



Culturally Relevant Gender Based Analysis

An Issue Paper

**Prepared for the
National Aboriginal Women's Summit
June 20-22, 2007
in Corner Brook, NL**

Table of Contents

BACKGROUND.....	3
IMPACT OF COLONIZATION	4
HISTORY OF GENDER BASED ANALYSIS IN CANADA	5
IMPLEMENTATION OF GENDER BASED ANALYSIS (GBA).....	6
EXAMPLES OF THE APPLICATION OF A CRGBA	8
FUTURE WORK	13
BIBLIOGRAPHY	14

“The complex interaction of the combined factors of colonization, the spread of western-style capitalism, globalization, nationalism, and top-down and paternalistic approaches to development have provided a social and economic environment whereby indigenous women have suffered.” (Permanent Forum on Indigenous Issues, 3rd Session, 56)

Background

The intent of this issue paper is to:

- Highlight the effects of gendered discrimination against Aboriginal (First Nations, Inuit and Métis) women as perpetuated by patriarchal notions denoting the need for implementing a Culturally Relevant Gender Based Analysis (CRGBA) on all legislative, policy and program development.
- Examine current GBA legislative, policy and program implementation.
- Provide recommendations on future work needed that will ensure that CRGBA is implemented effectively.

The Native Women’s Association of Canada (NWAC) is a nationally representative political organization comprised of thirteen Provincial, Territorial Member Associations (PTMA’s). Our goal is to enhance, promote and foster the social, economic, cultural, and political well being of Aboriginal women within First Nations, Métis and Canadian societies. The founding of the NWAC in 1974 was closely tied to Aboriginal women’s struggle to overcome discriminations inherent in the *Indian Act*. NWAC now serves a broader mandate aimed at addressing all forms, causes and consequences of discrimination against Aboriginal women and their families.

NWAC works collaboratively with other Aboriginal women’s organizations to empower Aboriginal women by facilitating their participation in legislative and policy reforms that promote equality.

Beginning in early 2004 NWAC participated in the Canada-Aboriginal Peoples Roundtable discussions. Our unprecedented role at this and the following First Ministers (FMM) and Aboriginal Leaders Meeting (Kelowna) which took place in November 2005 were viewed as ‘history in the making’. Despite assurances to the contrary, violence against women and girls was not included on the FMM agenda. NWAC argued for recognition of Aboriginal women’s issues, citing difference in root causes and issues that are different from men’s issues. This highlighted the need for a CRGBA to be applied in all national policy and legislative discussions to ensure that key issues of concern regarding Aboriginal women’s equality are addressed. After thirty years of work on promoting the

rights and well-being of Aboriginal women, NWAC brings to the table an expertise in the needs, perspectives and rights of Aboriginal women that we seek to share with all other NAOs and provincial, territorial and federal governments. Although the Accord remains out of reach today, we believe it is important to continue to build on the principles coming out of Kelowna, as our success in the relationships forged throughout that process.

Subsequently, through NWAC's perseverance commitments were made to hold the National Aboriginal Women's Summit (NAWS) to address issues of violence against women and girls. We commend Premier Danny Williams of Newfoundland and Labrador for stepping forward and agreeing to co-host the first summit of its kind to specifically address violence and other interrelated issues of importance to Aboriginal women.

Impact of Colonization

In Canada, Aboriginal women and girls experience extreme marginalization and suffer from inequalities related to their social, economic, cultural, political and civil rights that breed violence, such as post-colonial structural inequalities, family violence, racialized and sexualized violence, gendered violence, poverty, lack of access to adequate housing, including the lack of access to matrimonial property rights, lack of access to justice, low education and employment rates, low health status and little or no political participation.

In the past almost all research efforts were filtered by Eurocentricism, research that was interpreted by their views rather than by Indigenous views, and based on 'Eurocentric diffusionism' (Jacobs, 2000) – built on a set of assumptions and beliefs that educated and usually unprejudiced Europeans and North Americans habitually accepted as true as supported by "the facts" or as "reality". (Battiste, Henderson 2000) Eurocentricism is characterized by patriarchal norms which had a negative impact on the status of Aboriginal women in Canadian society and within Aboriginal societies in Canada as well.

The overall effect is that Aboriginal women and girls do not receive a fair share of the benefits and opportunities enjoyed by their counter-parts as experienced in their day to day realities.

