

# 17 The Canadian Women's Movement and Its Efforts to Influence the Canadian Economy

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The issues of the women's movement in Canada in some respects have not changed. The problems which were highlighted in the 1970 *Report of the Royal Commission on the Status of Women* are still with us.<sup>1</sup> This report documented women's inequality in Canada under the law and in the work-force. It showed that women were poor because we did not have equal access to jobs, equal pay for the work we performed, or adequate public child care, and that we were treated unfairly in property and tax legislation. The most important result of this document was that it enabled women's groups to bring to public consciousness the discrimination women faced, a discrimination that was blatant and widespread. The government was forced to recognize that women had not been sufficiently heard and that something should be done about this.

Government's initial reaction was to attempt to subsume all major action on women's issues at the federal level under the government itself. At the historic "Strategy for Change" conference which inaugurated the National Action Committee on the Status of Women (NAC), one of the major issues was whether this group should support the creation of a government body on women or organize an independent national women's organization.<sup>2</sup> Although a collective voice for the women's movement was certainly not yet strong, the government saw the wisdom of containing this movement by direct control. Fortunately, women at this conference thought otherwise, and NAC became an independent organization. Nevertheless, throughout its history it has been largely funded by the federal government: this

fact certainly has had mixed blessings for the organization and, at this point in its history, is presenting particularly alarming consequences.

At the federal level, work was immediately begun to eliminate overt sexism in federal legislation. By 1975 Marc Lalonde, the minister responsible for the status of women, reported in his department's publication celebrating International Women's Year that discrimination against women had been eliminated from Canadian legislation. This, of course, was a joke to activists in the women's movement. While the words of the legislation might have been gender-neutral, its effect certainly was not.

The early efforts of the women's movement focused to a considerable extent on economic issues. Most notable were the efforts to highlight the wage gap between men and women who worked for pay, which led to a major campaign for "equal pay for work of equal value." This was a difficult concept to communicate to the public and to the government, but partial recognition of the principle was achieved when the words were included in the federal Human Rights Act of 1977.<sup>E</sup> The issue of property rights for women was another consuming matter of the 1970s, when the case of an Alberta farm woman highlighted the unequal treatment of women under the law. Of course, most economic issues were not fought at the federal level but by women within their own community. The most dramatic were specific fights for women at the work-place - at the banks, at Bell Canada, in factories. Women's attempts to organize were fought hard by employers, but the positive result of the 1970s was the increasing involvement of the women's movement in an effort to achieve recognition of women's right for decent wages and working conditions.

For most of the issues of the 1970s there was not a clear distinction between economic issues and other equality issues. The case of Native rights for Native women was a good example of this. The women's movement became involved in this issue (supporting the Native women who had been excluded from their bands because they had married white men) as an equality rights issue, but it quickly became an economic issue as well, the implications of which could not be ignored.

Deciding which issues to pursue and which to ignore created considerable tension within NAC in the 1970s. While it is clear even from the beginning that almost every problem in society was a women's issue, there was a feeling that the organization should confine itself to those which could strictly be defined as "women's issues." This became most evident in the debate about federal wage and price controls in the mid-1970s. Many of us argued that women would be

most damaged by this measure primarily because it would prevent women from trying to close the gap between male and female wages. We wanted a strong statement against this from the women's movement. This did not occur and, while the reason may have been that many women in the organization had close ties to the party in power, the argument was won on the grounds that we would lose credibility if we became just one other organization speaking on a wide range of issues; we should confine ourselves to what was obviously and directly of concern to women because no one else was doing this. A similar argument was used when attempts were made to link NAC with the peace movement.

The early attempts of the national women's movement on economic issues tended to focus on women's right to make choices. The publication of Gail Cook's book *Opportunities for Choice* (1976) stressed this theme, which seemed appropriate to many at the time.<sup>4</sup> We were to fight not the system but how we were treated within it. While there were conflicts with those in power in the federal government, these were fairly minimal. The overriding objective was to influence power - to exert influence behind the scenes, while at the same time claiming tremendous support for our position from the women's movement in general. This, in many respects, was a "subdued feminism." I do not mean to imply that feminism in Canada was at this time without fire and fight, but at the federal level we were not much of a threat to the government. (And this is probably why they continued to increase our funding.) At other levels, much was going on: Henry Morgentaler went to jail for performing abortions, and women's groups were actively defying the government on this issue; Grace Hartman went to jail to defend women's right to strike at hospitals; and women's groups across the country were organizing to provide services for women and were in open conflict with powerful forces in their communities and work-places.

