



**Convention on the Elimination
of all Forms of Discrimination
Against Women**

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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Fourth session

SUMMARY RECORD OF THE 54th MEETING

Held at the Vienna International Centre, Vienna,
on Friday, 25 January 1985, at 2.30 p.m.

Chairperson: Ms. BERNARD
later: Ms. CORTES

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The meeting was called to order at 2.40 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES (continued)

Initial reports of States parties: Canada (continued) (CEDAW/C/5/Add.16)

1. At the invitation of the Chairperson, Mr. Buckley, Ms. Bellamy, Ms. Trudeau-Bérard, Ms. Germscheid and Ms. Charlebois (Canada) took places at the Committee table.
2. Mr. BUCKLEY (Canada), introducing his delegation's replies to questions concerning Canada's initial report (CEDAW/C/5/Add.16), said that in some cases the relevant statistics were not readily available, but would be included in Canada's next report.
3. Governments at every level in Canada had taken or had committed themselves to take all necessary steps to ensure that there were no formal barriers to the elimination of sexual discrimination. However, in a democracy such as Canada, governments could not impose views or attitudes on the people but could only create the right conditions and ensure that there were no structural barriers. Real equality could be achieved only when men and women themselves accepted the concept totally.
4. Various members of his delegation would give specific answers to the various questions, which had been grouped under seven general categories: government machinery, criminal and family law, the Charter of Rights and Freedoms, human rights, social matters, employment and government priorities.
5. Ms. BELLAMY (Canada) said that it was perhaps Canada's federal system of government which had given the impression of an overwhelming multiplicity of government machinery to which many members of the Committee had referred. Since there were 13 jurisdictions in Canada, and machinery existed in each of them related to the status of women, it was not so much a question of duplication as of a reinforcement of efforts to eliminate discrimination in areas falling within each jurisdiction.
6. While Canada believed a central policy co-ordinating agency for the status of women to be essential, it was important to integrate the concerns of women directly into the departments and ministries responsible for the application of policies and programmes. Direct integration was likely to be more successful in obtaining change than pressures from a different agency.
7. Statistics on the number of people represented in the government machinery were not available, but she estimated that there were a total of approximately 1,000 in all jurisdictions. Such information would be included in Canada's next periodic report.
8. With regard to criminal law, there had been several questions about prostitution. In Canada, a person who "profited" from prostitution was charged under the Criminal Code with an indictable offence and was liable to a maximum punishment of 10 years' prison. In July 1983, the Federal Government had established a Special Committee on Pornography and Prostitution to study the associated problems, determine the attitude of the public and recommend solutions. Its report was expected in the very near future.

(Ms. Bellamy, Canada)

9. With regard to incest and its effect on mothers and daughters, it too was a crime under the Criminal Code, the legal definition requiring that there be actual sexual intercourse between two blood-related individuals, and was punishable by a maximum of 14 years' prison. It was difficult to indicate with certainty the extent of the problem, but a recent government study had analysed the incidence of sexual offences against children and youth and had made a number of recommendations to the Federal Government. The report was currently being studied by the appropriate federal and provincial officials and agencies.

10. Regarding measures being taken to prevent family violence, in recognition of the need for a co-ordinated response an intergovernmental working group on wife battering had been established at the May 1983 meeting of the Federal-Provincial-Territorial Ministers Responsible for the Status of Women and had presented its report to the 1984 meeting. The first part of that report summarized existing programmes, policies and legislation concerning wife battering and the second part outlined new initiatives put forward by each jurisdiction for implementation within the following two years. Those initiatives covered research and support for research, public education and information sharing, funding for transition houses and funding for related services and activities. Federal measures to prevent family violence included public education and research initiatives, establishment of pilot projects on legal remedies, collection of statistical data, police training and transition house funding. Provincial governments had also shown a great interest in solving that problem. In particular, the Ontario Government had recently launched a major campaign to make the public aware of the extent of the problem and impress upon them the criminality of such behaviour. Other provinces had also undertaken initiatives to combat the problem. In particular, the Province of Quebec had recently held a provincial consultation to develop a policy to deal with wife assault cases and Manitoba had begun a public education campaign.