Since beginning its work in 1974, NWAC has found that the socio-economic barriers that Aboriginal women face as highlighted above have changed very little. This is reflected in the following statistics:

- Aboriginal women are three times as likely to report that they have experienced some form of violence perpetrated by their spouse and Aboriginal women run eight times the risk of being killed by their spouse after a separation. Twenty-five percent of Aboriginal women were assaulted by a current or former spouse during the 1999 General Surveys five-year period, twice the rate for Aboriginal men (13%) and three times

the rate for non-Aboriginal women and men. Violence, including sexual assault, whether inflicted by a spouse or a stranger, is one of the most fundamental transgressions of the human rights of Aboriginal women and girls.¹

- In cities, Aboriginal women are at greater risk of violence and assault than all other Canadian women, arising from racist and sexist attitudes.²
- According to Canadian government statistics, young Indigenous women and girls in Canada are at least five times more likely than all other women to die as a result of violence.³

History of Gender Based Analysis in Canada

The application of a CRGBA is key to understanding and advancing Aboriginal women's individual and collective rights, needs and issues. Women's groups have advocated for the application of gender based analysis for many years, which gradually gained acceptance by States and the international human rights community. This was formally recognized and adopted by Canada in 1995 following the World Conference on Women's Five Year Review (Beijing +5). The *2005-2010 Beijing Platform for Action* is used as a model to guide nations of the world toward greater equal opportunities for women and men and called on States to apply a gender based analysis.

In response to this call for action, the government of Canada put in place an action plan adopting a policy requiring federal departments and agencies to conduct GBA on future policies and legislation where appropriate (Status of Women Canada). During the Canada-Aboriginal Peoples Roundtable discussions, NWAC raised concerns about the extent to which the federal government has actually implemented this commitment in relation to programs, policies and legislation applicable to Aboriginal women. Further, NWAC noted that principles of substantive equality, as enunciated by the Supreme Court of Canada in its interpretation of section 15 of the *Charter*, required that the GBA be one that is culturally relevant to Aboriginal women.

The report of the Standing Committee on Status of Women (2005) outlines barriers that continue to exist toward ensuring effective implementation of GBA. These continue to hamper progress in policy making at the federal level:

- There is a lack of substantive progress in reducing gender inequalities at the federal level which leaves women in subordinated positions to men. There is a lack of compliance on the part of various departments, and a lack of political will adds to existing challenges for implementation.

¹ Statistics Canada, 1999 General Survey

² Amnesty International, 2004: *Stolen Sisters*

³ Amnesty International, 2004: *Stolen Sisters*

- Governments have publicly committed themselves to advance the status of women, such as at the following United Nations (UN) World Conferences: the International Conference of Population and Development (Cairo, 1994), the World Summit on Social Development (Copenhagen, 1995) and the Fourth World Conference on Women (Beijing, 1995) and their respective 5th and 10th year reviews. Despite these commitments, evaluations show that women have made limited advances in reducing gender inequalities at a national level, both in Canada and worldwide (Elson 2000b).

Furthermore, Canada and others who have applied a GBA have failed to do so in a way that is sensitive to the multiple needs of Aboriginal women, who suffer not only from gendered discrimination, but racism and other forms of oppression. For example, Aboriginal two-spirited women also suffer from discrimination based on their sexual orientation and women with disabilities also must deal with discrimination based on disability.

Implementation of Gender Based Analysis (GBA)

Throughout national discourse on Aboriginal Peoples, NWAC has continually brought forth the critical need for all relevant policy makers, legislators and governments (non-Aboriginal and Aboriginal alike) to apply a gender specific perspective. A Culturally Relevant Gender Based Analysis (CRGBA) must be a central element of socio-economic and political policy development, which we have applied in all of our policy development processes, proposals, briefing notes, meetings, discussions, program planning, etc.

NWAC sees culture as an evolving entity. Thus, we consider a policy implementing CRGBA to be a living process that can readily adapt to changing cultures and realities. Bill C-31, for example, was developed without appropriate consideration for the long term implications on Aboriginal women and children. Applying the CRGBA framework during the development of Bill C-31 would have flagged its discriminatory nature and perhaps made for a more effective piece of legislation if the results were heeded and/or incorporated into the revisions. The intent of this bill was clearly lost due to the lack of input by Aboriginal women.