The focus on economic issues has changed perceptibly for the women's movement since the 1970s. By the 1980s government and employers had accepted women's intervention in issues like equal pay, maternity leave, and the movement of women out of traditional occupations. They also accepted our right to speak on day care, reproductive choice, pornography - anything that could be seen as a women's issue. But more and more women realized that the crucial issue would be the extent to which women could have a role in economic decision-making. Having "opportunities for choice" was no longer the crucial point; being able to determine what the choices would be constituted the real fight for women in Canada. Women began to make the connection that ultimately all of the issues we

were fighting for are related to the way the society is constructed. We recognized that economic decision-making by government and business affects how successful we can be in just about every area of our lives. More and more the realization took hold that, although we can fight for years and years for such legislation as equal pay for work of equal value - and ultimately may make gains in this area - it is a small victory if a government economic policy (such as the current obsession with international competitiveness) means that fewer people will be employed. Equal pay laws do not help much if you do not have a job.

Initially, women's attempts to discuss broad economic policy issues were ignored. From the perspective of government and business, women and economics do not mix well. Our demands are seen as "take-aways" - not contributions. What we want is perceived as a drain on the economy: full and equal employment, equality in decision-making, economic security, better social services, a safe world. These demands are considered unrealistic in the hard world of economics. It is not that our demands are considered totally unreasonable, but they just do not mesh with hard-time economics. What women have had to say has been treated as a discussion of welfare policy, not economic policy.

When feminists talk about economics it makes government and business nervous because we tend to focus on the irrationality of what is going on. We emphasize goals and objectives and are critical of choices which have been made, choices which have been damaging to people. Never before in the history of human existence has there been as much food produced in the world as now. Yet people starve to death in some parts of the globe while vast quantities of food rot in warehouses in North America and Europe. We see this as irrational.

We know that in Canada there is considerable poverty and that this poverty is increasing, in spite of the fact that Canada is a rich nation with abundant resources. We know that there is a need for better social services and a need for people to provide them, yet our unemployment rate is huge. We see this waste of labour as irrational. We are downright hostile to government programs which are directed towards supporting the war industry, rather than towards meeting real human needs. Most important, we are critical of the priorities which have been established and feel that our leaders have lost sight of the goal of a more just and equitable society. When we began to talk about economic issues like the budget, trade policy, privatization, deregulation, and the general structure of the Canadian economy, we were going too far. These were not women's issues:

women were not "experts" and therefore our criticism had little credibility. But one of the very positive results of the massive women's movement in the past twenty years had been the rejection of "credentialism" - the belief that you cannot talk about something unless you have a piece of paper which says you can. Women's confidence in challenging the experts has grown as we questioned their wisdom on health care, education, and child care.

In the field of economics our challenge had initially been confined to explanations of why we were paid less than men. We were told it was because we were less productive than men. We did not choose the right jobs, we did not get ourselves trained properly, and we had bad work habits: we preferred to work part-time, we regularly dropped out of the labour force, and because of our commitment to home and hearth, we did not take our work as seriously as men did. (Of course, this was all couched in proper academic language - we did not accumulate sufficient "human capital.") Women intuitively rejected these expert pronouncements. What we were told defied common sense. We knew that someone must be profiting from paying women lower wages and confining us to a rather narrow range of occupations. We challenged the experts. We fought the collective, subconscious belief that it was the natural order of things for women's work to be narrowly confined and to be valued less than that done by men. And, although we certainly still have a long way to go in this regard, we have made headway in making people view women's work differently.

