover, the report lacks integrated sex-disaggregated data from the federal, provincial and territorial levels, in particular detailed information on the scope of the programmes and the impact of the measures undertaken by the State party to eliminate discrimination against women.

348. The Committee recommends that, in preparing its next report, the State party take into account the Committee's new guidelines and its general recommendations. It recommends that the State party's next report contain more specific and analytical information on the situation of women by the federal, provincial and territorial governments and that it cover all jurisdictions in a consistent and integrated way. That information should be supported by nationwide sex-disaggregated data and should point to and describe the results intended and achieved by legal provisions, policies and programmes adopted by the federal, provincial and territorial governments directed towards the elimination of discrimination against women.

349. The Committee acknowledges the State party's complex federal, provincial and territorial political and legal structures. However, it underlines the federal Government's principal responsibility in implementing the Convention. The Committee is concerned that the federal Government does not seem to have the power to ensure that governments establish legal and other measures in order to fully implement the Convention in a coherent and consistent manner.

350. The Committee recommends that the State party search for innovative ways to strengthen the currently existing consultative federal-provincial-territorial Continuing Committees of Officials for human rights as well as other mechanisms of partnership in order to ensure that coherent and consistent measures in line with the Convention are achieved. The Committee also recommends that the existing mechanisms be used to introduce best practices in order to achieve substantive equality of women with men in the enjoyment of their human rights under all governments.

351. The Committee is concerned that, within the framework of the 1995 Budget Implementation Act, the transfer of federal funds to the provincial and territorial levels is no longer tied to certain conditions which previously ensured nationwide consistent standards in the areas of health and social welfare. It is also concerned about the negative impact that the new policy has had on the situation of women in a number of jurisdictions.

352. The Committee recommends that the federal Government reconsider those changes in the fiscal arrangements between the federal Government and the provinces and territories so that national standards of a sufficient level are re-established and women will no longer be negatively affected in a disproportionate way in different parts of the State party's territory.

353. While noting recent efforts at gender-based impact analysis of legislation, programmes and other measures at the federal and some provincial levels, the Committee is concerned that such efforts are not mandatory for all levels and bodies of the various jurisdictions.

354. The Committee recommends that the State party consider making gender-based impact analysis mandatory for all legal and programme

efforts at the federal level and, through its respective Consultative Continuing Committees of Officials, at the provincial and territorial levels.

355. While appreciating the fact that funds are available under the Court Challenges Programme for test cases under the equality guarantee in the Canadian Charter of Rights and Freedoms, the Committee is concerned that the Programme applies only to federal laws and programmes. The Committee is also concerned that federal legal aid funds in civil and family law and for legal matters related to poverty issues, in contrast to legal aid for criminal cases, are channelled to the provinces and territories at their discretion. That, in practice, turns out to have a disproportionately restrictive impact on women seeking legal redress as compared with men.

356. The Committee urges the State party to find ways for making funds available for equality test cases under all jurisdictions and for ensuring that sufficient legal aid is available to women under all jurisdictions when seeking redress in issues of civil and family law and in those relating to poverty issues.

357. While appreciating the federal Government's various anti-poverty measures, the Committee is concerned about the high percentage of women living in poverty, in particular elderly women living alone, female lone parents, aboriginal women, older women, women of colour, immigrant women and women with disabilities, for whom poverty persists or even deepens, aggravated by the budgetary adjustments made since 1995 and the resulting cuts in social services. The Committee is also concerned that those strategies are mostly directed towards children and not towards these groups of women.

358. The Committee urges the State party to assess the gender impact of anti-poverty measures and increase its efforts to combat poverty among women in general and the vulnerable groups of women in particular.

359. The Committee is concerned about a number of recent changes in British Columbia which have a disproportionately negative impact on women, in particular aboriginal women. Among these changes are: a cut in funds for legal aid and welfare assistance, including changes in eligibility rules; a cut in welfare assistance; the incorporation of the Ministry of Women's Equality under the Ministry of Community, Aboriginal and Women's Services; the abolition of the independent Human Rights Commission; the closing of a number of courthouses; and the proposed changes regarding the prosecution of domestic violence as well as a cut in support programmes for victims of domestic violence.

360. The Committee, through the State party, urges the government of British Columbia to analyse its recent legal and other measures as to their negative impact on women and to amend the measures, where necessary.

361. While appreciating the federal Government's efforts to combat discrimination against aboriginal women, including the pending amendment to the Canadian Human Rights Act, and to achieve substantive equality for them, the Committee is seriously concerned about the persistent systematic discrimination faced by aboriginal women in all aspects of their lives. The Committee is concerned that aboriginal women, among other highly vulnerable groups of women in Canada, are over-concentrated in lower-skill and lower-paying occupations, they constitute a high percentage of those women who have not completed secondary education, they constitute a high percentage of women serving prison sentences and they suffer high rates of domestic violence. The Committee is further concerned that the First Nations Governance Act currently under discussion does not address remaining discriminatory legal provisions under other Acts, including matrimonial property rights, status and band membership questions which are incompatible with the Convention.

362. The Committee urges the State party to accelerate its efforts to eliminate de jure and de facto discrimination against aboriginal women

both in society at large and in their communities, particularly with respect to the remaining discriminatory legal provisions and the equal enjoyment of their human rights to education, employment and physical and psychological well-being. It urges the State party to take effective and proactive measures, including awareness-raising programmes, to sensitize aboriginal communities about women's human rights and to combat patriarchal attitudes, practices and stereotyping of roles. It also recommends to the State party to ensure that aboriginal women receive sufficient funding in order to be able to participate in the necessary governance and legislative processes that address issues which impede their legal and substantive equality. It also requests the State party to provide comprehensive information on the situation of aboriginal women in its next report.

