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## CEDAW Report Card 2009

The purpose of this report card is to grade the Government of British Columbia on its compliance with the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

We asked, “How is BC measuring up to international legal standards of women’s equality?” The answers may surprise you...

### Background

CEDAW enshrines important protections for women in international human rights law. The UN CEDAW Committee is an international body of independent experts who are charged with monitoring state parties’ compliance and implementation of the Convention. Every four years, each country that has signed on to the Convention must report to the CEDAW Committee about how well it is measuring up to the CEDAW standards of women’s equality. Non-governmental organizations may also submit what are called “shadow reports”, expressing their views on that country’s CEDAW compliance.

Canada ratified CEDAW on December 10, 1981. In October and November of 2008, the CEDAW Committee considered the sixth and seventh reports from Canada, along with reports from local NGOs, and issued its observations on Canada’s compliance and implementation of the Convention. The BC CEDAW Group, a coalition of women’s organizations in BC including West Coast LEAF, produced a shadow report about the situation for women in BC.

The Committee was very concerned about a number of issues concerning women’s rights in Canada, and singled out some issues of significance in BC especially. The Committee took the unusual step of requiring Canada to report back to the Committee in a year on its progress on two issues of particular concern:

- (1) establishing and monitoring minimum standards for the provision of funding to social assistance programs, and carrying out an impact assessment of social programs related to women’s rights; and
- (2) examining the failure to investigate the cases of missing and murdered Aboriginal women, and to address those failures.

This Report Card measures how well BC is measuring up to some of the CEDAW obligations that fall within provincial jurisdiction, including these two areas of urgent concern to the Committee. For more information on our methodology, please turn to the end of the Report Card.

### Criteria for Grades

- A = Fulfillment of CEDAW standards and satisfaction of the concerns of the CEDAW Committee
- B = Considerable action towards fulfilling CEDAW standards and Committee concerns
- C = Some action taken; needs continued improvement
- D = Very limited action; needs significant improvement
- F = Total inaction or detrimental action

#### **WOMEN & SOCIAL ASSISTANCE.**

Grade: **D**

In 2008, the CEDAW Committee expressed concern “at reports of cuts in social assistance schemes in many provinces and at the resulting negative impact on the rights of vulnerable groups of women such as single mothers, aboriginal women, Afro-Canadian women, immigrant and migrant women, elderly women and disabled women, who rely on social assistance for an adequate standard of living.” While the Government of BC is responsible for implementing social assistance programs and standards, the CEDAW Committee was concerned at the lack of federal accountability and recommends that such programs be assessed and monitored to ensure that the needs of the most vulnerable women are served. The UN Committee on Economic, Social and Cultural Rights has also expressed concern about women’s poverty in BC, and noted that inadequate social assistance presents an additional obstacle for women fleeing abusive relationships.

In its 2008 shadow report, the BC CEDAW Group documented numerous problems for women resulting from BC’s social assistance scheme. In 2009, BC’s Ombudsman released a report that is critical of social assistance in the province, and the Ministry of Housing and Social Development accepted 27 of the 28 recommendations. The resulting legal and policy amendments included one important change for single mothers of children aged three and under, who are no longer required to comply with a three week work-search requirement prior to being eligible to receive welfare. Despite this positive step, there has been little progress on improving social assistance for women since the last CEDAW Committee review in 2008. While recent statistics are difficult to ascertain, in 2006, BC continued to have the highest overall poverty rate in the country at 13%, which includes disproportionately high numbers of women, children and Aboriginal people. With the economic crisis resulting in 47% more recipients of social assistance between September 2008 and May 2009, the

government needs to work harder on ensuring equal access to sufficient social assistance for women and marginalized people.

### **MISSING & MURDERED ABORIGINAL WOMEN AND GIRLS.**

Grade: **F**

In 2008, the Committee remained “concerned that hundreds of cases involving aboriginal women who have gone missing or been murdered in the past two decades have neither been fully investigated nor attracted priority attention, with the perpetrators remaining unpunished.” The Committee recommended that the government: urgently investigate cases of Aboriginal women who have gone missing or been murdered in recent decades; determine whether there is a racialized pattern and address that pattern; and examine the reasons for the system’s failure to adequately protect or investigate these cases to date.

Since the 1970s, at least 500 Aboriginal girls and women have been identified as missing in Canada; two-thirds (348) have been reported murdered. A disproportionate number of these cases are from British Columbia (137). Some reports place the number of missing and murdered women across the country at over 3000. In 2005, the Native Women’s Association of Canada received funding from the federal government to conduct research into the issues of violence facing First Nations women in this country. In their report, they have identified those locations that are particularly high risk for Aboriginal women and girls, which include Vancouver’s Downtown Eastside (DTES) and northern B.C.’s Highway 16, otherwise known as the Highway of Tears. The case of *R. v. Pickton* provides a stark example both of the kind of violence facing this community, and the systemic problems in how such violence has been addressed by the justice system; while women in the DTES, particularly sex workers and Aboriginal women, were continually reported missing since 1983, the police investigation lacked resources and political will. While the arrest of Willy Pickton for the murder of 26 of these women in 2002 drew a national outcry, the systemic problems in the investigative process, or lack thereof, have not yet been addressed by the authorities, and the sustained and widespread calls for an inquiry into the missing and murdered women have thus far been ignored. In addition, increased investment in social services, including improved access to secure housing, may help reduce rates violence by protecting vulnerable women, such as those working in the sex trade.