In the 1980s and early 1990s, the economic conditions for women are much the same as those we faced in the 1970s, some of which were outlined by the Royal Commission on the Status of Women. Women's work is still occupationally segregated; women's wages are still much less than men's; women still do most of the work in the home; public child care is still woefully insufficient; poverty is still overwhelmingly a women's lot; and Native women, immigrant women, and women of colour still face particularly gruesome obstacles in their lives - barriers based on racism which are distinct from those all women face.

The issues did not change, but our analysis of what is wrong began to shift. We no longer focused our briefs to government in a way which would show how "rational" a more just society would be or how it could be in the economic interest of employers to reduce discrimination. There is no economic argument which will convince employers that they will be better off paying women one-third more than they do now. They know better and so do we. We continue to fight for the kinds of things we have focused on previously, but we

have broadened our scope and have entered the general debate on macro-economic issues. The logic of the situation has demanded this: we could not ignore the larger agenda of economic restructuring and the government's designs for Canada, since they would affect virtually every issue on women's agenda for action.

The change in focus in the 1980s, at least at the federal level of the feminist movement's confrontation with the state, is a result of a great many changes, but four of them are quite distinct. First of all, there has been a greater awareness in the women's movement altogether of the structural nature of women's oppression, the recognition that it is not simply the sexist nature of individual employers or legislators which is responsible for women's position in society. Secondly, the dramatic economic downturn in the early 1980s highlighted the structural problems with the economy itself, something which no groups interested in economic and social change could ignore. But there were also changes which affected the nature of the women's movement at the national level and had an impact on NAC's ability to focus on broad economic issues. The first is that after 1984 the Liberals were no longer in power, so the Liberals on the NAC executive were no longer placed in a defensive position about government economic policy. NAC is an extremely broad-based feminist organization with a membership of about six hundred women's groups, including those from political parties as divergent as the Progressive Conservatives and the Communist party. However, Conservative women were very rarely elected to the executive. With the Conservative party in government no one was protective of their own party interests. The second major change to affect NAC directly was in the composition of its executive body. The 1980s saw the organization expand considerably to include representatives from all regions of the country, but there was also increasing membership on the executive from more left-oriented women, trade unionists, and women from minority groups. The greater representativeness on the executive meant more sympathy for action which was critical of existing structures.

The move towards dealing with broader economic issues initially focused on the tremendous social upheaval which occurred in the depression period of the early 1980s. Unemployment rates were the highest they had been since the depression of the 1930s. In 1983 and 1984 the official figures indicated that unemployment rose to over 20 per cent in Newfoundland and hovered between 13 and 15 per cent in other Atlantic provinces, British Columbia, and Quebec. Even Ontario, which traditionally does much better than other provinces, had unemployment rates over 10 per cent." At the same time, interest rates rose to 23 per cent. The government's dogged insistence on

fighting inflation at a time when international economic pressures were severely damaging the Canadian economy simply compounded the problem. Women were hit particularly hard as their unemployment rates soared and they were forced to take up the slack in social programs." The women's movement joined in the condemnation of government economic policy and called for full employment policies and lower interest rates.

In the early 1980s the Liberal government initiated the Royal Commission on the Economic Union and Development Prospects for Canada. The commissioners travelled the country eliciting presentations from various community and business groups on the state of the economy. The responses were predictable: the popular sector called for greater government direction in the economy to eliminate what were considered the most pressing problems - high unemployment and poor provision of social services.<sup>7</sup> The business community called for greater reliance on the private market mechanism and government intervention in controlling inflation. The report of the commission, which was published in 1985, clearly reflected the views of business." Its major recommendations centred on a greater reliance on the market mechanism, primarily through a free trade agreement with the U.S. It also recommended increased privatization of publicly owned enterprises and drastic changes in social services systems. This report has been the blueprint for government policy since it was produced.

NAC had been alarmed by the previous discussions on free trade that had taken place during the 1984 election, primarily because of the adverse effect free trade was likely to have on the manufacturing industries where immigrant women were concentrated. It held a series of discussions on the impact free trade was likely to have on women, although at this point the overall implications were fairly sketchy. Since the Progressive Conservatives, who had won the 1984 election, had indicated that pursuing a free trade agreement with the U.S. was tantamount to economic and political suicide for Canada, it appeared that the issue would be dropped. However, very strong pressure from the international business interests was successful in gaining Tory support for pursuing this initiative.

