

A DECADE OF GOING BACKWARDS

Canada in the Post-Beijing Era

Canadian Feminist Alliance for International Action

Response to

**UN Questionnaire on Implementation of the Beijing Platform for Action
(1995) and the Outcome of the Twenty-Third Special Session of the
General Assembly (2000)**

January 2005

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I. Introduction

In March 2005, the United Nations Commission on the Status of Women (CSW) at its 49th session in March 2004 will review implementation of the Beijing Platform for Action (BPfA) adopted in 1995, and the Outcome of the Twenty-Third Special Session of the General Assembly (2000). The objective of this meeting, sometimes referred to as Beijing + 10, is to assess what measures countries have taken, and to what degree they have succeeded in the advancing women's equality over the past decade. Governments have been asked to submit responses to a UN Questionnaire on Implementation of these agreements. Canada released its national response in July 2004.¹

Non-governmental organizations from around the world have also been asked to reply to the UN Questionnaire. These submissions will be compiled into an NGO alternative global report. To prepare FAFIA's response, we have drawn on FAFIA's 2003 alternative report on Canada's compliance with the *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW), entitled *Canada's Failure to Act: Women's Inequality Deepens*;² the B.C. CEDAW Group's report on B.C.'s compliance with CEDAW, entitled *British Columbia Moves Backwards on Women's Equality*;³ and a new report prepared for FAFIA by award-winning economist Armine Yalnizyan, entitled *Beijing + 10: A Gendered Analysis of 10 Federal Budgets*.⁴

Northern governments have been asked, in their reports to the UN, to focus on the following four areas: Women and the Economy, Women and Poverty, Violence against Women, and Institutional Mechanisms.

In this report, FAFIA provides: 1) a description of the impact of social program restructuring on women in the decade between 1995 and 2005, with selected examples to illustrate Canada's approach to women and the economy, women and poverty, and violence against women during this period; 2) an evaluation of the effectiveness of some

¹ Status of Women Canada, *Canada's National Response to the UN Questionnaire to Governments on Implementation of the Beijing Platform for Action (1995) And The Outcome of the Twenty-Third Special Session of the General Assembly (2000)* (Ottawa: Status of Women Canada, 2004) http://www.swc-cfc.gc.ca/pubs/unquestionnaire04/index_e.html (date accessed: 15 November 2004) [hereinafter *Canada's National Response*].

² This report is available on the FAFIA website at www.fafia-afai.org [hereinafter FAFIA CEDAW Report].

³ B.C. CEDAW Group, *British Columbia Moves Backwards on Women's Equality*, Submission of the B.C. CEDAW Group to the United Nations Committee on the Elimination of Discrimination Against Women on the occasion of the Committee's review of Canada's 5th Report <http://www.fafia-afai.org/Bplus5/bcCEDAWreport020103.doc> (date accessed: 1 November 2004) [hereinafter B.C. CEDAW Report].

⁴ Yalnizyan, A. *Canada's Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005).

Canadian institutional mechanisms for advancing the equality of women; and 3) examples of discrimination against Aboriginal women, in the law and in the operation of the justice system, that contribute directly to the poverty of Aboriginal women, and to their vulnerability to violence.

II. Women and Poverty

Between 1983 and 2002, the poverty rate for women fluctuated between 20.4% and 14.8%, always significantly higher than the rate of poverty among men. At the time of this report, the rate of poverty is at its lowest point in this cycle.⁵

This lower rate is still extremely high. It means that one in seven Canadian women is living below the poverty line. Also, there is no reason to believe that the current rate represents a stable decrease in the poverty of women in Canada that can be attributed to government anti-poverty measures that will provide long-term change.⁶

Further, the overall poverty rates mask the high rates of poverty of particular groups of women. Single mothers and other “unattached women” are most likely to be poor. In 2002 51.6 per cent of single mothers, 41.5 per cent of unattached women over sixty-five, and 35 per cent of unattached women under sixty-five were living below the poverty line. Unattached men have significantly lower poverty rates.⁷

The shockingly high rate of poverty among single mothers is even higher when the figures are disaggregated by race and by the mothers’ ages. In 1996, 73 per cent of Aboriginal single mothers were living below the poverty line.⁸ In 1998, 85.4 per cent of single mothers under twenty-five were living in poverty.⁹ Single mothers were also living in the deepest poverty, with incomes \$9,230 below the poverty line in 1998.¹⁰

Also, race and disability seriously affect women’s economic equality in Canada. Aboriginal women, immigrant women, women of colour, and women with disabilities are significantly more vulnerable to poverty than other women in Canada. In 1997, 43 per cent of Aboriginal women, 37 per cent of women of colour, and 48 per cent of women who are recent immigrants (those who arrived between 1991 and 1995) were living

⁵ To provide consistency all figures given here are pre-tax poverty rates.

⁶ National Council of Welfare, *Poverty Profile 2001* (Ottawa: Minister of Public Works, 2004) http://www.nwcnbes.net/html/document/reportpovertypro01/PP2001_e.pdf (date accessed: 12 November 2004) at 7.

⁷ Statistics Canada, Persons in low income before tax, CANSIM table [202-0802](#) and Catalogue no. [75-202-XIE](#) <http://www.statcan.ca/english/Pgdb/famil41a.htm> (date accessed: 4 November 2004).

⁸ Statistics Canada, *Women in Canada 2000: A Gender-Based Statistical Report* (Ottawa: Statistics Canada, 2000) [hereinafter *Women in Canada 2000*] at 259.

⁹ National Council of Welfare, *Poverty Profile 1998* (Ottawa: National Council of Welfare, 2000) at 32.

¹⁰ *Ibid.* at 45.

below the poverty line.¹¹ Aboriginal women and women of colour also have higher rates of poverty and substantially lower incomes than their male counterparts.¹² Women with disabilities had a poverty rate of 25.1 per cent in 1991.^{13 14}

Children make up a third (37%) of people dependent on social assistance for survival.¹⁵ Monica Townson in her *Report Card on Women and Poverty* released in April 2000 notes that “while Canadians are justifiably concerned about the increasing numbers of children growing up in poverty, we have tended to overlook the fact that ... it is the poverty of women that is behind the poverty of so many of our children.”¹⁶

In 2003, the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW Committee) reviewed Canada’s 5th periodic report on its compliance with the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) and issued 26 recommendations to Canada. The Committee highlighted women and poverty as an area requiring urgent attention.

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 measures are mostly directed towards children and not towards these groups of women.

¹¹ Statistics Canada, *Women in Canada 2000: A Gender-Based Statistical Report* (Ottawa: Statistics Canada, 2000) at 205, 232 and 259.

¹² *Ibid.* at 231, 233, 258, and 259. 43 per cent of Aboriginal women were living in poverty in 1996, compared to 35 per cent of Aboriginal men and 20 per cent of non-Aboriginal women. Wherever their place of residence, the incomes of Aboriginal women were less than those of Aboriginal men. 37 per cent of visible minority women were living in poverty in 1995, compared to 35 per cent of visible minority men, and 19 per cent of other women. In 1995, the average incomes of visible minority women were 70 per cent of their male counterparts.

¹³ Fawcett G., *Living with Disability in Canada* (Ottawa: Human Resources Canada, 1996) at 131.

¹⁴ Documentation of this pattern of women’s poverty can be found in Shelagh Day and Gwen Brodsky, “Beyond the Social and Economic Rights Debate: Equality Speaks to Poverty”, (2002) Vol. 14, No. 1, *Canadian Journal of Women and the Law/Revue Femmes et Droit* 185 at 189 – 193.

¹⁵ Morris, M., *Women and Poverty* (Ottawa: Canadian Research Institute for the Advancement of Women, 2000) at 2.

¹⁶ Townson, M., *A Report Card on Women and Poverty* (Ottawa: Canadian Centre for Policy Alternatives, 2000) at 1.

*The Committee urges the State party to assess the gender impact of antipoverty measures and increase its efforts to combat poverty among women in general and the vulnerable groups of women in particular.*¹⁷

This is an important recommendation. Canada is one of the wealthiest countries in the world. It has the resources, institutions and infrastructure necessary to defeat poverty among women, which is an overt, material manifestation of long-standing systemic discrimination against women in Canadian society.

However, as this report shows, far from addressing the causes of poverty and adequately assisting the poorest women, in this decade Canadian governments have cut away services they rely on, introduced punitive and narrowed eligibility rules to control access to benefits, and made their lives more desperate.

III. A Decade of Going Backwards

In 1995 the Government of Canada agreed to adopt the *Beijing Platform for Action*, and it released the *Federal Gender Plan*. Through agreeing to the BPfA, Canada made a commitment to “use gender-impact analyses in the development of macro and micro-economic and social policies....”¹⁸

Despite this undertaking, in the 1995 – 2005 decade Canada restructured its social programs, and the fiscal arrangements between the federal government and the provinces and territories, without any consideration of the impact on women of these massive changes.

In 1995, the federal government introduced the *Budget Implementation Act*. That *Act* repealed the *Canada Assistance Plan Act* (CAP) and introduced a new Canada Health and Social Transfer (CHST).¹⁹ This had the effect of fundamentally altering the mechanisms through which the federal, provincial and territorial governments share the

¹⁷ Report of the Committee on the Elimination of Discrimination Against Women, Twenty-eighth session, 13-31 January 2003, General Assembly Official Records, 58th Session, Supplement No. 38 (A/58/38), Canada’s 5th periodic report, paras 325 – 389 [hereinafter CEDAW Concluding Comments] at para 357.

¹⁸ *Beijing Declaration and Platform for Action*, Fourth World Conference on Women, 15 September 1995, A/CONF.177/20 (1995) and A/CONF.177/20/Add.1 (1995) [hereinafter Beijing Platform] at para 165 p).

¹⁹ The Canada Health and Social Transfer remained in place until 2004, when it was split into two transfers: the Canada Health Transfer and the Canada Social Transfer. As part of the 2003 Health Accord, First Ministers agreed to create separate transfers, “thereby enhancing the transparency and accountability of federal support for health while continuing to provide provinces and territories with the flexibility to allocate funds among social programs according to their respective priorities.” Department of Finance Canada (DFC) (2004) *What is the Canada Health Transfer?*

<http://www.fin.gc.ca/fedprov/chte.html> (date accessed: 6 December 2004).

cost of central social programs in Canada, namely, health care, post-secondary education, social assistance (welfare) and related social services.²⁰ The *Budget Implementation Act*:

- eliminated key rights that were in the *Canada Assistance Plan*, including the right of any person in need to receive welfare; the right to an amount of welfare sufficient to meet basic needs; the right to appeal when social assistance is denied; and the right not to have to work for welfare. These rights were of particular importance to women, given women's high poverty rates.
- rolled funds into one undifferentiated block transfer, so that post – 1995 federal monies transferred to the provinces had no conditions or designations attached, and no accountability system to track what the money was spent on. Thus, post – 1995, more stigmatized social programs, such as social assistance, compete for funding out of the same general pool of money with more popular programs, such as health care; and
- cut the amount of the federal transfers to the provinces for health care, post-secondary education and social assistance and social services by 8.2 billion dollars between 1995 and 1998, a reduction of 30% in these cash transfers.²¹

Since the 1995 Budget there has been a decade-long erosion of federal and provincial programs and social protections, featuring diminished services and entitlements, narrowed eligibility rules for income security benefits, and user fees attached to a number of previously free services.

The restructuring of social program financing, and the cuts to services and benefits made by both the federal and provincial governments during this decade, have increased the social and economic vulnerability of women in Canada, who have a higher risk of poverty and who rely on social programs and services to counterbalance the powerful dynamics of patriarchy that keep them poorer, more dependent, more responsible for unpaid care-giving, and still marginal to decision-making.

Social programs and social services are a central means of creating an egalitarian society. Since World War II, Canada has built a “social safety net” of programs and services that acknowledged the vulnerability of every individual to unemployment, underemployment, ill health, disability, old age, and injury. It provided income security through social assistance, unemployment insurance, workers' compensation and public pensions, and in addition provided public health care and education, some child care and home care services. In the post-war era, people in Canada understood themselves as vitally

²⁰ *Budget Implementation Act* 1995, S.C. 1995, c. 17; *Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8, as amended.

²¹ Yalnizyan, A. *Canada's Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 27. Since 1999, the federal government has increased the amount put into the CHST, but only in 2003 – 2004 did the CHST transfer returned to the 1993-1994 level.

connected to each other, and as willing, through the creation of a strong social safety net, to share resources in order to ensure that no one would be without the basic means to feed and shelter herself and her children.