The framework (shown on page 7) illustrates how CRGBA can be used as a tool for use in policy development and evaluation, and by decision makers. It is intended to ensure programs and services are developed in a balanced fashion, reflecting the unique needs of those populations most affected capturing the diversity of distinctive cultures of First Nation, Métis and Inuit peoples. It also allows for the real or potential impacts of programs to be analyzed in terms of their differential impacts between genders. This is a preliminary version of the CRGBA that NWAC seeks support to further develop over time.

Culturally Relevant Gender Based Analysis: Aboriginal Women

4. Strategies and Solutions:

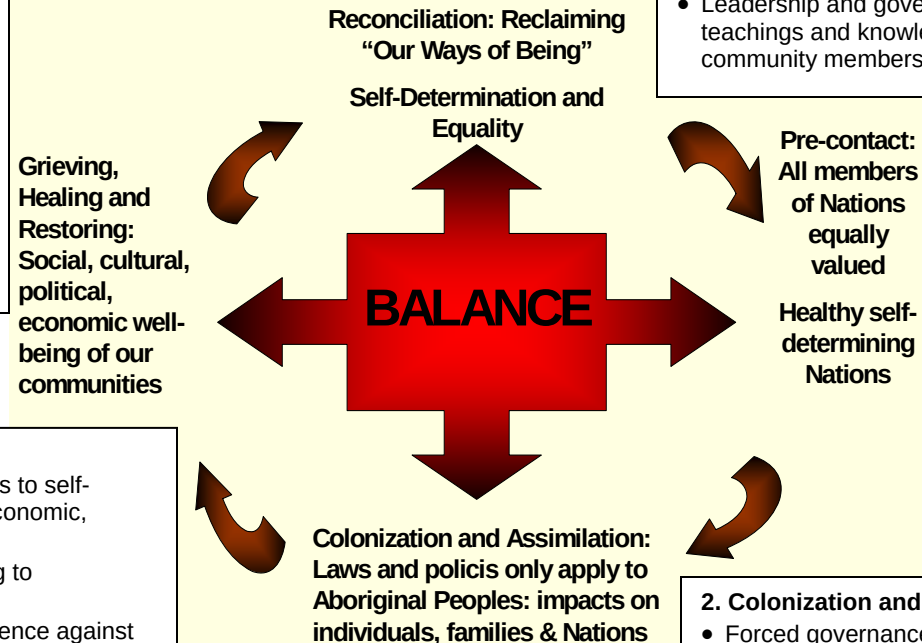
- National Strategy to end violence against Aboriginal women, which includes the Sisters in Spirit initiative and required long term plans and follow up
- National Aboriginal Women's Health Strategy
- Resolution of Matrimonial Real Property crisis
- National Child Welfare Strategy
- Repeal of S.67 with appropriate consultation and implementation strategy
- Representation of Aboriginal Women (specifically Aboriginal Women's Representative Organizations) at all relevant policy and legislative developments, including self-government and treaty negotiations.
- Use of CRGBA to review all Self-Government Agreements and *First Nations Land Management Act* agreements
- Use of GBA to review all government policies and programs, including Aboriginal government policies and programs

3. Current Realities and Area of Focus for Change

- Human rights violations in all spheres, from collective rights to self-determination, lands, resources and territories to social, economic, cultural, political and civil rights violations
- Residential school sexual, physical, mental abuses leading to intergenerational impacts
- Gendered Racism and resultant racialized, sexualized violence against Aboriginal women & girls
- Homelessness & street-involved youth
- Drug & alcohol dependencies, gang membership, and other unhealthy coping mechanisms
- Over-representation in prisons and as victims of crime
- High rates of child apprehensions, crown wards & fostered children
- Depression, mental illness, high rates of suicide
- Systemic racism (including gendered racism), poverty, unemployment, underemployment, marginalization
- Epidemic incidence of diabetes, HIV/AIDS, infant mortality & lack of access to medical services
- Legislative inequalities: i.e. Matrimonial Real Property, *Canadian Human Rights Act*
- High rates of violence against women and children, intergenerational sexual abuse, & racialized sexualized violence

