

A Culturally Relevant Gender Application Protocol

Background

For the general Canadian population, gender based analysis (GBA) originated in the 1970s when public policy began to reflect women's rights, particularly in regard to issues of pay/work equity¹ and sexual assault/harassment. The Status of Women Canada has recognized that the treatment of women and men identically does not produce similar outcomes, because women and men occupy different socio-economic statuses and experience different living conditions.²

GBA is intended to establish equitable, inclusive approaches to policy development with goals of creating equal outcomes between genders (including health, social and economic outcomes). GBA views women in relation to men in society rather than in isolation. Viewing women in isolation has generally meant the marginalization of their realities in public policy development. GBA is a tool that offers policy makers an accountability process by helping them determine if allocated resources are reaching the intended populations.³

Good public policy requires an account for differing conditions and circumstances within a given population.

Although there have been improvements in the status of women since the 1970's, Canada's continued noncompliance with international protocols calling for the use of GBA tools allows gender disparities in the health, social, and economic sectors to persist. These disparities are magnified within the Aboriginal population. Aboriginal women's identity - their gender and their culture – are doubly marginalized by the interlocking effects sexism and racism. As such, mainstream GBA frameworks are not adequately equipped to account for the cultural identity of Aboriginal women.

¹ Traditional male jobs were assigned a higher value economically and societal, than traditional "women's work" like nursing or babysitting.


² Canada, Status of Women Canada, *Setting the Stage for the Next Century: The Federal Plan for Gender Equality* (1995) online at http://www.swc-cfc.gc.ca/pubs/066261951X/199508_066261951X_e.pdf

³ Ibid

Conventional GBA frameworks can be useful tools of change in triggering mainstream researchers and policy analysts to consider whether the policy or research at hand supports full participation and equality for women and men, and whether it discriminates against women or men in its outcomes. However, in order to adequately and respectfully address the unique needs and circumstances of the Aboriginal female population, GBA requires a cultural framing that reflects Aboriginal ways of knowing, Aboriginal histories (both pre and post contact), and contemporary Aboriginal realities in Canada.

The CR-GAP examines how socially constructed identity has shaped the cultural, economic, social, and political status of Aboriginal people. Canada's institutions claim to be value free but continue to reflect a male construction of reality.⁴ The implementation of colonialism through sets of male-created and male-centered values and practices has and continues to inform the institutions, laws, and policies that have deeply affected the health and well-being of Aboriginal women.

Aboriginal women are a vibrant and highly diverse population, though we share a common legacy of marginalization and oppression. Unfortunately, the needs and concerns of Aboriginal women have received scant attention from the Canadian state, broader Canadian society and Aboriginal male leadership.⁵



This paper and workbook introduces a foundation of knowledge related to Aboriginal women's histories, experiences, and realities.

This foundation of knowledge is intended to create changes in attitude and behavior toward Aboriginal women.

⁴ Professor Ann Scales notes that men have had the power to "to create the world from their own point of view, and then, by a truly remarkable philosophical conjure, were able to elevate that point of view into so-called 'objective reality'." Further, "in law, the issues that preoccupy women are all issues that emerge out of a male-defined version of female sexuality. Abortion, contraception, sexual harassment, pornography, prostitution, rape, and incest are 'struggles with our otherness' that is, struggles born out of the condition of being other than male." (Ann Scales, "Militarism, Male Dominance and Law: Feminist Jurisprudence as an Oxymoron?" (1989) 12 Harv. Women's L.J. 25 in Sherene Razack, "Speaking for Ourselves: Feminist Jurisprudence and Minority Women" (1990-1991) 4 Canadian Journal of Women and the Law 440 at 441.)

⁵ Aboriginal Women in Canada: Strategic Research Directions for Policy Development, Madeleine Dion Stout and Gregory D. Kipling, March 1998

Introduction to NWAC and the CR-GAP


The Native Women's Association of Canada (NWAC) works to advance knowledge related to culture and gender by promoting the perspectives of Aboriginal women. All of NWAC's work is grounded in the teachings of gender and cultural connection and the principles of balance and equilibrium.

NWAC's role representing in Aboriginal women includes the implementation of education and awareness raising initiatives in an effort to mobilize shifts in societal attitude. The culturally relevant gender based analysis (CRGBA) is a natural, inherent way in which we, as Aboriginal women perceive and interpret information. It has become apparent, however, in working with government and other stakeholders on the application of CRGBA, that there are significant gaps in knowledge about Aboriginal women's realities generally, and CRGBA specifically. In response, we have worked to develop a versatile, universally accepted way to more easily facilitate the application of CRGBA through the ***Culturally Relevant Gender Application Protocol, or CR-GAP***. The objective in creating this tool was to establish a simple mechanism to incorporate culture and gender perspectives into existing policy development processes.