11. Regarding the questions about laws on abortion, the law was briefly outlined in the report (under article 16.1 (e)). Abortion was legal when performed by a qualified medical practitioner who, in good faith, performed an abortion in an accredited or approved hospital after the therapeutic abortion committee had decided that the continuation of the pregnancy would be likely to endanger the woman's life or health.

12. With respect to marriageable age, all but one province specified a minimum marriageable age, which was the same for men and women. In the Province of New Brunswick, where no minimum age was specified, the law reverted to English common law, namely 14 years for boys and 12 years for girls, although for persons under 18 written consent was required before the marriage could take place. New Brunswick's Act was currently under review to ensure consistency with the equality provisions of the Canadian Charter of Rights and Freedoms and necessary amendments were expected to be made.

13. Many questions had also referred to family law, which came primarily under the jurisdiction of provincial governments. Individuals engaged to be married were considered single people until they were married; between themselves, their rights were governed by the law of contract.

14. The legal rights of women and children in common law relationships were affected mainly at the dissolution of that relationship. Some provinces, such as Ontario, had adopted legislation with respect to support obligations for the

(Ms. Bellamy, Canada)

common-law spouse, either male or female. Both spouses and children were also usually allowed to obtain support from the estate of a deceased parent or common-law spouse and the law of trusts in nine provinces allowed a common-law spouse to claim for an equitable separation of the family property. The law of the Province of Quebec respected the choice of individuals not to marry. Common-law spouses there must therefore rely on contract law with respect to property rights. All provinces obliged parents to support their children, whether born in or out of marriage. Canada had also abolished the notion of illegitimacy and children born in or out of wedlock were treated equally.

15. Regarding other questions about legal matters, section 3 (1) (b) of the Citizenship Act provided that a person born outside Canada was a citizen if, at the time of birth, one of the parents was a Canadian citizen. The citizenship so acquired would be lost unless, at 28 years of age, the person applied to obtain citizenship, registered as a citizen and either resided in Canada for at least one year immediately preceding the date of the application or established a substantial connection with Canada.

16. Canada had already reported to the Human Rights Committee on why judges were disqualified from voting. That measure supported a fundamental principle of the judicial system, that judges should be independent and impartial. At the superior court level they were responsible for determining controverted elections and all levels of the judiciary had to decide matters with political implications. Nevertheless, the Chief Electoral Officer had identified that disqualification as a matter of concern and the Government was actively considering it. The Province of Ontario had recently removed the disqualification from its Election Act.

17. With regard to the representation of women in the judiciary, while provincial requirements for appointment varied, at the federal level a candidate must have been a member of the legal profession for at least 10 years. There were no age or sex requirements. There was still a dearth of women candidates for judicial office although nearly 40 per cent of students currently attending law schools were women. Of the limited number of women who had been in practice at least 10 years, many were unwilling to renounce the benefits of a successful law practice and others objected to the necessary mobility or the publicity to which women judges were subjected. Successive ministers of justice had gone to considerable lengths to seek out potential women candidates and the appointment of qualified women to the bench remained a high priority. Consideration of women candidates was usual whenever a vacancy arose.

18. Another question had concerned homosexuality, which was not an offence under the Criminal Code, and under the Quebec Charter of Rights and Liberties homosexuals were protected against discrimination on the grounds of sexual orientation. There were no statistics on the incidence of homosexuality in Canada.

19. Section 15 (1) of the Canadian Charter of Rights and Freedoms contained a broad guarantee of equality between the sexes (see the report, article 2 (a)). Section 28 of the Charter also ensured that all guaranteed rights and freedoms would be extended equally to women and men.

20. With regard to the effect of sections 1 and 33 of the Charter, although the rights set forth in such human rights instruments were of great weight, there might be considerations justifying their infringement. Indeed, international law recognized that in certain circumstances the exercise of rights might be

(Ms. Bellamy, Canada)

curtailed. In decisions of Canadian courts, so far, it had been emphasized that there must be a rational justification for any infringement of a Charter right. It had also been clearly established that the courts would not uphold the legislation if it employed unduly restrictive means.

21. The inclusion of the provision in section 33 of the Charter had been an essential element of an important political compromise permitting constitutional agreement on the entrenchment of the Charter in the Constitution. It had been viewed as a safety valve to provide the flexibility required to ensure that legislatures rather than judges had the final say on important matters of public policy.

