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# ***Gender-Sensitive Parliaments: 2. The Work of Legislators***

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***Gender-Sensitive Parliaments:  
2. The Work of Legislators  
(Background Paper)***

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# **GENDER-SENSITIVE PARLIAMENTS:**

## **2. THE WORK OF LEGISLATORS**

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### **1 INTRODUCTION**

For many years, organizations such as the United Nations and parliamentary associations such as the Inter-Parliamentary Union (IPU) have identified the need to increase the proportion of women in parliaments. While there has been a slow but consistent rise in the percentage of women, most parliaments fall below the widely recognized 30% benchmark to ensure a critical mass of women.<sup>1</sup> In Canada, the 2 May 2011 federal election saw women win 76 of the 308 seats in the House of Commons, putting them at 24.7% representation;<sup>2</sup> on the same date, in the Senate, 37 of the 105 appointed seats were held by women, placing women at 35.2% representation.<sup>3</sup>

At the international level, a focus on increasing the representation of women in parliaments has also been accompanied by an interest in the advancement and promotion of gender-sensitive parliaments. In a 2011 report, the IPU defined gender-sensitive parliaments as:

a parliament that responds to the needs and interests of both men and women in its structures, operations, methods and in its work. Gender-sensitive parliaments remove the barriers to women's full participation and offer a positive example or model to society at large.<sup>4</sup>

This paper examines gender-sensitive parliaments from the perspective of the work conducted by parliamentarians: specifically, how men and women in parliament can use their roles as legislators to contribute to gender equality in their societies. For information on gender sensitivity in the parliamentary workplace, see the Library of Parliament's publication entitled *Gender-Sensitive Parliaments: 1. Advancements in the Workplace*.<sup>5</sup>

### **2 ENTRY POINTS FOR PARLIAMENTARIANS TO WORK TOWARD GENDER EQUALITY**

#### **2.1 GENDER EQUALITY LAWS**

Governments can implement legislation with the goal of promoting wider societal transformation. An increasing number of governments are adopting equality laws to encourage ongoing societal evolution, to redress past discriminations, and to eliminate existing discriminations in domestic laws, policies and practices. Such equality laws usually contain gender provisions.

In the same way, gender equality laws promote principles of gender equality throughout society, and address discriminations specifically related to gender that exist in laws, policies and practices.<sup>6</sup> These laws can focus on supporting substantive rights and obligations related to gender equality or on developing effective implementation, monitoring and enforcement mechanisms.<sup>7</sup>

According to a 2009 publication of the United Nations Development Fund for Women, substantive rights and obligations can focus, for example, on employment, gender-based violence or health.<sup>8</sup> Mechanisms for implementation, monitoring and enforcement can include the development of a complaints process for victims of rights violations, a review process to determine whether a gender equality law is working effectively, and the establishment of funding arrangements to support the law, among others.<sup>9</sup>

### 2.1.1 INTERNATIONAL

An increasing number of countries have recently adopted gender equality laws, with still more countries in the drafting process.

The United Kingdom's *Equality Act 2010* is an example of an equality law that includes gender provisions.<sup>10</sup> The law's primary purpose was to consolidate and extend existing discrimination law, while covering the "protected characteristics" of "age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation."<sup>11</sup> The law provides special protection for pregnant women against discrimination. It also requires that employers review gender pay differences within their organization and publish the results.<sup>12</sup>

Examples of laws aimed specifically at establishing gender equality include Belgium's *Gender Mainstreaming Act of 2007*, which lays the foundation for gender budgeting and imposes a gender test for new policy, and Georgia's *Gender Equality Law of 2010*, which aims to enhance women's security, improve equality in the labour market and strengthen women's political participation.<sup>13</sup>

### 2.1.2 CANADA

In the past, Canada has implemented legislation with the goal of promoting societal change. Such legislation includes the *Official Languages Act*, the *Multiculturalism Act* and the *Employment Equity Act*, all of which provide enforcement and accountability mechanisms in order to support policy goals that lie outside the individual mandates of government departments.<sup>14</sup>

Canada does not have specific legislation to promote the principles of gender equality, but it does have two principal statutes that contain specific provisions for gender equality. The *Canadian Charter of Rights and Freedoms*, contained within the *Constitution Act, 1982*, guarantees equality rights (section 15). It states that Canadians are guaranteed equality before and under law, and provides equal protection and benefit of law and affirmative action programs.<sup>15</sup> As well, section 28 specifies that Charter rights are guaranteed equally to both sexes.

