



## Convention on the Elimination of All Forms of Discrimination against Women

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### Committee on the Elimination of Discrimination against Women

Forty-second session

20 October-7 November 2008

### Concluding observations of the Committee on the Elimination of Discrimination against Women

#### Canada

1. The Committee considered the combined sixth and seventh periodic reports of Canada (CEDAW/C/CAN/7) at its 854th and 855th meetings, on 22 October 2008 (see CEDAW/C/SR.854 and CEDAW/C/SR.855). The Committee's list of issues and questions is contained in CEDAW/C/CAN/Q/7, and the responses of Canada are contained in CEDAW/C/CAN/Q/7/Add.1.

#### Introduction

2. The Committee expresses its appreciation to the State party for its combined sixth and seventh periodic reports, which include information from the governments of the State party's provinces and territories, but notes that this information was not provided in an integrated fashion. The Committee also expresses its appreciation to the State party for its written replies to the list of issues and questions raised by the pre-session working group. The Committee further expresses its appreciation to the State party for its oral presentation and for the further clarifications given. The Committee notes that a number of changes in government, laws, policies and programmes affecting the rights of women have occurred since the end of the period covered by the State party's report.

3. The Committee commends the State party on its large delegation, which represented various ministries and included representatives of a number of provinces and territories. The Committee appreciates the open and constructive dialogue that took place between the delegation and members of the Committee, but regrets that no high-level representatives with decision-making power were included in the delegation.

4. The Committee commends the State party for objecting to reservations made by other State parties that it considers incompatible with the object and purpose of the Convention.

**Positive aspects**

5. The Committee welcomes the various efforts of the State party to combat trafficking. It welcomes in particular the ratification on 13 May 2002 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Transnational Organized Crime;<sup>1</sup> the adoption of 2005 Bill C-49, an Act to amend the Criminal Code (trafficking in persons), which creates indictable offences which specifically address trafficking in persons; and the publication in May 2006 of new guidelines for immigration officers to ensure that victims receive consideration for immigration status. It also notes with appreciation that the temporary residence permit has been increased from 120 to 180 days, enabling trafficking victims to apply for a work permit.

6. The Committee is pleased to note that parental leave for fathers is possible and that the number of men benefiting from this option in Quebec has greatly increased, although more could be done to promote the use of parental leave for fathers in all provinces and territories.

7. The Committee welcomes the establishment of a new Parliamentary Standing Committee on the Status of Women, which has produced a number of reports and recommendations on issues of concern to women.

8. The Committee notes with appreciation the proactive attitude of the State party towards the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol in international forums and through its international cooperation with other countries in the field of women's rights.

**Principal areas of concern and recommendations**

**9. While recalling the obligation of the State party to implement all the provisions of the Convention systematically and continuously, the Committee views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party. Consequently, the Committee calls on the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It also calls on the State party to submit the present concluding observations to all relevant ministries; other Government structures at all levels, including governments of the State party's provinces and territories; and federal, provincial and territorial parliaments, band councils and the judiciary, in order to ensure their effective implementation.**

**Parliament**

**10. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government, and it invites the State party to encourage its federal, provincial and territorial parliaments, in line with its procedures, where appropriate, to take the necessary steps with regard to the**

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<sup>1</sup> United Nations, *Treaty Series*, vol. 2237, No. 39574.

**implementation of these concluding observations and the Government's next reporting process under the Convention.**

**Accountability of the federal Government**

11. While the Committee is cognizant of the complex federal and constitutional structures in the State party, it underlines, as it did in its previous concluding observations of 2003, that the federal Government is responsible for ensuring the implementation of the Convention and providing leadership to the provincial and territorial governments in that context. The Committee reiterates the concern, expressed in its previous concluding observations, that the federal Government may lack the will and an efficient mechanism to ensure that the provincial and territorial governments establish legal and other measures to fully implement the Convention in a coherent and consistent manner.

**12. The Committee, taking into account the legal responsibility and leadership role of the federal Government in the implementation of the Convention, reiterates its previous recommendation of 2003 that the State party use its leadership and funding power to set standards and establish an effective mechanism aimed at ensuring accountability and the transparent, coherent and consistent implementation of the Convention throughout its territory in which all levels of government can participate.**

13. The Committee notes that federal funds to support social assistance are provided to provinces and territories through the Canada Social Transfer (CST) and welcomes information indicating that the CST budget increased in the past year and will continue to increase in future. Nevertheless, the Committee is concerned at the fact that decisions on expenditure of funds from the CST are completely at the discretion of the provinces and territories and that there is no federal accountability mechanism to ensure minimum standards across the country for the provision of funding to social assistance programmes for women. The Committee is also concerned at reports of cuts in social assistance schemes in many provinces and at the resulting negative impact on the rights of vulnerable groups of women, such as single mothers, aboriginal women, Afro-Canadian women, immigrant women, elderly women and disabled women, who rely on social assistance for an adequate standard of living.