This system of public social programs and services has also been the foundation for the advancement of women. Women are still socially assigned the major role as caregivers for children, old people, sick people, and men. By providing public caregiving programs – health care, public education, child care, home care – Canada shifted some of the burden of women’s caregiving responsibilities to the shoulders of the state. This provided more opportunity for women to seek paid employment, enter higher education and participate in public life. Simultaneously, this shift provided good jobs for women in the public caregiving sector - jobs as nurses, teachers, social workers, with job security, union protection, benefits and decent pay.

Also, income security programs have softened women’s economic dependence on men, and supported them when they were most in need. Social assistance, unemployment insurance, and public pensions have given women more choices and more autonomy, including more sexual autonomy.

Not surprisingly then, the cutbacks to social programs and services have had the effect of pushing women backwards. Cutting public care-giving programs (cuts to hospitals, health care services, schools, teachers, and child welfare services, for example) have pushed more unpaid care-giving work back onto women, increasing their stress and straining their health. Cutbacks have also resulted in women losing “good jobs” in the public sector, as jobs are cut or contracted out at lower pay and without job security.²² Diminished income security benefits, such as social assistance and employment insurance, and narrowed eligibility rules for these benefits, have made women more economically and socially vulnerable, and less able to leave abusive situations at work or at home.²³

Concerning the major decisions regarding cuts to social spending and the restructuring of social programs during this period, Canada states, in its official report to the UN on the occasion of Beijing + 10, that “...stronger gender analysis capacity ... may have altered some of the specific budget decisions.”²⁴ However, the report goes on to note that it “would ultimately not have changed the need for stringent measures.” Now, as then, Canada justifies the 1995 8.2 billion dollar cut to the federal transfer payments on the grounds that social spending caused the country’s fiscal health to deteriorate, and that cuts were necessary to reduce the federal deficit.

This justification does not withstand careful scrutiny. Numerous economists, spanning a range of philosophical viewpoints, have concluded that the federal deficit was not caused by “excessive” social spending. Rather, high interest rates and the low employment and poor economic growth they helped bring about were by far the most significant causes of

²² For an account of the privatization of hospital workers’ jobs in B.C. see B.C. CEDAW Report para. 93.

²³ This is documented in detail in sections that follow.

²⁴ Canada’s Response, *supra* note 1, p. 2.

Canada's deficit. Nor were spending cuts primarily responsible for eliminating the deficit. Lower interest rates and the increased revenues flowing from stronger economic growth were far more significant factors. These facts cast grave doubt on whether the spending cuts made between 1995 and 1998 were ever needed to balance government budgets. In fact, a number of commentators indicate that the Finance Minister's original goal of balancing the budget by 1999-2000 could have been achieved without any program cuts whatsoever.²⁵

In fact it appears that the major reason for the slashing of social spending in the 1995 – 1998 period was a political determination to “downsize” government. Paul Martin, then Finance Minister, and now Prime Minister of Canada, said in his 1995 Budget Speech:

If we are to ensure durable fiscal progress, building towards budget balance – that can only happen if we redesign the very role and structure of government itself.

This budget secures that reform – *irrevocably*. Indeed, as far as we are concerned, it is this reform in the structure of government spending – in the very redefinition of government itself – that is the main achievement of this budget. After extensive review, this budget overhauls not only *how* government works but what government *does*.²⁶

Janet Mosher describes this ideological shift in Canadian economic and social policy in this way:

Pursued in the name of deficit reduction, global competition, and family values, the social policies of earlier decades have been dramatically altered. The federal government has staged a marked retreat from the social policy arena, supported by an understanding that social well-being flows from the unimpeded private pursuit of individual self-interest, and *not* from state social programs. Its present day spending on social programs is the lowest since 1949. Massive overhauls have been carried out at the federal level to programs such as unemployment insurance and to

²⁵ Dungan P. and T. Wilson, “Altering the Fiscal-Monetary Policy Mix: Credible Policies to Reduce the Federal Deficit” (1985) *Canadian Tax Journal* 309; W.I. Gillespie, *Tax, Borrow and Spend: Financing Federal Spending in Canada, 1867- 1990* (Ottawa: Carleton University Press, 1991); Kneebone, R.D., “Deficits and Debt in Canada: Some Lessons from Recent History” (1994) 20 *Canadian Public Policy* 152; Bakker, I., “The Politics of Scarcity: Deficits and the Debt” in M.S. Whittington and G. Williams, eds. *Canadian Politics in the 1990's*, 4th ed. (Scarborough: Nelson Canada, 1995); Osberg L. and P. Fortin, eds., *Unnecessary Debts* (Toronto: Lorimer, 1996); Stanford, J., “Growth, Interest and Debt: Canada's Fall from the Fiscal Knife- Edge” in *Alternative Federal Budget Papers 1997* (Ottawa: Canadian Centre for Policy Alternatives, 1997); *Alternative Federal Budget Papers 1998* (Ottawa: Canadian Centre for Policy Alternatives/ Choices: A Coalition for Social Justice, 1998).

²⁶ Budget 1995 Speech, <http://www.fin.gc.ca/budget95/speech/SPEECH3E.html>

funding agreements with the provinces and territories; and at the provincial level, to programs such as welfare.

As social programs were being eliminated or substantially cut back, the state simultaneously began to give freer rein to the market. Creating a “business friendly” environment became an organizing mantra, leading to reduced corporate taxes, the de-regulation of business, and the hollowing out of workers’ entitlements. Many public goods were transferred to the private market and market logic began (and continues) to penetrate not only the economic sphere, but also the social and political realms as well. The private market has been increasingly relied upon to generate growth and it is almost exclusively through market participation, without the assistance of state programs and benefits, that individual needs are to be satisfied.²⁷

As transfers were cut between 1995 and 1998, so was federal program spending as a share of the economy. It fell from 16% of GDP to 12% of GDP in the three years between 1995 – 1998. This historically low level of program spending has been held constant since then. Federal program spending is not expected to rise above 11.7% of the GDP for the foreseeable future. Armine Yalnizyan in her report entitled *Beijing +10: A Gendered Analysis of 10 Federal Budgets* says: “This level of federal involvement in the economy and society is historically unprecedented and completely incongruent with modern society.”²⁸

The federal government has maintained this low level of program spending despite the fact that in every year since 1997 it has posted a surplus. The year upon year surpluses have not resulted in higher federal government program spending, nor have they been used to reverse the losses caused by the cuts and restructuring of the 1995 Budget.²⁹

Between 1997 and 2003, the federal government spent 152 billion dollars on tax reductions and tax-related benefits.³⁰ Some of this expenditure takes the form of the “fiscalization of social policy.” That is, taxation measures have been implemented to support certain individual care-giving activities. For example, a person who cares for a family member at home can receive a tax credit; some expenses for child care can be deducted from taxable income. As Yalnizyan points out in her study:

²⁷ Mosher, J.E. “Welfare Reform and the Re-Making of the Model Citizen”, forthcoming (2005) in *Poverty: Rights, Citizenship and Governance*, eds. S. Boyd, G. Brodsky, S. Day and M. Young.

²⁸ Yalnizyan, A. *Canada’s Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 100.

²⁹ More money has been put into transfers to the provinces and territories in recent years, but until the most recent Health Accord, it was one-time money, not stable increases to the base amount of the transfers, and most of it was designated for health care.

³⁰ Yalnizyan, A. *Canada’s Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 94..

A small number of tax measures, by their nature, addressed women's realities more than men's... But even these – for example, tax credits for care-givers or tax deductions for expenses on child care - were more valuable to women with taxable levels of income....

Such tax measures a) did nothing for the women who have no taxable income, who tend to be the least advantaged and b) did nothing to help fund and regulate services, in order to insure that reliable supports are available in the first place, for Canadian women of all ages and circumstances.³¹

Between 1995 and 1998, the effect of federal cuts and changes to transfer payments destabilized programs and services at the provincial and territorial levels, eroding community programs, income supports and public goods that women in Canada rely on for economic and social security.³² During these years the federal government also made massive changes to federal programs, like (un)employment insurance. Though the years 1998 – 2003 have been years of surplus budgets, Canada's major expenditures have been on tax cuts and debt reduction, not on investment or re-investment in social programs and services that will advance women's equality. Despite having the resource capacity to address the growing gap between the rich and the poor in Canada, and between men and women, the federal government has not done this.³³ Instead, women have experienced a decade of going backwards.

IV. Eroding Income Security Benefits, Social Programs and Services

In this section, FAFIA provides a description of the erosion of some of Canada's central social programs. These are examples only.

i. Social Assistance

Social assistance is a key social program for women. Women are the majority of the poor in Canada and the majority of welfare recipients.³⁴ Largely as a result of childcare responsibilities, women are more likely than men to rely on social assistance.³⁵

During this post-Beijing decade, provincial and territorial governments cut welfare rates, narrowed eligibility rules, and applied discriminatory ones.³⁶ This has had a particularly

³¹ Ibid at 101.

³² Ibid at 7.

³³ Ibid. at 94.

³⁴ Scott, K., *Women and the CHST: A Profile of Women Receiving Social Assistance in 1994* (Ottawa: Status of Women Canada. 1998) at 17 and 19.

³⁵ Friends of Women and Children in B.C., *Report Card*, (2002), Vol. 1 No.1 <http://www.wmst.ubc.ca/FWCBCApr02.pdf> (date accessed: 1 November, 2004).

³⁶ This erosion of income security for the poorest women is directly attributable to the federal government's repeal of the *Canada Assistance Plan Act* (CAP) in 1995, and the cuts to transfer payments. As noted earlier, under CAP, people in Canada had an

harsh impact on the poorest women, including single mothers, disabled women, and Aboriginal women.

The National Council of Welfare in their report entitled *Welfare Incomes 2003* noted that, with few exceptions, welfare incomes across Canada have deteriorated “through cuts, freezes and the eroding cost of inflation.” Welfare incomes are far below the poverty line in all provinces and territories.³⁷ The Council concluded: “Welfare incomes which reach only one fifth or one third of the poverty line are unacceptably low and should be raised at the earliest possible date. Rates this low cannot be described as anything other than punitive and cruel.”³⁸

In 1995 the Ontario government cut social assistance benefits by 21.6 per cent. For the poorest women, these cuts meant turning to food banks because they could not purchase adequate food; increased use of shelters by women and children who were evicted; and increased likelihood that abused women would return to violent relationships because welfare did not offer adequate support for them and their children. Roughly 50 per cent of women receiving social assistance have experienced domestic violence involving physical or sexual abuse.³⁹

In 2002 the B.C. Government took measures similar to those of Ontario. The B.C. Government:

entitlement to an amount of welfare adequate to meet basic needs. The repeal of CAP removed this basic entitlement. Also, under CAP, the federal government shared the cost of social assistance with the provinces on a 50/50 basis. Under the CHST (and its 2004 successors – the Canada Health Transfer and the Canada Social Transfer) there is no 50/50 cost-sharing arrangement. Social assistance is paid for by the provinces and territories using monies from undesignated block funds.

³⁷ National Council of Welfare, Press Release, July 7, 2004

http://www.ncwcnbes.net/htmdocument/reportWelfareIncomes2003/PressReleaseWI2003_e.pdf (date accessed: 1 November 2004).

³⁸ National Council of Welfare, *Welfare Incomes 2003* http://www.ncwcnbes.net/htmdocument/reportWelfareIncomes2003/WI2003_e.pdf (date accessed: 1 November 2004) at 16.

³⁹ Social Planning Council of Metropolitan Toronto, *Welfare Cuts in Ontario: Punishing the Poor*, 1995: 14(1) Social Infopac at 1; Ontario Association of Food Banks, *Hunger in Ontario in the Year 2000: Common, but Senseless* (Toronto: OAFB, 2000); City of Toronto, *Housing in the City* (Toronto: Community and Neighbourhood Services, 2000) Novac, S. et al., *Women on the rough edge: A decade of change for long-term Homeless Women* (Ottawa: Canadian Mortgage and Housing Corporation, 1999) at 22-23; Ontario Association of Interval and Transition Houses (OAITH), *Locked In, Left Out Impacts of the Budget Cuts on Abused Women and Their Children* (Toronto: OAITH, 1996); Lenon, S., “Living on the Edge: Women, Poverty and Homelessness in Canada” (2000) Vol 20, No. 3 *Canadian Woman Studies* 123; Metro Toronto Committee Against Wife Assault & Metro Woman Abuse Council, “Before and After: A Woman’s Story with Two Endings” in L. Ricciutelli et al., *Confronting the Cuts: A Sourcebook for Women in Ontario* (Toronto: Inanna, 1998).