NAC had aroused considerable interest in its economic positions by the time the Royal Commission's report was published, primarily through the economic statement prepared by the NAC executive and read by its president at the Economic Summit sponsored by the government in early 1985. This hard-hitting analysis was widely publicized. Earlier efforts of NAC during the 1984 election to obtain a debate on women's issues between the contestants for prime

minister were successful and added to the public credibility of the organization. Also, NAC had received considerable attention for its criticism of federal budgets. Altogether, the organization had established itself as credible on economic issues with other popular sector groups.

The response to the report of the Royal Commission (known in Canada as the Macdonald Report) was swift. In its publication *The Macdonald Report and its Implications for Women*, NAC strongly criticized the recommendations related to changes in economic and social programs, arguing that women would be most adversely affected by these changes.<sup>9</sup> This launched a major campaign against the free trade agreement which was taken up by women's groups across the country. Free trade was perceived as a major policy shift on the part of the Canadian government towards a much stronger reliance on international market forces to shape the economic and political direction of the country. It was viewed as being closely related to other government initiatives to privatize crown corporations and aspects of social services and to deregulate transportation and communication systems.

From 1985 to 1988, NAC and other women's groups researched the impact these initiatives would have on women and pursued extensive public education campaigns to communicate this information to women throughout the country. The first issue to receive attention was the attempts by the government to deregulate the telecommunications industry, an attempt which was successfully thwarted for a time. Then the issue of privatization grabbed public attention as the discussion of Air Canada and Canada Post raged. But as the negotiations began with the u.s. on a free trade agreement, this issue became paramount.

The intent of this essay is not to explain why free trade will be so damaging to women and to Canadians in general, but to indicate that it was an issue which could not be ignored by the women's movement because it threatened everything we had worked for in the past.") One of the major contributions which the women's movement made to an understanding of the implications of this initiative was not simply what it would mean for women themselves (although this was certainly important), but what it would mean for the services sector altogether. The effect on services had simply not been a feature in the discussion on free trade until the feminist analysis introduced it. Actually, many issues in the free trade debate were ignored until women took them up: the impact on manufacturing industries where women worked; the impact on consumers. As women's groups became more familiar with trade issues, they quickly applied

this knowledge to their own area of expertise. Nurses, teachers, public health workers, social workers, farmers, environmentalists, immigrant women's groups, child-care advocates, and women in the peace movement analysed the impact of free trade in these areas.

Women also organized for action. They published pamphlets, presented briefs to provincial, local, and federal governments. They organized rallies, conferences, and demonstrations. They wrote articles for local and national newspapers and were frequently on the airwaves condemning the move towards free trade. They became conversant with obscure international trade law and its language: words like "countervail duty" became a normal part of their language. They also participated in coalitions with other groups to an unprecedented extent.

NAC was instrumental in organizing many of these coalitions on the national and provincial level." The first association of over thirty groups was convened in Toronto by NAC in November 1985, and it was a prominent participant in the national coalition, the Pro-Canada Network, which began in March 1987. While the coalition work was not without difficulties, particularly in the early stages when male-oriented groups attempted to dominate the coalitions, feminist assertiveness prevailed, and, in most (though not all) cases, the coalitions functioned well. One of the most interesting documents to come out of this period of action was the declaration on social and economic policy directions for Canada, *A Time for Social Solidarity*.<sup>12</sup> This was a statement produced jointly by NAC, the Canadian Labour Congress, the Confederation of Canadian Unions, the Confederation des syndicats nationaux, the Canadian Conference of Catholic Bishops, and the United Church of Canada; it was the first time any such joint statement had been attempted. It began a process of analysing the causes of the current socioeconomic crisis and identifying alternative economic and social policy directions.

While initially the government ignored the whole issue of women and free trade, ultimately it became alarmed by the polls which showed that women's opposition to the agreement was enormous and had grown steadily. The "gender gap" on free trade was not a minor issue. By the time of the 1988 election, the government had issued pamphlets explaining why free trade would be good for women, and the minister responsible for the status of women took to the airwaves with the same message. Economists working for the government went to great lengths in public debates to explain that they knew what was really good for us and that the women's movement was very narrow in its understanding of economic issues. Women were not convinced.

