

Moving Forward on Women's Equality

Brief to the Standing Committee on Finance
Pre-Budget Consultation

Submitted by the B.C. CEDAW Group

September 29, 2003

The B.C. CEDAW Group

The B.C. CEDAW Group is a coalition of non-governmental organizations that is committed to advancing the equality interests of women and girls. The coalition came together to prepare a submission to the United Nations Committee on the Elimination of Discrimination against Women, on the occasion of the Committee's review of Canada's Fifth Report on its compliance with the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*. The B.C. CEDAW Group's submission, entitled *British Columbia Moves Backwards on Women's Equality*, focused specifically on the failure of the Government of British Columbia to comply with its *CEDAW* obligations.

The B.C. CEDAW Group includes: Aboriginal Women's Action Network, Working Group on Poverty, West Coast Women's Legal Education and Action Fund, Justice for Girls, Vancouver Rape Relief and Women's Shelter, Canadian Association of Sexual Assault Centres (British Columbia and Yukon Region), End Legislated Poverty, Vancouver Committee for Domestic Workers and Caregivers Rights, British Columbia Coalition of Women's Centres, the Vancouver Women's Health Collective, the National Action Committee on the Status of Women (British Columbia Society), and the Women's Working Group of the B.C. Health Coalition. The submission was also supported by the Women's Committee of the British Columbia Federation of Labour, the B.C. Government and Service Employees' Union, and the Hospital Employees' Union.

Purpose of this submission

According to the invitation to participate in this pre-budget consultation, Canada "strives to provide its citizens with safe communities and a high quality of life." Further, in achieving this goal the Standing Committee plans to give particular attention to "what taxation, spending and other measures should be taken to ensure progress in investing in, and caring for, all members of Canadian society."

The B.C. CEDAW Group submits that the federal government, when considering spending priorities, must take into account 1) the negative impact on women of recent cuts and changes to social programs and services made in the Province of British

Columbia and 2) the domestic and international human rights law that guarantees equality to women in Canada.

The B.C. CEDAW Group submits further that the federal government must be concerned with the failure of provincial governments, such as the Government of British Columbia, to live up to domestic and international human rights guarantees, which bind all levels of government. The federal government can play a leadership role within the country to ensure that human rights standards are met. To accomplish this, the federal government must exercise its spending power and allocate resources in ways that 1) will encourage observance by provincial and territorial governments of women's human rights and 2) that will ensure that women in Canada in all jurisdictions enjoy equality in real terms.

Canadian constitutional and international law

Canada's obligation to uphold women's equality finds its source in both domestic constitutional law and international human rights law.

Section 15 of the *Canadian Charter of Rights and Freedoms* guarantees to women the equal benefit of the law without discrimination based on sex, race, age and other enumerated or analogous grounds. The Supreme Court of Canada has held that section 15 is a guarantee of substantive equality, and that a central concern of this guarantee is the alleviation of the disadvantage of historically disadvantaged groups, such as women. Section 15 is concerned with the discriminatory effects of laws and programs, particularly those that exacerbate pre-existing disadvantage.

Governments are obligated to act in ways that will give life to the Charter's guarantees. This includes allocating resources in a manner that respects women's right to equality and advances their *de facto* enjoyment of equality.

CEDAW, to which Canada is a signatory, also provides a guarantee of substantive equality. *CEDAW* requires governments to take "all appropriate measures...to ensure the full development and advancement of women" (Article 3).

The B.C. CEDAW Group urges the Standing Committee to allocate federal resources in a manner that complies with Canada's constitutional and international legal obligations.

Findings of the CEDAW Committee

In its 2003 Concluding Comments, the CEDAW Committee made more than 20 substantive recommendations, noting central concerns about Canada's compliance with the treaty, in particular with respect to the adequacy of key social programs, including: anti-poverty strategies, legal aid, social housing, child care, employment insurance, and measures to combat violence against women. The Committee was particularly shocked by the disadvantaged conditions of Aboriginal women and by the high rates of poverty among Canadian women.

