



Canadian International  
Development Agency

Agence canadienne de  
développement international

## **GENDER EQUALITY & LEGAL/JUSTICE INITIATIVES: IN BRIEF**

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**Canada** 

- **Most CEE countries have constitutional commitments to equal rights for women and men and have made international commitments to protecting and promoting women's rights.**
- **Major revisions are being made to the law in CEE countries as they adapt their systems to market economies. Policy choices made in this process can have major implications for women's positions and rights (laws on privatisation and property, employment rights, taxation, social security, etc.).**
- **Women's rights and access to justice can also be undermined by the attitudes of judges and other legal professionals. There are issues critical to women's rights and well-being that are inadequately addressed by the law and the administration of justice – most notably, violence against women.**
- **Canadian cooperation in the region includes initiatives that offer important opportunities to have a positive impact on knowledge, attitudes and practices in the legal and justice community about women's rights.**
- **There is considerable experience and expertise in Canada in addressing issues of gender equality in the law and the justice system.**

## 1. DO THE LAW AND THE JUSTICE SYSTEM PROTECT WOMEN'S RIGHTS AND SERVE WOMEN AND MEN EQUALLY?

Most of CIDA's programme countries have undertaken constitutional and international commitments to promote women's rights and equality between women and men. However, women's organisations in the region have raised concerns about the lack of attention to these rights and to the situation of women as new legislation is promulgated and more generally in the administration of justice.

For example, in Russia two areas of particular concern are:

- **Erosion of employment rights.** Privatisation and market reforms have been accompanied by an upsurge in employment discrimination – in dismissals, retraining, recruitment for new positions and pay. Government authorities have failed to enforce existing anti-discrimination legislation and have even publicly condoned discriminatory practices, invoking images of families with the men employed and women at home. New legislation increases the number of occupations barred to women (but not men) on grounds of health and reproductive functions. Further disincentives to hiring women result from legislation that sets out extensive leave and benefit provisions for mothers of infants and small children (for which men are not eligible). The underlying assumption that women are secondary workers and have others to provide for them is not supported by evidence. The result is increased disadvantage and financial hardship for women.
- **Violence against women.** There is increasing evidence of high levels of violence against women (including sexual violence and violence in the home). Equally shocking is the extent to which this violence is condoned by the government, the police, and the criminal justice system. Criticisms of law enforcement and justice officials include their tendency to assume fault by the complainant (provocation of violence by her clothing or actions), to consider domestic violence as a private matter to be settled between spouses, and a

## International commitments to women's rights and to equality under the law:

The most important specific instrument that affirms women's rights is the **United Nations Convention on the Elimination of All Forms of Discrimination Against Women**. The Convention is a useful tool for dialogue on gender equality issues as it grounds discussions on *national commitments* already made.

Ten of the eleven CIDA programme countries in the region are parties to the Convention:

Czech Republic (1993)  
 Estonia (1991)  
 Hungary (1980)  
 Latvia (1992)  
 Lithuania (1994)  
 Poland (1980)  
 Romania (1980)  
 Russian Federation (1980)  
 Slovakia (1993)  
 Ukraine (1980)

## Canadian organizations with experience and resources on gender equality in the law and the justice system

- ▶ **Department of Justice Canada, which has:**
    - adopted the *Policy of the Department of Justice on Gender Equality Analysis*
    - established a network of gender equality specialists to act as resource persons;
    - prepared *Diversity and Justice: Gender Perspectives*, a manual of "critical questions to be asked at each step of policy development, litigation, prosecutions, legal advice and legislative and regulatory drafting processes to ensure that gender is taken into account, inequality is identified and remedies are developed."
- Contact: Office of the Senior Advisor on Gender Equality, Department of Justice, Ottawa.  
 Tel: 613-954-5970

reluctance to accept complaints, pursue investigations, and press charges. Women threatened with violence are generally unprotected by the law and the justice system.

These issues are set out as illustrations of how assumptions about the role of women and gender relations can affect both the content of the law and its interpretation – even if these are not based on current realities and result in hardship for women.

## 2. ENTRY POINTS TO SUPPORT GENDER EQUALITY

Cooperation programmes offer important opportunities to have a positive impact on knowledge, attitudes and practices in the legal and justice community. Questions that can be considered in discussing and designing several different types of projects are suggested below.

- **Initiatives to strengthen legal training (for lawyers, notaries and paralegals):** In the development of curricula and teaching materials, is attention being given to the inclusion of components on international standards on equality rights and debates about the definition and interpretation of equality rights? Will courses on domestic civil law include discussions of the equality aspects of property, marriage, and employment law? Will courses on criminal law include consideration of the extent to which existing law protects women in difficult areas such as violence against women? Does the project include measures to ensure that teaching staff have been exposed to these ideas and have the capacity to discuss them? And to whether library resources are adequate to support exploration of these issues? Are efforts being made to increase dialogue between training institutions and women's and equal rights advocacy organisations?
- **Initiatives to enhance the capacity of the judiciary.** Does the programme include components designed to increase knowledge of international discussions on gender equality commitments and the interpretation of domestic law in this light? Will judges have the opportunity to meet colleagues in Canada or other countries who have been debating these issues? Are there opportunities to strengthen dialogue between the judiciary and women's rights and equality advocacy groups?
- **Initiatives to enhance the capacity of government officials responsible for legal policy and law reform.** Does the project design include elements to develop skills in applying a gender equality perspective in policy analysis and the assessment of alternatives? Are there provisions to develop the necessary research and information base to do such an analysis? Will targeted officials be assisted to develop constructive working relationships with government and non-government organizations concerned with equality issues?
- **Initiatives to strengthen law-making capacity of parliamentary institutions.** In developing measures to strengthen processes for the review of legislation and skills in the analysis of implications, is attention being given to the capacity to apply gender equality perspectives? Are efforts being made to inform parliamentarians and the staff of parliamentary institutions of international commitments on equality and their implications for domestic legislation? Are male parliamentarians and staff being targeted for such initiatives and encouraged to take up their responsibility for female constituents and equality between women and men? Are library and research resources adequate to undertake the research required?

### ▶ **National Judicial Institute**

#### **Programme, Canadian Judicial Council.**

Provides ongoing legal and professional development to the judiciary. Since 1997 the Institute has had a programme on Social Context Education for the judiciary that includes gender equality issues. The Institute has developed both a short introductory course and an intensive programme. Social context issues are also being integrated into the remainder of the judicial education curriculum.

Contact: Social Context Education Programme, National Judicial Institute, Ottawa.

Tel.: (613) 237-1118

### ▶ **Canadian Bar Association (CBA).**

Professional voluntary organisation representing over 35,000 lawyers, judges, notaries, law teachers and law students. Established a Task Force on Gender Equality in the Legal Profession, headed by the Hon. Bertha Wilson, a retired justice of the Supreme Court of Canada. The Report of the Task Force was published in 1993 as *Touchstones for Change: Equality, Diversity and Accountability*. The CBA also publishes a teaching manual for conducting educational sessions for lawyers, *Equality of Women in the Legal Profession: A Facilitators Manual* (Prepared by S. Martin and G. Schellenberg, 1995).

Contact: Canadian Bar Association, Ottawa.

Tel.: (613) 237-2925

### ▶ **National Association of Women and the Law (NAWL).**

National advocacy association of academic lawyers, practicing lawyers and law students. Works on legislation, law reform issues, education on women's rights in a range of areas. Contact: National Office, NAWL, Ottawa.

Tel. (613) 241-7570.