- cut welfare benefits for employable single parents by 51 dollars a month.
- eliminated the Family Maintenance Exemption, which permitted a single parent who was receiving child support payments from a spouse to keep 100 dollars per month.
- eliminated the Earnings Exemption for “employable” recipients, which allowed people on welfare to work and keep \$100 if they were single, or \$200 if they had children or a partner.
- reduced shelter allowances for families of 3 by 50 to 75 dollars per month.⁴⁰

Of the entire B.C. income assistance caseload, 33.6% are single parent families, and 88.5% of these are lead by women. For these single mothers, the 2002 reductions in rates, combined with the cancellation of family maintenance and earnings exemptions, meant that some saw a drop in their benefits of as much as \$351 per month. A single mother with two or more children also had her shelter allowance reduced.⁴¹ For some single mothers, income was cut by 25%.⁴²

In B.C., in addition to cuts to income assistance rates, changes were made to eligibility rules for income assistance, including a number that have particularly harsh impacts on women:

- Single parents are considered "employable" after their youngest child reaches 3 years of age (down from 7 years of age). This new regulation creates a trap for many mothers, as it is extremely difficult for a single mother to pursue paid employment while looking after a three-year-old child, unless she has access to safe affordable day care. Ironically, other recent government measures have also made day care less accessible rather than more accessible.⁴³
- Young adults (19 and over) are now required to demonstrate that they have lived independent of their parents for two years before they are eligible for welfare. This makes leaving an abusive home more difficult for young women. The B.C. Institute

⁴⁰ *Employment and Assistance Act*, S.B.C. c. 40, repealing R.S.B.C. 1996, Schedule A, http://www.leg.bc.ca/37th3rd/3rd_read/gov26-3.htm (date accessed: 1 November 2004); *B.C. Employment and Assistance Act Regulations*, R.B.C. 2002, c. 263, s. 27, <http://www.mhr.gov.bc.ca/PUBLICAT/VOL1/Part3/3-3.htm> (date accessed: 1 November 2004).

⁴¹ B.C. CEDAW Report, para 39.

⁴² Social Planning and Research Council of British Columbia, “Holiday Forecast Bleak for BC’s Poor: New SPARC BC report reveals growing gap between BC welfare rates and the cost of living”, Press Release December 20, 2002, http://www.sparc.bc.ca/research/falling_further_behind_press_release.html (date accessed: November 1, 2004). See also M. Goldberg and A. Long, “Falling Behind: A Comparison of Living Costs and Income Assistance Rates in B.C.” (2001) Social Planning and Research Council of Canada, http://www.sparc.bc.ca/research/falling_behind.pdf (date accessed: 1 November 2004).

⁴³ B.C. CEDAW Report, at para. 44.

on Family Violence predicted in 2002 that there would be more prostitution and poverty among young women because of this regulation.⁴⁴

These examples are typical of tightened rules across the country, resulting in fewer women being eligible for the basic help that social assistance provides.

The tightening of welfare eligibility rules has also had a negative effect on women with disabilities. It is more difficult to qualify for disability benefits, and in some provinces, for example in British Columbia, recipients with disabilities have recently been required to undergo elaborate re-assessments to determine whether they are still eligible for assistance under new narrowed definitions of disability.⁴⁵

Furthermore, for twenty years women in Ontario have been challenging a social assistance regulation, popularly referred to as the “spouse-in-the-house” rule. The regulation imposes a legal presumption that if a recipient of provincial social assistance lives in the same dwelling as a person of the opposite sex, the recipient will be presumed to be the spouse of that other person.⁴⁶ The consequences of being found to be in a spousal relationship are significant and severe for single mothers. Single mothers are denied “family” benefits once they have been deemed to be in a spousal relationship. Instead, they must apply for general welfare benefits. This disentitles them from a number of special “family” benefits. Additionally, the single mother is only able to apply for general welfare benefits if her “spouse” consents and is himself eligible for benefits. The “couple’s” eligibility is based on the total household income, regardless of whether or not the single mother receives any actual economic support from the man. If the male “spouse” has an income that is too high to qualify for income assistance, the single mother is also ineligible for any benefits.

The regulations have forced women into economic dependence on men who have no legal obligations of support to them, making women vulnerable to economic coercion and control by men. This result is particularly harmful to women who have already experienced abusive relationships.⁴⁷

⁴⁴ British Columbia Institute Against Family Violence, Research Advisory on the Provincial Cuts and Violence Against Women, “Social Assistance and Other Social Programs: Anticipated Impact on Women who Experience Violence” (2002) http://www.bcifv.org/cuts/social_assistance.pdf (date accessed: 2 November 2004).

⁴⁵ B.C. CEDAW Report, at para. 50.

⁴⁶ O. Reg. 134/98. s. 1(1).

⁴⁷ Mosher, J. E., “Managing the Disentitlement of Women: Glorified Markets, the Idealized Family and the Undeserving Other”, in Neysmith, S., ed, *Restructuring Caring Labour: Discourse, State Practice and Everyday Life* (Oxford University Press, 2000); Leighton, M., “Handmaids’ Tales: Family Benefits Assistance and the Single- Mother-led Family” (1987) 45 University of Toronto Faculty of Law Review 324.

In 2002, the Ontario Court of Appeal ruled in *Falkiner v. Director, Income Maintenance Branch*⁴⁸ that this rule violated the equality guarantee of the Canadian *Charter of Rights and Freedoms* on the grounds of sex, family status and receipt of social assistance. In 2004, the Ontario government withdrew its appeal of this decision to the Supreme Court of Canada, apparently conceding that the Appeal Court's ruling was correct. However, Ontario has changed the rule only by delaying its effect for three months. After three months of living in the same dwelling as a man, women can be disqualified on the grounds that they have a "spouse in the house."⁴⁹ Other provinces and territories still have variations of this rule in place, despite its known discriminatory effect on women.

Finally, the principal element of the federal government's anti-poverty strategy in this post-Beijing decade is the Child Tax Benefit and National Child Benefit Supplement. This tax benefit and supplement are intended to provide additional monthly benefits to low-income families with children (see *Canada's Response to the UN Questionnaire to Governments on Implementation of the Beijing Platform for Action (1995) And The Outcome of the Twenty-Third Special Session of the General Assembly (2000)*, Part II). However, this strategy provides little help to the poorest families – those on welfare. The federal government provides the National Child Benefit Supplement to the poorest families, but it also permits the provinces and territories to claw it back from welfare recipients.⁵⁰

The National Council of Welfare states that the clawbacks to the NCBS "discriminate against families on welfare."⁵¹ The Council estimates that only 66 percent of poor families with children benefited from the federal child tax benefit between June 1998 and June 1999, and only 57 percent of poor single-parent families were allowed to keep the supplement. As women head most single-parent families, the Council believes that this constitutes discrimination on the basis of sex.⁵² The clawback means that "welfare incomes for families on welfare remained low – and actually decreased in most cases – in

⁴⁸ *Falkiner v. Director, Income Maintenance Branch* can be found at http://www.ontariocourts.on.ca/decisions/OntarioCourtsSearch_VOpenFile.cfm?serverFilePath=d%3A%5Cusers%5Contario%20courts%5Cwww%5Cdecisions%5C2002%5Cmay%5CfalkinerC35052%2Ehtm (date accessed: 2 November, 2004).

⁴⁹ Ontario Regulation 134/98, amended by O. Reg. 231/04, <http://www.canlii.org/on/laws/regu/1998r.134/20041008/whole.html> (date accessed: November 3, 2004). These regulations were amended after the *Modernization of Benefits Act* came into force, so that same-sex partners are also covered by the three-month rule. The three-month rule is the key change. The two criteria listed for determining whether a live-in person is a spouse are: 1) social and familial aspects consistent with cohabitation; and 2) degree of financial interdependence consistent with cohabitation. It is not evident that these re-worded criteria make any significant change to the discriminatory 'spouse-in-the-house' rule.

⁵⁰ Not all provinces have clawed back the National Child Benefit Supplement. For an account of how the clawback works, province by province, see *Welfare Incomes 2003*, supra note 35 at 14-15.

⁵¹ Ibid at 47-48.

⁵² Ibid. at 15.

the years following the federal government's introduction of the National Child Benefit."⁵³

In short, this is a decade in which the most basic income security program for the poorest women has been eroded. Welfare incomes have declined; fewer women can qualify; new rules that have discriminatory impacts on women have been put in place, and old rules with discriminatory effects have been difficult, if not impossible, to disturb. All levels of government in Canada bear responsibility for this shocking situation.

ii. Employment Insurance and Maternity and Parental Leave

In this post-Beijing decade major changes were also made to another key income security program that is vital to women in Canada: (un)employment insurance. Canadian women were told that the changes would benefit them. However, for most unemployed women this has not turned out to be the case. Fewer women are eligible for regular unemployment insurance - now re-labeled employment insurance - and benefit levels are lower than ever before. The good news is that during the decade, maternity/parental benefits, *for those who qualify*, have been enhanced providing women with a longer period of benefits – up to 50 weeks.

In 1993 and 1994 the federal government radically changed the rules for unemployment insurance. As Armine Yalnizyan recounts, these rules “made it harder to become eligible for benefits; they shortened the duration of benefits; and they dropped the rate at which income would be replaced by benefits....”⁵⁴

In 1996, the federal government changed the rules again in a way that affected women most. Entitlement to benefits was no longer based on weeks of work but on hours of work. Under the old scheme, an individual needed 12 - 20 weeks (depending upon where that individual lived) of insurable earnings within the qualifying period to become eligible for full benefits (including maternity benefits). A week of insurable earnings was a week in which at least 15 hours were worked.

After 1996 a claimant needed a minimum of 700 hours of insurable earnings within the qualifying period.⁵⁵ This is equivalent to twenty 35-hour weeks or approximately 46.6 15-hour weeks. For most individuals who work less than 35 hours a week, eligibility requirements became significantly more stringent than they were before. Indeed, the more part-time an individual's work, the longer it took for that worker to meet eligibility requirements. Anyone working less than 14 hours a week could not accumulate the required number of hours within the qualifying period of 52 weeks.

⁵³ Ibid. at IX.

⁵⁴ Yalnizyan, A. *Canada's Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 36.

⁵⁵ Hours required for regular benefits vary from the standard 700 hours if the regional unemployment rate is higher than 6%. See s. 7, *Employment Insurance Act*, 1996, c. 23, <http://laws.justice.gc.ca/en/E-5.6/text.html> (date accessed: 11 November 2004).

The new *Employment Insurance Act* also erected obstacles for people who had been out of the labour force for a long period. The new rules stipulated that such individuals need 910 hours of paid employment (the equivalent of 26 weeks of full-time work or a much longer period of part-time work) to qualify for benefits.⁵⁶

These changes in eligibility requirements hit working women disproportionately hard. Women, more than men, work in those temporary, part-time, seasonal, and/or unstable work situations—the secondary labour sector—where meeting these eligibility requirements is most difficult. They are also those employees especially vulnerable to work reduction and lay-offs. Additionally, the increased qualifying hours mandated for people returning to the labour force after a long absence disproportionately impacted women.⁵⁷ Women's child rearing and caregiving responsibilities often result in precisely the kind of workforce absences and working patterns that were penalized under these rules. The expansion in female self-employment in Canada is also responsible for an increase in the number of unemployed women who are ineligible to receive benefits.⁵⁸

Aboriginal women, women of colour, immigrant women, and women with disabilities are overrepresented in the “marginal” labour force. Thus, changes to unemployment insurance—as they affect both unemployment insurance benefits and maternity benefits—have exacerbated inequities already present in these women's involvement in the paid labour force.⁵⁹

As Yalnizyan reports, “after the changed rules kicked in, the gap in EI protection between men and women more than doubled. Coverage for men fell marginally after the 1996 changes, from 45% to 44% of all unemployed men. Coverage for women fell more dramatically over this period, from 39% to 33%.”⁶⁰ In its 1999 report *Left Out in the Cold*:

⁵⁶ For analysis of the impact of the employment insurance changes on women, see Iyer, N., “A Re-examination of Maternity Benefits”, in Susan Boyd, ed., *Challenging the Public/Private Divide: Feminism, Law, and Public Policy* (Toronto: University of Toronto Press, 1997) 168; Paul Phillips and Erin Phillips, *Women and Work: Inequality in the Canadian Labour Market* (Toronto: James Lorimer and Publishers, 2000); Jane Pulkingham, “Remaking the Social Divisions of Welfare: Gender, ‘Dependency,’ and UI Reform” (1998) 56 *Studies in Political Economy*; and National Association of Women and the Law, *Bill C-12: An Act Respecting Employment Insurance in Canada: The Impact on Women* (Ottawa: National Association of Women and the Law, 1996).