1. Pre-Contact:

- Elders, children, youth, women and men were all equally important to the well-being of the Nation
- Indigenous legal traditions, laws, and values sustained communities
- Matrilineal/Matriarchal or egalitarian processes in place
- Healthy communities balancing needs of individuals, families, community and Nation
- Leadership and governance grounded in traditional teachings and knowledge, and accountable to community members



2. Colonization and Assimilation:

- Forced governance changes, often from matrilineal or egalitarian traditional governance to elected Band Chief and Council
- Application of governance system in which women had no legal status, i.e. were not considered "persons"; illegal for First Nations to access justice
- Reserve system imposed, separation from land and livelihood
- *Indian Act*, Section 12(1) (b) & Bill C-31
- Residential schools; assimilative education systems and policies; cultural genocide
- Legal suppression of culture: i.e. Potlatch and Sundance outlawed, ceremonial items taken without free, prior and informed consent
- 'Sixties Scoop' & child welfare policies
- Laws in place that specifically targeted Aboriginal Peoples

A CRGBA balances the development of policy. It provides critical insight into the current situation forcing outcomes to be more holistic and inclusive. In fact, the CRGBA approach to NAWS enables us to provide a safe environment for Aboriginal women to raise issues with the way things are done in their communities, and in society as a whole.

Women from all social, economic, political and traditional backgrounds will contribute to the framework's development. However, of particular importance is participation by Elders. Knowledge of traditional ways of being and local decision making processes is held by Elders. Participation by youth will further enhance the entire process. This approach is consistent with the concept of equality contained in the *Canadian Charter of Rights and Freedoms* (s.15) which recognizes that different treatment of women and men may sometimes be required to achieve sameness of results, because of different life conditions or to compensate for past discrimination. It is also consistent with concepts of equality pronounced in world conference outcome documents like the *2005-2010 Beijing Platform for Action* and in international treaties such as the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW). The dialogue and outcomes from the NAWS aimed at concrete measures to address violence against Aboriginal women and girls will lead to the implementation of Canada's international human rights obligations and commitments. The NAWS provides an excellent opportunity for Aboriginal women and girls to articulate their vision for finding answers based on traditional knowledge to the severe human rights violations we must address together for future generations.

Examples of the Application of a CRGBA

The purpose of applying a CRGBA, as discussed above, is to identify the unique needs, perspectives and rights of Aboriginal women, in order to be able to ensure that equality is achieved and their human rights, both collective and individual, are fully advanced. This is necessary in order to achieve the objectives of the NAWS, to develop strategies and make recommendations aimed at improving the conditions affecting the socio-economic status of Aboriginal women and their families and at building increased capacities for Aboriginal women to develop their own strategies, in collaboration with other Aboriginal representative organizations and Nations and provincial, federal and territorial governments.

The following examples of recommendations resulting from the application of a CRGBA to the particular area of concern are set out in a preliminary nature, and are by no means exhaustive. Furthermore, many of these recommendations apply to multiple issues but for simplicity's sake, they have only been placed under one category. These recommendations originate from NWAC's Companion Document, 2005 as well as from other NWAC position papers and briefing materials.

1. Health, Safety and Wellness

Violence against Aboriginal Women

1. Ensure that all governments and National Aboriginal Organizations (NAOs) work towards ensuring that Aboriginal women and girls can exercise their human right and fundamental freedom to live free from violence.
2. Make violence against Aboriginal women and girls a priority in all areas. In health, this includes providing sexual and reproductive health services, particularly sexual health education programs, HIV/AIDS awareness, education and health prevention and promotion services. In education, particularly post-secondary education, provide supports that meet the unique needs of Aboriginal women, such as child care and housing, to decrease their vulnerability to violence and increase their opportunities for economic opportunities. In housing, ensure that emergency shelters, second stage housing and transition shelters are adequately funded in areas where these services are currently not accessible to Aboriginal women.
3. In all federal/provincial/territorial funding allocations, commit to making violence against Aboriginal women and girls a funding priority for the next ten (10) years.
4. Provide funding to conduct further research to determine the most appropriate solutions to violence against Aboriginal women and girls.
5. Provide access to culturally appropriate services, such as shelters, safe houses and second stage housing, for all Aboriginal women and their children

Poverty and Child Welfare

6. Provide NWAC with a substantial increase in funding currently allocated through the Aboriginal Human Resource Development Agreement, specifically designed to meet the employment and training needs of Aboriginal women living off-reserve.
7. Ensure that resources be available to address all issues that negatively impact on Aboriginal women's well-being, including poverty, lack of housing, sexualized, racialized violence, employment, education, etc.