**14. The Committee calls upon the State party to establish minimum standards for the provision of funding to social assistance programmes, applicable at the federal, provincial and territorial levels, and a monitoring mechanism to ensure the accountability of provincial and territorial governments for the use of such funds so as to ensure that funding decisions meet the needs of the most vulnerable groups of women and do not result in discrimination against women. The Committee also calls upon the State party to carry out an impact assessment of social programmes related to women's rights.**

**Visibility of the Convention and its Optional Protocol**

15. The Committee notes that the Convention and its Optional Protocol are made available on the Canadian Heritage website and that printed copies are available to the public upon request. It also notes that the judiciary receives training, including on the State party's obligations under international law, gender issues and integrating social context issues into judicial decision-making. Nevertheless, the

Committee remains concerned that the State party has not made enough efforts to make the Convention and its Optional Protocol known at all levels.

**16. The Committee calls upon the State party to take further measures to ensure the dissemination of and awareness-raising on the Convention and its Optional Protocol at all levels — federal, provincial and territorial, with a special emphasis on the judiciary and the legal profession, political parties and Government officials, including law enforcement officials, as well as to the general public, in particular women and women’s non-governmental organizations (NGOs), in order to strengthen the use of the Convention and its Optional Protocol in the development and implementation of all legislation, policies and programmes aimed at the practical realization of the principle of equality between women and men. The Committee encourages the State party to promote knowledge and understanding of the Convention and gender equality systematically through all of its training programmes. It further requests that the State party ensure that the Convention and its Optional Protocol, as well as the Committee’s general recommendations and the views adopted on individual communications and enquiries, are made an integral part of educational curricula, including legal education and training of the judiciary.**

#### **Discriminatory legislation**

17. The Committee is concerned that the Convention has not been fully incorporated into domestic law and that discriminatory legislation still exists. In particular, the Committee is concerned at the fact that the Indian Act continues to discriminate between descendants of Indian women who married non-Indian men and descendants of Indian men who married non-Indian women with respect to their equal right to transmit Indian status to their children and grandchildren. It is also concerned that section 67 of the Canadian Human Rights Act, although repealed, still provides clauses stating that the Indian Act should be applied in a manner that gives due regard to First Nations legal traditions and customary laws, balancing individual rights and collective rights.

**18. The Committee recommends that the State party ensure the full incorporation of all substantive provisions of the Convention into domestic law. The Committee recommends that the State party take immediate action to amend the Indian Act to eliminate the continuing discrimination against women with respect to the transmission of Indian status, and in particular to ensure that aboriginal women enjoy the same rights as men to transmit status to children and grandchildren, regardless of whether they have married out or of the sex of their aboriginal ancestors. It also recommends that the State party find measures to ensure that section 67 of the Canadian Human Rights Act is interpreted and applied in a way that provides full protection for aboriginal women against discrimination and full redress for any human rights violations.**

19. The Committee is concerned that the division of matrimonial property in case of divorce does not apply to aboriginal women living on reserves, owing to the application of the Indian Act, which does not address the issue of matrimonial property. The Committee regrets that Bill C-47, aimed at addressing property rights on reserves, is no longer under discussion following the dissolution of Parliament.

20. **The Committee urges the State party to ensure the speedy passage through Parliament and entry into force of legislation addressing the discriminatory provisions of the matrimonial property rights of aboriginal women living on reserves.**

#### **Access to legal remedies**

21. The Committee is concerned at reports that financial support for civil legal aid has diminished and that access to it has become increasingly restricted, in particular in British Columbia, consequently denying low-income women access to legal representation and legal services. The Committee also notes with concern the fact that the State party's Court Challenges Programme, which facilitated women's access to procedures to review alleged violations of their right to equality, was cancelled, and it regrets the absence of concrete reasons in the budget review and assessment that led to that cancellation.

