

CANADA'S RESPONSE: QUESTIONNAIRE FROM THE UN CHAIR-RAPPORTEUR OF THE WORKING GROUP ON THE ISSUE OF HUMAN RIGHTS AND TRANSNATIONAL CORPORATIONS AND OTHER BUSINESS ENTERPRISES

QUESTIONS

1. In what ways do women experience the impact of business-related human rights abuses differently and disproportionately? Please provide concrete examples in the context of both generic and sector- or region-specific experiences of women.

- In Canada, the research has demonstrated that women experience business-related human rights violations. For instance, some women may face sexual or other types of harassment, violence and discrimination in the workplace, especially in those where they are traditionally under-represented. For instance, there is evidence that some businesses in non-traditional sectors, such as the skilled trades, may lack corporate policies and know-how to effectively prevent and resolve such events¹.
- Women's professional lives can also be affected by violence and harassment that occurs outside of the workplace. For instance, survey results released by the labour movement and Western University's Faculty of Education² show that, of women who reported experiencing domestic violence, 38% said it kept them from getting to work and 82% said the violence negatively affected their work performance. More than half (54%) said that violence continued at or near their workplace in the form of harassing emails, calls and texts, stalking or physical violence, and 9% said it led to them losing their job.
- While emerging digital technology provides a range of opportunities for supporting women's empowerment, there is evidence that it is replicating, and sometimes amplifying existing gender bias and sexual and gender based violence. Digital technology is frequently emerging and being deployed in advance of regulation and sector standards, and is most frequently being advanced by businesses. That means businesses are likely the agents who will be able to drive positive (or negative) changes in this field. The increasing power of the technology industry globally should be considered in light of the relatively weak women's representation in the tech sector – both in working level and management roles.
- The G7 leaders who attended the Charlevoix Summit in June 2018 recognized the links between abuse, harassment and the threat of violence in a digital context and physical and psychological violence, abuse and harassment that are rooted in gender inequality. The G7 Commitment was an important advancement in recognizing that although technology creates opportunities for advancing gender equality, these benefits can also be undermined by the perpetuation of new forms of abuse, harassment and violence enabled by technology.

¹ Social Research and Demonstration Corporation. (2016) *Enhancing the Retention and Advancement of Women in Trades in British Columbia: Final Report*.

² Wathen, C. N., MacQuarrie, B., & MacGregor, J. (2015). *Can Work be Safe, when Home Isn't?: Initial Findings of a Pan-Canadian Survey on Domestic Violence and the Workplace*. Centre for Research & Education on Violence Against Women and Children, Western University.

2. Please share any good practices on how to deal with increased marginalisation or vulnerabilities faced by women due to intersectionality, feminisation of work, informal economy, and conflicts.

- The Government of Canada is committed to supporting the full implementation of GBA+ across federal departments, so that differential impacts on diverse groups of people are considered when policies, programs and legislation are developed. Gender-based analysis (GBA) identifies the ways in which public policies affect women and men differently. It does so through a systematic use of data to better tailor the design and delivery of government programs. Recently, this tool has evolved into GBA+ to include the intersecting identity factors that must be considered in public policy along with and in relation to gender (e.g. ethnicity, age, income, sexual orientation). This commitment was reinforced in Budget 2018, which introduced a new Gender Results Framework that includes goals and indicators that will guide the Government's decisions and measure Canada's progress in achieving greater gender equality.
- In terms of international initiatives, Natural Resources Canada (NRCan) is co-chairing the *Clean Energy Education and Empowerment (C3E)* initiative which aims at greater gender diversity in clean energy professions in the transition to a clean energy future. Launched in July 2010, the C3E initiative is a joint initiative of the International Energy Agency (IEA) and the Clean Energy Ministerial (CEM) and is led by Canada, Sweden and Italy. The work focuses on four areas: awards and recognition (led by Canada); gender data and measurement; career development / mentorship; and dialogue / communications. It is considered a priority for Canada's hosting of the 2019 CEM that will take place in Vancouver in May 2019.
- As part of the C3E Initiative, NRCan is spearheading the *Equal by 30 Campaign* - a public commitment by public and private sector organizations to work towards equal pay, equal leadership and equal opportunities for women in the sector by 2030. Equal by 30 asks companies and governments to endorse principles, and then take concrete action to increase the participation of women in the clean energy sector, and close the gender gap. It was launched at the 2018 CEM in Copenhagen, where Sweden, Finland and Canada endorsed the campaign and outlined their commitments. Canada and Sweden co-lead this campaign.
- One example of Canadian development programming that is addressing marginalization is the *Building Extractive Sector Governance project* in Colombia, which is supporting the government's capacity to implement consultation processes with women, Indigenous peoples and other vulnerable populations to affected by natural resource sector activities to have a stronger voice in key dialogue forums at local levels.
- Please also refer to Global Affairs Canada's *Playbook for Gender Equality in the Digital Age*. It is intended for those who are thinking about the impact of technological development on gender equality and trying to find ways to address new challenges it poses for the international human rights regime, as well as opportunities it promises for empowering women and girls.

