
Committee on the Elimination of
Discrimination against Women
Fourth session

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Concluding comments of the Committee on the Elimination of
Discrimination against Women: Canada

Initial report

30. The Committee considered the initial report of Canada (CEDAW/C/5/Add.16) at its 48th and 54th meetings, on 22 and 25 January (CEDAW/C/SR.48, 54, 61 and 62).
31. The representative of Canada stated that the report was prepared by the federal Government of Canada; however, the domestic implementation of the Convention was the responsibility of both the federal Government and the governments of the provinces and territories. He drew the Committee's attention to the fact that the report had been prepared before the Committee's guidelines were adopted and covered the legislation and practices up to December 1982.
32. The representative of Canada informed the Committee that Canada had made notable progress towards achieving the essential goals set out in the Convention and that the ratification of the Convention on 10 December 1981 was the culmination of a continuous process that began 10 years earlier with the establishment of a Royal Commission on the Status of Women. He pointed out, inter alia, that there had been a change in attitudes. However, he was of the opinion that much remained to be done.
33. He explained that before ratifying the Convention the federal Government had to undergo a procedure to assure that all provinces agreed to review their status. Government machinery on the status of women had several interrelated components and existed in similar forms at the federal, provincial and territorial levels, with a liaison system between the levels.
34. The representative of Canada stressed the role of women's non-governmental organizations leading to the enactment of the Canadian Charter of Rights and Freedoms. That Charter constituted part I of the Constitution Act which entered into force in 1982. The provisions of section 15, paragraph 1, which would come into force on 17 April 1985, were significant since they provided for equality of rights and applied to federal and provincial laws, regulations, policies and government agencies. He also explained that implementation had been delayed to give the federal and provincial governments time to review and amend their legislation on the basis of equality. He explained how the provisions of the Act complied with the recommendation of the Convention.

35. The representative noted that the Government was aware that a problem remained, namely, the Indian Act. Section 12.1.(b) deprived women, but not men, of Indian status upon marrying a non-Indian. He said that the Government was committed to repealing that provision.

36. The representative stated that the federal and provincial governments had adopted legislation prohibiting discrimination on the grounds of sex or marital status with regard to employment and the provision of goods and services. Federal laws prohibited discrimination based on pregnancy or childbirth, and legislation on sexual harassment had been amended to comply with the provisions of the Convention related to human rights. Affirmative action programmes applied to federal and to some provincial government departments and could by order be applied to private employees.

37. Referring to the situation of women in public life, the representative outlined the situation of women as covered by the Convention and explained that women had the same rights as men to vote, to be elected to public office and to perform all public functions. The major political parties had made efforts to assure women equal access to the political process through special funds to help women candidates. An increasing number of women were occupying highly visible positions, including the office of Governor-General, and six women were appointed to the Cabinet, including some with key economic portfolios.

38. Turning to income assistance and social benefits, the rights guaranteed under the Canadian social security system were generally applied to women and men equally. He concluded by reaffirming the commitment of his Government to the reporting process set out in the Convention and said that the report had been widely distributed across the country.

39. Members of the Committee thanked the representative of the Government of Canada for his presentation and many praised the report for its frankness, clarity and commitment, which reflected the political will of Canada to implement the articles of the Convention improving the status of women. It was observed to be a major task for such a vast country but remarkable efforts had been made and results could be seen. The detailed statistical information was considered to be of great value to the Committee.

40. Clarification was requested as to whether discrimination against women in Canada was considered to be a crime, and if so, what were the sanctions applied.

41. Most members of the Committee were concerned about the Indian Act, in particular section 12(1)(b), and wanted to know what kind of concrete measures were taken in Canada for the elimination of discrimination against Indian women. A few experts said that Indian women, one of the most disenfranchised groups of Canada's population, were still suffering from official discrimination. Experts specifically asked what measures were being taken to eliminate the de facto discrimination against Indian women, whether there were any special social programmes aimed at equal educational and cultural opportunities for Indian women and whether they were fully involved in the economic and political life of the country.

42. The representative of Canada was questioned about the applicability of laws to immigrants particularly as regards equal opportunities for immigrant women, Indians and Eskimos.

43. Members of the Committee were concerned about the protection of women in the field of human rights in Canada and wanted to know the number of women who did not benefit from that protection. One expert stressed that the report confirmed the existence of serious problems in Canada in the enjoyment of the most important right of all, the right to work.

44. Several experts requested information about the measures taken to eradicate traditions that disadvantaged women and to correct erroneous concepts about the superiority of one sex over the other. It was thought to be encouraging that the issue of sexual harassment was taken very seriously and that legislative measures were taken to combat it.