⁵⁷ By 2000, the Government of Canada admitted that some of the new rules punished women. See Proposed Amendments to Employment Insurance (EI), September 29, 2000, Former Prime Minister's Newsroom Archive (1995-2003), http://www.pco-bcp.gc.ca/default.asp?Language=E&Page=pmarchive&Sub=FactSheets&Doc=amendmentsei.20000929_e.htm (date accessed: 3 November 2004).

⁵⁸ Phillips, P., and Erin Phillips, *supra* note 52 at 144.

⁵⁹ Iyer N., *supra* note 52 at 173.

⁶⁰ Yalnizyan, A. *Canada's Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 37.

The End of UI for Canadian Workers, the Canadian Labour Congress showed that only 32 percent of unemployed women got unemployment insurance benefits in 1997. Only 11 percent of women under 25 were receiving unemployment insurance benefits compared to 18 percent of men. Part-time female workers continued to pay premiums but, the data showed, they disproportionately were not able to claim unemployment benefits.⁶¹ Meanwhile, between 1994 and 2003, the Employment Insurance Account has accumulated a surplus—reported to have reached over 40 billion dollars.⁶²

Being ineligible for employment insurance contributes to women's higher incidence of poverty. As a Statistics Canada report notes: "Not collecting UI has important implications for an individual's probability of being poor while unemployed - regardless of the policy environment, poverty is significantly higher among those who experience unemployment but do not receive UI benefits."⁶³

In addition to the tightened eligibility rules for employment insurance, which have made fewer women eligible than ever before, the replacement rate of income under employment insurance was reduced during this decade to 55 per cent. This is the lowest percentage in the history of employment insurance in Canada. The replacement rate of income was 67% in 1971, 60% in 1980, 57% in 1993 and 55% after 1997.⁶⁴

The good news about employment insurance came in the form of enhanced maternity, parental and sickness benefits introduced in December 2000. Parental benefits were increased to 35 weeks for both biological and adoptive parents. In addition to the 15 weeks of maternity leave (which remains unchanged), this means that a total of 50 weeks of combined benefits are now available. The hours required to qualify for benefits were reduced to 600 hours in the previous 52 weeks for parents of a child born or adopted on or after December 31, 2000. If the parents share parental benefits, only one two-week waiting period without benefits must be served. Parents can retain some work attachments while receiving parental benefits. If the benefits are shared, they may be

⁶¹ Canadian Labour Congress, *Left Out in the Cold: The End of UI for Canadian Workers* (Ottawa: Canadian Labour Congress, 1999); Greenspon, E., "UI changes hit youths, women" *The Globe and Mail*, March 18, 1999, A1; "Unequal hardship" *The Toronto Star*, A84, 25 November 1999.

⁶² Yalnizyan, A. *Canada's Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 37.

⁶³ Human Resources Development Canada, "UI and Social Assistance in Canada" [\(http://www11.hrdc-drhc.gc.ca/pls/edd/v_report.document?cat=&sub=IDSA&doc_num=18007&hl=syn\(EMPLOYMENT%20INSURANCE\)|\(%20%7BEMPLOYMENT%7D%20%7BINSURANCE%7D%20\)%2A3,%20\(%20%7BEMPLOYMENT%7D%20%26%20%7BINSURANCE%7D%20\),%20\(%20%7BEMPLOYMENT%7D%2A%7B.2%7D%20,%20%7BINSURANCE%7D%2A%7B.1%7D%20\)\)](http://www11.hrdc-drhc.gc.ca/pls/edd/v_report.document?cat=&sub=IDSA&doc_num=18007&hl=syn(EMPLOYMENT%20INSURANCE)|(%20%7BEMPLOYMENT%7D%20%7BINSURANCE%7D%20)%2A3,%20(%20%7BEMPLOYMENT%7D%20%26%20%7BINSURANCE%7D%20),%20(%20%7BEMPLOYMENT%7D%2A%7B.2%7D%20,%20%7BINSURANCE%7D%2A%7B.1%7D%20)) (date accessed: November 11, 2004).

⁶⁴ Yalnizyan, A. *Canada's Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 37..

taken at the same time, consecutively or on alternating weeks, and may be spread out over the 52 week period following the birth or adoption.⁶⁵

Despite these positive changes, women in Canada are not yet adequately supported as child-bearers and caregivers for infants. Only women who have 600 hours of paid work in the previous 52 weeks can claim the employment insurance maternity benefit. And the benefit level is low - 55 per cent of earnings up to a maximum of 413 dollars a week. Low-income women can get a family supplement if their family income is below \$25,921 per year. But this still makes it difficult for women who do not have employers who top up the benefit, or partners with substantial earnings, to take advantage of the 50 weeks of maternity/parental leave.

Yalnizyan concludes:

While reforms introduced in 2000 were important in the lives of many women and families, they failed to address three issues: the need for *all* new parents to have some forms of income support as they begin their lives with infants/newly adopted children; the need to recognize the ongoing care-giving provided (primarily by women) for children of all ages, the disabled, the infirm and the elderly; and the need to redress the continued squeeze placed on the unemployed due to eligibility restrictions, reduced benefit levels, and shorter duration periods that flowed from the reforms to unemployment insurance in the 1990s....

Increased payments to a select group of women, but decreased claims for support on the part of all working women: That is the story of enhancement reforms introduced in 2000, reforms that targeted new mothers/parents but forgot about the rest.⁶⁶

In its Concluding Comments on Canada's 5th periodic report, the CEDAW Committee urged Canada to:

*... reconsider the eligibility rules of that Act based on a gender-based impact analysis in order to compensate for women's current inequalities in accessing those benefits owing to their non-standard employment patterns. It also encourage[d] the State party to consider raising the benefit level for parental leave.*⁶⁷

⁶⁵ Benefits World, *Parental Benefits and the Employment Standards Act*, http://www.benefitsworld.com/AA/GovBen/EmpIns/Parental_Leaves.asp (19 March 2001); Human Resources Development Canada, "Changes to Maternity and Parental Benefits December 31, 2000", <http://www.hrdc.gc.ca/insur/claimant/10-00.shtml> (date accessed: 19 October 2000).

⁶⁶ Yalnizyan, A. *Canada's Commitment to Equality: A Gender Analysis of the Last Ten Federal Budgets (1995-2004)* (Ottawa: Canadian Feminist Alliance for International Action, 2005) at 73-74.

⁶⁷ CEDAW Concluding Comments, para. 382.

iii) Legal Aid

Legal aid for family and non-criminal matters was a service covered by the *Canada Assistance Plan Act*.⁶⁸ It has suffered dramatically in Canada during this period because of restructuring and federal and provincial cutbacks.

The unique socio-economic vulnerabilities of women determine that women's legal aid needs lie disproportionately in the area of civil and family law. For example, women's traditional role as unwaged caregivers, along with the fact that they are the poorest of the poor, has meant that women have a significant need for legal aid to assist with poverty-related legal problems, such as landlord and tenant issues, discrimination and harassment claims, social assistance appeals, disability benefits, employment insurance benefits, and pension benefits. Equally important, women have a disproportionate need for legal aid in family law matters to deal with divorce, child and spousal support, and custody and access applications.⁶⁹

While the federal government provides, through the Ministry of Justice, specific and targeted funding to provinces for the provision of criminal legal aid, which is primarily used by men, it does not do so for civil legal aid. After the repeal of CAP, the federal contribution to provincial spending on civil legal aid was rolled into the Canada Health and Social Transfer (CHST) (and in 2004 into the Canada Social Transfer), the undifferentiated block transfer out of which funding for a broad range of social programs and services must come.⁷⁰ Simply put, federal and provincial governments continue to provide a stable and discrete allocation of money for criminal legal aid, mainly needed by men, while failing to do so for civil legal aid, mainly needed by women.^{71 72}

⁶⁸ Civil legal aid was included as a "prescribed special need" for the purpose of defining the list of items subsumed within "assistance"--and thus cost-shareable under CAP by virtue of regulation SOR/80-542, *Canada Assistance Plan Regulations, amendment*, 11 July 1980. This made it eligible for 50/50 cost-sharing by federal and provincial governments until the repeal of CAP with the *Budget Implementation Act* of 1995.

⁶⁹ See Mossman, M.J., "Gender Equality and Legal Aid Services: A Research Agenda for Institutional Change" (1993) *Sydney Law Review* 30 at 35; Mossman, M.J., "Gender Equality, Family Law and Access to Justice" (1984) 8 *International Journal of Law and the Family* 357; Gavigan, S., "Poverty Law and Poor People: The Place of Gender and Class in Clinic Practice" (1995) 11 *Journal of Law and Social Policy* 165; Hughes P., "Domestic Legal Aid: A Claim to Equality" (1995) Vol. 11, No. 2 *Review of Constitutional Studies* 203; National Council of Welfare, *Legal Aid and the Poor* (Ottawa: Supply and Services Canada, 1995) at 10-11.

⁷⁰ Canadian Bar Association, *A Short History of Federal Funding of Legal Aid*, <http://www.cba.org/CBA/Advocacy/legalAid/history.asp> (date accessed: 3 November, 2004).

⁷¹ Addario, L., *Getting a Foot in the Door: Women, Civil Legal Aid and Access to Justice* (Ottawa: National Association of Women and the Law, 1997) at 25, 46; The Women's Access to Legal Services Coalition, "The Impact of Cuts to Legal Aid on Women in British Columbia" (Vancouver: 1998); Jackman, M., "Women and the Canada Health and

As a result, over this decade, women's access to legal representation for family law and other civil matters has shrunk, with devastating results.

For example, in the province of British Columbia, on top of earlier legal aid cuts, in 2002 the government cut the budget of the Legal Services Society by 40%. The majority of the 40% cut occurred in family law legal aid, poverty law, and immigration law. Alison Brewin of West Coast Women's Legal Education and Action Fund (LEAF) reported in *Legal Aid Denied: Women and the Cuts to Legal Services in BC* that:

The number of funded referrals to private lawyers for family law matters decreased by 58% between 2000/01 and 2003/04; referrals for criminal cases decreased by just 2%. The province has restricted access to family law legal aid to situations where someone is fearful for their own safety or that of their children. The amount of representation available has also decreased dramatically – even when aid is granted, it is limited to a maximum of 8 hours and is provided only to assist with obtaining a restraining order or change in custody agreement to protect the recipient's and /or her children's safety.

Women are being put in totally unacceptable situations... Without legal aid they must spend endless days navigating a complex legal system – researching and preparing legal documents, appearing without a lawyer for highly charged divorce and custody cases, and agreeing to settlements that are not in their own or their children's interests.....⁷³

The results of inadequate access to legal aid have been documented. Women in abusive relationships remain in unsafe conditions. Domestic workers, whose exploitative working conditions provide reasonable cause to leave their jobs, are denied employment insurance benefits because of lack of legal representation at the appeal hearing. Immigrant women whose sponsorship is withdrawn by a spouse (often an abusive spouse) are denied coverage for an application to vary the terms of their immigration status and as a consequence are deported.⁷⁴

Social Transfer: Ensuring Gender Equality in Federal Welfare Reform”, (1995) 8 *Canadian Journal of Women and the Law* 372, at 376.

⁷² It is also the case that, even in relation to the criminal law needs of women, legal aid coverage discriminates against women. The offences women are more likely to be charged with are not ones for which incarceration is the usual penalty. Yet, it is the threat of incarceration that triggers entitlement to criminal legal aid. The penalties women tend to face--loss of their children, loss of ability to find work, and the prospect of almost certain incarceration if they come into conflict with the law again--can be as significant but do not result in entitlement. See Addario, *ibid.* at 25, 46.

⁷³ Canadian Centre for Policy Alternatives, “Women paying price of legal services cutbacks” (2004) <http://www.policyalternatives.ca/bc> (date accessed: 3 November 2004).

⁷⁴ Federal/Provincial/Territorial Working Group of Attorneys General, *Gender Equality in the Justice System* (Ottawa: 1993); “The Impact of Cuts to Legal Aid on Women in British Columbia”, *supra* note 67.

In its Concluding Comments on Canada's 5th periodic report, the CEDAW Committee said:

The Committee is ... concerned that federal legal aid funds in civil and family law and for legal matters related to poverty issues, in contrast to legal aid for criminal cases, are channelled to the provinces and territories at their discretion. That, in practice, turns out to have a disproportionately restrictive impact on women seeking legal redress as compared with men.

