



Women and the Federal Budget

Comments by the

**New Brunswick Advisory Council on
the Status of Women**

to the

**House of Commons Standing Committee on Finance
2005 Pre-Budget Consultations**

September 2005

EXECUTIVE SUMMARY

The New Brunswick Advisory Council on the Status of Women (ACSW) is an arm's-length agency established by the provincial government in 1977 to advise the government on matters relating to the status of women and to bring these concerns before the public. We welcome this opportunity to present our recommendations to the House of Commons Standing Committee on Finance in this pre-budget consultation process.

The goal of women's equality remains "a work in progress" which requires the sustained collaborative efforts of governments, individuals, voluntary organizations and the private sector in Canada. Despite some significant gains made over the past decades, women still earn less than men, are more likely to live in poverty and to experience intimate partner violence and sexual assault. Women also remain seriously under-represented in decision-making positions and face discrimination in many aspects of their daily lives. For certain groups, notably Aboriginal women and women with disabilities, the inequalities are especially severe and multi-layered.

This submission presents proposals addressing some of the problem areas. These include mechanisms for bringing women's concerns to government, the use of gender-based analysis, initiatives to improve the situation of Aboriginal women, funding of child care, maternity and parental leaves, civil legal aid reform, social assistance funding and changes to the taxation of families and spousal support payments.

Introduction

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Mechanisms for bringing women's concerns to government

Despite the progress of past decades, women have not achieved equality with men in Canada. Women still face a host of inequalities in the areas of income, employment, health, family responsibilities, experience of violence, access to justice and access to power.¹ Canada has had a poor record of compliance on the United Nation's Convention on the Elimination of All Forms of Discrimination Against Women. In January 2003, CEDAW made more than twenty recommendations on a wide range of issues where Canada is failing to meet its obligations to women under the international anti-discrimination treaty.²

¹ See for example, Statistics Canada, *Family Violence in Canada: A Statistical Profile* (July 2005); Karen Hadley, *And We Still Ain't Satisfied: Gender Inequality in Canada, A Status Report for 2001*; NB ACSW, *2004 Report Card on the Status of Women in New Brunswick*, also updated fact sheets, available online at: <http://www.acswccf.nb.ca/english/acsw3.asp>

² See various publications by the Canadian Feminist Alliance for International Action at <http://www.fafia-afai.org/proj/ce/index.php>

Change is an uphill battle, especially given women's chronic and severe under-representation among elected members of government. As stated in the Beijing Platform for Action from the Fourth World Conference on Women, "Women's equal participation in decision-making is not only a demand for simple justice or democracy but can also be seen as a necessary condition for women's interests to be taken into account."³ In this context, mechanisms for bringing women's concerns to the attention of decision-makers are of vital importance. The federal government's structure for the status of women must be strengthened. To ensure that women's equality issues are adequately addressed, we recommend:

- That federal authorities appoint a full minister dedicated exclusively to the portfolio of the Status of Women, to ensure that adequate time, energy, resources and authority are available to advance women's equality concerns at the Cabinet table.⁴
- That a stand-alone, adequately resourced Status of Women department should be responsible for developing a national gender equality agenda and action plan, with input from women's equality-seeking organizations. Core-funding for key women's equality-seeking organizations should also be reinstated.
- That the federal government establish an arm's length body to act as a gender equality watchdog and a link between grassroots women and government.
- That the Parliamentary Standing Committee on the Status of Women maintain an ongoing role, continuing its work based on consultation with grassroots women's groups and civil servants.

Gender-Based Analysis

There are significant differences in the status, situation and life experiences of women and men. However, research or policies or programs are often developed without taking into account these gender differences. If gender is overlooked when it is indeed significant, it is a form of discrimination. Initiatives developed without taking gender into account may have the intended impact on only half of the population. Gender-based analysis (GBA) is a systematic way of including gender in research, and policy, program and legislative development. It is a tool for revealing possible outcomes for women and for men in all their diversity (race, ability, sexual orientation, etc.) The first requirement for GBA is that sex-disaggregated data be available since it

³ Beijing Platform for Action at www.un.org/womenwatch/daw/beijing/platform/decision.htm

⁴ See Coalition for Women's Equality brief at <http://www.canadaelection.net/cwe-pmo.html>

is essential to understanding how the life experiences of women and men are different and how policies, programs and legislation may affect the two groups differently. Unwavering high-level commitment is also required for GBA to become an effective tool for women's equality, and its use must be built into the accountability of management, research and policy planners in all types of organizations.