45. In response to the statement of the representative of Canada, most members of the Committee noted that a very small percentage of women was involved in political life, and many experts asked about measures that had been taken to increase the participation of women in political and public life. One expert raised a specific question concerning the exclusion of judges from voting and requested clarification, while others inquired about the low representation of women in elected bodies, public office, the judiciary system and industrial management. Further information on the role of women in the major political parties and in the international efforts aimed at securing world peace, disarmament and a new international economic order was also requested.

46. More detailed information was requested by one expert concerning the activities of women in trade unions with respect to working women and their participation in professional organizations.

47. Clarification was requested by some of the experts concerning the nationality law in regard to children born to Canadian mothers outside Canada.

48. It was observed by some members of the Committee that the proportion of young women enrolled in colleges and universities had been raised to approximately 50 per cent.

49. Various comments were made on article 11.1(a) of the Convention since the level of unemployment among women during the period 1970-1982 had nearly doubled; the experts asked what measures had been taken by Canada to ensure employment opportunities for women. It would also be interesting to have more details about the experience of temporary special measures that had been taken, such as affirmative action in the field of employment. It was asked what incentives were available for private employers to develop affirmative action programmes and, if measures were adopted, were any of them directed towards men. Were there any plans to introduce paternity leave? In respect of the labour market, women seemed increasingly to demand their share in order to earn their own living; more information was requested on what had been done to change stereotyped patterns. One expert mentioned that Canada, too, seemed to be aware of the problem connected with existing job segregation. This put less worth in practice to the principle of equal pay for equal work. It was therefore asked if equal pay for work of comparable worth was an issue in Canada and if men were being persuaded to take so-called women's jobs to help women break into male dominated professions.

50. It was noted with satisfaction that protective legislation had been revised in Canada.

51. Some experts noted that the principle of equal pay for equal work was not observed in Canada in the industrial and juridical sectors and in public health and education, which was borne out by the statistical data contained in the report of Canada. Female teachers earned 62.7 per cent of what male teachers with similar qualifications received, and the average salary of women was 65 per cent that of men. They asked for specific examples of legislative and other measures that might have been taken by the Canadian Government to ensure the observance of article 11.1(d) of the Convention and wondered whether any sanctions were taken against employers who violated the principle of equal pay for equal work.

52. More clarification was sought on the Income Tax Act, in which certain child-care costs were allowed as a deduction for tax purposes from the income of the working mother, and under certain circumstances from the income of the father. Questions on whether income tax was proportionate or progressive and whether the incomes of spouses were taxed jointly or separately were also raised. An expert was concerned about the low percentage of child-care facilities and sought information on the ratio of available places to the number of children in the relevant age bracket. A few experts inquired about the cost of child-care facilities.

53. Some experts were concerned about women in rural areas, households and farming, in particular their coverage by social welfare services. Some experts requested information about maternity benefits, and whether all women received the same benefits. An expert sought information as to whether women in part-time employment were covered by the same pension and social security schemes as full-time workers.

54. As to provisions regarding the family, several experts requested more information on divorce, family planning programmes, pre-natal and post-natal counselling, maternity benefits and assistance to working mothers. In addition, some of the experts wanted to know whether legislation concerning abortion had been adopted.

55. Some experts were of the opinion that many of the Convention's provisions, and particularly those of articles 2, 3, 10, 11, 12, 13, 15 and 16, were not being implemented in Canada and that the Canadian Government still had much to do in order to eliminate not only legal but also de facto discrimination against women in its country.

56. The Canadian Government was congratulated on the comprehensive report it had prepared for the Committee. The progress described in the report bore witness to Canada's commitment to the spirit of the Convention on the Elimination of All Forms of Discrimination against Women. It was noteworthy that the Canadian Government regarded the Convention as unique among human rights conventions in that it provided for the equality of women not only before the law but also in social and economic life. It was interesting to note, moreover, that the Canadian Government had emphasized the need for temporary special measures to accelerate de facto equality between men and women.

57. The representative of Canada explained that the Government of Canada was firmly committed to ensuring complete equality between women and men and was in the process of taking all necessary steps to ensure that there were no formal barriers to the elimination of sexual discrimination. He informed the Committee that a substantial amount of institutional machinery and personnel resources had also been

assembled at various levels of government to ensure the implementation of relevant legislation and to encourage all concerned to take full advantage of their equal rights. The representative of Canada stated that it would thus not be possible to state in any way that Canada was in violation of the Convention, since facts as outlined indicated that everything possible was being done to ensure that the objectives of the Convention were being pursued in Canada. Governments at every level in Canada had taken or had committed themselves to take all necessary steps to ensure that there were no formal barriers to the elimination of sexual discrimination. However, in a democracy such as Canada, Governments could not impose views or attitudes on the people but could only create the right conditions and ensure that there were no structural barriers. Real equality could be achieved only when men and women themselves accepted the concept totally. He said that the Government of Canada had been very honest in its assessment and trusted that that honesty had not been misunderstood or misplaced.