3. How to address sexual harassment and sexual or physical violence suffered by women in the business-related context, including at the workplace, in supply chains and in surrounding communities? Please share any good practices which

have proved to be effective in dealing with sexual harassment and violence against women.

- To ensure that federal workplaces are free from harassment and violence, the Government of Canada tabled Bill C-65 (An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1).
- Bill C-65 will create a more robust and integrated regime protecting employees from harassment and violence in federal workplaces – including the federally regulated private sector, the federal public service and parliamentary workplaces.
- Under this new single regime, employers will be required to take steps to prevent, protect against, and respond to occurrences of harassment and violence in the workplace, which includes a spectrum of reprehensible behaviours, ranging from teasing and bullying to sexual harassment and physical violence.
- In 2018, the Government of Canada also committed \$34.9 million over five years, starting in 2018-19, and \$7.4 million per year ongoing to support this new regime. It also provides several other measures to support victims of violence, including five days of paid leave to employees in the federally regulated private sector who are victims of family violence, or the parent of a child who is the victim of family violence. This paid leave will build on the new 10-day unpaid leave for victims of family violence that was introduced in the Canada Labour Code last December.
- Various provinces in Canada have enacted legislation and implemented sexual violence and harassment plans to address this issue, for example:
 - In March 2016, Ontario passed Bill 132, *Sexual Violence and Harassment Plan (Supporting Survivors and Challenging Sexual Violence and Harassment) Act, 2016* (“the *Sexual Violence and Harassment Plan Act, 2016*”), which contains provisions related to sexual violence and harassment in the workplace, on campus, in housing and through the civil claims process. The legislation requires employers to have a policy and program to address harassment. To enforce the legislation the province established a dedicated enforcement team that is responsible for verifying whether employers have a policy and program in place to address workplace harassment. The enforcement team is empowered to take appropriate enforcement action.
 - In Alberta, harassment and violence are defined as workplace hazards in *the* province’s updated *Occupational Health and Safety (OHS) Act*. The new OHS laws came into effect on June 1, 2018. Employers are required to help prevent workplaces harassment and violence and address incidents when they do occur. The new rules: define workplace harassment and violence in all forms, including domestic and sexual violence; require employers to investigate incidents of violence and harassment and take corrective action; require employers to develop separate violence and harassment prevention plans; require review of plans at least once every 3 years; and require employers to advise workers of treatment options if harmed by violence or harassment; workers are entitled to wages and benefits while attending treatment programs.

