

Parallel report by Lawyers Without Borders Canada

As part of the CEDAW Committee's review of
Canada's implementation of the Convention on the
Elimination of All Forms of Discrimination against
Women (CEDAW)

September 9, 2024



I. Introduction

[Lawyers without Borders Canada \(LWB Canada\)](#) is a non-governmental international cooperation organization that, for more than 20 years, has contributed to the implementation of the human rights of vulnerable people by strengthening access to justice and legal representation.

Today, the organization employs more than 150 agents of change and dozens of partners. We are involved in eight major international cooperation programs in Honduras, Guatemala, El Salvador, Colombia, Haiti and Mali. Activities are also implemented in the Democratic Republic of Congo, Senegal, Benin and Burkina Faso. We work closely with local partners in the countries where we operate to ensure that victims of serious human rights violations receive justice. With a feminist approach, we work with our partners to generate a change in the power dynamics involved in accessing, offering and administering justice, in order to work towards more inclusive justice.

[By ratifying the Convention on the Elimination of All Forms of Discrimination against Women \(CEDAW\)](#) in 1981, Canada committed itself to removing the obstacles that prevent women from achieving full gender equality.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an instrument of international law that obliges States Parties to adopt effective measures to combat all forms of discrimination, create a legal framework conducive to gender equality, and take active steps to promote women's rights in all aspects of society.

All States parties to the Convention are required to submit periodic reports to the [Committee on the Elimination of Discrimination against Women \(CEDAW Committee\)](#), a committee of independent experts responsible for monitoring implementation of the Convention. The Committee examines States' reports, raises concerns and makes recommendations to States parties. To enhance the discussion and evaluation of the implementation of States Parties' obligations, civil society organizations are invited to submit parallel reports outlining their views on the implementation of the articles of the Convention.

Lawyers Without Borders Canada is pleased to participate in this process by submitting this report containing a number of recommendations to the Canadian government for greater compliance with its international commitments.

1. Improving access to specialized justice

a) Specialized courts

In Canada, there is no court specializing in gender-based discrimination and violence, with the exception of the Quebec government's pilot project to set up a new [court specializing](#) in sexual and domestic violence.

Canadian courts show shortcomings in dealing with gender-based violence. Victims denounce a lack of adequate protection, risks of revictimization and inadequate sentences.

Several of the CEDAW Committee's recommendations recall the obligation of States to implement adequate institutional measures, allocate appropriate budgets, create monitoring mechanisms and fund competent courts, as well as guarantee accessible, affordable and appropriate services to protect women against gender-based violence and prevent its recurrence, while ensuring the funding of reparations for victims.

The Inter-American Commission on Human Rights (IACHR) recommends the creation of specialized courts, particularly for cases of femicide and gender-based violence. Such courts would improve access to justice for women, speed up the processing of cases and ensure a better understanding of the dynamics specific to these types of violence.

Recommendation 1: In order to combat gender-based discrimination and ensure effective access to justice, Canada must ensure that specialized courts are set up across the country to provide adequate support for victims of gender-based violence. These courts should follow a victim-centered approach and adjudicate cases from an intersectional gender perspective. In addition, integrated and adapted [psychosocial and judicial services](#) need to be made available, notably through training for those involved in the justice system.

b) Training for judges

ASF Canada applauds Canada's efforts to educate justice officials about sexual violence, noting that the Canadian Judicial Council emphasizes the importance of judges understanding the social context of those before their courts. ASF Canada also welcomes the *Act to amend the Judges Act and the Criminal Code*, which requires ongoing training in sexual assault law for candidates for judicial office. However, this training is incomplete and does not address the issue of gender-based discrimination in an intersectional manner.

CEDAW recommendations highlight the need to adopt an [intersectional approach](#) in implementing the Convention. This approach takes into account the identity and situational factors of a person in a vulnerable situation, in order to identify the combination of different forms of discrimination. [Canadian jurisprudence](#) has also confirmed the need to take into account interrelated grounds of discrimination when applying [section 15 of the Charter of Rights](#).

Recommendation 2: Canada must increase its efforts to better respond to the needs of victims in an inclusive way, by integrating an intersectional perspective into judicial training. In this way, justice actors will avoid [gender stereotypes](#) being perpetuated in the judicial process, which prevents victims from obtaining justice.