*The Committee urges the State party to find ways for ...ensuring that sufficient legal aid is available to women under all jurisdictions when seeking redress in issues of civil and family law and in those relating to poverty issues.*⁷⁵

iv Housing

During this decade the federal and provincial governments have withdrawn from the social housing field in a startling manner. This has affected the availability of subsidies for existing social housing units and the building of new social housing. As a result, homelessness in Canada has been declared a national emergency by the municipal governments of the largest cities, and the lack of affordable housing is widely understood to be a crisis.

From the mid-1980s the federal government started making cuts in allocations to assisted rental housing. This culminated in a freeze in 1993 in federal contributions to social housing.⁷⁶ Because provincial expenditures on social housing were commonly tied to federal expenditures through cost-sharing programs, by 1997 provincial spending on social housing had been cut back by over 90% to just over \$100 million annually. Taken together cutbacks in allocations to social housing in the last decade have meant a reduction of about \$2 billion a year in government spending on assisted rental housing.⁷⁷

Women are more likely than men to meet income qualifications for assisted housing and they are, therefore, more adversely affected by cuts to assisted housing. Women-led households are more likely to be renters than men and women are more likely to be paying high percentages of their income toward rent.

In 1997, 71% of single mothers in Canada were renters compared to 48% of single fathers and 22% of two spouse families with children. 60% of sole support mothers who rented paid more than 30% of income toward rent compared to 40% of sole support

⁷⁵ CEDAW Concluding Comments, paras 355-356.

⁷⁶ Centre for Equality Rights in Accommodation, *Women and Housing in Canada: Barriers to Equality* (March 2002) [hereinafter *Barriers to Equality*] at 17-18.

⁷⁷ *Ibid.* at 18.

fathers and 29% of two spouse families. 39% of households in core need in Canada are lone parents.^{78 79}

Cuts to federally funded social housing have forced low-income women to rely more extensively on private market rental units. In the private market, they are more vulnerable to discrimination based on family status, race, and poverty.⁸⁰

Not only is the funding for social housing inadequate, the new structure of program delivery is having an adverse effect on women. Since 1993, the federal government has been actively devolving the administration of social housing to provinces which, in turn, have been downloading to municipalities. Under “Social Housing Agreements” with the provinces, the federal government hands over the administration of federally funded social housing to the provinces. Under these Agreements, there is virtually no monitoring of who gets the benefit of subsidies nor any consideration of how different allocation systems may affect women and other groups at risk of homelessness. As it stands subsidized units are targeted at anyone paying more than 30% of their income on rent, rather than on those most at risk of homelessness or those most in need.⁸¹

In November 2001 the federal government announced a federal-provincial-territorial framework for a new \$1.36 billion affordable housing initiative. This money for building affordable rental housing represented the first such expenditure since the 1993 elimination of funding for new social housing. The federal government agreed to spend \$680 million over five years to build 80,000 new units of rental housing. But none of this money will go toward housing subsidies. Also noticeably absent from the agreements with the provinces are preconditions ensuring that a minimum proportion of units will be allocated to core need households. All that is stipulated is that funded units should be “modest in size and amenities.”⁸²

Further, the new supply initiatives in the private market are not linked to any measures addressing widespread discrimination that prevents women from accessing the more affordable units. Important regulatory legislation such as rent control and rental housing stock protection is being rolled back in many provinces, so there is little assurance that new rental supply will remain affordable or will even remain as rental accommodation.⁸³

⁷⁸ Canada Mortgage and Housing Corporation defines core housing need as follows: “A household is said to be in core housing need if its housing falls below at least one of the adequacy (does not require major repairs), suitability (has enough bedrooms), or affordability (shelter costs are less than 30% of before-tax household income) standards AND it would have to pay more than 30% of its income to pay the average rent of alternative local market housing that meets all three standards.” (CMHC, *Canadian Housing Conditions* (Research Highlights Issue 55-1).

⁷⁹ *Barriers to Equality* at 19; Statistics Canada, *Women in Canada 2000: A Gender-based Statistical Report* (Catalogue No. 89-503-XPE) at 161, 163; *Housing Canada’s Children* at 18-19.

⁸⁰ *Barriers to Equality* at 20.

⁸¹ *Ibid.* at 22 – 23.

⁸² *Ibid.* at 21-22.

⁸³ *Ibid.*

- **Housing for Aboriginal Women**

The federal government has responsibility for on-reserve housing, and it recognizes that “many First Nations still face a large backlog of substandard and overcrowded houses.”⁸⁴

There are three constitutionally recognized Aboriginal peoples in Canada: First Nations, Metis and Inuit. Inuit are currently facing the worst housing crisis in Canada. They are living in severely overcrowded, inadequate and unsafe housing conditions. Because Inuit do not have “status” under the *Indian Act*, they are compelled to compete with other non-aboriginal Canadians for social housing. In 1993, the federal government eliminated its portion of cost-shared funds to the governments of the Northwest Territories, Quebec and Newfoundland and Labrador for the construction of new social housing units. The high cost of private rental market housing in Arctic regions where Inuit live, coupled with the high percentage of Inuit living in poverty, makes the need for social housing acute. As it stands, for Inuit across Canada, demand for social housing far exceeds supply and Inuit are kept on long waiting lists for subsidized housing.⁸⁵

Only 21% of Aboriginal households live on reserve. Because many Aboriginal women cannot access on-reserve housing, and because they experience discrimination, violence and disempowerment on-reserve, Aboriginal women outnumber Aboriginal men in urban centers. The vast majority of Aboriginal women - 68% of Métis women, 46% of First Nations women and 30% of Inuit women - are living in cities and towns.⁸⁶

Federal funding for new units under the Urban Native Non-Profit Housing Program (UNH) (social housing owned and operated by Aboriginals) ceased in 1993 and waiting lists are extremely long. Moreover, most of the housing stock is quite old and repair and maintenance of existing units is a real concern. With social housing not really being an option for Aboriginal women, they are compelled to turn to the private rental market where they experience discrimination based on race, sex, family status, and poverty on a regular basis.⁸⁷

- **Women’s Homelessness**

In December 1999, the Government of Canada announced that it would invest \$753 million in a National Homelessness Initiative to help alleviate and prevent homelessness across Canada. Canada has acknowledged that single women and families headed by women account for an increasing proportion of the homeless population and spousal violence and poverty are key factors underlying homelessness.

However, the National Homelessness Initiative as a whole has been predominantly focused on “absolute” or street homelessness and on short-term solutions aimed at

⁸⁴ Report submitted to the Committee on the Elimination of Discrimination Against Women for consideration in its review of Canada's Fifth Report on the Convention on the Elimination of All Forms of Discrimination Against Women, Update, Submitted, December 2002, http://www.pch.gc.ca/progs/pdp-hrp/docs/cedaw5/cedaw5up_e.cfm (date accessed: 15 November 2004).

⁸⁵ *Barriers to Equality* at 35.

⁸⁶ *Ibid.* at 34, 35, 41, 43.

⁸⁷ *Ibid.* at 42.

enhanced services and increased emergency housing supply. Though there are increasing numbers of women living on the streets, street homelessness is not representative of most women's experiences of homelessness. For women with children, living on the street is an impossible option that is almost certain to mean losing their children. For single women, increased vulnerability to violence and sexual assault make street life something to be avoided at all costs. And so, while the NHI focus is important in addressing the emergency housing needs of women, it is essential that there be an equal emphasis on addressing the systemic causes of homelessness.⁸⁸

Counting the numbers of women in shelters does not provide useful insight into women's homelessness. Like the street, shelters are a last resort for women. The increasing number of women in shelters is only a small fraction of the women across Canada experiencing housing crises and homelessness in diverse ways – living with the threat of violence because there are no other housing options; living in unsafe or unhealthy accommodation with family or friends; or losing custody of their children because of inadequate housing. Most of these individualized “housing crises” do not show up in homelessness counts or media portrayals of homelessness, but they increasingly define the lives of lower income women in Canada.⁸⁹

v. Violence Against Women

Data compiled by Status of Women Canada (SWC), in a document entitled *Fact Sheet: Statistics On Violence Against Women In Canada*, released in December 2003, revealed that half of Canadian women (51%) have been victims of at least one act of physical or sexual violence since the age of 16. Further, of all victims of crimes against the person in 2000, females made up the vast majority of victims of sexual assaults (86%), criminal harassment (78%) and kidnapping/hostage-taking or abduction (67%).⁹⁰

Women who face multiple forms of discrimination, such as Aboriginal women, women of colour, lesbians, disabled women, young girls and older women, are at a higher risk of violence. Further, these women have a more difficult time accessing services. For example, “less than two-thirds of shelters for abused women report being accessible to women with disabilities.”⁹¹ “Women who are of minority racial, ethnocultural or linguistic groups also suffer violence at the hands of their intimate partners. However, their access to the justice system and to services are not the same. Only 57% of Canadian shelters offered services that were sensitive to cultural differences. Women who have difficulty speaking the official language where they live face enormous barriers in accessing services and dealing with the justice system. When services and the justice system fail, women find it even more difficult to escape abuse.”⁹²

⁸⁸ Ibid. at 1, 31-32.

⁸⁹ Ibid. at 1.

⁹⁰ Status of Women Canada, *Fact Sheet: Statistics On Violence Against Women In Canada* (Ottawa: Status of Women Canada, 2003) at 1.

⁹¹ Canadian Research Institute for the Advancement of Women (CRIAOW) *Fact Sheet on Violence Against Women and Girls* (Ottawa: CRIAOW, 2002) at 2.

⁹² Ibid. at 2.

During the post-Bejing decade, combatting violence against women and improving the conditions of women who are victims of violence has become increasingly difficult. The Canadian Association of Sexual Assault Centres has produced a report entitled *Canada's Promises To Keep: The Charter and Violence Against Women*. It provides a new account of the obstacles women encounter, and the changing governmental climate in which women are working to combat violence.⁹³ Some of the reasons why combatting violence is difficult are these:

- **De-gendered Law and Order Policies**

Canadian women's organizations have rejected the assumption that more laws and more police will solve the problem of violence against women. This 'law and order' approach ignores the root cause of violence against women, namely women's subordinated social, political, legal, and economic status. Women are victims of violence by men, including the men with whom they are most intimate, because they are economically dependent and have less status and power in Canadian society. Violence against women is a result of women's inequality.

However, during this decade, Canada has adopted new 'law and order' measures, such as tougher laws for juveniles. The dangerous offender legislation allows judges to extend periods of incarceration without trials when a prisoner is already serving a term. These measures have given the appearance of "getting tough" on law breakers, but have not improved the response of the police and the justice system to violence against women.

The law and order agenda has been applied in a gender neutral manner. This means that it has de-gendered the understanding of violence against women. Ironically, more battered women are being charged if they defend themselves. Also, rather than supporting women's rape crisis centres and shelters for battered women, these women-led, non-governmental services have had funds cut, while public money is being given to "victim's assistance" programs, run by police, crown prosecutors, or non-profit organizations that do not recognize that violence against women is a manifestation of women's inequality.⁹⁴ De-gendered and de-racialized approaches to violence against women are more comfortable, but ineffective.

- **Diversion, Counselling, Mediation, Restorative Justice**

Hand in hand with 'law and order' policies that emphasize tougher laws and longer sentences, despite the apparent contradiction, has come a new emphasis on diversion, counselling, mediation and "restorative justice." These are all means of diverting accused

⁹³ Canadian Association of Sexual Assault Centres, *Canada's Promises To Keep: The Charter and Violence Against Women*, Report of CASAC LINKS, a five year research and community development project (CASAC: Vancouver, 2004).

⁹⁴ Lakeman, L., "Why 'Law and Order' Cannot End Violence Against Women; and Why the Development of Women's (Social, Economic and Political and Civil) Rights Might" (2000) Vol. 20, No. 3 *Canadian Woman Studies* 24.

persons into community-based alternatives to prison terms. While many anti-violence workers are critics of Canada's prison system, they are also concerned about the social message that is sent, and about the safety of women, when male abusers of women are diverted to counselling and mediation programs. Women who are victims of male violence are increasingly finding themselves pushed to enter mediation or counselling with their abuser. Or they see their abuser given a conditional sentence, which may include house arrest or community service, even when there are too few personnel to provide adequate supervision or supports. In many circumstances, this means that the safety of the woman who was assaulted is compromised, and the assault is dealt with outside the criminal law, so that there is no record.