- In the global context, an example of Canada's support for addressing gender-based violence in the workplace is the *Building Responsible Mineral Supply Chains for Development in Africa project*, implemented by the Canadian NGO IMPACT. This project supported the creation of a new women's rights association, the Network for the Empowerment of Women in Mining Communities (REAFECOM). 62 women founded the association, which is first the association of women artisanal miners in DRC's northeastern Ituri Province. Importantly, in a sector where women face many challenges, the association aims to ensure their participation in decision-making and leadership positions. As part of its efforts to end gender-based violence, REAFECOM will also begin documenting cases of sexual violence and work with local organizations to ensure survivors can access the services they need.
- In general, Canada seeks to include enforceable obligations for governments to implement policies that address gender-based discrimination in the workplace, specifically with regard to sexual orientation, sexual harassment, gender identity, and caregiving responsibilities.

4. Which State laws and policies or social, cultural and religious norms continue to impede women's integration into economic activities and public life generally?

- The gender wage gap itself can reinforce the pre-existing trend for men to specialize in paid work and women to specialize in unpaid work. Although young male/female couples start off with fairly similar labour market outcomes, women tend to earn slightly less than their male partners. For young families, it then could make more financial sense for the mother to take parental leave while the father focuses on paid work³. Data from the Labour Force Survey show that significant gaps in labour force participation, hours worked and wages appear around the age when people start to have children and that these gaps never close⁴.
- Unequal sharing of unpaid work constrains career trajectories. Despite progress towards more equal sharing of unpaid work and caring roles, women still perform the majority of unpaid work in the household, which limits the amount of hours that can be dedicated to paid work⁵. Routine and scheduled unpaid work is more inflexible and is shown to impede women's, especially mothers', integration into economic activities⁶.
- Social assumptions and myths about women's ability to do certain types of work (e.g. working in a mine, forestry industry, or engaging in physical labour) can prevent some women from gainful employment. Similar assumptions about women's ability to manage and own property or businesses can impede their ability to defend their rights and make them vulnerable to exploitation.

³ While there is no conclusive research in Canada, please see the following research study in the UK: Olsen, W., Gash, V., Sook, K., & Zhang, M. (2018). *The gender pay gap in the UK: evidence from the UKHLS*.

⁴ Statistics Canada, *Labour Force Survey*.

⁵ Statistics Canada, *General Social Survey*.

⁶ Moyser, M. & Burlock, A. (2018) *Time use: Total work burden unpaid work, and leisure*. Statistics Canada.

5. Are there any good practices of integrating a gender perspective into States' economic sphere (e.g., state-owned enterprises, public procurement agencies, trade missions, export credit agencies, privatisation of public services, public-private partnerships, and trade and investment agreements)?

- Canada has sought to mainstream gender considerations throughout its Free Trade Agreements (FTAs). In the context of FTAs, the Government of Canada is currently applying a two-pronged approach to trade and gender, by:
 - Working to include a standalone chapter on trade and gender.
 - Mainstreaming gender by including other gender-related provisions throughout the FTA, including in other, issue-specific chapters.
- Objectives in trade and gender chapters in Canada's FTAs have included:
 - Reaffirming importance of incorporating a gender perspective into economic and trade issues
 - Reaffirming commitment to international agreements on gender equality and women's rights
 - Providing a framework for parties to the agreement to undertake cooperation activities on issues related to gender and trade
 - Establishing dedicated trade and gender committees and other institutional provisions
- Outside of a dedicated chapter, there are other opportunities to mainstream gender-responsive elements throughout a trade agreement. These can include:
 - A labour chapter that includes comprehensive, binding and enforceable commitments related to gender. In particular, parties are required to promote employment equity and address discrimination in the workplace based on sex, pregnancy, maternity, gender and gender identity, and sexual orientation. Labour provisions also encourage the adoption of programs and policies that address the gender wage gap and barriers to the full participation of women in the workforce, and propose cooperation activities that advance gender equality.
 - Cross-border trade in services provisions that prohibit gender-based discrimination related to licencing and professional qualification requirements and procedures.
 - "Right to regulate" provisions that ensure that "gender equality" is included in the illustrative list of areas where Parties reaffirm their right to regulate in the public interest. This can be found either in the Scope article of the investment chapter or the preamble of the whole Agreement.
 - Investment-related gender-responsive proposals, which can include:
 - Senior management and board of directors – Parties may require the nomination of women for the senior management or board of directors of an enterprise
 - Corporate social responsibility – Parties encourage enterprises operating within their territory or subject to their jurisdiction to adhere to an illustrative list of corporate social responsibility practices, including gender equality
 - Selection of arbitrators for investor-state dispute settlement (ISDS) panels - when appointing arbitrators, encourage the Parties to promote greater diversity, including by appointing women, to the ISDS panel.