The *Canadian Human Rights Act* also protects the equality rights of Canadian citizens; the prohibited grounds of discrimination are "race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered" (section 2).<sup>16</sup>

## 2.2 GENDER-BASED ANALYSIS OF LEGISLATION

Gender-based analysis (GBA) is an analytical tool developed to recognize and address the differences that exist between women and men, girls and boys, that result in differing economic, social, political, and legal positions.<sup>17</sup>

When GBA is applied to legislation, it highlights the different impacts on both women and men, and can identify areas for possible amendments that contribute to the overarching goal of gender equality.<sup>18</sup>

### 2.2.1 INTERNATIONAL

The United Nations 1995 *Beijing Declaration and Platform for Action* highlighted the importance of GBA and required all signatory members (including Canada) to “[s]eek to ensure that before policy decisions are taken, an analysis of their impact on women and men, respectively, is carried out” (section 204(a)).<sup>19</sup>

However, according to the IPU, there are very few examples of processes employed by governments to strategically assess a piece of legislation using GBA.<sup>20</sup>

In 2003, the Canadian International Development Agency provided \$4.5 million in funding to a bilateral, multi-year project entitled the Cambodia–Canada Legislative Support Project.<sup>21</sup> The initiative focused on strengthening the legislative capacity of the National Assembly and the Senate of the Parliament of Cambodia,<sup>22</sup> and included the development of a checklist for parliamentarians of what to look for when applying gender equality principles to legislation.<sup>23</sup>

An approach employed by some governments is to add provisions to gender equality laws that guarantee GBA of other legislation.<sup>24</sup> For example, Vietnam’s *Gender Equality Law of 2006* establishes a review mechanism for verifying that government departments consider the principles of gender equality while preparing a draft law.<sup>25</sup>

### 2.2.2 CANADA

Following Canada’s signing of the 1995 *Beijing Declaration and Platform for Action*, the government made a commitment to conduct GBA on all future legislation, policies and programs.<sup>26</sup> In 2005, the House of Commons Standing Committee on the Status of Women (Status of Women Committee) published a report entitled *Gender-Based Analysis: Building Blocks for Success* that recommended the initiation of consultations aimed at “the development of legislation that would ensure the systematic application of gender-based analysis to all ... federal policy and program activities.”<sup>27</sup>

The Expert Panel on Accountability Mechanisms for Gender Equality, appointed by the federal government in 2005 to advise the government on how to implement GBA and improve gender equality,<sup>28</sup> in its 2005 report also supported a legislative mandate for gender analysis.<sup>29</sup> In the spring 2009 *Report of the Auditor General of Canada*, a chapter focused on gender-based analysis and included an examination of 68 recent programs, policy initiatives, and acts of legislation developed in

seven departments to see whether they had undergone GBA.<sup>30</sup> The report stated that the existence and completeness of GBA varied considerably among departments, which limited the successful application of GBA to legislation.<sup>31</sup>

At present, only one department at the federal level in Canada – Citizenship and Immigration Canada – has a legislative requirement to report on gender-based analysis.<sup>32</sup> The *Immigration and Refugee Protection Act*, which came into force in 2002, includes a legislative requirement to provide GBA of the impact of the Act in an annual report to Parliament.<sup>33</sup>

Currently, the Status of Women Committee has the mandate to examine questions related to women;<sup>34</sup> the small amount of legislation referred to the committee for consideration is on issues solely related to women. Other committees, when they conduct a review of legislation, do not regularly apply questions related to gender equality. Therefore, there is no systematic committee process to apply GBA to legislation.