Aboriginal women are concerned about the increasing promotion by federal and provincial governments of community-based "restorative justice" models, particularly for Aboriginal offenders. Many of these diversion programs, which are held out as "culturally appropriate" lack any Aboriginal gender analysis, and risk exposing Aboriginal women and children who are victims of crimes of abuse to further harm. While women were promised that diversion programs and conditional sentencing would not be used in cases of violence against women, they *are* being used in these cases, and women's safety and equality is compromised.⁹⁵

- **Falling welfare incomes**

As noted above, during this period welfare incomes have decreased across the country. Shelter and transition house workers have noted that women are returning to abusive relationships because they cannot support themselves and their children adequately on welfare incomes. These women choose continued exposure to violence for themselves over being unable to feed and house their children.⁹⁶

Author of a recent report on women on welfare in Ontario, Janet Mosher, describes the situation this way:

⁹⁵ W. Stewart, A. Huntley and F. Blaney, "The Implications of Restorative Justice for Aboriginal Women and Children Survivors of Violence: A Comparative Overview of Five Communities in British Columbia" (Vancouver: Aboriginal Women's Action Network, 2001).

⁹⁶ Ontario Association of Interval and Transition Houses (OAITH), *Report to the Special Rapporteur on Violence Against Women*, (Toronto: OAITH, 1996) at 22. A 1996 survey of women's shelters conducted by the OAITH found that workers in 66 per cent of the shelters reported that some women were returning to abusive relationships because they cannot receive sufficient social assistance to meet the basic needs of themselves and their children. Further, there has been a rise in the incidence of spousal murders. OAITH, the largest shelter association in Canada, blames the rise directly on ongoing cuts to social services, which make women unable to afford to leave violent relationships, especially if children are involved.

Benefits in Ontario at present certainly do not approximate basic requirements. Virtually every one of the 64 women receiving welfare ...interviewed for a recent research study...indicated that it was difficult, or impossible, to survive on welfare. The monthly rents paid by some exceeded their total benefit levels. Others were left, after paying rent, with a food budget of \$20-30 for four or five people for an entire week. Often, despite their best efforts and the enormous amount of energies expended in the quest to survive, women and children's basic needs went unmet. Many reported living on one meal or less per day, having children who were not adequately nourished, and being confined in less-than-adequate housing without money for bus fare or phone. Several women reported medical problems as a result of inadequate nutrition. Many described how all of their energies were drawn into, and exhausted by, the task of survival.

All of the women interviewed were survivors of woman abuse or presently living in an abusive relationship. Six of the women interviewed were contemplating returning to their partners (including to relationships that they knew were potentially lethal) because they were struggling so hard to survive on welfare. Seven had already returned to abusive relationships, opting for the abuse of their intimate partners over what they often described as the abuse of the state. Nine others indicated that they had remained in abusive relationships because they worried that they could not provide for themselves and their children on welfare.⁹⁷

- **Lack of affordable housing**

The same report notes that lack of affordable housing:

is a key reason why many women do not leave abusive partners or return to them. Many women interviewed experienced insecure and precarious housing arrangements. Canada is one of the few industrialized countries that do not have a national housing policy. At the same time, the provincial government has withdrawn its funding from subsidized, co-operative and second-stage housing.... Women...identified quick access to housing as an important need.⁹⁸

⁹⁷ The women were interviewed as part of the Woman Abuse and Welfare Research Project, a multi-disciplinary research project of Professors Janet Mosher, Margaret Little and Patricia Evans, and two community partners, the Ontario Social Safety Network and the Ontario Association of Interval and Transition Houses and funded by the Social Sciences and Humanities Research Council. The research explores the intersections of welfare and domestic violence. The report on the project, *Walking on Eggshells: Abused Women's Experiences of Ontario's Welfare System*, is available online: Woman and Abuse Welfare Research Project <http://dawn.thot.net/walking-on-eggshells.htm> (date accessed: 30 June 2004).

⁹⁸ This report makes two recommendations about housing: 1) the Ontario Government should renew its commitment to second stage housing and provide more units of this nature. This would permit abused women some time to live in a safe place before they

- **Cuts to shelter funding and inadequate supply**

Shelters and services for women victims of male violence were services designated under the *Canada Assistance Plan* for cost-sharing. The elimination of CAP's designations and 50/50 cost-sharing formula and its replacement with the CST as a block undesignated transfer from the federal government to the provinces has also affected support for shelters and transition houses in some provinces. Over the 1995 – 2005 period, some provincial governments have cut funding to women's shelters and transition houses, resulting in many shelters and transition houses being underfunded and struggling to meet the demands of the women who need them.⁹⁹

Canada in its response to the UN Questionnaire refers to the "increased availability of shelters (from 18 in 1975 to 524 in 2002...)"¹⁰⁰ as a mark of improvement in the Canadian picture. But Status of Women Canada's 2003 *Fact Sheet: Statistics On Violence Against Women* notes that "in ... April 17, 2000, 89 shelters turned away 476 people (254 women and 222 children). More than 7 in 10 of these shelters (71%) turned women and children away because the shelter was full."¹⁰¹ In other words, shelter capacity has grown in 27 years, but it is not adequate. In *Walking on Eggshells* women reported "how important access to emergency shelter had been for them...[and] advocated more funding for shelters so that women would not have to be turned away and to ensure that shelters could provide a full range of services, including cultural interpretation."¹⁰²

Violence against women continues unabated. Like poverty, it is a marker of women's inequality in the society. Improvements in this area, worthy of reporting to the UN, are not likely to materialize until Canadian governments acknowledge the need for a holistic strategy that addresses women's inequality in concrete ways.

In its Concluding Comments on Canada's 5th report, the CEDAW Committee stated:

needed to find a permanent home....(Recommendation 28); and 2) more subsidized housing units are needed and these units need to be more welcoming to women. An independent appeal process needs to be established with staff members [at public housing facilities] who are knowledgeable in poverty and abuse issues (Recommendation 29).

⁹⁹ See the assessment of Quebec's funding policy for shelters and transitions houses over this decade by the Regroupement provincial des maisons d'hébergement et de transition pour femmes victimes de violence conjugale in the FAFIA CEDAW Report at paras 180 – 199.

¹⁰⁰ Canada's National Response, supra note 1, p. 14.

¹⁰¹ *Fact Sheet: Statistics On Violence*, supra note 86 at 4.

¹⁰² *Walking on Eggshells*. The report makes this recommendation about shelters: Funding for women's shelters needs to be restored and enhanced. The definition of need for emergency shelter needs to be more broadly defined to include women who are recovering from a history of abuse, even if this abuse is currently not on-going (Recommendation 30).

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

The Committee urges the State party to step up its efforts to combat violence against women and girls and increase its funding for women's crisis centres and shelters in order to address the needs of women victims of violence under all governments.¹⁰³

V. National Mechanisms

Having agreed to the BPfA, Canada has made a commitment to improving the status of women, through fulfilling the requirements set out in this agreement. The establishment of effective national mechanisms is a necessary step towards advancing women's equality. However in a federal state like Canada, institutional mechanisms must be established by each government separately and by all governments collaboratively. As well, national mechanisms must include provisions for adequate consultation with civil society, particularly women's non-governmental organizations, and participation by them in decision-making. There are inadequacies in the mechanisms that Canada offers as the vehicles for moving forward on the BPfA, and the 2000 Outcome Documents. Following is an account of some of them.

¹⁰³ CEDAW Concluding Comments at paras. 369- 370.

i. The Hidden Agenda for Gender Equality

In its response to the UN Questionnaire, Canada noted that “in 2000, the federal government built on the previous FPGE by approving the Agenda for Gender Equality (AGE), a five-year government-wide strategy.”¹⁰⁴ Specifically, AGE aims to:

- engender policy and program initiatives within a new policy framework, and communicate how these initiatives support both women and men, in a more coherent, deliberate and visible way;
- accelerate implementation of GBA in order to strengthen government policy capacity;
- enhance voluntary sector capacity, including funding for new organizations and for the purpose of addressing new and emerging issues;
- engage Canadians in the policy process in a sustained, structured manner that will enable women’s experience and perspectives to inform current issues on the public policy agenda and planning for the future;
- meet Canada’s international commitments and treaty obligations.¹⁰⁵

Despite the fact that “[engaging] Canadians in the policy process in a sustained, structured manner that will enable women’s experiences and perspectives to inform current issues” is one of its goals, Canadian women have no knowledge of the Agenda for Gender Equality (AGE) except the information that is provided in Canada’s response to the UN Questionnaire. The Agenda has not been made available publicly in any hard-copy or online format. Inquiries with Status of Women Canada and a request through the Library of Parliament have confirmed that AGE exists solely as an internal government strategy.

Thus, while women now know the stated goals, they know nothing more. There is no public information on what strategies and concrete steps have been or will be taken, what resources have been or will be assigned, or who is or will be responsible for the implementation of this federal Agenda.

In these circumstances, can the Agenda be considered a credible plan for advancing women’s equality, or a legitimate response to the BPfA and the 2000 Outcome Documents?

ii. Voluntary Gender-Based Analysis

In its response to the UN Questionnaire, Canada states that the most important contribution of *The Federal Gender Plan*, which is “the cornerstone for the implementation, in Canada, of the *Beijing Platform for Action*”, has been in setting “a

¹⁰⁴ *Canada's National Response* at 4.

¹⁰⁵ *Ibid.*

long-term goal of undertaking Gender-Based Analysis (GBA) to ensure that all future legislation and policies would include, where appropriate, an analysis of the potential for different impacts on women and men.”¹⁰⁶

In their recently revised document, *An Integrated Approach to Gender-Based Analysis*, Status of Women Canada (SWC), affirms the importance of implementing GBA at the onset of developing and implementing any policy or program:

To achieve gender equality, we need to integrate gender equality measures into all policies and programs from the design stage onwards. Otherwise, our policies and programs may inadvertently increase inequality between women and men and make their socio-economic situations worse. If you conduct a Gender-based Analysis at the beginning of any process, it will reveal the key gender issues you need to consider. You can then develop plans to overcome existing imbalances and avoid adding to future problems.¹⁰⁷

In its response to the UN, Canada states that “every government department is responsible for implementing the government’s commitment to Gender-Based Analysis within its mandate.”¹⁰⁸

It should be understood that this means that performing GBA is voluntary. The federal government provides a list of ten departments that have undertaken GBA, but there is no *requirement* that it be performed inside *every* department, or that it be acted on when done. Nor is there any standardized accountability or quality control system to ensure that it is done regularly and competently.

The role of Status of Women Canada is to train officials in other departments to undertake this analysis. In other words, the federal government’s plan for Gender-Based Analysis is based on a “trickle-up” theory. The assumption is that if, incrementally, officials are trained to undertake GBA, then, incrementally, it will be done.

At virtually the same time that this commitment to Gender-Based Analysis was made, the federal government introduced the most drastic change to social programs of the last forty years through the 1995 budget, as described earlier. This move clearly ignored the commitment in the BPfA, to “integrate a gender perspective into all economic restructuring and structural adjustment policies.”¹⁰⁹ This profound change to Canadian social policy, which has had a predictably harsh impact on Canadian women, was introduced and rationalized as a matter of economic policy, unrelated to the rights of women.

¹⁰⁶ Ibid. at p. 3.

¹⁰⁷ Status of Women Canada, *An Integrated Approach to Gender-Based Analysis*. (Ottawa: Status of Women Canada, 2004) http://www.swc-cfc.gc.ca/pubs/gbainfokit/index_e.html (date accessed: 7 December 2004).

¹⁰⁸ *Canada's National Response* at 19.

¹⁰⁹ *Beijing Platform for Action* at para 175 b)

Canada's response does not refer to any undertakings regarding Gender-Based Analysis at the provincial or territorial government levels.

In its Concluding Comments on Canada's 5th report, the CEDAW Committee commented:

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

*The Committee recommends that the State party consider making gender-based impact analysis mandatory for all legal and program efforts at the federal level and...at the provincial and territorial levels.*¹¹⁰

iii. Lack of Federal-Provincial-Territorial Co-ordination re: Treaty Obligations or Gender Standards

All levels of government are bound by the obligations in the human rights treaties that Canada has signed, including CEDAW. But Canada does not have effective intergovernmental mechanisms to ensure that there is consistent implementation of human rights obligations across jurisdictions. The decentralization thrust of the 1995 federal-provincial restructuring has had a negative impact on women.