22. **The Committee urges the State party to ensure that all women, particularly women belonging to vulnerable groups, have access to remedies for discrimination on the basis of sex by making available to them adequate mechanisms and access to legal aid so as to enable them to have legal representation and to seek and obtain redress from courts and tribunals for violations of their rights. In this connection, the Committee encourages the State party to reconsider its cancellation of the Court Challenges Programme. The Committee also encourages the State party to consider ways and means of establishing minimum criteria relating to access to legal aid schemes, including in particular in the area of family and poverty law, that would be applicable in all provinces and territories, so as to ensure that women across Canada are able to access such schemes.**

#### **Temporary special measures**

23. The Committee notes with regret that no temporary special measures are in place to accelerate de facto equality between men and women or to improve the situation of women's rights in the State party, in particular with regard to women in the workplace and the participation of women in politics.

24. **The Committee urges the State party to adopt, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, temporary special measures, with an emphasis on the areas of employment of women and participation of women in public life.**

#### **National machinery for the advancement of women**

25. Although noting the State party's indication that the restructuring of Status of Women Canada (SWC) involved only the closure of administrative offices and that funds had been reallocated to programmes for women, the Committee expresses concern that this has resulted in the closure of a number of the body's regional offices and has consequently made access to the services provided by SWC more difficult for women, in particular in remote and rural areas.

26. **The Committee urges the State party to carry out an assessment as to whether or not the closure of SWC offices has had a negative impact on the implementation of the Convention and on access to services by women, in**

**particular aboriginal and rural women. If that is the case, the Committee urges the State party to take all necessary measures to remedy the situation.**

#### **Non-governmental organizations**

27. The Committee notes with regret that under the new guidelines for NGO funding by the SWC Women's Programme, women's organizations cannot receive funding for domestic advocacy activities, lobbying or research. The Committee notes with concern that the resulting lack of funding has forced a number of women's NGOs to shut down or to severely restrict their work. The Committee is also concerned that while the State party consulted with civil society on the preparation of its periodic reports, there is no ongoing consultative process in all of the areas covered by the Convention.

**28. Noting the great importance of NGO advocacy, lobbying and research activities for the implementation of the Convention and its Optional Protocol, the Committee strongly urges the State party to consider revising guidelines for funding so that NGOs that carry out such lobbying, research and advocacy work are once again able to receive funding from the Women's Programme. The Committee also encourages the State party to establish an ongoing process of regular consultation and collaboration with NGOs on matters relating to the implementation of the Convention.**

#### **Violence against women**

29. The Committee welcomes initiatives at the federal, provincial and territorial levels to address violence against women, in particular domestic violence, and initiatives such as the Sisters in Spirit Initiative and the Aboriginal People's Programme, which specifically address violence against aboriginal women, as well as the participation of men in the process of combating violence against women, as demonstrated by the White Ribbon Campaign. While the Committee notes with interest the State party's indication that there has been a slight decline in the number of spousal abuse incidents reported, it remains concerned that domestic violence continues to be a significant problem. The Committee also expresses concern at what is apparently an increasingly common practice — using mediation and other alternative responses instead of prosecution in cases of domestic violence — and at the increased use of “dual charging”. The Committee is also concerned at reports of high levels of violence against adolescent girls in the family and society. Furthermore, while noting with appreciation the State party's Shelter Enhancement Programme, the Committee is concerned that the number of shelters for victims of violence is still insufficient. The Committee is also concerned that convictions for offences related to domestic violence may not be taken into account in child custody or visitation cases.

**30. The Committee recommends that the State party continue to give priority attention to combating violence against women, in accordance with general recommendation 19, on violence against women. The Committee also recommends that the State party enact legislation specifically addressing domestic violence against women, making it a criminal offence and ensuring that women who are victims of domestic violence have access to immediate means of redress and protection and that perpetrators are prosecuted and adequately punished, and that it put in place “primary aggressor” policies. The**

**Committee further recommends that adequate shelters and appropriate support services be provided in all jurisdictions for women and adolescent girls who are victims of violence, and that the shelter and services needs of aboriginal women, women with disabilities, immigrants, refugees and trafficked women and rural and northern women be addressed. The State party is also urged to implement legislation requiring that domestic violence convictions be taken into account in child custody or visitation decisions.**

31. Although the Committee notes that a working group has been established to review the situation relating to missing and murdered women in the State party and those at risk in that context, it remains concerned that hundreds of cases involving aboriginal women who have gone missing or been murdered in the past two decades have neither been fully investigated nor attracted priority attention, with the perpetrators remaining unpunished.

