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Federal gender equality laws in Canada

Canada has a longstanding commitment to gender equality. This is demonstrated through a continually evolving domestic and international legal framework focused on gender equality. On the domestic side, federal, provincial and territorial governments have a range of measures (policy, programmes, legislation) that address gender equality issues.

In Canada, the foundation of gender equality can be found in the Canadian Human Rights Act and the Canadian Charter of Rights and Freedoms. At the federal level, these rights are further defined and protected through laws and regulations including:

- the *Employment Equity Act*
- the *Pay Equity Act*
- the *Canadian Gender Budgeting Act*
- the *Canada Labour Code*

Compiling gender-focused data and conducting gender-based analysis plus (GBA+) are also necessary undertakings in ensuring that laws and agreements concerning gender equality are being effectively implemented. Provinces and territories have their own legislation which enshrines and protects against gender-based discrimination. The international legal framework underpinning Canada's actions on gender equality, includes the United Nations (UN) human rights treaties and International Labour

Organization (ILO) Conventions ratified by Canada, such as the UN *Convention on the Elimination of all forms of Discrimination against Women* (CEDAW) and the ILO *Forced Labour Convention*.

Basis for gender equality: *Canadian Human Rights Act and Canadian Charter of Rights and Freedoms*

In Canada, promoting gender equality falls under the umbrella of human rights legislation. Beginning with the *Canadian Human Rights Act* (CHRA) of 1977, Canadians employed by or receiving services from the Government of Canada, First Nations governments, or private companies regulated by the federal government, are protected from discrimination. The act states that, “all Canadians have the right to equality, equal opportunity, fair treatment, and an environment free of discrimination on the basis of sex, sexual orientation, marital status and family status.” ¹

In 1982, the *Canadian Charter of Rights and Freedoms* (the Charter) was established. The charter contains two sections that are fundamental to protecting human rights and the preventing discrimination. Specifically, section 15 ensures equal protection and benefit of the law “without discrimination [...] based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.” ² Section 28 guarantees all rights covered in the Charter apply equally to men and women. ^{3, 4}

Employment Equity Act, Pay Equity Act, and compliance

Beyond the CHRA and the Charter, other important legislation that promote gender equality are the federal *Employment Equity Act* (1995) and federal *Pay Equity Act* (2018).

The *Employment Equity Act* was created to “achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability and, in the fulfillment of that goal, to correct the conditions of disadvantage in employment experienced by women, Aboriginal peoples, persons with disabilities and members of visible minorities.” ⁵ On July 14, 2021, the Government of Canada launched a task force to undertake a comprehensive review of the *Employment Equity Act* and provide evidence-based recommendations on modernizing and strengthening the federal employment equity framework.

The *Pay Equity Act*, which entered into force in August 2021, will work to “achieve pay equity through proactive means by redressing the systemic gender-based discrimination in the compensation practices and systems of employers that is experienced by employees who occupy positions in predominantly female job classes so that they receive equal compensation for work of equal value.” ⁶

In terms of compliance, the Canadian Human Rights Commission (CHRC) is responsible for investigating and managing cases and complaints under the CHRA, Charter and *Employment Equity Act*. The commission then submits cases to the Canadian Human Rights Tribunal to hold hearings and make decisions on the cases. ⁷ The *Pay Equity Act* has established a Pay

Equity Commissioner within the CHRC, whose role is to ensure the implementation and compliance of the *Act*, assist persons in understanding the *Act* and facilitate the resolution of disputes relating to pay equity.⁸

Department for Women and Gender Equality Act

Other important gender equality measures include the *Department for Women and Gender Equality Act*, which transformed Status of Women Canada into a government department (abbreviated as WAGE) overseen by the Minister for Women and Gender Equality. In addition to its previous responsibilities regarding women's equality, the department now has an expanded mandate to advance gender equality with respect to sex, sexual orientation, and gender identity or expression through the inclusion of people of all genders, including women, in Canada's economic, social, and political life.

WAGE is also the Government of Canada lead on Gender-based Analysis Plus (GBA Plus) and the mainstreaming of this process. Mainstreaming involves integrating an equality perspective into the preparation, design, implementation, monitoring and evaluation of policies, regulatory measures and spending programs, with a view to promoting equality and combating discrimination and has been recognized internationally as an effective strategy to advance gender equality and inclusion. Federal departments and agencies are required to integrate GBA Plus into all:

- Memoranda to Cabinet
- Treasury Board submissions
- regulations
- budget proposals

GBA Plus is also reflected in key legislation, including:

- the *Canadian Gender Budgeting Act*
- the *Impact Assessment Act*
- the *Immigration and Refugee Protection Act*
- the *Accessible Canada Act*

Gender Budgeting Act

The *Canadian Gender Budgeting Act* came into force in December 2018. The act enshrines gender budgeting in the Government of Canada's budgetary and financial management processes ensuring that all measures adopted include a GBA Plus approach. This extends the reach of GBA Plus to examine tax expenditures, federal transfers, and the existing spending base. Budget 2021 contains the GBA Plus summaries of over 300 budget measures, describing how equality issues were considered in the Government's effort to build a fairer and more prosperous future.