22. All jurisdictions in Canada had reviewed their legislation to ensure compliance with the equality requirements in section 15 (1) of the Charter and the Governments of Alberta and New Brunswick had already tabled amending legislation. The Federal Government would soon table a bill in the House of Commons introducing numerous amendments and obliging the Minister of Justice to review all future legislation for compliance with the Charter. The Federal Government would also publish a discussion paper seeking to provoke a public exchange of views on the more controversial problems identified which would provide the basis for further legislation expected to be tabled within a year of its publication. The Government of Saskatchewan had already published its own discussion paper aimed at the same results and the Government of Ontario would soon release an "options" paper for discussion purposes. The Government of Quebec had also reviewed its legislation in order to ensure conformity with its Charter of Human Rights and Freedoms, which prevailed over pre-Charter and post-Charter laws.

23. Although no decisions of Canadian courts could so far be considered to have a direct bearing on equality and the elimination of discrimination, in two of the three cases so far decided by the Supreme Court under the Charter the Court had declared legislation to be inconsistent with constitutionally guaranteed rights and therefore of no effect. The equality rights in section 15 of the Charter would receive full protection from the judiciary when the section came into force in April 1985.

24. Women had been included among the "disadvantaged" group in section 15 (2) of the Charter because the word had been intended to encompass a wide range of unequal treatment. The use of broad language was typical of constitutional documents, which were intended to express fundamental values in their essential form.

25. In reply to the many questions about the discriminatory provisions of the Indian Act, the historical reasons behind its adoption had never been fully documented but it appeared to be an attempt to assimilate Indians into the new Canadian society and culture, which policy was no longer supported by Canadian governments. As explained in the statement introducing the report, the current Government had expressed its intention to re-introduce corrective legislation in the very near future.

26. Every province had some form of free legal aid, eligibility for which was usually based on financial need and each case was evaluated on its merits. Moreover, individuals asserting a right under any human rights legislation had at their disposal the services of the Human Rights Commission's staff, investigators and if necessary a lawyer to represent their interests before the tribunal, without having to pay for any of the services.

27. Ms. Cortes took the Chair.

28. Ms. TRUDEAU-BERARD (Canada) explained that in Canada a person victim of discrimination could deposit a complaint before a human rights commission, which would carry out an investigation. If the proof of the discrimination was established, the person committing it could be ordered to take remedial measures and possibly to pay compensation. In certain cases he could be required to institute a programme to promote equality. In Quebec, discrimination could give rise to civil proceedings which could lead to the imposition of fines.

29. With regard to statistics of the results obtained after legal action concerning discrimination, in Quebec, in 1983, 39 per cent of the inquiries concerned sex discrimination, including harassment and pregnancy, mainly with respect to work. At the federal level in 1983, the Canadian Human Rights Commission had received 149 complaints about sex discrimination, of which 66 had been rejected by the Commission as unfounded, 49 settled, 5 withdrawn by the complainant and 13 referred to a court of law.

30. With reference to discrimination in housing, which fell under the private sector, a landlord could choose between various tenants, provided his choice was not based on one of the prohibited reasons, such as sex. In 1983 in Quebec for example, 19 per cent of the investigations dealt with by the Human Rights Commission had related to housing and a substantial majority had been brought by women.

31. As stated under article 16.1 (g), no law of any province required a woman to adopt the name of her husband after marriage. The custom was, however, current in Canada, except in Quebec where the amended Civil Code provided that a woman who had married after 1 April 1982 should retain her family name and first names and should exercise her civil rights under those names. Parents could also give their children one or more first names as well as the family name of either the mother or the father or both. Elsewhere in Canada, children must be registered under the family name of the father or, if the mother was not married, under her family name. Several provinces were to review the provisions concerning that important question in order to ensure conformity with article 15 of the Charter.

32. Several questions had been asked concerning the participation of women in the political and public life of the country. In Canada, women had equal access to the exercise of all political and public offices. During the past 10 years, all the federal and provincial governments and most political parties had taken steps to draw attention to the role of women in the democratic process and to increase the number of women candidates for elected offices. The governments were very conscious of the small number of women holding responsible federal and provincial positions, which was referred to in the report, and most of them had issued very strict guidelines, the effects of which would be felt over the next few years. The low participation by women was certainly largely due to traditional attitudes but family reasons often restricted their availability, especially in view of the vast size of the territory. For that reason, there was much greater participation by women in community, scholastic and municipal life.