- Government Procurement provisions under which procuring entities could consider opportunities for small and minority-owned businesses or under-represented groups, including women, when procuring goods or services.
 - Language in the preamble of the agreement that seeks to advance gender equality.
 - Canada is also looking at provisions throughout each FTA to determine how they can take into consideration gender-related issues.
- More specifically, Canada has launched initiatives such as the *Women in Cleantech Challenge* to promote greater representation of women in Canada’s clean tech sector by supporting the creation of six new, highly impactful and globally significant clean technology companies led by women. Under the Impact Canada initiative announced in Budget 2017, NRCan will invest \$75M over four years to launch a series of clean technology challenges, including the Women in Cleantech Challenge. Six participants have been selected to participate in a 2.5-year incubation at MaRS in Toronto, where they will develop business plans. Participants will also gain access to technical expertise at federal CanmetENERGY laboratories. In March 2021, a final winner will be selected to receive \$1M to advance their business.
 - NRCan’s Canada Centre for Mapping and Earth Observation offers an ongoing program *Career Alliance 360: Supporting Women and Indigenous Inclusion in STEM* intended to: encourage in-house career progression of women in Science, Technology, Engineering, and Mathematics (STEM); further Indigenous inclusion at NRCan and STEM related fields; and recruit future NRCan scientists, engineers, mathematicians, computer scientists, and technologists.
 - In addition, the Government of Canada has invested in projects and initiatives such as the Global Compact Network Canada (GCNC) “Gender Equality Leadership in the Canadian Private Sector,” which focuses on engaging the private sector as a responsible accelerator to eliminate barriers faced by women in the workplace, and to develop, test and implement tools that will support gender equality in the private sector.

6. How could policy coherence be improved between different government ministries or departments dealing with women issues and business-related matters?

- On an ongoing basis, the Government of Canada aims to further improve policy coherence through the development of intergovernmental or interdepartmental fora or working groups to share information, best practices, and other tools around related laws, policies, programs and initiatives. More specifically, responsibility for gender based analysis could be discussed at executive level committees, and embedding gender budgeting into the budget process.

7. What is the extent to which businesses currently apply a gender lens in conducting human rights due diligence, including social or environmental impact assessment?

- The Government of Canada has created a working group of relevant federal government departments to consider options for the government, with a view to exploring possible recommendations on mandatory reporting or due diligence supply chain transparency legislation with a gender lens.

- The Government of Canada has tabled a bill in parliament to put in place better rules for major projects, to protect the environment, fish and waterways, and to rebuild public trust in how decisions about resource development projects are made. The proposed new rules would see the consistent use of gender-based analysis plus in impact assessments.

8. Are there any good practices of business enterprises adopting a gender perspective in making human rights policy commitments, addressing the gender wage gap and underrepresentation of women in boards and senior positions, or involving affected women in meaningful consultations and remediation processes?