363. While appreciating the inclusion of trafficking in persons as constituting a criminal offence under the new Immigration and Refugee Protection Act, as well as other aspects protecting refugee and immigrant women, the Committee notes that other provisions and practices may still contribute to devaluing women's educational skills and previous economic contributions to their families' well-being.

364. The Committee requests the State party to implement fully the gender-based impact analysis and the reporting requirements provided in the new Act with a view to eliminating remaining provisions and practices which still discriminate against immigrants.

365. While noting the improvement regarding the de facto situation of live-in caregivers through formal employment contracts, the Committee is concerned that the caregivers are allowed into the country only as temporary residents, they do not receive adequate social security and having to live in the homes of their employers may subject them to exploitation and abuse.

366. The Committee urges the State party to take further measures to improve the current live-in caregiver programme by reconsidering the live-in requirement, ensuring adequate social security protection and accelerating the process by which such domestic workers may receive permanent residency.

367. The Committee recognizes the efforts made by the State party in addressing the issue of trafficking in women and girls, but notes with concern that the report does not provide sufficient information on the programmes to assist victims of trafficking.

368. The Committee encourages the State party to assist victims of trafficking through counselling and reintegration and to include detailed information on its victim assistance programmes in its next periodic report.

369. Despite the commendable measures taken by the State party to combat violence against women and girls, including criminal law reforms, the Committee notes with concern that violence against women and girls persists. The Committee is particularly concerned about the inadequate funding for women's crisis services and shelters.

370. The Committee urges the State party to step up its efforts to combat violence against women and girls and increase its funding for women's crisis centres and shelters in order to address the needs of women victims of violence under all governments.

371. While appreciating the progress made as regards increased women's political representation and the new legal provisions that benefit female candidates for political office in particular, the Committee is concerned that women are still underrepresented in all areas of political and public life.

372. The Committee urges the State party to take additional measures to increase the representation of women in political and public life. It recommends the introduction of temporary special measures with

numerical goals and timetables to increase the representation of women in decision-making positions at all levels.

373. The Committee notes with concern the lack of women's de facto equality in the labour market, including the fact that, owing to their unpaid tasks in the family, a large percentage of them work in part-time jobs, marginal jobs and self-employment arrangements, which often do not carry adequate social benefits.

374. The Committee recommends that the State party monitor closely the situation of women's non-standard jobs and to introduce employment-related measures which will bring more women into standard employment arrangements with adequate social benefits.

375. While commending the State party's efforts directed towards the implementation of the principle of equal pay for work of equal value, the Committee notes with concern that the auditing process is too slow and that that principle is not implemented in practice by all provincial and territorial governments.

376. The Committee urges the State party to accelerate its implementation efforts as regards equal pay for work of equal value at the federal level and utilize the respective federal-provincial-territorial Continuing Committees of Officials to ensure that that principle is implemented under all governments.

377. While commending the State party's efforts towards bringing aboriginal women into improved income-generating positions, the Committee is concerned that the focus on entrepreneurs may not lead to aboriginal women's economic independence.

378. The Committee recommends that the State party ensure that income-generating activities for aboriginal women provide for a sustained and adequate income, including all necessary social benefits.

379. The Committee is concerned that, while the report cites laudable efforts at expanding and improving childcare under all governments, there is no information, except for Quebec, indicating whether the available childcare places meet the demand and are affordable.

380. The Committee recommends that the State party further expand affordable childcare facilities under all governments and that it report, with nationwide figures, on demand, availability and affordability of childcare in its next report.

381. While noting improvements in the Employment Insurance Act, the Committee is concerned that the number of women eligible for unemployment benefits is lower as compared with men. While appreciating the increase in the number of months of parental leave, the Committee is concerned that the low benefit level of the parental leave may not encourage great numbers of fathers to avail themselves of that leave.

382. The Committee recommends to the State party to reconsider the eligibility rules of that Act based on a gender-based impact analysis in order to compensate for women's current inequalities in accessing those benefits owing to their non-standard employment patterns. It also encourages the State party to consider raising the benefit level for parental leave.

383. The Committee, although recognizing the efforts undertaken by the State party concerning the provision of social housing, is concerned that such efforts might be inadequate to address the needs of women with low incomes and those of female single parents.

384. The Committee recommends that the State party reconsider and, if necessary, redesign its efforts towards socially assisted housing after a gender-based impact analysis for vulnerable groups of women.

385. While recognizing the State party's close collaboration with non-governmental organizations in the work towards women's empowerment, the Committee notes with concern that non-governmental organizations were not invited to contribute to the preparation of the report.

386. The Committee recommends that women's non-governmental organizations representing different groups of women under all governments, and other relevant non-governmental organizations, be involved in a national discussion and the dissemination of the next report.

387. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention.

388. Taking into account the gender dimensions of declarations, programmes and platforms for action adopted by relevant United Nations conferences, summits and special sessions (such as the special session of the General Assembly to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development (the twenty-first special session), the special session of the General Assembly on children (the twenty-seventh special session), the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the Second World Assembly on Ageing), the Committee requests the State party to include information on the implementation of aspects of those documents relating to relevant articles of the Convention in its next periodic report.

389. The Committee requests the wide dissemination in Canada of the present concluding comments in order to make the people of Canada, and particularly government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It also requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention and its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace in the twenty-first century".