33. No law required equal representation of women and men on government boards or committees. However, various programmes had been instituted in order to increase the nomination of women to such functions. The Minister Responsible for the Status of Women kept a list of candidates at the federal level and a similar programme in the Province of Ontario had seen the rate of representation of women on boards and committees increase from 8.23 per cent in 1973 to 21.91 per cent in 1984.

(Ms. Trudeau-Bérard, Canada)

34. The Government of Quebec attached great importance to the development of programmes concerning equality, especially with respect to employment and education, but recent events had led it to allocate absolute priority to economic development. The present year would not only provide the opportunity to assess the action taken during the United Nations Decade for Women; in Canada there would also be a National Conference on Economic Security for Women in March 1985, which would be attended, for the first time in Quebec, by groups concerned with the status of women and representatives of socio-economic bodies in the public, para-public and private sectors. It would be preceded by meetings of women throughout Quebec and by a meeting of national women's associations and would provide the opportunity for formal commitments and the establishment of guidelines to improve the economic status of women in Quebec over the next three years.

35. In 1985, the ministers and government bodies of Quebec were also to submit plans of action concerning the general status of women for the next three years.

36. Ms. GERMSCHIED (Canada), referring to the question of Canada's low birth rate, said that one reason for it was the increase in the number of women entering the labour force. Canada's governments were attempting to ensure the availability of maternity leave, quality child care, part-time work, flexible working hours and child-care subsidies. Some family planning clinics existed and family planning counselling was available. However, it was not known to what extent those services had affected the falling birth rate.

37. Education in Canada was dealt with in article 10 of the report. All Canadians had a right to free primary and secondary public education. At college level (technical and vocational training) all provinces except Quebec charged tuition fees. All Canadian universities charged tuition fees of approximately \$800 for a full year; a higher fee could be charged for more specialized areas of study. Financial assistance was by bursary and student loan programmes which were equally accessible to men and women.

38. All Canadian students must attend school until the age of 16. In 1981/82, the drop-out rate in secondary schools was approximately 12.1 per cent for male students and 9.9 per cent for female students; at the post-secondary level the rate was 13.3 per cent for males and 13.1 per cent for females. The female drop-out rate was diminishing. Some provinces had developed programmes to further reduce the drop-out rate by identifying major target groups and providing special support services.

39. With respect to the question concerning statistics on education and choices available to girls, the Committee was referred to tables 19, 20 and 21 of the report which would, of course, be updated in the next periodic report. In addition, the 1984 report of the Federal Commission on Equality in Employment provided more current statistics. Copies would be provided to the Committee.

40. Replying to the inquiry about measures to encourage women to expand their educational horizons, she said that numerous initiatives had been undertaken to address that problem. Specific initiatives centred around: (a) better training of junior and senior high school counsellors in advising female students; (b) encouraging girls to continue studying mathematics and science; (c) sensitizing school administrators and teachers to the long-term effects of limited career choices for girls; (d) ensuring that school textbooks did not

(Ms. Gernscheid, Canada)

reinforce stereotypes of male and female roles; (e) encouraging parents to become more involved in their children's course selection; (f) adopting affirmative action programmes in the education system to provide for more female administrators who could be role models for girls.

41. Replying to a question about measures being undertaken to eradicate traditions and erroneous concepts about the superiority of one sex over another, she said that some of the measures governments had undertaken were covered by the discussion relating to article 5 (a) in Canada's report. In addition to legal measures, activities undertaken by governments to eliminate the effects of stereotyping included the following: (1) amending the sexual assault provisions of the Criminal Code to remove certain presumptions about appropriate female behaviour;

(2) forming a task force on sex-role stereotyping in the media; (3) guidelines for the avoidance of sex-role stereotyping for all government departments;

(4) increasing public awareness of the problem of wife assaults; (5) public recognition and celebration of past and present achievements of women, especially those who had broken traditional barriers; (6) educating children to recognize the joint responsibility for child rearing; (7) eliminating sex-role stereotyping from school textbooks; (8) encouraging women to seek employment in non-traditional areas; (9) encouraging employers to hire and promote qualified women to non-traditional jobs; (10) actively seeking a workable solution to the issue of child care; (11) establishing national committees to study the effects of pornography.