**32. The Committee urges the State party to examine the reasons for the failure to investigate the cases of missing or murdered aboriginal women and to take the necessary steps to remedy the deficiencies in the system. The Committee calls upon the State party to urgently carry out thorough investigations of the cases of aboriginal women who have gone missing or been murdered in recent decades. It also urges the State party to carry out an analysis of those cases in order to determine whether there is a racialized pattern to the disappearances and take measures to address the problem if that is the case.**

#### **Women and girls in prison**

33. The Committee notes with concern that a disproportionate number of aboriginal women are incarcerated; this is true also of Afro-Canadian women and other women of colour. The Committee is concerned at the fact that, while women in the federal prison system in general pose a low security risk, many are classified at a maximum-security level, which restricts their access to work and community programmes and to aboriginal healing lodges. In addition, the Committee is concerned about the continuing presence of male guards in female prisons, which increases the risk of sexual harassment or assault and violates the right to privacy of female detainees. The Committee expresses additional concern at the treatment of adolescent girls in juvenile detention, who are often detained in mixed-sex prisons, where they are exposed to violence from adolescent male detainees or from male prison guards.

**34. The Committee calls on the State party to address the issue of the overincarceration of aboriginal women and women of colour and to redesign its classification system for women in the federal prison system; to discontinue the practice of employing male guards as front-line staff in women's institutions and to establish an external redress and oversight mechanism for federal women prisoners that is independent, comprehensive and accessible. The Committee further urges the State party to ensure that girls are not held in mixed-sex youth prisons or detention centres.**

#### **Political participation and participation in public life**

35. While welcoming the high number of women judges on the Canadian Supreme Court and other levels of the judiciary at the federal, provincial and territorial

levels, and noting that efforts have been made at the federal, provincial and territorial levels to increase the number of women in public office, including through the provision of support to women who are underrepresented, such as immigrants, aboriginal women and seniors, the Committee notes with regret that the level of political participation by women remains low.

**36. The Committee urges the State party to take sustained measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, to accelerate an increase in the representation of women in elected and appointed bodies in all areas of public life, with a particular focus on high-level posts in the foreign civil service.**

#### **Employment and economic empowerment**

37. The Committee notes with appreciation the progress made in respect of women in the workplace, including decreased unemployment rates for women and their increased representation in a range of professional fields as well as a decrease in the pay gap between men and women. Nevertheless, the Committee notes with concern the predominance of women in part-time work, which is often due to their parallel traditional role of caregivers for children and the elderly, and the persistence of significant job segregation, with women taking up low-paid, traditional jobs. The Committee expresses its concern at the continuing employment rate gap between men and women.

**38. The Committee urges the State party to ensure equality between women and men in the labour market, including through the use of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25. The Committee also recommends that the State party include in its next periodic report to the Committee more detailed information on women in the workplace, with a particular emphasis on efforts to increase the number of women in non-traditional trades and professions.**

39. While the Committee notes that the minimum wage rate has increased in a number of provinces and territories, it remains gravely concerned at the fact that poverty is widespread among women, in particular aboriginal women, minority women and single mothers. While noting that the Government of Canada provides support for families through the Universal Child Care Plan, which includes the Universal Child Care Benefit and support for childcare spaces, the Committee remains concerned at lack of affordable quality childcare spaces. The Committee notes with interest the State party's indication that federal spending on housing has never been higher, but regrets the absence of a national housing strategy and expresses concern at the current severe housing shortage, in particular in aboriginal communities, and at the high costs of rent and the impact thereof on women. The Committee is particularly concerned at the impact of the lack of affordable childcare and affordable housing on low-income women with families.

**40. The Committee urges the State party to step up its efforts to provide a sufficient number of affordable childcare spaces and affordable and adequate housing options, including in aboriginal communities, with priority being given to low-income women, who are particularly disadvantaged in those areas. The Committee also recommends that the State party carry out a cost-benefit**



**analysis to assess the impact of current living standards, housing and childcare situations on the economic empowerment of women and present the findings in its next report to the Committee. Such an analysis should have a special focus on low-income women, taking into account the amount of social assistance they receive from the State compared with the actual cost of living, including housing and childcare.**

### **Health**

41. The Committee welcomes the Women's Health Indicators initiative, aimed at promoting the inclusion of gender and diversity perspectives in health reporting, the 2005 federal initiative to address HIV/AIDS, the establishment of the Aboriginal Women's Health and Healing Research Group in 2003 and the First Nations and Inuit Home and Community Care Programme. The Committee is concerned, however, that the aboriginal population is particularly affected by HIV/AIDS, which has a greater impact on women. It is also concerned about the situation of elderly women, who are often disadvantaged with regard to care for age-specific health problems.