The Committee commented specifically on the situation of women in the Province of British Columbia. It said:

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: the cut in funds for legal aid and welfare assistance, including changes in eligibility rules; ...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 court houses; and the proposed changes regarding the prosecution of domestic violence as well as the cut in support programmes for victims of domestic violence. (para. 35)

The Committee recommended that "the government of British Columbia...analyse its recent legal and other measures as to their negative impact on women and ..amend the measures, where necessary." (para 36)

The B.C. CEDAW Group has made formal requests to the Government of British Columbia to undertake the recommended review. The Government of British Columbia admits that no gender impact analysis was undertaken prior to implementing the many cuts and changes to social programs and services introduced since May 2001. However, to date, the Government of British Columbia has not agreed to review its policies, despite clear evidence of their harmful effects on women and the Committee's direct recommendation.

In light of these developments, the B.C. CEDAW Group recommends that the Government of Canada take the following actions:

Recommendations

- 1. Designate funds to fulfill Canada's obligations under the United Nations *Convention on the Elimination of All Forms of Discrimination against Women*.**
- 2. Place conditions on transfers to provincial governments to ensure Canada-wide compliance with the Convention in the spending and allocation of transferred monies and tax space.**
- 3. Designate appropriate funds to ensure effective national monitoring of compliance with *CEDAW* obligations across all Canadian jurisdictions.**

Each of these recommendations is discussed below.

1. Designation of funds to fulfill Canada's obligations under CEDAW.

As a State Party to *CEDAW*, Canada is obligated to ensure that women are fully able to exercise and enjoy their rights. In its Concluding Comments, the CEDAW Committee pointed to a number of areas where Canada will be required to direct resources in order to fulfill women's human rights as guaranteed by the Convention. These areas include:

- legal aid for civil matters;
- funding for constitutional test cases;
- strategies to eliminate discrimination against Aboriginal women;
- measures to combat violence against women and girls;
- women's crisis services and shelters;
- child care; and
- social housing.

The Committee also stated:

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 since 1995 and the resulting cuts in social services. The Committee is also concerned that the State party's measures are mostly directed towards children and not towards these groups of women. (para 33).

The Committee urged Canada :

...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.

Women's enjoyment of their human rights and freedoms on a basis of equality with men, as guaranteed by the Charter and by *CEDAW*, will not be fulfilled through mere assertions or through the mere passage of laws. Rather the federal government must take concrete steps to ensure that Canada lives up to its obligations to women. These steps must include directing adequate financial resources in the forthcoming budget to equality-promoting programs and services.

2. Placing conditions on transfers to provincial governments to ensure Canada-wide compliance with the Convention.

It its recent review of Canada, the CEDAW Committed stated:

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 women's situation in a number of jurisdictions. (para 27)

The Committee recommended that:

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.

The B.C. CEDAW Group reiterates this concern and strongly supports the recommendation made by the Committee. Our report to the CEDAW Committee provides many illustrations of how unconditional transfer payments not only impede Canada's ability to uphold its international legal obligation to promote women's equality, but actually facilitate the derogation and deterioration of women's enjoyment of their rights.

3. Designate appropriate funds to ensure effective national monitoring of compliance with CEDAW obligations across all Canadian jurisdictions.

As the national government, the Government of Canada has the obligation to monitor and to work to ensure that all jurisdictions within Canada observe their obligations under *CEDAW*. This requires the establishment, and adequate funding of, a monitoring apparatus, working closely with non-governmental women's equality seeking groups at the national, provincial, and territorial levels.

Conclusion

If Canada is to provide all of its citizens with safe communities and a high quality of life, the federal government must place a high priority on assisting those who are most in need. It is our submission that the federal government must allocate resources and exercise its spending power in ways that support the equality rights of women and girls and that comply with Canada's constitutional and international legal obligations.

The B.C. CEDAW Group thanks the Standing Committee for the opportunity to participate in this consultation, and commends the Committee for seeking out the views of Canadians.