8. Resolve current shortages in high quality, safe, accessible, affordable housing available to Aboriginal women and their families through adequate funding for renovations and building of new units.
9. Address, particularly in urban areas, discrimination, including gendered racism against Aboriginal women and girls.
10. Assist lone parent families to address the underlying causes of poverty and violence.
11. Provide funding to Aboriginal women's groups for research initiatives to address the systemic causes of women's homelessness.
12. Investigate and adopt principles of universal design to existing homes to enable women and children with disabilities to live independent and healthy lives.
13. Investigate and adopt principles of visit ability in the construction of new homes/environments, such as schools, health clinics.
14. Ensure economic opportunities strategies consider all the socio-economic conditions that are required to create the right environment for Aboriginal women to participate in the economy. For example, child care, adequate housing, strategies to combat gendered racism and ensuring that the right and fundamental freedom to live free from violence are all factors to be considered. Existing inequities facing Aboriginal women must be removed in all sectors. This requires the application of a culturally relevant gender-based analysis.
15. Ensure the development of Aboriginal-controlled child welfare systems which are developed, implemented, monitored and evaluated with the full and effective participation of Aboriginal women's representative organizations.

Aboriginal Healing & Wellness

16. Apply a culturally relevant gender based analysis to ensure that the particular aspects of Aboriginal and Treaty rights that are gendered, such as harvesting rights traditionally exercised by Aboriginal women, are advanced through improved partnerships between the federal, provincial/territorial and Aboriginal leaders.
17. Ensure that women become full and equal partners in all research, reporting and evaluation frameworks relating to data development, ownership and control.

2. Equality and Empowerment

Recognizing Aboriginal Women's Rights

18. Protect and promote Aboriginal and Treaty rights of Aboriginal women under section 35(4) which specifically protects the equality rights of Aboriginal women.
19. Support the strong recognition of the right to self-determination at the national level, the regional level (i.e. the Organization of American States' American Declaration on the Rights of Indigenous Peoples) and the international level. This includes supporting the immediate adoption of the United Nations *Declaration on the Rights of Indigenous Peoples* as adopted by the UN Human Rights Council in June 2006. Since 2006, the new Conservative government has opposed the adoption of this Declaration, despite full support from all three opposition parties for this Declaration.

Empowering Aboriginal Women

20. Create funding parity among the NAOs. Only when NWAC is adequately resourced will there be sufficient capacity to provide culturally relevant, gender based analysis to all policy and programming discussions at the Aboriginal, federal, provincial and territorial levels.
21. Financially support NWAC and its Provincial and Territorial Member Associations in the development, implementation and monitoring of a national, long-term strategic plan for Aboriginal women in all spheres (social and economic development, etc.).
22. Understanding and implementing the equality provisions of section 15 of the Charter of Rights and Freedoms
23. Ensure that all housing proposals indicate how Aboriginal women's interests will be addressed, including the integration of equality of outcome measures between men and women.
24. Ensure that, where jurisdictional control is transferred to First Nations, Métis and Inuit communities, NWAC or other representative Aboriginal women's groups, such as Pauktuutit Inuit Women's Association, conduct research and policy development to ensure the application of a culturally relevant GBA to the development and implementation of

matrimonial real property codes, such as those currently being developed under the First Nations Land Management Initiative.

25. MRP solutions must be identified and implemented. These may be legislative and/or non legislative in nature. The recommendations made in the Ministerial Representative's report to the Minister should be used as the minimum standard or baseline for action.
26. Ensure Canadian and Aboriginal governments act in accordance with Canadian equality laws and international human rights obligations. This includes providing, in the context of violence against First Nations women living on reserve, legal recourse, such as restraining orders and an order for exclusive possession of the matrimonial home. For further details on international human rights obligations, see NWAC's Overview of International Human Rights Document.