There are severe, deep-seated gender and cultural biases within the systems of Canadian society and very little knowledge of the overwhelmingly detrimental results experienced by Aboriginal women. A key aspect of the long term vision of this work is to create shifts in attitudes and behaviors toward Aboriginal women. Shifting societal attitudes is an ambitious goal, but essential to transforming pathologizing narratives that attribute Aboriginal women's poor socio-economic and health status to personal choice or behaviours.

CRGBA and the CR-GAP have an important role in helping to make visible the multiple systemic and structural factors (both historic and contemporary) that impact the health and well-being of Aboriginal women. This is meant to create more responsive systems and processes of policy and decision-making that are actively engaged in undoing practices that marginalize and disconnect the health of the individual from that of the collective.

Development of a tool that is meaningful and effective for Aboriginal women requires that we take into account distinctive constitutional safeguards of their rights.



Violence is perpetuated through apathy and indifference towards Aboriginal women, and stems from the ongoing impacts of colonialism in Canada.

*NWAC, Sisters in Spirit
2010 Research Findings*

Section 35(1) of the *Constitution Act, 1982*⁶ recognizes and affirms the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada, including the Indian, Métis and Inuit peoples.

Section 35(4) of the *Constitution Act, 1982* provides that notwithstanding any other provision, the Aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons. This is a fundamental constitutional recognition of the equality of Aboriginal women, and we find a similar fundamental acknowledgment of that equality in the *Charter of Rights and Freedoms*.⁷

Section 25 of the *Charter of Rights and Freedoms* prevents the guarantees of the *Charter* from detracting from Aboriginal treaty and other rights and freedoms; section 25 is subject to section 28 of the *Charter*, which provides that all *Charter* rights are guaranteed equally to women and men. Thus, the Aboriginal rights protected by section 25, like those protected by section 35(1), must be made available on an equal basis to women.

Not only do sections 35(4) and 28 protect the position of Aboriginal women within Aboriginal polities, but section 15 of the *Charter* guarantees that Aboriginal women cannot be discriminated against vis-à-vis non-Aboriginals. For Aboriginal women, the development of a culturally relevant gender based analysis is therefore a constitutional obligation.

Guiding Principles⁸

The health and socioeconomic outcomes of Aboriginal women in Canada underscore the need for policies (in both Canadian and Aboriginal societies) that better reflect the unique realities and needs of Aboriginal women. Aboriginal women in Canada experience the highest rates of chronic illness, mental health issues, and spousal abuse, and are at higher risk of succumbing to alcohol and substance abuse as a result. They have higher rates of unemployment, poverty, incarceration, and victimization compared to any other sector of the Canadian population. Aboriginal women are five times more likely than other Canadian women to die as a result of violence.

⁶ *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11

⁷ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11

⁸ These Guiding Principles were gleaned from a paper entitled, *Culturally Relevant Gender Based Analysis and Assessment Tool*, NWAC, 2008


The substantial challenges and unique life experiences and perspectives of Aboriginal women must play an important role in policy development and decision making processes regardless of what issue the policy addresses (i.e. issues of health, economic and labour development, child welfare, etc), or whether it targets Aboriginal women directly or impacts them indirectly.

The CR-GAP is guided by the following four principles:

- 1 – The CR-GAP will revitalize the *value of Aboriginal women's roles* within Aboriginal and non-Aboriginal society and reconnect race and gender to positively impact health and healing;
- 2 – The CR-GAP reflects cultural values and practices, highlighting the principles of *balance and equilibrium*, with gender being one component of balance;
- 3 – The CR-GAP *complies with the laws of the Creator*, Aboriginal world view and law, inherent right, Constitutional and International law; and
- 4 – The CR-GAP captures the *diversity and different circumstances* of Aboriginal women based on their distinctive cultures and cultural practices.

Colonial laws and policies targeted Aboriginal women's roles as family anchors. The close link between women and the land made Aboriginal women immediate targets in the land acquisition efforts of colonizers. Prior to colonization, Aboriginal women commanded the highest respect in their communities as the givers of life, the keepers of the traditions, practices, and customs of the nation. The sacred status of women was linked to their capacity to bring new life into the world. Women were revered for creating new life and by extension creating new relationships with the Creator.

Prior to contact many Nations were matriarchal however missionaries and



Aboriginal women 15 and older are three and a half times more likely to experience violence (defined as physical and sexual assault and robbery) than non-Aboriginal women

Rates of spousal assault (physical or sexual assault and threats of violence) against Aboriginal women are more than three times higher than non-Aboriginal women

Aboriginal women between the ages of 25 and 44 with Indian status are five times more likely than other women of the same age to die as the result of violence.