42. That list did not include attempts made by non-governmental groups to bring about change.

43. With respect to encouraging fathers to take more responsibility for child rearing, mutual responsibility for child rearing was already recognized in the statutes of some provinces.

44. Concerning parental leave for fathers, a maximum of 24 weeks' unpaid parental leave was available to either parent. Women, men adopting children, but not natural fathers, were eligible for paid leave.

45. Regarding child care and the cost of kindergartens, in some Canadian provinces the first year of compulsory education for children over five was referred to as kindergarten, and was free. In other provinces the mandatory age for school admission was six, and children under six could attend private day-care centres. The costs varied according to a wide range of factors, and average figures were not available.

46. As to whether Canadians were satisfied with the existing child-care situation, the replies to a questionnaire on the subject sent to all Canadian families receiving family allowance payments were currently being analysed. Public hearings on the subject were planned. A full analysis would be provided in Canada's next report.

47. On taxation, each person filed an individual tax return, but family income as a whole was the basis for calculating the amount and eligibility for certain tax credits and deductions, some of which could be transferred to the other spouse. Canada's tax rates were progressive, higher incomes being taxed at an increasing rate.

(Ms. Germscheid, Canada)

48. Tax relief for families with small children was outlined in the report's discussion under articles 13 (a) and 11.2 (c) of the Convention. Child-care deductions had been recently doubled, and could be claimed by the spouse with the lower income regardless of sex. Further review was under way.

49. Replying to questions on cultural life, she said it seemed that women artists earned less than their male counterparts. Attempts were being made to see that selection committees included an appropriate number of women, thus perhaps increasing the proportion of female artists receiving grants or the amount of women's art work in museums, galleries, etc. In Quebec there was a programme for women's training and career development in the arts.

50. Recognition of the unique situation of Canada's indigenous peoples was reflected in special programmes for indigenous women. The special needs of immigrant women were also recognized by governments in Canada, which provided counselling and other assistance.

51. With regard to the contribution of Canadian women to international peace and disarmament, many women's groups were engaged in initiatives linking them with women's groups in other countries so that they might share their concerns.

52. With regard to health, medical care in Canada was free under state-sponsored insurance except in two provinces where a minimal user fee was charged for some services. Life expectancy of women in Canada continued to increase and remained higher than that of men. She could not offer an explanation for that.

53. Pre-natal and post-natal care for mothers and children was available generally, as outlined in the report.

54. With respect to the treatment of alcoholism in New Brunswick, programmes for the prevention and treatment of alcohol and drug dependence were available to all individuals there. Statistics showed that many fewer women were benefiting from the programmes than men, although provincial doctors confirmed that many women needed such treatment. Steps were being taken to encourage women to recognize their alcohol and drug problems and seek treatment.

55. With regard to health in employment and the question on levels of exposure to lead for women in Ontario, the blood level for a woman capable of bearing children was set at a lower rate than for men in order to safeguard a developing foetus. There was a theory that harmful substances could also affect the foetus via exposure of the male prior to conception, but that was controversial and no change of legislation was anticipated in the near future.

56. Ms. Bernard resumed the Chair.

57. Ms. CHARLEBOIS (Canada), replying to a question on poverty among women, said that governments in Canada were seeking to alleviate the effects of poverty by measures such as job creation, strengthening the economy, provision and improvement of various social security and pension benefits, and better enforcement of court orders for maintenance of divorced women and their children. They were seeking to eliminate causes of poverty by increasing women's earning capacity, through better education and training, legislation against discrimination at work, maternity leave and affirmative action.

(Ms. Charlebois, Canada)

58. With regard to action taken by unions and women's groups for the protection of women's rights in employment, she said that Canada's initial report was focused on government activities. Non-governmental organizations would be borne in mind in the preparation of Canada's next report.

59. Questions had been asked concerning the rate of unemployment among women and measures taken to reduce it. Some success had been achieved through affirmative action programmes and occupational and trade training plans. Between 1975 and 1982 women's participation in the labour force had increased, and the unemployment rate for women had not increased to the same extent as that for men.

60. Quebec had implemented specific measures relating to young women, including a requirement that training centres should enrol men and women in equal proportions, business support for women entrepreneurs, and payment of travel and child-minding expenses for courses taken by recipients of social assistance and single parents, most of whom were women. Tuition fees were paid where full-time education was resumed.