The Canadian government must include in its budget process an analysis of the impact each fiscal measure has on gender equality. Do both groups benefit equally from expenditures? Since Canada has committed to improving equality, then we must at least find out that our expenditures do not serve to increase inequality. Currently, some 60 countries in the world are engaged in various forms of Gender budget initiatives. The Canadian government requires "developing countries" receiving aid from us to include gender impact analysis but has not applied such tools to its own budgetary practices.⁵

Since endorsed by Canada in 1995 as part of the Beijing Platform for Action, the gender impact approach has made inroads through pilot projects and other initiatives in some federal departments. Policy-makers in Canada and abroad have benefited from the resources, training and support provided by Status of Women Canada's GBA Directorate.⁶ However, GBA implementation has been uneven. As the Parliamentary Standing Committee on the Status of Women recently learned, while some federal departments and agencies have established GBA units or strategies, others, even key central ones such as Finance, have none in place. All federal departments and agencies are not currently held accountable for reporting on the gender impacts of their initiatives.⁷

We therefore recommend:

- That the systematic application of GBA be a legislated requirement for all federal laws, policies and program initiatives. Gender-based analysis must be conducted by all departments and agencies and integrated in all steps of the policy process: from the definition of the problem and the goals, the research, consultations and options considered, right through to service delivery and evaluation. Central government agencies such as the Privy Council Office and the Treasury Board Secretariat should oversee enforcement of the implementation of GBA with mandatory annual reporting and audits of the government's performance on women's equality. The

⁵ See Isabella Bakker, *Gender Budget Initiatives: Why They Matter in Canada* (Canadian Centre for Policy Alternatives, September 2005), available online at http://www.policyalternatives.ca/reports_studies/index.cfm

⁶ Two Advisory Council staff members and another New Brunswicker involved in equality-seeking work completed the SWC Train the Trainers session offered in Fall 2003.

⁷ *Gender-Based Analysis: Building Blocks for Success*, Report of the Standing Committee on Status of Women (April 2005), p. 31-33.

Department of Finance must apply GBA throughout the budgetary process, restructuring revenues and expenditures in order to promote gender equality.

Aboriginal women

Aboriginal women are among the most disadvantaged women in Canada, particularly vulnerable to poverty, violence and human rights violations. Discriminatory provisions and gaps in the *Indian Act* and other legislation continue to have serious consequences for women's matrimonial property rights, status and band membership questions. Women living on a reserve have fewer rights regarding the marital home – the home in which the couple lived as husband and wife, or matrimonial real property - during a marriage and when a marriage ends than do those living off reserve, since provincial/territorial marital property laws providing for equal division do not apply on reserve. Even in cases involving domestic violence, women, including those with children, have no legal right to remain temporarily in the family home after the breakdown of a marriage or common-law relationship. By contrast, married women living off-reserve have the right to an equal division of marital real property and in cases of family violence, can get court orders for exclusive possession of the family home. The matrimonial real property issue is just one of a series of interconnected problems facing Aboriginal women.

In January 2003 the United Nations Committee responsible for the review of Canada's report on compliance with the Convention on the Elimination of all Forms of Discrimination Against Women, pointed to the "persistent systematic discrimination faced by Aboriginal women in all aspects of their lives."⁸ The Committee insisted that Canada must introduce effective pro-active measures to ensure that Aboriginal women can exercise their rights in all areas. Jurisdictional conflicts between federal, provincial and First Nations governments are far too often used as an excuse to delay or to avoid action. The \$5 million federal funding provided for 2005-2010 to support the work of the Native Women's Association of Canada aimed at ending racialized and sexualized violence against Aboriginal Women is but a small step in what must be a multi-faceted campaign for substantive equality. We therefore recommend:

- That the federal government accelerate efforts to address the inequalities faced by Aboriginal women in Canada.