- In 2018, the Government of Canada announced a major symposium on women and the workplace in the spring of 2019 to bring together leaders in the private and public sectors to discuss and share best practices. The symposium will encourage and provide tools for Canadian employers to address issues faced by women in the workplace, from wage gaps to harassment.
- In addition, the Government of Canada recently made amendments to its corporate statutes to require directors of federally-incorporated corporations to disclose to shareholders the information on the diversity of their boards and in senior management. If no policies are in place, directors will have to explain to their shareholders why this is the case. This is known as the “comply or explain” model. These amendments will help increase shareholder democracy and participation. They will also increase diversity on corporate boards and in senior management.
- Among a wide range of good practices, firms can help close the gender wage gap through investing in affordable and accessible child care and family leave, increasing women’s participation in traditionally male-dominated occupations, encouraging men to work in traditionally female-dominated occupations, implementing family-friendly workplace policies and challenging gender stereotypes that reinforce notions of “appropriate” work for men and women are some of these areas.
- Equal Pay International Coalition (EPIC) is a strategic multi-stakeholder initiative led by the International Labour Organization (ILO), United Nations Women and the Organisation for Economic Co-operation and Development (OECD). The Coalition engages with governments, employers, workers and their organizations, the private sector, civil society and academia to take concrete steps to accelerate the closing of the gender pay gap and the pace towards pay equity. Canada sits on the Steering Committee of the Coalition and recently demonstrated its commitment to work towards the goals of the Coalition during a pledging event at the UN General Assembly in New York (September 2018).
- At the national level, EPIC will work with key partners such as government agencies, and workers’ and employers’ organizations. Initiatives could include assisting in building capacity and developing tools such as gender-neutral role job evaluations for use by businesses and other relevant organizations. Employers and trade unions are key partners since they will have a central role in the development and application of equal pay policies.

9. What is the role of businesses in dealing with domestic laws, policies and societal practices which are discriminatory to women?

- Canadian companies working internationally are expected and encouraged to operate lawfully, transparently and in consultation with host governments and local communities and to conduct their activities in a socially and environmentally responsible manner. In instances where Canadian businesses are alleged or appear to be involved in a case, the mission must refer to *Canada's Enhanced Corporate Social Responsibility (CSR) Strategy to Strengthen Canada's Extractive Sector Abroad*. Although prepared for the Canadian extractive sector abroad, the Strategy provides broad guidance on CSR policy and practice applicable to all sectors.
- Central to Canada's approach in regards to the trade and gender chapters in free trade agreements (FTAs) is providing a platform for Canada to engage its partners in bilateral cooperation activities. These activities are aimed at improving the capacity and conditions for women—including workers, businesswomen and entrepreneurs—to access and fully benefit from the opportunities created by trade and investment. These activities are designed to be as inclusive as possible and include provisions to involve public- and private-sector stakeholders, such as government agencies, businesses and other civil society organizations.
- Areas of cooperation can include:
 - Raising awareness through programs on gender equality practices in business, and female entrepreneurship
 - Sharing of best practices and experience, especially on design, implementation and monitoring of policies for women's economic empowerment
 - Accessing economic opportunities, especially initiatives to maximize benefits of the agreement for women workers or entrepreneurs
 - Empowering women through activities, such as leadership and decision-making skills enhancement, and education in science, technology and innovation
 - Collecting gender-related data, conducting gender-based analysis, collection of sex-disaggregated data, and the use of gender-responsive indicators and statistics

10. How could media and advertising industries fight against gender stereotyping and disempowerment of women?

- Research has shown that mass media and advertising perpetuate negative perceptions and stereotypes of, and negative biases against, women and girls. The media over-represents women conducting primarily domestic/reproductive labour, and under-represents women as employed workers. Thus, media and advertising industries can better represent women and girls through a broad range of experiences and roles.
- Research also demonstrates that girls and young women are discouraged from pursuing certain occupations or fields of study due to gender stereotypes, biases, and gender-based discrimination. These barriers are experienced both within and outside of educational environments, such as through exposure to media, and have long-term impacts. For example, there is a significant decline in sport participation when girls transition to adolescence, often due to gender-based social pressures. These biases are felt even more keenly among racialized, Indigenous, marginalized, and newcomer

youth, who experience heightened discrimination and harassment and higher rates of unemployment.

11. What additional or specific barriers do women (women human rights defenders) face in accessing effective remedies for business-related human rights abuses?