**42. The Committee encourages the State party to carefully monitor the delivery of health services in order that it may respond in a gender-sensitive and age-sensitive manner to all health concerns of women, and in this regard it invites the State party to utilize the Committee's general recommendation 24 as a framework for action to ensure that a gender perspective is integrated into all health policies and programmes. The Committee also recommends that the State party include information in its next report to the Committee on any projects and activities undertaken under the Women's Health Indicators initiative.**

### **Aboriginal and other minority women**

43. The Committee is concerned at the fact that aboriginal women and women of various ethnic and minority communities continue to suffer from multiple forms of discrimination, particularly in terms of access to employment, housing, education and health care. The Committee notes the existence of a number of programmes, policies and activities aimed at addressing discriminatory treatment of aboriginal women. Nevertheless, it notes with regret that aboriginal women in Canada continue to live in impoverished conditions, which include high rates of poverty, poor health, inadequate housing, lack of access to clean water, low school-completion rates and high rates of violence. They are underrepresented in all areas of the labour market, in particular in senior or decision-making positions, have higher rates of unemployment and face a greater pay gap in terms of their hourly earnings compared with men. The Committee also notes with concern that women from ethnic and minority communities are also exposed to a high level of violence and are significantly underrepresented in political and public life.

**44. Recalling its previous recommendations of 2003, the Committee encourages the State party to take measures, including temporary special measures in line with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, to eliminate de jure and de facto discrimination against aboriginal, ethnic and minority women, both in society at large and in their communities, in particular with respect to the remaining**

discriminatory legal provisions and equal enjoyment of their human rights to education, employment and physical and psychological well-being. It also recommends that the State party develop a specific and integrated plan for addressing the particular conditions affecting aboriginal women, both on and off reserves, and of ethnic and minority women, including poverty, poor health, inadequate housing, low school-completion rates, low employment rates, low income and high rates of violence, and that it take effective and proactive measures, including awareness-raising programmes, to sensitize aboriginal, ethnic and minority communities about women's human rights and to combat patriarchal attitudes and practices and the stereotyping of roles. The Committee also urges the State party to ensure that aboriginal, ethnic and minority women are empowered, through encouragement, mentoring opportunities and funding, to participate in the necessary governance and legislative processes that address issues impeding their legal and substantive equality.

45. While welcoming the efforts of child and family services to place greater emphasis on prevention services, the Committee remains concerned at the fact that a disproportionately high number of aboriginal children, including girls, are being taken into State custody.

46. **The Committee recommends that the State party take all necessary measures to address the issue of the separation of aboriginal children from their parents. In this regard, the State party should give particular attention to contributing factors such as poverty, lack of housing, violence and drug abuse.**

#### **Marriage and family life**

47. The Committee is concerned that not enough information was provided during the constructive dialogue on property distribution upon dissolution of marriage or de facto relationship, in particular with respect to future earning capacity.

48. **The Committee recommends that the State party provide information on property distribution upon dissolution of marriage or de facto relationship in its next periodic report.**

#### **Beijing Declaration and Platform for Action**

49. **The Committee urges the State party to utilize fully, in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

#### **Millennium Development Goals**

50. **The Committee also emphasizes that the full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and for the explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Goals and requests the State party to include information thereon in its next periodic report.**

#### **Ratification of other treaties**

51. The Committee notes that States' adherence to the nine major international human rights instruments<sup>2</sup> enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Canada to ratify the treaties to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance.

#### **Dissemination of concluding observations**

52. The Committee requests the wide dissemination in Canada of the present concluding observations in order to make the people, including Government officials at the federal, provincial and territorial levels, politicians, parliamentarians and women's and human rights organizations, aware of the measures that have been taken to ensure the de jure and de facto equality of women, as well as of the further steps that are required in this regard. It requests the State party to continue to strengthen the dissemination, in particular to women's and human rights organizations, of the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

#### **Follow-up to concluding observations**

53. The Committee requests the State party to provide, within one year, written information on the steps undertaken to implement the recommendations contained in paragraphs 14 and 32.

#### **Date of next report**

54. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its eighth and ninth periodic reports in a combined report in December 2014.

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<sup>2</sup> The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.