Canada Labour Code

The *Canada Labour Code* also plays a critical role in Canada's legal framework for gender equality. Part III of the *Code* prescribes labour standards for employees in the federally regulated private sector, which includes provisions that directly benefit women, as well as provisions that support caregivers, who disproportionately tend to be women. These include the right to:

- maternity leave
- parental leave
- compassionate care leave
- leave related to critical illness

- maternity-related reassignment and leave

Recent amendments have modernized the *Canada Labour Code*. Changes include:

- extending the aggregate amount of parental leave used from 63 weeks to 71 weeks
- creating the right to personal leave as well as a leave of absence for victims of family violence
- allowing employees to take breaks as needed for medical reasons or breastfeeding
- provisions to ensure equal treatment and compensation for employees
- establishing the right for employees to refuse overtime to deal with family responsibilities
- allowing employees who have completed at least six months of service to request flexible work arrangements that adjust their work schedule, number of hours of work and work location

In pursuit of the objective of promoting safe and secure working environments for all workers, the government passed Bill C-65 in October 2018 to amend the *Canada Labour Code* and *Parliamentary Employment and Staff Relations Act* to better protect employees from harassment and violence in federal workplaces. The *Work Place Harassment and Violence Prevention Regulations* also came into force in January 2021.

Measuring Canada's progress on gender equality

Several tools and indicators have been developed to measure Canada's progress on gender equality:

The Gender Results Framework (GRF) was introduced in Budget 2018. It is a whole-of government tool designed to:

1. Track how Canada is currently performing on gender equality
2. Define what is needed to achieve greater equality
3. Determine how progress will be measured going forward

Under this framework, the federal government has identified six key areas where change is required to advance gender equality:

1. Education and skills development
2. Economic participation and prosperity
3. Leadership and democratic participation
4. Gender-based violence and access to justice
5. Poverty reduction, health and well-being
6. Gender equality around the world

The Gender, Diversity, and Inclusion Statistics hub, launched by Statistics Canada in 2019, tracks the Government of Canada's progress on the GRF indicators. The GRF indicators include intersecting identity factors such as:

- disability
- gender identity
- sexual orientation
- Indigenous identity
- immigrant status
- visible minority status

The indicators align with the United Nations' Sustainable Development Goals (SDGs) which include a commitment to achieving gender equality and empower all women and girls (SDG 5).

The Government of Canada has demonstrated its strong commitment to the advancement of the UN SDGs, including SDG 5. In 2021, Canada released *Moving Forward Together: Canada's 2030 Agenda National Strategy* and updated its Canadian Indicator Framework (CIF), which is used to measure progress on the SDGs.

International agreements

Canada is a party to the seven principal United Nations (UN) human rights treaties ⁹ and all 8 core International Labour Organization (ILO) Conventions. ¹⁰ By ratifying these treaties, Canada formally committed itself to implement their provisions, including those relating to gender equality. For example, the *Convention on the Elimination of all forms of Discrimination against Women* (CEDAW) is a UN international human rights treaty ratified by Canada in 1981. Canada reports on the domestic implementation of its treaty obligations to the UN Committee on the Elimination of Discrimination against Women approximately every 4 years. In October 2016, during its appearance before the CEDAW, Canada presented plans to implement: ¹¹

- federal pay equity legislation
- a federal strategy against gender-based violence
- gender-based analysis more systematically
- a national inquiry into the cases of missing and murdered Indigenous women and girls

Following this presentation, the CEDAW Committee released a list of observations and recommendations to Canada to enhance the implementation the convention. ¹² Canada's 10th periodic report to the CEDAW is being finalized and will address the committee's recommendations.

In June 2019, Canada ratified the ILO 2014 Protocol to *The Forced Labour Convention* (1930). The Protocol provides specific guidance on how to eliminate all forms of forced labour, including human trafficking. The Government of Canada is taking further action to eliminate discrimination, child labour and forced labour by addressing these issues in trade agreements. Comprehensive labour provisions of free trade agreements commit Canada and partner countries to effectively enforce their respective labour laws and to ensure that these laws embody and provide protection for the fundamental labour rights and principles, which include the elimination of discrimination in respect of employment and occupation.

The Government of Canada also played a strong leadership role in the development and adoption of the ILO *Convention on Violence and Harassment, 2019* (C190) as Chair of the ILO Standard- Setting Committee on Violence and Harassment in the World of Work at the 2018 and 2019 International Labour Conference. Many of the issues addressed by C190 fall under provincial and territorial jurisdiction. The Government of Canada is working with the provincial and territorial governments towards the ratification of the convention as a matter of priority.

The Government of Canada's existing legislative framework on gender equality is comprehensive and world-leading. As new statutes, regulations, policies and actions are developed and implemented in the future, they will serve to bolster Canada's already robust legislative system overseeing gender equality.

Footnotes

- 1 <https://laws-lois.justice.gc.ca/eng/acts/h-6/>
- 2 <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art15.html>
- 3 <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art28.html>
- 4 It is important to note that the provinces and territories also protect people from discrimination on the basis of gender (amongst others).
- 5 <https://laws-lois.justice.gc.ca/eng/acts/e-5.401/FullText.html>
- 6 <https://laws-lois.justice.gc.ca/eng/acts/P-4.2/page-1.html>
- 7 <https://www.chrc-ccdp.gc.ca/en/complaints/about-the-process>
- 8 <https://laws-lois.justice.gc.ca/eng/acts/P-4.2/>
- 9 <https://www.canada.ca/en/canadian-heritage/services/canada-united-nations-system/treaties.html>
- 10 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102582

11 <https://www.canada.ca/en/canadian-heritage/services/canada-united-nations-system/canada-presentation-reports-convention-discrimination-women.html>

12 <http://fafia-afai.org/en/womens-rights/cedaw/>

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