### **VIOLENCE AGAINST WOMEN AND GIRLS.**

Grade: **C**

The CEDAW Committee has noted that gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy equal rights and freedoms. In its 2008 report, the Committee “remains concerned that domestic violence continues to be a significant problem.” The Committee was particularly concerned about a number of elements of the social services’ and justice system’s response to violence against women, including: the use of diversion and mediation in situations involving domestic violence; the practice of “dual charging”; an

insufficient number of shelters for victims of violence; and the failure of courts to take domestic violence into account in custody and access determinations.

Despite past progress on this issue, the widespread nature of violence against women and recent regressive policy changes make this issue one of the most persistent barriers to women's equality in BC. Furthermore, evidence indicates that violence against women and children increases during times of economic crisis, calling for increased services rather than further cuts. The specific areas of concern highlighted by the Committee remain outstanding. In particular, the Criminal Justice Branch has withdrawn from a pro-charge policy for Crown, which means that the Crown is no longer required to take a rigorous approach to laying charges in cases of domestic violence. Further, BC law prohibits judges from considering violence in relationships as relevant to custody and access decisions, and dual charging (of both spouses, despite possible indications that the male spouse was the primary aggressor) remains high. In addition, retrogressive social policies and decreased funding for services such as social assistance, housing, childcare and legal aid decreases women's independence and consequently their ability to leave abusive relationships; inaccessible and inadequate social services particularly impact the freedom of immigrant women who are sponsored by their abusive spouses.

#### **WOMEN AND GIRLS IN PRISON.**

Grade: **C**

In 2008, the CEDAW Committee was concerned about the disproportionate number of Aboriginal, Afro-Canadian and other women and girls of colour incarcerated in Canadian prisons. The Committee was particularly concerned about "the continuing presence of male guards in female prisons, which increases the risk of sexual harassment or assault and violates the right to privacy of female detainees" as well as "the treatment of adolescent girls in juvenile detention, who are often detained in mixed-sex prisons, where they are exposed to violence from adolescent male detainees or from male prison guards." The *UN Standard Minimum Rules for the Treatment of Prisoners* requires that male guards should not enter any part of a prison facility in which women are imprisoned unless accompanied by a woman officer: although Canada is not a signatory, these rules serve as an important guideline for internationally acceptable treatment of incarcerated individuals.

The *Youth Criminal Justice Act* (YCJA), administered by the province, requires the state to "respect the offender's gender," but girls are usually subject to co-incarceration (i.e. girls and boys are routinely housed in the same facility and, in some instances, even in the same units), and co-educational and cross-gender monitoring (i.e. male guards supervising young girls) in youth prisons. As a result, girls have been subject to sexual harassment both from the male prison guards, and other inmates. BC is adding new jail cells to adult facilities, and the expansion will enable some female prisoners currently held in mixed facilities to move to the women only institution. Many of the specific problems highlighted by

the CEDAW Committee, particularly those impacting girls in prison, remain outstanding.

#### **ACCESS TO CHILDCARE.**

Grade: **D**

The Convention requires that state parties promote the establishment and development of a network of childcare facilities in order to ensure women's effective right to work. In 2008, the CEDAW Committee remained "gravely concerned at the fact that poverty is widespread among women, in particular aboriginal women, minority women and single mothers." The Committee discussed the impact of the lack of affordable quality childcare on women's economic empowerment. In another 2008 report, UNICEF reported that Canada tied for last place in a report card assessing early childhood services, including childcare, in the 25 most developed OECD countries. The UNICEF report built on the 2006 OECD Starting Strong reports showing that Canada has the lowest public investment in, and access to, child care among the 20 developed countries included in the review.

Despite the multiple unfavourable reviews of childcare in Canada, the situation in BC is going from bad to worse. BC's own contribution to the annual child care budget today is less than it was in 2001, and federal transfers are frequently spent on initiatives that do not build and sustain regulated child care spaces on an ongoing basis. As a result, parent fees have increased, waitlists have grown, and wages for college-trained staff have remained stagnant overall. Specifically, in BC between 2001 and 2008: parent fees, the key indicator of affordability, increased by \$852/year on average for preschool-aged children; wages for trained staff, one of the key indicators of quality, hardly changed, such that by 2008 senior caregivers earned on average \$15.50/hour and caregivers earned only \$13.50/hour; and the percentage of children under 12 for whom there is a regulated child care space, the key indicator of access, grew by only 3% (from 12% to 15%). As it stands, government funding is primarily directed towards subsidies for BC parents rather than to the provision of regulated, universally accessible, quality programs. With the lack of core funding to reduce parent fees, raise staff wages and build new community-owned spaces, the state of childcare in this province undermines, rather than supports, women's economic empowerment.