⁸ Committee on the Elimination of Discrimination Against Women, 28th session, 31 January 2003, Draft Report – Consideration of reports of States parties - Canada, Advanced Unedited Version. Available on UN Web site: <http://www.un.org/womenwatch/daw/cedaw/cedaw28/ConComCanada.PDF>

Child care

The ACSW has long championed access to quality child care services as the fundamental right of every child. Our children, families and communities need a comprehensive child care system that ensures access for all to regulated, affordable, inclusive, and high quality child care. A large body of research shows that the first six years of life are crucial to the future educational, career and social success of individuals. Since most children are spending a lot of their time away from their parents, we must ensure that child care offers developmentally appropriate stimulation in a nurturing environment. Labour force participation and economic growth also depend on the availability of quality child care.⁹

Currently, even though they have waiting lists of parents waiting to pay, many centres in our province have difficulty keeping afloat or improving the quality of their programs or staff. Most children in New Brunswick, as elsewhere in Canada, are being cared for in settings that are not held to minimum standards. Informal child care arrangements are often the result of families' lack of choice. Child care workers are for the most part paid low wages and inadequately trained for high responsibility jobs.¹⁰ Inadequate provision is made for parents who are shift or part-time workers, and for children with special needs and requiring after-school care. Child care in non urban areas is limited, especially in flexibility. In many provinces, including New Brunswick, delivering services to rural areas is part of the challenge of providing access to quality child care. There exist models for quality child care delivered in a decentralized fashion, involving support and regulation of centre-based and home-based care, including toy and resource lending, parent-relief child care for at-home parents, school-break programs, playgroups, and family workshops.

A firm commitment to basic quality principles and adequate public funding are essential if we are to move forward. We do not believe that funding unregulated child care is the way to build the kind of system our families need and deserve. The ACSW therefore recommends:

- That the federal government maintain standards in its negotiations with the New Brunswick government on a bilateral child care agreement. The provincial and federal governments must work together to provide universally accessible, publicly subsidized, quality early childhood education and care programs.

⁹ See NB ACSW Child Care Campaign brochure, available online at <http://www.acswccf.nb.ca/english/acsw3.asp>

¹⁰ See Martha Friendly and Jane Beach, *Early Childhood Education and Care in Canada 2004* (University of Toronto Childcare Resource and Research Unit, May 2005), available online at www.childcarecanada.org/

Maternity and parental leaves

Canadian social policy must recognize the important contribution of raising children and remove disadvantages for women who have children. Maternity and parental leaves surrounding childbirth and adoption are a key part of a family-friendly policy. The current leave provisions available through the Employment Insurance program are inadequate. One or both parents are entitled to a leave of up to 52 weeks, and may receive benefits based on eligibility criteria involving work history. In practice, fewer women than men are eligible for parental benefits. Many women including the self-employed, seasonal and part-time workers, as well as those not recently employed, do not qualify for benefits. Others can not afford to draw just 55% of their regular earnings after a 2-week waiting period. The women most likely to take full advantage of the current program are those working full-time for the federal government or other employers who top up EI benefits.¹¹ Working people in Canada also need improved access to employment leaves and other supports to help them cope with caregiving responsibilities for family members who are elderly or living with disabilities.¹² We recommend:

- That eligibility rules for employment insurance be modified to allow the self-employed to contribute to EI for purposes of the maternity and parental leaves, to reduce required hours to 360 from 600, regardless of regional unemployment and to allow parents to “reach back” 3 to 5 years.
- That the length and value of benefits be improved by eliminating the waiting period, increasing from 55% of insurable earnings to 65%, based on the best 12 weeks of earnings in the last 3 to 5 years, increasing the maximum insurable earnings from \$39,000 to \$57,000, indexed and increase the Low-Income Cut-Off from \$25,921 to \$30,000.
- That the federal authorities undertake consultation with the provinces to establish national standards for employment protection as it relates to maternity and parental leaves.
- That the federal government develop a national caregiver strategy, including a 4-6 week paid, non-transferable paternity leave available when the baby is born, in addition to parental benefits.