58. He stated that the replies were divided into the following categories: government machinery, criminal and family law, the Charter, human rights, social matters, employment and government priorities.

59. In answer to questions related to government machinery, the representative explained that there were 13 jurisdictions in Canada, namely, the federal Government, and 10 provincial and 2 territorial governments, and machinery existed in each to address the status of women. Approximately 1,000 people were employed in the government machinery.

60. Referring to criminal and family law, he said that in Canada a person who profited from prostitution was charged under the criminal code with an indictable offence. In 1983, the federal Government appointed a special committee on pornography and prostitution to study the problems.

61. Incest was a crime under the criminal code of Canada. A recent study commissioned by the Committee on Sexual Offences against Children and Youth in Canada analysed the incidence of sexual offences against children and youth and made a number of recommendations, including the necessity of educating the public about sexual exploitation of children through prostitution and pornography and the seriousness of unacceptable sexual behaviour regarding children.

62. In reply to the question on family violence, the representative pointed out that, because of the seriousness of the problem and the manner in which both levels of government were involved, a concerted response to the crime of wife assault had taken place. In 1983 an intergovernmental working group on wife battering was established to deal with that issue.

63. He stated that the law on abortion had been outlined in Canada's report, as had legislation on marriageable age. Except in the Province of New Brunswick where no minimum age was specified, the law covering the capacity to marry reverted to English common law (14 years for boys and 12 years for girls). Family law came primarily under the jurisdiction of provincial governments. Individuals who were engaged to be married were considered single people and were governed by the law of contract only until they were married.

64. The legal rights of women and children in common-law situations were affected mainly at the dissolution of a relationship. Some provinces, i.e. Ontario, had

adopted legislation with respect to support obligations of the common-law spouse (male or female).

65. On the issue of women in the judiciary, he stated that while provincial requirements for appointment to the judiciary varied somewhat from jurisdiction to jurisdiction, at the federal level a candidate had to be a member of the legal profession for at least 10 years.

66. Regarding the principle of equality between women and men, the representative stated that section 15(1) of the Canadian Charter of Rights and Freedoms contained a broad guarantee of equality.

67. Concerning the Indian Act, the representative explained that the historical reasons behind its adoption had never been fully documented but it appeared to be an attempt to assimilate Indians into the new Canadian society and culture, which policy was no longer supported by Canadian governments. However, amendments to remove existing discrimination had been introduced in the House of Commons at the most recent session of Parliament with the support of all political parties.

68. The representative noted that every province had some form of free legal aide, eligibility for which was usually based on financial need, and each case was evaluated on its merits. Moreover, individuals asserting a right under any human rights legislation had at their disposal the services of the staff of the Human Rights Commission, investigators and, if necessary, a lawyer to represent their interests before the tribunal, without having to pay for any of the services.

69. Regarding education, he said that all Canadians had a right to free primary and secondary public education; however, private schools could charge tuition fees. Medical care in Canada was provided free of charge under universal state-sponsored insurance, except for two provinces where a minimal user fee was charged for some services.

70. Immigrant women were affected by many of the same issues as other Canadian women. According to the 1971 census, a higher proportion of women who emigrated to Canada after the Second World War completed secondary school or universities than Canadian-born women.

71. In response to questions in the employment sector, the representative stated that the affirmative action programmes and occupational and trade training plans that had been implemented had achieved a measure of success, as the statistics contained in the report demonstrated. For example, between 1975 and 1982 the rate of participation by women in the labour force increased while that for men decreased, and the unemployment rate for women did not increase to the same extent as that for men. As indicated in the report, it was illegal under human rights legislation in all jurisdictions to select employees on the basis of sex.

72. The representative referred to article 11.1(d) of the Convention stating that the principle of equal pay for equal work or work of equal value was discussed in detail in the report. On the question of wage differentials, the representative said he was unaware of the source of the statement that a female teacher earned only 62.7 per cent as much as a male teacher would earn. In fact, the salaries of teachers were determined under pre-set wage scales according to seniority and qualifications without regard to sex.

73. The representative explained that the Government of Canada's Affirmative Action Directorate provided the services of technical consultants, developed training materials and conducted training programmes to assist employers who wished to initiate affirmative action programmes. He further explained that by the end of March of 1984 those efforts had resulted in 66 affirmative action agreements between the Canadian Employment and Immigration Commission and private sector employers, 22 of which were under the Federal Contracts Program, which was focused particularly on women as the target group. Employers in provincial jurisdictions could obtain advice and assistance from the Human Rights Commissions in their provinces. In addition, several provinces had their own affirmative action programmes and mechanisms to encourage and implement their own provincial affirmative action programmes, i.e. Manitoba, New Brunswick, Newfoundland, Ontario, Quebec and Saskatchewan.