There is some co-ordination among federal, provincial, and territorial governments for the purposes of agreeing to sign and ratify new treaties, and for the purposes of preparing reports to UN treaty bodies. However, there is no co-ordination with respect to implementation of treaty obligations, or the monitoring of compliance. So, for example, when the province of British Columbia recently slashed social programs and services essential to women, there is no mechanism for redress, no monitoring or restraint on this development. The federal government takes the position that it has no authority to require other levels of government to meet their commitments. Women in British Columbia are alone, and their rights to equality under CEDAW, and other international human rights instruments to which Canada is signatory, appear to have no relevance.

Canada has a reputation as a world leader in the protection and promotion of human rights. This reputation has been earned because Canada has ratified international human rights treaties enthusiastically and because Canada has been a leader in the drafting and promotion of human rights instruments, such as the *Declaration on Violence Against Women*.

However, its reputation at home, among women, as a respecter of its international human rights obligations is currently poor. As already noted, in January 2003, the CEDAW Committee reviewed Canada's 5th report to the UN on its compliance with CEDAW and

¹¹⁰ CEDAW Concluding Comments at paras. 353–354.

made twenty-six recommendations to Canada.¹¹¹ Only one government in Canada has made a formal response to these recommendations, that is the Government of British Columbia. The Committee recommended that the Government of British Columbia review recent changes to programs and policies to determine their impact on women and to change them as necessary.¹¹² The Government of British Columbia refused.¹¹³

The 26 recommendations make it clear that Canada has serious work to do to comply with its obligations. Implementing the recommendations requires action by each government in Canada and by all governments acting collaboratively. It is clear that there are two problems: 1) there are no mechanisms within each government for dealing with deficiencies in Canada's human rights performance; and 2) there are no pan-Canadian mechanisms that are capable of dealing with the deficiencies that require collaboration. The result is that the 2003 CEDAW recommendations have fallen into a vacuum. Women see no action. Governments, with the exception of British Columbia's, are silent. Only in Canada's response to the UN Questionnaire do we find official reference to the CEDAW recommendations.

When appearing before treaty bodies, Canada claims that consistent implementation of human rights is complex and difficult in a federal state, and at home it complains that international human rights bodies do not understand this when they criticize Canada's performance.¹¹⁴

However, inconsistent and sporadic implementation of Canada's obligations under international human rights law amounts to non-compliance, and the structure of the state does not provide an excuse. It is incumbent on Canadian governments to find effective means of ensuring that women in all parts of Canada enjoy their rights, and are the beneficiaries of consistent measures to advance their equality as well as standards that ensure that governments do not move backwards. Canadian governments could, for example, include rights-based standards as an element of existing and new intergovernmental agreements and as conditions attached to transfers of monies .

Canada's failure to follow UN recommendations regarding the use of federal transfer payments and intergovernmental agreements as a means of ensuring rights compliance,¹¹⁵

¹¹¹ See CEDAW Concluding Comments.

¹¹² CEDAW Concluding Comments at paras. 359-360.

¹¹³ Letter from Attorney General Geoff Plant in the possession of the B.C. CEDAW Group.

¹¹⁴ *Canada's National Response* at 3 notes that "under Canada's constitutional structure, different aspects of the critical areas of concern of the BPfA fall within the jurisdiction of the different levels of government." It does not indicate what joint actions governments are taking to ensure that all critical areas of concern are addressed effectively.

¹¹⁵ The CEDAW Committee, for example, called on the federal government to reconsider "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." Concluding Comments at para 352.

as well as insufficient cross-governmental monitoring of social program provision, amounts to a failure to fulfill the human rights of women, guaranteed to them under the *Charter* and international treaties to which Canada is signatory, as well as a failure to implement the BPfA.

iv. Funding and Participation for Women's NGOs

During the 1995 – 2005 decade, Canadian governments have withdrawn or reduced their support for women's non-governmental organizations.

In the 90s the federal government withdrew financial support from women's centres. Women's centres then turned to provincial governments for funding support. But provincial funding is uncertain, and in some provinces there is none. For example, as of April 1, 2004, the Government of British Columbia cancelled core funding for all 37 women's centres in the province.¹¹⁶ Many of these centres are in rural communities where they provide vital services, not attainable anywhere else. In addition to providing grassroots information, referral and counselling services, women's centres have been focal points for organizing women's community level political participation.

But the withdrawal of funding from women's centres was not the only change. The federal government stopped providing core funding for any women's organizations. It had provided core funding for women's NGOs in the 80s and 90s, in part to enrich democratic participation by women, who are under-represented in Canada's formal institutions of government. The federal government provided modest support for women's democratic participation by ensuring that women had some capacity to engage with governments from the base of autonomous civil society organizations.

However, in the last decade the federal government changed the rules for funding women's organizations. It provides no core funding, but only project funding. Other levels of government have followed suit. This makes funding unstable, and puts the women's organizations in the position of serving government's priorities, rather than their own.¹¹⁷

Governments do not fund advocacy, but prefer to fund either services on a cost per service basis, or to fund one-time research-oriented projects. The result is that women's non-governmental organizations, like other civil society organizations, suffer from "mission drift" and "advocacy chill." It is hard for them to stay focussed on their own goals, because they rely on short-term funding for projects that can attract the interest of government and other funders. And they are discouraged from being outspoken advocates

¹¹⁶ B.C. CEDAW Report at para. 55.

¹¹⁷ This change in the approach of governments to funding non-governmental organizations has been documented in a study by the Canadian Council on Social Development entitled *Funding Matters*. This report can be found at <http://www/ccsd.ca/pubs/2003/fm/summary-fundingmatters-pdf> (date accessed: 10 November 2004).

for their constituency because of fear that they will lose funder support, or violate the rules governing “charitable status”, which permits them to issue tax receipts to donors.¹¹⁸

Women’s non-governmental organizations are much worse off than they were at the beginning of the decade. The largest women’s umbrella organization, the National Action Committee on the Status of Women, has, for all intents and purposes, folded. Others continue the work, but with much less capacity, and much more work to do

In its response to the UN Questionnaire, Canada notes with some apparent pride that there is a “well-developed network of over 1,500 women’s organizations ... and equality-seeking groups, which play a significant role in progress toward gender equality. They contribute to local, regional and national agendas for gender equality, provide direct services to women and children and educate all sectors of the public and government on issues relevant to gender equality.”¹¹⁹

If this statement gives readers the impression that women’s organizations are being effectively consulted by governments in Canada, and that women’s organizations are respected and understood to be essential players in democratic decision-making, it is misleading. Women’s organizations have been set back in this decade. They are struggling to be listened to and struggling to survive.

VI. Additional Mechanisms Needed

i. Parliamentary Committee

In October 2004 the Parliament of Canada established a Parliamentary Committee on Women’s Issues. In its response to the UN Questionnaire, Canada notes that “recent calls for ... the creation of a parliamentary standing committee ... reinforce the need for greater attention to accountability issues.”¹²⁰ Women lobbied for this Committee in order to have a forum for discussion of the federal government’s policy and budgetary choices and the impacts of those choices on women. FAFIA lobbied specifically for the establishment of this Committee in the hope that federal politicians and women’s NGOs could engage in constructive discussion about practical and timely implementation of the 2003 recommendations of the CEDAW Committee. FAFIA looks forward to working with this Committee.

ii. Access to FPT Meetings on the Status of Women

In their UN report, Canada alludes to a mechanism for monitoring of national machineries: the Federal-Provincial-Territorial Meetings of the Ministers Responsible for the Status of Women.

¹¹⁸ Ibid. at 17.

¹¹⁹ *Canada's National Response* at 22.

¹²⁰ Ibid. at 26.

Collaboration among the federal, provincial and territorial governments is undertaken through the Federal-Provincial- Territorial (FPT) forum of Ministers Responsible for the Status of Women. Meeting on an annual basis since 1982, the FPT Ministers, among other things, work together on policy issues and raise public awareness in areas of concern to women, providing leadership in promoting women's equality across Canada. They have addressed issues such as violence against women, education and training, gender equality in the justice system, work and family balance, and women's economic future.¹²¹

For the last two years, women's NGOs have asked for an opportunity to meet with Ministers Responsible for the Status of Women at their annual Federal-Provincial/Territorial meeting because of the importance of this pan-Canadian, intergovernmental forum. They have been refused. These annual meetings could provide a significant opportunity for government - NGO dialogue on specific issues of concern to women, and for problem-solving between governments and NGOs. But they are closed.

iii. Inclusion of Women in the Preparation of Agendas pertaining to Women's Equality.

The Beijing Platform for Action calls upon governments to:

Develop and maintain consultative processes and mechanisms, in partnership with women's organizations, including non-governmental organizations and community groups, to ensure that all women, with particular attention to those who face particular barriers to their participation in public life, are fully involved in and informed about decisions that impact their lives.¹²²

As noted in their 2004 response, the federal government is moving "towards the end of the current Agenda for Gender Equality (AGE) and into planning for the next five-year period (2005-2010)."¹²³ As noted previously, women have had no access to the Agenda for Gender Equality and were not included by the federal government in the development of strategies for the last five years.

As a result of its invisibility, there has been no way to monitor the implementation of AGE. Women's non-governmental organizations need to be involved in the development of initiatives related to the upcoming agenda, to ensure that women across Canada are made aware of, and are given the opportunity to influence those policies and programs that have a direct impact on their lives.

iv. Gender Budget

According to Canada's *Federal Plan*:

¹²¹ *Canada's National Response* at 21.

¹²² *Beijing Platform for Action* at para 81. c)

¹²³ *Canada's National Response* at 28.

Gender analysis is based on the standpoint that policy cannot be separated from the social context, and that social issues are an integral part of economic issues. Social impact analysis, including gender analysis, is not just an add-on, to be considered after costs and benefits have been assessed, but an integral part of good policy analysis.¹²⁴

The BpfA and 2000 Outcome Documents urge governments to incorporate “gender perspectives in the design, development, adoption and execution of all budgetary processes.”¹²⁵ Further, it was recommended that:

...innovative approaches to the allocation of existing resources be employed, not only by Governments but also by non-governmental organizations ... One such innovation is the gender analysis of public budgets, which is emerging as an important tool for determining the differential impact of expenditures on women and men to help ensure equitable use of existing resources.¹²⁶

In Canada there have been no *government* initiatives to produce a gender budget. In their UN response, the federal government claims that “while Canada does not have a specific gender and budget initiative, GBA policy does apply to the development of policies that are reflected in budgets.”¹²⁷ However, the devastating impacts on women of facially gender-neutral fiscal measures, such as the 1995 *Budget Implementation Act* point to the urgent need for more comprehensive analysis of fiscal choices and budgetary allocations. FAFIA has produced an alternative report for the ten-year review of the Beijing Platform for Action which reviews federal budgets from 1993 – 94 to 2003 –2004. Canadian governments must also do their part, and work collaboratively with women’s non-governmental organizations to produce a public gender budget, which will analyze impacts on women of budget choices, and allow for adjustments to be made, where women’s equality is affected.

VII. Aboriginal Women and Human Rights

As a group, Aboriginal women are the most oppressed and desperate women in Canada. References have already been made to their high rates of poverty, lack of decent housing, marginalization in the work force, and high exposure to violence and abuse.

Aboriginal women also do not enjoy the same protection in law, and from the justice system, that non-Aboriginal women do. Aboriginal women living on reserves do not have the same matrimonial property rights as other women, nor can they seek protection and redress under human rights legislation when they are discriminated against by Band

¹²⁴ Status of Women Canada, *Setting the Stage for the Next Century: The Federal Plan for Gender Equality* (Ottawa: Status of Women Canada, 1995) at 18.

¹²⁵ Report of the Secretary General, “Implementation of the Outcome of the Fourth World Conference on Women and the Special Sessions for the General Assembly entitled women 2000: Gender Equality, Development and Peace for the Twenty-First Century.”

¹²⁶ *Ibid.* at para 36

¹²⁷ *Canada's National Response* at 4.