The 1988 election was fought on the free trade issue and the anti-free trade forces lost. There were many reasons for this result, not least of which was the massive spending on the part of business to promote free trade during the last two weeks of the election campaign. The implications of free trade began to be felt immediately, including a series of plant closures, mega-mergers, and the granting of bank status to American Express. But the finance minister's first free trade budget in the spring of 1989 was probably the most important indication of changes in the economic and social systems in Canada. Almost all government cutbacks and regressive initiatives are now presented as a necessity in light of our need to make Canadian business competitive in international markets. The budget was an attack on the universality of social programs, the cultural community, regional development programs, public ownership, unemployment insurance, foreign aid, and advocacy groups. NAC, by the way, had its funding cut by 50 per cent between 1989 and 1992.

There have been positive results from the women's movements attempts to combat macho-economics. We did not win, but we scared them. The drastic reduction in NAGS funding is probably the most flattering evidence of this. We are becoming effective and are a serious threat to the way government and business want to rule this country. We have gained strength by expanding our collective analytical abilities to encompass areas usually the preserve of specialized economists.

The efforts of the women's movement to influence the Canadian economy have raised issues in a new way. But what is especially clear is that the women's movement will have to continue to develop its analysis and action of broad economic issues. We will continue to develop our understanding of why one of the intrinsically richest nations in the world has such deep-seated structural problems and find ways in which these can be solved.

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## 18 Affirmative Action and Women's Rights in the Reign of Chief Justice William Rehnquist

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<sup>1</sup> I am humbled by the task of addressing the current state of sex discrimination and women's rights law in the United States, not only because of its complexity, but because there are probably as many different views to hold on sex discrimination and women's rights as there are civil rights lawyers - a notoriously contentious bunch - to take them. My account, consequently, will be impressionistic, and naturally will highlight those issues that I find particularly wrenching politically or intriguing intellectually.

This essay will discuss two interlocking subjects: first, affirmative action as a legal concept and a social practice in the United States: how its underlying principles have been misunderstood by large segments of the public and most recently and dramatically by our Supreme Court. Secondly, I will treat the debate over what has come to be abbreviated among feminists in the United States as "sameness" versus "difference." Should the law and the marketplace act in purely gender-neutral fashion, treating women as "similarly situated" to men, even when in reality - whether biological or cultural reality - most of us simply are not? Or should differences be recognized and accommodated in the service of a truer equality and, if so, how do we distinguish between necessary acts in accommodation of difference and what justice William Brennan of the U.S. Supreme Court dubbed "romantic paternalism," which places women "not on a pedestal, but in a cage"?

Let me start by defining terms. In the United States, affirmative action means many things to many people. Perhaps most commonly

- might be noted that if their objection is sound, the fear that comparable worth would disrupt the economy is not likely to be justified.
- 17 Barbara R. Bergmann, "Why Wage Realignment under the Rubric of 'Comparable Worth' Makes Economic Sense," in Heidi I. Hartmann, ed., *Comparable Worth: New Directions for Research* (Washington, Dc 1989).
  - 18 Treiman and Hartmann, *Wouten, Work, and Wages*.
  - 19 Ronald G. Ehrenberg and Robert S. Smith, "Comparable Worth in the Public Sector," National Bureau of Economic Research, Working Paper no. 1471, 1984.
  - 20 Paula England, "Explanations of Job Segregation and the Sex Gap in Pay," in *Comparable Wealth: Issue for the 80's*. A Consultation Paper of the U.S. Commission on Civil Rights, 1984.
  - 21 Donald J. Treiman, Heidi I. Hartmann, and Patricia A. Roos, "Assessing Pay Discrimination Using National Data," in Helen Remick, ed., *Comparable Worth and Wage Discrimination: Technical Possibilities and Realities* (Philadelphia 1984).
  - 22 Robert Gregory and Vivian Ho, "Equal Pay and Comparable Worth: What Can the U.S. Learn from the Australian Experience?" Australian National University, Centre for Economic Policy Research, Discussion Paper no. 123. Further evidence that higher wages for women do not have a negative effect on their employment is provided by Sweden, tile country with the smallest earnings gap, where the ratio of women's to men's hourly earnings is 90 per cent, and 66 per cent of women are in the labour force. It is interesting, however, that an unusually large proportion of these women work part-time, providing support for the conclusion of Nakamura and Nakamura that higher wages do not necessarily increase the amount of labour supplied by women (Alice Nakamura and Masao Nakamura, "Predicting the Effects of Comparable Worth Programs on Female Labour Supply," unpublished paper, April 1988).
  - 23 One reason for this may be that there appears to be little substitution in the labour market between women workers and mature men, though there is some between part-time women workers and young men. Maureen Pike, "The Employment Response to Equal Pay Legislation," *Oxford Economic Papers* 37, no. 2 (June 1985): 304-18.
  - 24 Joseph Pleck and James Levine, *Research Report 4*, no. i (Fall, 1984).
  - 25 F Thomas Juster, 'A Note on Recent Changes in Time Use," in F Thomas Juster and Frank P. Stafford, eds., *Time, Goods, and Well-Being* (Ann Arbor 1985).