2. Ensuring the accountability of Canadian companies abroad, particularly with regard to gender-based violence

The Impact Assessment Act (IAA), which applies to projects carried out abroad, enables federal authorities to assess adverse environmental effects, including impacts on the health, social and economic conditions of populations. However, in order to truly reduce the socio-economic impacts on women, we need to look at the activities of Canadian companies abroad, which fall outside the scope of this law.

The Concluding Observations on Canada's eighth and ninth periodic reports ([CEDAW/C/CAN/CO/8-9](#)) had already expressed these concerns, pointing out the inadequacy of Canada's legal framework to ensure that its companies are held accountable for violations of women's rights. Recommendation no. 35 of the CEDAW recalls the obligation of States to take all appropriate measures to eliminate gender-based discrimination, in particular that arising from companies operating abroad over which they may exercise control.

Recommendation 3: Canada should take into account the recommendations made by the Special Rapporteur on Contemporary Forms of Slavery, including its Causes and Consequences, to strengthen the mandate and independence of the [Canadian Ombudsperson for Responsible Enterprise](#), the body responsible for reviewing complaints concerning possible human rights violations committed by Canadian companies working abroad. This ombudsperson should have the ability to require companies to present all relevant evidence and call witnesses under oath, particularly in cases of gender-based discrimination and violence. Such a strengthening will help to ensure the accountability of Canadian companies, and concrete access to justice for their victims.

3. Sexual and reproductive rights

a) Access to abortion

Canada's Report to the CEDAW Committee notes that access to surgical abortions can require extensive travel, and that some women and people with the capacity to become pregnant have difficulty finding a doctor willing to prescribe a medical abortion, particularly in rural and remote areas.

The right to abortion is indirectly enshrined in Article 12 of CEDAW. This right includes both physical and economic access to abortion procedures. Access to other rights depends on the enjoyment of the right to abortion, as recalled by the [CEDAW Committee](#)'s working group.

Recommendation 4: Canada should adopt measures to ensure that all women and people with the capacity to become pregnant, regardless of where they live, can benefit from reproductive health services, by eliminating administrative, geographical and financial barriers, including the introduction of mobile clinics and telemedicine for prescribing the abortion pill.

b) Sexual and gender diversity rights

In recent years, some Canadian provinces have taken a step backwards in terms of gender equality in the education system. We understand that education is a provincial responsibility. However, given the worrying setbacks, Canada should ensure that it respects its international obligations.

For example, Manitoba has sought to ban books on sexual and gender diversity, while New Brunswick and Saskatchewan have adopted new policies on parental rights in schools, aimed at limiting the use of pronouns corresponding to students' gender identity.

The CEDAW Committee's General Recommendation No. 36 on girls' and women's right to education reiterates the obligation of States to guarantee the right to education, by eliminating stereotypes and gender-based discrimination, in particular against people of gender diversity, and by implementing initiatives to remove obstacles to their access to education.

Recommendation 5: To ensure that all people can fully enjoy all their human rights, Canada must ensure that discriminatory policies and laws are repealed, and that no new legislation with discriminatory effects is adopted, in accordance with the principle of equality.

4. Trafficking in women and girls

Canada has a National Strategy to Combat Human Trafficking, which includes an empowerment pillar aimed at integrating "the views of victims and survivors...".

Legal empowerment is a strategy aimed at improving access to justice and enhancing respect for the human rights of victims. It represents a process of systemic transformation through which people in vulnerable situations acquire knowledge about their rights and the mechanisms of justice, so that they can make better use of them.

A [report by the House of Commons Standing Committee on Justice and Human Rights](#) points out that this principle could be strengthened in criminal matters, not least because, under the current system, victims have only an "observational" role in trials, are not informed of their rights, and "are often re-traumatized".

Another [Report, from the Standing Committee on the Status of Women](#), recommends that Canada ensure the full and effective participation of trafficked women and girls, particularly those from vulnerable groups and Aboriginal women, in the development of initiatives, intervention measures and public policies against human trafficking. This recommendation echoes Recommendation no. 38 of the CEDAW Committee and UN Security Council Resolution 1325.