Councils and Band officials. Aboriginal women who lost their status because of sexist “marrying out” provisions in Canadian legislation that were in place until 1985 still cannot pass on their Indian status to the following generations on the same footing as men. These elements of overt discrimination have been identified repeatedly by UN treaty bodies as violations of Canada’s treaty obligations.¹²⁸ But they remain unchanged.

i. Current Inequities Resulting from Historic “Marrying-out” Provisions

In order to understand how provisions of registration under the *Indian Act* currently discriminate against Aboriginal women, some history is necessary. Prior to 1985, section 12(1)(b) of the *Indian Act* stipulated that status Indian women lost their Indian status if they married non-status men. Such women also lost the right to confer Indian status on their children. By contrast, status Indian men who married non-status women retained their status and, additionally, were able to confer that status on their wives and children. Thus the basic entitlement provision in the pre-1985 *Indian Act* was based on descent through the male line, subject to special rules for illegitimacy and marriage.¹²⁹

Because of s. 12(1)(b) of the *Indian Act*, prior to 1985, many Indian women and their children lost the rights and benefits that flow from Indian status. They were no longer entitled to receive treaty payments, could not vote in Band elections, and ultimately, could be forced to leave the reserve. Today, Indian status entitles an Aboriginal person to benefits such as on-reserve schooling, financial support for higher education, health services, and housing.¹³⁰

In 1985, Canada amended the *Indian Act* and restored status to the Aboriginal women who had lost status through the old legislation’s “marrying out” provisions. As of June 1995, the amended *Act* has allowed for the reinstatement of 95,429 persons, more than half of whom were women (57.2%).¹³¹ However, women who lost status by marrying non-Aboriginal men before 1985 and who are now reinstated under section 6(1) can pass status on to their children, but not necessarily to their grandchildren. Only if the

¹²⁸ For example, the following treaty bodies have commented with concern about the failure of Canada to provide Aboriginal women living on reserve with access to matrimonial property law that guarantees them an equal division of property at the time of relationship breakdown: Committee on Economic, Social and Cultural Rights, 10/12/98: [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/E.C.12.1.Add.31.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/E.C.12.1.Add.31.En?OpenDocument) at para.29; Human Rights Committee, 07/04/99: [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.79.Add.105.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.79.Add.105.En?Opendocument) at paras. 37, 38; Committee on Elimination of Racial Discrimination, 01/11/2002: [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.57.18.paras.315-343.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.57.18.paras.315-343.En?Opendocument) at para. 332; and CEDAW Concluding Comments at para. 37.

¹²⁹ *Indian Act*, R.S.C. 1970, c. I-6.

¹³⁰ Report of the Royal Commission on Aboriginal Peoples, Volume 4, *Perspectives and Realities* (Ottawa: Government of Canada, 1996), Chapter 2: Women’s Perspective at 24-30.

¹³¹ Bill C-31, *An Act to Amend the Indian Act*, R.S.C. 1985), c. 32 (1st Supp. 1985) *Indian Act*, R.S.C 1985, c. I-5.

grandchildren of women reinstated under the 1985 amendments to the *Indian Act* have two status parents, will the grandchildren themselves be status Indian. By contrast, men who married non-Aboriginal women before 1985 did not lose status and, upon marriage, passed status onto their non-status wives. Their children thus did not need to be reinstated under the new legislation but, instead, had status from birth. Because of this, the status of these men's grandchildren does not depend upon both parents being status Indians.¹³²

As part of the amendments to the 1985 *Indian Act*, Aboriginal bands can now control their own membership through the establishment of a membership code (although the Canadian government retains control of determining "Indian" status). Although initial membership codes have to include those Aboriginal persons, principally women and their children, who were reinstated through the 1985 amendments, bands can subsequently change these codes to exclude such persons. In the name of its respect for self-determination, the Canadian government has refused to act to prevent discrimination against these Aboriginal women, despite their fiduciary duty to Indian people, and despite the fact that Band discrimination against Bill C-31 reinstates results from prior government discrimination. The federal government's negotiations with Aboriginal peoples regarding self-governance have ignored the unique and marginalized position of Aboriginal women.

Due to the large number of persons re-instated under the 1985 amendments, some Bands have expressed concern about the lack of a corresponding increase in resources provided by the federal government to meet the needs of such an increase in population for on-reserve housing, health and education. The result is that many women and children who have been reinstated have not been able to move back to their reserves nor have they been able to access the benefits that flow from Indian status.

By being forced to live off-reserve, many of the women reinstated under the 1985 *Indian Act* amendments are denied the right to vote in Band council elections because of residency requirements either in the *Indian Act* (section 77(1)) or in Band custom. The denial of participation in Band political process disproportionately impacts those Aboriginal women who lost their Indian status under the pre-1985 discriminatory provisions of the *Indian Act* and who have been reinstated under the 1985 amendments.

Bill C-31 reinstates are still subject to discrimination that affects their participation in Band governance and community life, and their access to benefits, including education, health, child care, and housing. Women who dispute Band decisions are vulnerable to threats and violence.¹³³

ii. **Aboriginal Women and the Division of Matrimonial Property**

The federal government has failed to ensure adequate housing for on-reserve Aboriginal women and their children by denying them protections available to off-reserve women and children. With respect to the division of on-reserve property upon marriage

¹³² *Indian Act*, R.S.C 1985, c. I-5; *Perspectives and Realities*, supra note 125 at 33-34.

¹³³ *Ibid.* at 43-50.

breakdown, a court is governed not by provincial family law but by the federal *Indian Act*, which contains no provisions for distribution of matrimonial property upon marriage breakdown.¹³⁴ In 1986, the Supreme Court of Canada held that, as a result of the federal *Indian Act*, a woman cannot apply for one-half of the interest in the on-reserve properties for which her husband holds Certificates of Possession. At best, a woman may receive an award of compensation to replace her half-interest in such properties. Since possession of on-reserve land is an important factor in an individual's ability to live on reserve, denial of interest in family on-reserve properties upon dissolution of a marriage is a serious disadvantage to Aboriginal women.¹³⁵

Provincial family relations statutes also allow for interim exclusive possession of the matrimonial home by one of the spouses. However, because of the federal *Indian Act*, such provincial provisions are inapplicable to women whose matrimonial home is on-reserve.¹³⁶ The result is that Aboriginal women living on-reserve are significantly disadvantaged, denied protections widely recognized as essential to women and children upon marriage dissolution. Land and housing are in short supply on many reserves. On-reserve Aboriginal women in abusive domestic situations who do not hold the certificate of possession to the matrimonial home often face either remaining in the abusive situation or seeking housing off-reserve, away from support networks of community, friends, and family.¹³⁷

In their response to the UN, the federal government acknowledges that while the issue of Matrimonial Real Property (MRP) "affects all residents on reserves, women and children are more negatively impacted..." and that "...this situation is further exacerbated by issues of domestic violence and housing shortages on reserves." They note that "steps taken by the government of Canada to date to address this issue include comprehensive legal and policy research, a Senate of Canada study of MRP, as well as information-sharing and awareness-raising activities with Indigenous individuals and leadership." In taking these measures, the federal government declares that "Canada is committed to resolving the MRP issue and is looking to do so in collaboration with Aboriginal peoples."¹³⁸

Commitment is good; but after many years, action is needed. The federal government, to date, has failed to provide legislative protection for married Aboriginal women living on reserves. In ongoing negotiations to turn over land management to select Aboriginal Bands, the federal government refused Aboriginal women's requests to ensure that the resulting agreements would provide for the protection of the equality rights of on-reserve married women with respect to matrimonial property. The land management framework agreement resulting from these negotiations simply states that Bands must "within a

¹³⁴ *The Constitution Act, 1867*, 30 & 31 Victoria, c. 3 (U.K.), Part VI, ss. 91, 92 *Indian Act*, R.S.C. 1970, c. I-6, Section 20.

¹³⁵ *Indian Act*, R.S.C. 1970, c. I-6, Section 20; *Derrickson v. Derrickson*, [1986] 1 S.C.R. 285; *Perspectives and Realities*, supra note 125 at 51-53.

¹³⁶ *Indian Act*, R.S.C. 1970, c. I-6, Section 20; *Paul v. Paul* [1986] 1 S.C.R. 307

¹³⁷ *Perspectives and Realities*, supra note 125 at 51-53

¹³⁸ *Canada's National Response* at 28.

year” enact provisions with respect to the division of matrimonial property on marriage breakdown. There is no requirement that this must be done in a way that respects on-reserve women’s domestic and international equality rights. The federal government has not supported Aboriginal women on this issue, and continues to delay.¹³⁹

iii. Sisters in Spirit

Perhaps the most devastating example of Canada’s failure to protect the human rights of Aboriginal Women, are the serial disappearances of Aboriginal women. Very little attention has been paid to these atrocities, by governments, media, or society in general.

Over the past 20 years, approximately 500 Aboriginal women have gone missing in communities across Canada. In Vancouver, more than 50 women went missing in that city’s Downtown Eastside. Sixty percent were Aboriginal, and most were young. These were poor women involved in survival sex. They struggled with drugs and alcohol. Some suffered from the effects of Fetal Alcohol Syndrome, and many were victims of childhood sexual abuse. Every one of them grew up in a foster home. In other words, their lives bore all of the markings of the violence of colonization. In Vancouver, no bodies of the missing women have been found. DNA evidence has been found, and one man has been charged with multiple counts of murder. But even when bodies are found, in many communities there has been little effort to find the killers and to bring them to justice. Many disappearances and deaths of Aboriginal women simply go unreported.

In response to the negligence of Canada’s policy makers and law enforcement system regarding these racialized women, the Native Women’s Association of Canada (NWAC) has launched the “Sisters in Spirit” campaign, which “aims to increase public awareness and education levels about the alarmingly high rates of violence against Aboriginal women all too often leading to their disappearance and death.”¹⁴⁰

NWAC has been gathering the names and stories of Aboriginal women who have disappeared — not just in Vancouver, but also in Winnipeg, Regina, Edmonton, Kenora, Thunder Bay, Fredericton, and so many other communities, large and small, across this country. The story is the same: in Canada, Aboriginal women continue to be targets of hatred and violence based on their gender and their race. They continue to be objectified, disrespected, dishonoured, ignored and killed, often with impunity.^{141 142}

¹³⁹ *Indian Act*, R.S.C. 1970, c. I-6, Section 20; Framework Agreement on First Nation Land Management Between the Following First Nations: Westband, Musqueam, Lheidlit’en, N’quatqua, Squamish, Siksika, Muskoday, Cowessess, Opaskwayak Cree, Nipissing, Mississaugas of Scugog Island, Chippewas of Mnjikaning, Chippewas of Georgina Island and the Government of Canada, 1997.

¹⁴⁰ Sister in Spirit, Native Women’s Association of Canada, President Kukdookaa Terri Brown Canada – Aboriginal Peoples Roundtable, April 19, 2004. Ottawa: NWAC, http://www.sistersinspirit.ca/documents/Round_Table_Speech.april1904.pdf (date accessed: 15 November 2004).

¹⁴¹ Native Women’s Association of Canada, *500 Aboriginal Women Missing in Canada* (Ottawa: NWAC, 2004) <http://www.sistersinspirit.ca/engmissing.htm> (date accessed: 7

NWAC has made a request to the Government of Canada to provide a fund of \$10 million for the Sisters in Spirit Campaign. Resources would allow for the development of a strategic plan that would include research, education and community-based programs to assist marginalized Aboriginal women vulnerable to this extreme violence. In its response to the UN, Canada reports its 2004 commitment to provide \$20,000 to the Sisters in Spirit campaign, a sum falling far short of what is needed.¹⁴³

VIII. Conclusion

During this decade, Canada has not moved forward towards full implementation of the Beijing Platform for Action, or its commitments under international law as set out in the *Convention on the Elimination of All Forms of Discrimination Against Women*.

Women have not moved forward during this decade, nor have they just stood still. On the contrary, women have been pushed backwards, by the decisions of federal, provincial and territorial governments to cut social spending, erode social programs and invest in tax cuts and tax expenditures. They have been pushed backwards by a weakening of governments' commitment to playing an active role in creating conditions of equality for women. Governments have pushed women's issues 'off the agenda' and made deliberate choices, through funding decisions, to weaken the voices of non-governmental organizations that advocate for women's human rights. This has been a difficult time, with the harshest impacts falling on the most disadvantaged women, who face intersecting forms of discrimination because of their sex and their race, class, Aboriginal identity, sexual orientation, disability, or non-citizenship status.

Women in Canada want active and responsive governments and they believe in the human rights commitments that Canada has made. Women's non-governmental organizations, to the extent that they are able, remain ready to work with governments on a positive forward-looking agenda to advance women's equality.

December 2004); See also Amnesty International Canada, *Stolen Sisters – A human rights response to discrimination and violence against Indigenous women in Canada* http://www.amnesty.ca/resource_centre/reports/view.php?load=arcview&article=1895&c=Resource+Centre+Reports (date accessed: 29 November 2004).

¹⁴³ Sister in Spirit, Native Women's Association of Canada, President Kukdookaa Terri Brown Canada – Aboriginal Peoples Roundtable, April 19, 2004. Ottawa: NWAC, http://www.sistersinspirit.ca/documents/Round_Table_Speech.april1904.pdf (date accessed: 15 November 2004).

