

**Women and the Equality Deficit:
The Impact of Restructuring
Canada's Social Programs**

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PREFACE

Status of Women Canada's Policy Research Fund was instituted in 1996 to support independent, nationally relevant policy research on gender equality issues. In order to determine the structure and priorities of the Policy Research Fund, Status of Women Canada held consultations from March to May 1996 with a range of national, regional and local women's organizations, researchers and research organizations, community, social service and professional groups, other levels of government, and individuals interested in women's equality. Consultation participants indicated their support for the Fund to address both long-term emerging policy issues as well as urgent issues, and recommended that a small, non-governmental external committee would play a key role in identifying priorities, selecting research proposals for funding, and exercising quality control over the final research papers.

As an interim measure during the fiscal year 1996-1997, consultation participants agreed that short-term research projects addressing immediate needs should be undertaken while the external committee was being established to develop longer-term priorities. In this context, policy research on issues surrounding the Canada Health and Social Transfer (CHST) and access to justice were identified as priorities.

On June 21, 1996, a call for research proposals on the impact of the CHST on women was issued. The proposals were assessed by Status of Women Canada and external reviewers. The research projects selected for funding in this area focus on women receiving social assistance, economic security for families with children, women with disabilities, the availability and affordability of child care services, women and health care, and women's human rights.

The call for research proposals on access to justice was issued on July 18, 1996. Also assessed by Status of Women Canada and external reviewers, the selected policy research projects in this area include a study of abused immigrant women, lesbians, women and civil legal aid, family mediation, and the implications for victims of sexual harassment of the Supreme Court ruling in *Béliveau-St. Jacques*.

The objective of Status of Women Canada's Policy Research Fund is to enhance public debate on gender equality issues and contribute to the ability of individuals and organizations to participate more effectively in the policy development process. We believe that good policy is based on good policy research. We thank all the authors for their contribution to this objective.

A complete listing of the research projects funded by Status of Women Canada on issues surrounding the Canada Health and Social Transfer and access to justice is provided at the end of this report.

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ABBREVIATIONS

<i>BIA</i>	<i>Budget Implementation Act</i>
CAP	Canada Assistance Plan
CCPI	Charter Committee on Poverty Issues
<i>CEDAW</i>	<i>Convention on the Elimination of All Forms of Discrimination Against Women</i>
<i>CHA</i>	<i>Canada Health Act</i>
CHST	Canada Health and Social Transfer
ECLAC	Economic Commission for Latin America and the Caribbean
EPF	Established Programs Financing
GNP	Gross National Product
<i>ICCPR</i>	<i>International Covenant on Civil and Political Rights</i>
<i>ICESCR</i>	<i>International Covenant on Economic, Social and Cultural Rights</i>
<i>ITA</i>	<i>Income Tax Act</i>
LEAF	Women's Legal Education and Action Fund
NAC	National Action Committee on the Status of Women
NAPO	National Anti-Poverty Organization
<i>UDHR</i>	<i>Universal Declaration of Human Rights (1948)</i>
NAWL	National Association of Women and the Law
UNDP	United Nations Development Programme

INTRODUCTION

In February 1995, in legislation to implement the budget entitled the *Budget Implementation Act (BIA)*,ⁱ the Government of Canada repealed the Canada Assistance Plan (CAP)ⁱⁱ and introduced the Canada Health and Social Transfer (CHST).ⁱⁱⁱ This book is about the profound alteration to social policy in Canada that the *BIA* represents. It is also a book about women's right to equality. The two are linked.

Before the *BIA* was introduced, CAP provided that Canadians have a right to social assistance when in need, a right to an amount of social assistance that takes into account basic requirements, and a right to appeal when assistance is denied. Provinces were required to honour these conditions in order to qualify under CAP for 50:50 cost sharing with the federal government of social assistance and important social services.

In place of CAP, the *BIA* creates the CHST, a new vehicle for transferring federal funds to the provinces. The *BIA* eliminates the conditions formerly attached to social assistance spending. It removes the separate designation of funds for social assistance, combines those funds with block funds for health and post-secondary education, and permits the provinces to spend the funds in any way they wish. It continues the general trend of reducing federal contributions to social programs. By doing so, it increases the likelihood that the federal government will not be able to maintain national standards for any of Canada's social programs because of its reduced spending, and because of the demands of the provinces for control over the programs that they are increasingly responsible for funding.

For women, who are poorer than men, more vulnerable to domestic violence, and more likely to be caregivers for children and older people, the diminished commitment to social programs and services, and to national standards, has significant immediate and long-term consequences. For single mothers, elderly women, Aboriginal women, immigrant women, women of colour, and women with disabilities — who are among the very poorest Canadians — the impact is more drastic.