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- 1 *Report of the Royal Commission on the Status of Winner: in Canada* (Ottawa 1970).
- 2 Interview with Madeleine Parent.

- 3 Lorna R. Marsden, "The Role of the National Action Committee on the Status of Women in Facilitating Equal Pay Policy in Canada," in Ronnie Steinberg Ratner, ed., *Equal Emplo\_ynrent Policy for Wouten: Strategies for Implementation in the United States, Canada, and Western Europe* (Philadelphia 1980), 242-60.
- 4 Gail C.A. Cook, ed., *Opportunities for Choice: A Goal for Women in Canada* (Ottawa 1976).
- 5 Statistics Canada, *Historical Labour Force Statistics* (Ottawa 1988), cat. 7201.
- 6 Pat Armstrong, *Labour Pains: Worren's Work in Crisis* (Toronto 1984).
- 7 Duncan Cameron and Daniel Drache, eds., *The Other Macdonald Report* (Toronto 1985).
- 8 *Report, Royal Commission of the Economic Union and Development Prospects for Canada* (Ottawa 1985).
- 9 Marjorie Cohen, *The Macdonald Report and Its Implications for Women* (Toronto, NAC 1985).
- 10 For an analysis of the impact of free trade on women, see Marjorie Cohen, *Free Trade and the Future of Women's Work: Manufacturing and Services Industries* (Toronto 1987).
- i 1 For an analysis of NAC'S political action on fire trade, see Sylvia Bashevkin, "Free Trade and Canadian Feminism: The Case of the National Action Committee on the Status of Women," *Canadian Public Policy* 15, no. 4 (1989) 363-75.
- 12 Canadian Labour Congress et al, *A Time for Social Solidarity* (Toronto 1987)-

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- 1 *Frontiero v. Richardsorr*, 411 U.S. <sup>6</sup>77. <sup>6</sup>84 (1973)-
- 2 *City of Richmond v. J.A. Croson Company*, 109 S.Ct. 706 (1989).
- 3 *Ibid.*, 713, 728.
- 4 *Ibid.*, 720-23, 728.
- 5 *Ibid.*, 723-28.
- 6 *Ibid.*, 714.
- 7 *Harris v. McRae*, 448 U.S. 300, 348 (1980) (Blackmun, J., dissenting), quoting *Beat v. Doe*, 432 U.S. 438, 462 (1977) (Blackmun, J., dissenting). *Ilaris*, like *Beat* before it, upheld the constitutionality of laws excluding payments for abortions from otherwise comprehensive medical assistance plans for tile poor.
- 8 See *Craig v. Boren*, 429 U.S. 190, 204 (1976).
- 9 *Weinberger v. Wiesenfeld*, 420 u.s. 636, 648 (1975).
- 10 For a general description of the background of affirmative action, see Marjorie Heins, *Cutting the Mustard: Affirmative Action and the Nature of Excellence* (Winchester, MA 1988), 14-19.