*Amnesty International Canada
2004, 23*

other church officials discouraged these aspects of our societies. Communities were forced to adopt European norms of male dominance and control over women.⁹ Aboriginal women were systematically driven from their rightful place in traditional societies, their marginalization institutionalized through various laws, regulations, policies and Christian edicts.¹⁰

Demeaning and demoralizing, often sexualized, portrayals of Aboriginal women were perpetuated and normalized in Canadian society, serving to sustain their oppression and seriously impacting their health and wellbeing. Perhaps the most alarming example of Aboriginal women's oppression is the astronomically high number of Aboriginal women who are missing or have been murdered.

The CR-GAP aims to *revitalize Aboriginal women's roles* within current policy and decision making processes. It seeks to illustrate how, through the revitalization of the value of gender roles, better health and social outcomes can be achieved.

The CR-GAP promotes cultural continuity, and revitalizes traditional principles of *balance and equilibrium* because Aboriginal culture teaches connection, not separation. Our nations never separated men from women. We recognized that each had unique roles and responsibilities. The teachings of creation require that only together will they provide a complete philosophical and spiritual balance.¹¹ Traditionally, the sexes functioned as cooperative halves. Roles were equally valued. Independent yet interdependent, each half worked to create the perfect whole of society. These are fundamental values to understanding the cultural context of GBA. Aboriginal law is not ordered around Eurocentric values or perceptions of what constitutes "balance". For Aboriginal women, balance is understood as respecting the laws and relationships that we have as part of *Aboriginal law* and the ecological order of the universe.¹²

CR-GAP requires that we take into account distinctive constitutional safeguards such as that found in Section 35(4) of the Constitution, guaranteeing Aboriginal and treaty rights equally to male and female persons. This is a fundamental constitutional recognition of the equality of Aboriginal women. There is

⁹ Martha Montour, "Iroquois Women's Rights with respect to matrimonial property on Indian Reserves" 4 Canadian Native Law Reporter 1 [1987]; Robert A. Williams, "Gendered Checks and Balances: Understanding the Legacy of White Patriarchy in an American Indian Cultural Context" (1990) 4 Ga. L. Rev. 1019.) Quoted from "The Historical Context" (23 April 2004)

¹⁰ See, for example, F. Pannekoek, "The Churches and the Social Structure in the Red River Area 1818-1870" (Ph.D. Thesis, Queen's University 1973) at 154-90.

¹¹ Patricia Monture-Angus, "The Lived Experience of Discrimination: Aboriginal Women Who are Federally Sentenced & The Law: Duties and Rights" (*Submission of the Canadian Association of Elizabeth Fry Societies (CAEFS) to the Canadian Human Rights Commission for the Special Report on the Discrimination on the Basis of Sex, Race and Disability Faced by Federally Sentenced Women*, (2002)

¹² Y.M. Boyer (2006), "First Nation, Métis and Inuit Women's Health – A Constitutional Analysis" Discussion Paper Series #4, National Aboriginal Health Organization and the Native Law Centre of Canada (March 2006) at p. 8

similar acknowledgement of equality in the Charter of Rights. The Constitution protects the position of Aboriginal women within Aboriginal societies, and the Charter guarantees that Aboriginal women cannot be discriminated against vis-à-vis non-Aboriginal people. For Aboriginal women, applying the CR-GAP and its principles is a constitutional obligation.

Application of the CR-GAP can be measured over time through improvements in health and socio-economic outcomes within the Aboriginal female population. It will require a fundamental shift in the way Aboriginal women are perceived, valued, and treated, and in the way their roles within family and community reflect gender and cultural consciousness.

Conclusion

The devastating effects of colonization ripple through and, in many cases, are compounded with each generation. The impacts of colonization on mental health alone have devastated families, communities, and even nations. While youth suicide is an extreme example of community-level trauma in the contemporary context, the painful loss of our youth truly reflects the magnitude of the issues we face and the urgency to develop comprehensive responses that recognize and engage the diverse strengths, skills and challenges of our communities. At the same time, we must be thoughtful and patient in our actions; restoring community health and well-being requires time, steadfast efforts and access to needed resources.

For Aboriginal women, repairing the damage of colonization requires an ongoing and collective effort to rupture systems and practices of patriarchy in order to radically transform the conditions that shape our lives and our ability to achieve positive health and socio-economic outcomes. The revitalization of the value of Aboriginal women's roles will breathe new life into our families, communities, and nations.

The CR-GAP emphasizes the need for change within processes that occur in both Canadian and Aboriginal societies. While change is understood as beginning with the individual; the overarching, long term goals of the CR-GAP can only be achieved through collective efforts to create structural and systemic change. The integration and application of CRGBA by policy and decision makers demonstrates a basic recognition of human rights. CRGBA honours the strength and agency of Aboriginal women, and acknowledges their ability to create health and well-being, not only for themselves, but their families, communities and broader society.