#### **WOMEN & HOUSING.**

Grade: **D**

In 2008, the CEDAW Committee expressed regret over "the absence of a national housing strategy and expressed concern at the current severe housing shortage, in particular in aboriginal communities, and at the high costs of rent and the impact thereof on women." The right to housing, and the failure to fulfill this right, is connected to a number of other rights protected in the Convention and other instruments of international law, including the right to an adequate standard of

living, keeping children with their parents where possible and appropriate, employment, and access to basic services like sanitation and clean water.

Housing costs in BC are much higher than the national average, and in 2007 the vacancy rate in Metro Vancouver was only 1%. Problems with housing in BC are not limited to Vancouver; for example, unsafe housing and inadequate provision for women upon marriage breakdown are significant problems on First Nations' reserves. The lack of affordable social housing can be traced to the federal government's cancellation of funding for non-profit and co-op housing in 1993 and the provincial cancellation of the Homes BC program in 2001. While recent commitments to social housing and homelessness initiatives from both levels of government fall below current needs, some progress is being made, including a 2008 announcement from the province regarding new funding and building plans. However, displacement of people living in single room occupancy dwellings (SROs) in Vancouver's Downtown Eastside, as well of displacement of people in urban Vancouver from rising rents, will only get worse in the run up to the 2010 Olympics. Already, several residential hotels have been bought out by development companies, and rising rental costs have displaced hundreds. Further, recent provincial cuts to long-term care beds and home care services disproportionately impact the housing needs of elderly women and women with disabilities. Problems with housing are multiple and complex, and include issues such as homelessness, insecure or unsafe housing, inadequate sanitation facilities in shelters and SROs, funding for transition houses, child-(un)friendly communities and spaces, and affordability. The feminization of poverty and the disproportionate impoverishment of single mothers, women of colour, aboriginal women, new immigrants and women with disabilities make women particularly vulnerable to housing problems, especially when fleeing abusive partners.

## **WOMEN & ACCESS TO JUSTICE.**

Grade: **F**

In 2008, the CEDAW Committee expressed concern "at reports that financial support for civil legal aid has diminished and that access to it has become increasingly restricted, in particular in British Columbia, consequently denying low-income women access to legal representation and legal services". The Committee recommended that the government should ensure that all women, particularly vulnerable women, have access to justice. The inadequate civil legal aid system has also been criticized by other international bodies, notably the UN Committee charged with monitoring the International Covenant on Economic, Social and Cultural Rights (ICESCR).

In order to ensure access to justice for women, particularly vulnerable women, the government must adequately fund legal aid services and public legal education. Broad cuts to legal aid services in 2002 resulted in the elimination of poverty law services; the reduction of family law services to only child protection cases and cases involving family violence; the loss of \$4 million worth of public legal education services; and the reduction of criminal law services to only those cases where applicants face a reasonable likelihood of imprisonment. Despite an increase in demand for legal aid

services, further reductions in service in 2009 have resulted in the following changes: the elimination of the family clinic in Vancouver; the elimination of almost all Legal Services Society (LSS) staff lawyer positions in the lower mainland (38 in total); the elimination of dispute resolution referrals; the suspension of extended services in family law cases; the elimination of coverage for category 1 offences in criminal law, such as changes for failing to appear in court, regardless of the likelihood of imprisonment; the reduction in LawLINE legal advice services; and the introduction of stricter merit screening of applications for immigration law services, particularly for those claiming refugee status from Mexico and Honduras.

Private family law services are out of range of many women: for instance, while the average two day civil trial in BC cost \$38,130.00 in 2008, a female lone parent family earns an average of \$37,700 per year in BC (compared to a male lone parent family that earns \$55,300). Yet it is civil legal aid, particularly family law services, that women most often seek to access, so the drastic cuts to family law legal aid have a particular and disproportionate impact on women and their children. Ensuring the realization of constitutional and international guarantees of women's equality means ensuring equal access to the justice system; the failure of the provincial government to adequately fund legal aid is a fundamental breach of women's rights.

### **Methodology**

The goal of West Coast LEAF's CEDAW Report Card project is to raise public awareness about the shortcomings and successes of BC in meeting its international obligations on women's rights, and to advocate for adequate responses to the CEDAW Committee's concerns.

West Coast LEAF identified seven key areas from the most recent CEDAW Concluding Observations on Canada as priorities based on their relevance to our mandate and expertise. The Report Card Subcommittee considered the following specific criteria: whether the issue was legal in nature; whether the issue was one the organization had worked on in the past, or about which it had any expertise to offer (although this was not determinative); and whether the issue was one for which the provincial government had some responsibility.

West Coast LEAF sought the participation of a number of community representatives and organizations through distribution of the draft report card. We requested written submissions, as well as feedback through an in-person roundtable discussion. Both forms of feedback were very helpful in formulating the final draft of this report card.

West Coast LEAF would like to thank the members of our Report Card Subcommittee: Amanda Winters, Catherine Evans, Natasha Allen and Susan Bazilli, as well as our research assistant Rachael Lake. We would also like to thank the community members and organizations who took the time to consult with us and provide feedback on the draft Report Card.

### **About West Coast LEAF**

West Coast LEAF's mandate is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education.