- Canada's foreign policy recognises that the work of human rights defenders and civil society organizations can be dangerous. In many countries, they are often subject to intimidation, job loss, restrictions and violence. Individuals from vulnerable and marginalized groups are particularly at risk. The challenges and threats faced by female human rights defenders in many countries may be greater and different in nature than those faced by male human rights defenders.
- Canada is concerned by the growing global trend of governments in non-democratic and in democratic states seeking to stifle civil society by:
 - enacting new legislation and regulations that limit the full enjoyment of fundamental freedoms, both online and offline;
 - discriminating openly against individuals from marginalized and vulnerable groups; and
 - using increasingly harsh tactics of intimidation, unlawful and arbitrary surveillance, threats and reprisals.
- The impact of such violations and abuses on the individuals themselves, on their families and communities, and on respect for human rights overall, is profound. The promotion of respect for human rights defenders is critical to inclusive, safe and prosperous societies.
- Please also see *Voices at risk: Canada's guidelines on supporting human rights defenders*. These guidelines are a how-to guide for supporting human rights defenders—with practical advice for officials at Canadian missions abroad and at Headquarters—as well as a clear statement of Canada's commitment to promoting all human rights, including by supporting the vital work of human rights defenders.

12. How could all types of remedial mechanisms, processes and outcomes be made more gender-sensitive?

- As mentioned previously, Canada has sought to mainstream gender considerations throughout its Free Trade Agreements. Opportunities exist, for example, to include gender related provisions in free trade agreements, such as selecting arbitrators for investor-state dispute settlements (ISDS) panels, to promote greater diversity, by appointing women.

13. How to overcome power imbalances and discriminatory practices that might undermine the effectiveness of remedies obtained by women?

- The Government of Canada intends to table proactive pay equity legislation before the end of 2018. The legislation will apply to federally regulated private- and public-sector employers with 10 or more employees. This legislation will ensure that, on average, women and men receive the same pay for work of equal value. It is expected that proactive pay equity legislation will contribute to reducing the portion of the gender wage

gap that is attributable to the undervaluation of women's work and that it will contribute to breaking down barriers to gender equality in employment, so that women can contribute to – and benefit from – Canada's success and prosperity. In 2018, the Government of Canada announced new legislation to enshrine gender budgeting in the federal government's budgetary and financial management processes.

- In the province of Ontario, the gender wage gap is 29%, based on 2016 employment earnings for all earners. Not only does the gap result in lower annual income for women, but earning less over a lifetime also means that women receive lower pensions when they retire and are at a higher risk of poverty in their elder years.
- Furthermore, the gender wage gap is wider for those who experience employment disadvantages. Groups who have historically experienced employment or labour market disadvantages continue to face specific barriers that affect their wages and employment opportunities, which results in larger than average gender wage gaps.
 - Racialized women earn 19% less than racialized men and 34% less than non-racialized men (Statistics Canada National Household Survey, 2011, average employment incomes, full-time, full-year workers).
 - Indigenous women earn 18% less than Indigenous men and 36% less than non-Indigenous men (Statistics Canada National Household Survey, 2011, average employment incomes, full-time, full-year workers).
 - Women with disabilities are hindered by lower levels of labour market participation. Women with disabilities earn 16% less than men with disabilities and 48% less than men without disabilities (Statistics Canada Canadian Survey on Disability, 2012, CANSIM table 115-0023, average employment income).

14. Please provide any additional comments, suggestions or information which you think may be relevant for the Working Group's forthcoming report on the gender lens to the UNGPs.

- Research has shown that creating women-specific networks for employment or mentoring can help obviate power imbalances by providing support, training, and employment opportunities. These networks can overcome power imbalances and discriminatory practices that may undermine fair employment laws and practices.
- Other practices include building a diverse talent pipeline to overcome biases and stereotypes during the hiring stage.
- Research shows that more diverse and inclusive workplaces are more engaged, and can lead to greater innovation, creativity, and safer spaces.