Status of Women Canada, a federal agency, promotes the use of Gender-Based Analysis Plus (GBA+), which is used to assess the varying impacts of policies, programs or initiatives on groups of women and men, girls and boys, while also taking into consideration factors such as age, education, language, geography, culture and income.<sup>35</sup> According to the agency's website, "[t]he Canadian government expects GBA+ to be used as a key tool to inform and assess policies, programs, legislation, services and to inform decision-making."<sup>36</sup>

### 2.3 GENDER-SENSITIVE BUDGETING

A national budget is a government's most important economic policy statement, and includes both direct spending and tax expenditures, such as reductions in income tax rates, deductions, benefits, supplements and credits.<sup>37</sup>

The general assumption is that national budgets are gender-neutral as they do not mention women or men but consist of financial aggregates. Some analysts, however, have suggested that budgets are in reality "gender-blind," failing to recognize the differing effects of government spending initiatives on women and men.<sup>38</sup> In this respect, national budgets ought to consider the different roles, capabilities and needs of women and men; otherwise they may inadvertently reinforce existing inequalities and have difficulty advancing an equality agenda.<sup>39</sup> A budget that recognizes the economic, social, political, and legal differences that exist between women and men is known as gender-sensitive.<sup>40</sup>

A 2011 IPU report defines gender-sensitive budgeting as:

an approach that aims to mainstream gender in economic policy-making and seeks to transform the entire budgetary process. Gender budgeting refers not only to expenditures earmarked for women, but also to an analysis of the entire budget from a gender perspective, including security, health, education, public works, and so on, to ensure that the allocations and resulting impacts respond to the needs of both women and men.<sup>41</sup>

Gender-sensitive budgeting does not aim to create a separate budget for women or to increase spending solely on women's programs; rather, it intends to produce a budget that employs gender analysis.<sup>42</sup>

In addition, gender-sensitive budgets often consider the impact on men and women of different socio-economic classes, ages, locality, sexuality, ethnicity, and more.<sup>43</sup>

### 2.3.1 INTERNATIONAL

The idea of gender budgeting received support internationally with the 1995 *Beijing Declaration and Platform for Action's* call for "the integration of a gender perspective in budgetary decisions on policies and programmes" (section 345).<sup>44</sup>

By 2010, the United Nations Development Fund for Women reported that more than 60 countries had launched gender-sensitive budget initiatives.<sup>45</sup> A 2011 IPU survey, however, found that most parliaments had not adopted mechanisms to systematically analyze budgets from a gender perspective.<sup>46</sup>

One of the best-known examples of gender-sensitive budgeting was led by the Australian federal government, which undertook the first and longest-running exercise in integrating a gender perspective in budgetary decisions on policies and programs with the launch of the *Women's Budget Program* in parliament in 1984.<sup>47</sup> While the exercise has ended, the federal government still publishes information about the budget's impact on women.<sup>48</sup>

Many gender-sensitive budgeting initiatives are begun as pilot projects, but not continued on a permanent basis,<sup>49</sup> as demonstrated in the Australian example.

### 2.3.2 CANADA

After Canada signed on to the 1995 *Beijing Declaration and Platform for Action*, the government made a commitment to ensure transparency and accountability in the budget process as it relates to gender equality goals.<sup>50</sup>

Canada has not implemented a gender-sensitive budget initiative, although the subject is a source of ongoing discussion for various groups. The Status of Women Committee, in a 2008 report, recognized the importance of a gender-sensitive budget and recommended that:

Status of Women Canada establish ... an advisory panel of experts from civil society organizations and academia; that this panel provide advice to Status of Women Canada on the implementation of gender-based analysis and gender responsive budgeting in the federal government; and, that the Government of Canada provide adequate resources for this initiative.<sup>51</sup>

The Expert Panel on Accountability Mechanisms for Gender Equality, in its 2005 report, recommended:

We believe that drawing from international lessons, the Minister of Finance could apply gender-based analysis rigorously to one key area of the 2006 Budget.<sup>52</sup>

### 3 CONCLUSION

In gender-sensitive parliaments, the work of legislators must promote gender equality across the country and must serve as an example to society. While the development of legislation and budgets is based on long-standing rules, practices and processes that may include outdated concepts of gender equality (or none at all), legislators must adapt their work to keep pace with changing realities. For many parliaments, including Canada's, the evolution towards applying principles of gender sensitivity to everyday work has been slow. A great number of legislators, however, have shown through examples internationally and nationally that they are ready for the challenge.

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#### NOTES

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