The *BIA* marks a profound change in the social and political life of Canada. It affects the role of the federal government in the provision of social programs; Canada's ability to create and maintain coherent and equitable standards for social programs; the distribution of power and responsibility between federal, provincial, and territorial governments; and, consequently, the shape of the Canadian state.

Because of this profound change, this is a historic moment for the meaning of women's rights in Canada. It is a moment no less significant than was the introduction of statutory prohibitions of sex discrimination in the 1970s, or the constitutionalization of equality guarantees in the 1980s. At stake now is not just the repeal of the general entitlement to social assistance, further cuts to federal funding, the loss of national standards, and the threat of a race to the bottom in social programs — all of which will affect Canadian women, and especially Canada's poorest women. Also at stake is the ability of women's human rights to be a vital, responding, alternative discourse in a time of global and national restructuring.

There is a danger that the human rights of Canadian women may slide into irrelevance unless they are understood by women, and interpreted by both governments and courts, to have content that can address the threats to women's advancement that neo-liberal economic policies currently pose in the Canadian context.

Unfortunately, at the same time as the federal government divests itself of responsibility for social programs and makes budgetary decisions that have significant negative effects on women, Canadian courts are selectively sidestepping rights challenges brought by disadvantaged groups that raise issues of material conditions. Too often, courts are acceding to government claims that it is not the role of the courts to judicially review economic policy decisions.

We are concerned about the direction of Canadian equality rights jurisprudence, the positions being advanced by governments in equality rights litigation, and the apparent unwillingness of the courts to be a counterbalancing influence when governments ignore women's interests and voices. How courts treat the relationship between the right to equality and economic policy is important because of its potential impact on women. What courts say about rights also influences the understanding people have of their relations to others, and how governments view their roles and responsibilities.

But we are not interested only in what courts say about rights. What governments, political parties, the media, and women say about rights influences what they come to mean, both in and out of court. Public talk about what women's right to equality means in relation to economic and social policy does matter — whether that talk is in the courts, in the media, in meetings, in legislatures, or in government corridors.

Although the *BIA* is of historic importance for Canada, we are not interested in it just for itself, but also as a paradigm, an example of an economic policy whose negative implications for women are not acknowledged or taken into account by policy makers. The *BIA*, unfortunately, is part of a pattern of national and international economic policy making that is deepening women's inequality.

In this book our broad interest, then, is the disturbing disconnection between the economic and social policy decisions that are affecting women's lives and the commitments that have been made over the last five decades, both domestically and internationally, to the equality of all women. Our specific concern is to set the *BIA* in an equality framework and to explore the ways in which, if women are to advance, economic and social policy must connect with women's right to equality.

Economic policy and women's equality rights do not belong in watertight compartments; they cannot be treated as though they have nothing to do with each other, as though they are different and unrelated discourses. They are integrally connected.

This book advances two propositions: (1) that women's persistent economic inequality violates Canada's domestic and international commitments to equality for all women, and (2) that because social programs — and social and economic policy more broadly — are a central means of realizing equality commitments and redressing women's economic disadvantage, they must be designed with the goal of advancing women's equality at their heart.

We believe in Canada's commitments to equality for women, and we believe that those commitments speak directly to the social and economic dimensions of women's inequality. We also believe that the *BIA* violates those commitments. This book explains why.

Chapter 1 examines the implications for women of Canada's most major social policy decision of the last 40 years: the introduction of the *BIA*. Chapter 2 describes the equality commitments that Canada has made internationally and domestically. Chapter 3 examines the arguments that are offered by courts and governments for narrowing the interpretation and application of equality rights when economic policies are challenged in the courts. Chapter 4 explores more closely the content of the rights instruments that women have available to them, and sets out interpretations of equality guarantees that can be responsive to women's material inequality and that draw on the richness and complexity of Canada's equality commitments. In Chapter 5 we consider the work that women must do to ensure that both social programs and equality guarantees can be responsive to women's needs and aspirations in this time of change. We suggest future directions for women's activism, institutional reform, and government policy.

Endnotes

ⁱ *Budget Implementation Act, 1995*, S.C. 1995, c. 17 [hereinafter *BIA*]. Section 31 of the *BIA* provided that no payment would be made under the Canada Assistance Plan for any fiscal year commencing after 1 April 1996, and no payment would be made to a province under CAP after 1 April 2000. Section 32 of the *BIA* provided that CAP would be repealed on 31 March 2000. The four-year delay between 1 April 1996 and 1 April 2000 merely permits payouts to be made to reimburse provinces for the federal share of CAP costs incurred before 1 April 1996.

ⁱⁱ R.S.C. 1985, c. C-1 [hereinafter CAP].

ⁱⁱⁱ The CHST was established by means of an amendment to the *Federal-Provincial Fiscal Arrangements Act*, R.S.C. 1985, c. F-8.