3. Strength, Balance and Honour

Culturally relevant gender-based analysis

27. Ensure that all NAOs, non-governmental organizations, provincial, territorial, federal and Aboriginal governments apply a culturally relevant, gender-based analysis so that Aboriginal women are well served in all legislative, policy and programming initiatives affecting Aboriginal individuals and peoples.
28. Support efforts and the full participation by NWAC and other representative Aboriginal women's organizations, at all decision-making tables, to ensure that a culturally relevant, gender-based analysis is applied to all areas of partnership in policy and legislative matters.
29. Create new relationships between Statistics Canada and the NAOs, including the sharing both of data and expertise. Efforts should be made to collect disaggregated data on the basis of both gender and race combined, so that there is a clear statistical picture of the realities of Aboriginal women.
30. Ensure that education is culturally relevant and gender specific and that the unique educational needs of Aboriginal women are considered and integrated into education strategies. This includes child care supports for young mothers who are often single parents and sexual health education programs aimed specifically at Aboriginal youth with gendered components. Programs and services to support victims of violence must be adequately provided to ensure that this determinant

does not preclude Aboriginal women from attaining post-secondary education or applying this education to the labour market.

Revitalization of matrilineal/matriarchal and egalitarian systems

31. Support the capacity of Aboriginal women's groups to research and to implement strategies aimed at the revitalization of matrilineal/matriarchal and egalitarian systems

Justice System and Policing

32. Reform the criminal justice system so that it adequately addresses the over-representation of Aboriginal women, their marginalization and the related high rates of violence against Aboriginal women. The recommendations of existing reports, such as the *Stolen Sisters* report by Amnesty International, and the *Report of the Ipperwash Inquiry* (2007) should be fully implemented without delay.

Revitalizing and Strengthening Language and Culture

33. Ensure that education embraces Aboriginal distinctiveness including languages, cultures, traditions, ceremonies and territories.
34. That the federal government (as a result of the previous assimilation policies of residential school to erase Indigenous languages) must fund the revitalization of Indigenous language through programs dedicated to adults, youth and children.

Future Work

NWAC agrees with the Standing Committee on the Status of Women that the government must identify the outstanding equality gaps, address those gaps in a proactive manner and ensure that there is commitment from the highest levels to consider the differential impacts of all policies, programs and laws on men and women. The input of Aboriginal women's organizations, and NAOs should be carefully considered in finding the best solution oriented approaches to this end.

We know that this will be an uphill battle. In the past year, the federal government has taken regressive measures in reaching equality for women, through cutbacks and reducing the mandate of Status of Women Canada.

Failure to reverse this policy trend and to live up to Canada's international commitments will mean that the current gender inequalities that Aboriginal women and girls face will remain the status quo and, indeed, deepen.

It is imperative that the federal government make a clear commitment toward consistently meeting its own legal requirements, specifically section 15 of the *Charter* (equality rights) as well as section 35 of the *Constitution Act* (Aboriginal and Treaty rights) as well as many others, both domestically and internationally.

NWAC appreciates the efforts of provincial and federal departments and governments and the NAOs who have illustrated their resolve to improve the life experiences of Aboriginal women and girls in Canada. We call on all governments and interested parties to take concerted efforts to ensure that all the human rights of Aboriginal women are upheld – we know that we have a long way to go and we know that change to the disturbing status quo will only happen with the political will and concrete actions of all of us. The full development and application of a CRGBA is a necessary first step if we are to collectively achieve the vision of ensuring strong women and strong communities for all Aboriginal individuals and peoples throughout Canada.

Bibliography

1. Amnesty International Canada (2004) *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada*
2. Baden, Sally and Reeves Hazel, Gender and Development: Concepts of Definitions © Institute of Development Studies ISBN 1 8564 381 3.
3. Battiste, Marie, and Henderson Youngblood James (Sa'ke'), Protecting Indigenous Knowledge and Heritage A Global Challenge, Copyright © 2000 Marie Battiste and James [Sa'ke'] Youngblood Henderson.
4. Jacobs, Beverley, International Law/The Great Law of Peace, LL.M. Thesis, University of Saskatchewan, Copyright © 2000 Beverley Jacobs.
5. NWAC Alternative Report May 2005: Follow Up to the Sectoral Sessions, Canada Aboriginal Peoples' Roundtable (CAPR).
6. Report of the Standing Committee on Status of Women Canada 2005: Gender Based Analysis: Building Blocks For Success.