Recommendation 6: Canada should take steps to raise awareness of victims' rights among justice professionals, to ensure greater participation and consideration of victims' interests in criminal proceedings. This awareness-raising should also aim to reduce the risk of revictimization. In terms of empowerment and awareness-raising, Canada should draw inspiration from and replicate the *Les Survivantes* program developed by the *Service de police de la ville de Montréal*. The aim of this program is to work with survivors of sexual exploitation, in particular to raise the awareness of players who may be called upon to intervene in their care. This is part of a holistic approach aimed at developing appropriate tools, training specialists and collaborating with the community.

5. Violence against women

a) Improving care for victims of gender-based violence

Legal aid and legal assistance are pillars of a fair criminal justice system and essential to the enjoyment of human rights, including the right to a fair trial. To meet the needs of victims, this legal aid must adopt a holistic perspective that includes multi-sectoral support tailored to their needs. This means taking into account the vulnerability factors of each beneficiary.

The Canadian Bar Association has asserted that lack of access to legal aid and assistance disproportionately affects women. Following the 2008 Concluding Observations of the Committee on the Elimination of Discrimination against Women on Canada ([CEDAW/C/CAN/CO/7](#)) and the United Nations [Principles and Guidelines on Access to Legal Assistance in the Criminal Justice System](#), Canada must ensure that all women, particularly those from vulnerable groups, have access to effective and specific legal aid or assistance for victims of gender-based discrimination and violence.

Recommendation 7: Canada should set up access-to-justice centers accessible to all women, regardless of their financial situation, offering a wide range of legal, social and judicial services.

b) Countering violence in the private sphere

Intimate partner violence and family violence are major problems in Canada, as highlighted by a [Report of the Standing Committee on the Status of Women](#). This phenomenon has been exacerbated by the COVID-19 pandemic.

Domestic violence, although not explicitly mentioned in CEDAW, is one of the forms of discrimination it seeks to combat. This is made clear in General Recommendation no. 19 and General Recommendation no. 35. Furthermore, the CEDAW Committee, in its [General Recommendation no. 18](#), invited States to include references to discrimination against women with disabilities in their periodic reports, as these women are more exposed to domestic violence.

Recommendation 8: Canada should take steps to protect women from domestic violence, particularly women with disabilities. This includes not only financial assistance to shelters and allowances, but also equipping housing adequately with the needs of disabled women, establishing on-site psychological support, and personal assistance services to meet the specific needs of survivors.

c) Countering femicide and trans-femicide

Deploring the absence of the concepts of "Femicide" or "Transfemicide" in the Canadian Report to the CEDAW Committee, ASF Canada points out that in 2022, 20 countries of the Organization of American States had introduced femicide into their legal framework, which is not the case for Canada, despite calls from several organizations, including the [Canadian Femicide Observatory for Justice and Accountability](#).

Although femicide is not explicitly prohibited by CEDAW, the latter does aim to combat this form of violence, which is the most serious form of gender-based violence. Indeed, the CEDAW Committee's General Recommendation No. 19 recognizes that States must combat all forms of gender-based violence, including those that violate the right to life.

Furthermore, a 2023 [Juristat study](#) notes that some women in Canada are more likely to experience violence, particularly Aboriginal and trans women, due to intersectional discrimination that increases their vulnerability. The [Vicky Hernandez case](#) before the Inter-American Court of Human Rights defined transfemicide as "murder motivated by prejudice or hatred because of a trans woman's gender identity and expression". In this case, the Court considered that special measures should be adopted to guarantee the rights of people of sexual and gender diversity.

Recommendation 9: Canada should incorporate the concept of femicide into its *Criminal Code*. Including [femicide](#) as a separate offence would enable the law to better grasp gender-based murder and help raise public awareness of its seriousness. It would also shed light on the [root causes](#) leading to this crime, such as gender inequality and discrimination, which are often obscured by the neutral term homicide. In addition, Canada should draw inspiration from the [Act on the Prevention, Punishment and Eradication of Femicide](#), adopted by the Committee of Experts of the Belém do Pará Convention, which sets the highest standards for the protection of women, as well as the [Protocol developed by the Office of the High Commissioner for Human Rights and UN Women](#), which provides guidelines for the effective investigation of femicide, in line with international standards. Canada should also adopt measures that explicitly combat trans-femicide, to guarantee the fundamental rights of all women, in all their diversity.