¹¹ See Women’s Network PEI, *A Principled Evaluation of Maternity and Parental Benefits in Canada* (December 2004), at http://www.wnpei.org/pb_phase2dir.html

¹² See for example, Canadian Caregiver Coalition, Draft Working Paper for a Canadian Caregiving Strategy (2004), available at: http://www.ccc-ccan.ca/our_documents/index.php; see also National Coordinating Group on Health Care Reform and Women, *Gender-sensitive Home and Community Care and Caregiving Research: A Synthesis Paper*, available at: <http://www.cewh-cesf.ca/healthreform/publications/homecare.html#homecare>

Taxation of families and spousal support payments

It is important that Canada's income tax system should reflect the differential impact of taxation on families and individuals according to gender and other characteristics. Families with young children face particular financial challenges, whether one or both parents are in the paid labour force. Some groups and individuals claim that Canada's income tax system financially penalizes one-earner families with stay-at-home mothers and favours families where both parents are working for pay.¹³ They point to the fact that two-parent families with dependent children are treated differently by the tax system depending on whether they are one-earner or two-earner, since the same total family income may be taxed at a different rate and because the child care expenses deduction is only available to families using paid non-family caregivers. Like other gender equity-seeking groups and some economists, we argue that the tax discrimination claim is unfounded and sets up a false antagonism between different family types.¹⁴ There are nevertheless some changes that could be made to the *Income Tax Act* to to better compensate all families for the costs of raising children.

The situation of women after separation or divorce is another cause for concern. The relatively small number of women who receive spousal support payments must currently pay tax on the income while their ex-husbands claim it as a deduction. This is not equitable for a number of reasons. Women (and children in their care) are in general much worse off financially following separation or divorce than men, usually experiencing a significant decline in standard of living. Through unpaid domestic labour during the marriage/cohabitation, many women contribute to the family income while sacrificing training and career opportunities, independent earnings and other financial benefits. The deduction does not appear to encourage higher support awards, nor does it seem to have the effect of making payors more likely to make the payments. Because spousal support benefits are taxable income, some recipients see their GST tax credit and Canada Child Tax Benefits reduced, since these credits decrease as income increases. Spousal support payments do not correspond to the usual definition of taxable income as earned income. Unearned income, such as inheritances and gifts, is not taxed. It is therefore not clear why

¹³ See for example, REAL Women of Canada, "Pension and Tax Reform", available at www.realwomen.ca/papers/pension_and_tax_reform.htm; Kenneth J. Boessenkool and James B. Davies, "Giving Mom and Dad a Break: Returning Fairness to Families in Canada's Tax and Transfer System," C.D. Howe Institute *Commentary*, November 1998.

¹⁴ See Nova Scotia Advisory Council on the Status of Women, *Where is the Inequity?: A Comparison of Tax Paid by Two-Earner Families that use Child Care and One-Earner Families with Pre-School Children at Home*, May 1989; Canadian Centre on Policy Alternatives, B.C. Office, *Submission to the House of Commons Finance Sub-Committee on Tax Fairness for Canadian Families with Dependent Children*, May 1999; Lisa Philipps and Kim Brooks, *Supporting Families, Supporting Gender Equality: Improving Canada's Tax and Transfer System*, NAWL submission to the House of Commons Finance Sub-Committee on Tax Fairness for Canadian Families with Dependent Children, May 1999; Richard Shillington, *The Tax Debate over One- and Two-Earner Families*, April 2000, available at <http://www.shillington.ca/benefits/benefits.htm>

spousal payments should be taxed. Finally, note that during the marriage, the higher income spouse cannot deduct the cost of money provided to the other spouse for subsistence. The inclusion/deduction system treats two individuals who are no longer spouses as one tax unit, providing for a form of income splitting that is not allowed for spouses during marriage.¹⁵

The Advisory Council recommends that with regards to Canada's income tax system:

- That individual taxation should remain the basis of the tax system. Taxation provisions that have the effect of reinforcing the economic dependency of women on their spouses, such as the spousal tax credit, should be revisited.
- That the child care expense deduction should remain for the two-earner and lone-parent families only, as exists currently, since they must bear the burden of this necessary employment expense. Rather than an unfair advantage for two-earner families, this deduction related to earnings also partially corrects for the advantage enjoyed by one-earner families in the non-taxation of household work.
- That a significant tax credit for dependent children be made available to all families with children so that they may be better compensated for the costs of raising children. In order to further benefit low-income families who may pay little tax, this should be made a refundable tax credit.
- That spousal support payments be made non-taxable for the recipient and non deductible for the payor.

Social assistance funding

Current federal-provincial funding arrangements for social assistance are in dire need of reform. The replacement of the Canada Assistance Program in 1996 by a block fund for health care, post-secondary education, social assistance and other social services (later divided into the Canada Health Transfer and the Canada Social Transfer) was accompanied by a significant reduction in federal funding. In the decade since this important shift, provincial and territorial governments have cut back their social programs, resulting in growing income inequalities across Canada.¹⁶ Canada's poor have been paying the price for federal and

¹⁵ For a discussion of these issues, see Ontario Fair Tax Commission, *Fair Tax in a Changing World: A Report*, Toronto, University of Toronto Press/Ontario Fair Tax Commission, 1993; Maureen Maloney, "What is the Appropriate Tax Unit for the 1990s and Beyond?" in Allan Maslove ed., *Issues in the Taxation of Individuals*, Toronto, University of Toronto Press/Ontario Fair Tax Commission, 1994; Claire Young, *What's Sex Got to Do with It: Tax and the "Family"*, Law Commission of Canada Research Paper, May 2000, available at: http://www.lcc.gc.ca/research_project/00_sex_2-en.asp#table1

¹⁶ See Canadian Council on Social Development Policy Initiative (April 2004) at http://www.ccsd.ca/pr/2004/social_transfer/st.htm

provincial deficit reduction through woefully inadequate social assistance rates set without reference to national poverty measures and not indexed for inflation.¹⁷

We therefore recommend:

- That the Canada Social Transfer be split into at least two parts, with separate envelopes for social services and post-secondary education, with the introduction of minimum national standards for social assistance.
- Funding for the Canada Social Transfer should be restored to 1994-95 levels, with guarantees of predictability and stability of funding.

Civil Legal Aid

The aim of legal aid established by the provinces with federal financial support in the 1970s was to provide professional publicly funded legal help to poor Canadians who would not be able to afford such services. In practice, however, legal aid programs have suffered cutbacks and offer limited, fragmented and uneven coverage across the country. There are currently no national standards for legal aid coverage or uniform financial eligibility criteria throughout Canada. The provinces establish their own rules about the type of cases that qualify for legal aid and set the financial criteria to determine who has access to publicly funded legal services. In New Brunswick, as in the other provinces, civil legal aid coverage is very limited. Women are particularly affected by this situation, given their lower incomes and family responsibilities. We know from calls received at our Council office and from stories reported to national and regional law reform organizations that many women who are struggling with serious civil law issues, such as divorce, custody and landlord-tenant disputes have no access to publicly-funded legal services.¹⁸ As a result, women throughout Canada are increasingly representing themselves in complicated legal matters, or are failing altogether to access their legal rights and the rights of their children.

We therefore recommend:

- That the federal government introduce national standards for civil legal aid coverage and eligibility criteria and provide increased funding to ensure that adequate legal aid services are available to women for cases involving civil law, family law and poverty issues.

¹⁷ National Council of Welfare, *Welfare Incomes in Canada 2004* (Spring 2005), at http://www.ncwcnbes.net/htmdocument/principales/onlinepub_e.htm

¹⁸ See the reports and other documents on the websites of the Canadian Bar Association, <http://www.cba.org/CBA/Advocacy/legalAid/>, the National Association of Women and the Law, <http://www.nawl.ca/affil/MAWLsumm.htm> and West Coast LEAF, http://www.westcoastleaf.org/index.php?action=show_cat&category_id=20