61. Concerning efforts being made to eliminate sex-based job segregation, it was illegal in Canada to select employees on the basis of sex-role assumptions. The continued existence of segregation was largely attributable to the lack of training in non-traditional jobs, a problem now being addressed by a number of government programmes. Women had priority for 30 per cent of the seats in all institutional and technical courses identified as non-traditional occupations for women. An allowance to offset the costs of caring for dependants while in training had been increased by 150 per cent in 1983-1984.

62. Regarding the concept of equal pay for work of comparable worth, she said that the Canadian principle of equal pay for work of equal value could be regarded as the same thing. In Quebec the principle was equal pay for equivalent work.

63. In reply to a request for further information on efforts to reduce the wage gap between men and women, she said that teachers' salaries were determined under pre-set wage scales according to seniority and qualification without regard for the sex of the person. In many professions, however, the wage gap appeared in average income calculations because of the very recent entry of women and their greater representation at junior levels, where salaries were lower regardless of sex. Recent statistics indicated an improvement in the annual average earning comparison.

64. In reply to questions on specific encouragement of voluntary programmes of affirmative action in the private sector, there were programmes and mechanisms at both national and provincial level. By the end of March 1984, there had been 66 affirmative action agreements between the Canadian Employment and Immigration Commission and private sector employers, 22 of which were focused specifically on women. Some affirmative action schemes were specifically designed for women, and there were also other programmes which addressed the particular needs of women regarding access to employment.

65. On the question of contract compliance legislation in Canada, the human rights statutes of Ontario and the Federal Government contained provisions for the inclusion of compliance with human rights legislation as a condition of government contracts. Affirmative action as a condition of contracts had not yet been introduced into legislation, but the implications of such a step were being examined by ministerial departments.

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(Ms. Charlebois, Canada)

66. Answering a question on hours of work, she said that legislation regulating maximum hours of work was applicable to both men and women. Occupational health and safety were protected by statute. The statutory prohibition against a female being employed underground in mines had been repealed in the interests of equal opportunity.

67. Part-time work had certain advantages, but it was less remunerative, usually failed to provide for career development and was mainly in low-skilled jobs. Concern over the negative features associated with part-time work had been the subject of a number of recent reports at government level.

68. Full-time employment usually consisted of a work week of between 35 and 40 hours; flexible working hours were widespread.

69. Part-time workers were covered by public pension plans. Although no precise data were available, it was generally believed that most part-time workers were not covered under private, employer-sponsored pension schemes.

70. Some unions with a large female membership had improved conditions of part-time work. They and women's groups remained concerned that the growth of part-time work should be controlled, that part-time work should be freely selected by employees, and that wages and benefits should be proportionally equivalent to those of full-time workers. In reply to a question on the number of women employed as domestic workers, and the number not protected by anti-discrimination and other legislation, she said that statistics were not yet available. In Canada many domestic workers, a very small proportion of the total female work-force, were employed on a casual and informal basis, without employment records being kept.

71. Women working in the family farm could contribute to the Canadian Pension Plan. If the family farm was a corporation and the woman was a paid employee, she was entitled to unemployment benefits, but not if she was a self-employed business partner.

72. In reply to a question on the number of eligible women claiming maternity benefits, she said that the availability of maternity benefits was well-publicized and the participation rate extremely high.

73. Regarding the question of government priorities for action on issues of concern to women, the Federal Government had outlined 10 priority areas: implementation of measures on equal pay for work of equal value at the federal level; increased employment opportunities for women in the Federal Government and its agencies, boards and corporations; removal of the discriminatory clauses in the Indian Act; amendments to the Divorce Act; control of pornography and sexually abusive broadcasting; additional assistance to victims of family violence; improved enforcement of maintenance orders; a parliamentary task force on the future of child care; greater pension coverage for women; and increased federal support for community-based health care.

74. The specific impact on women of measures such as job creation and training would be addressed at a national economic summit in March 1985, including representatives of women's groups.

(Ms. Charlebois, Canada)

75. In conclusion, she said that all jurisdictions, both federal and provincial, intended to amend those legislative provisions which might be in contravention of Canadian equality provisions. The issue of employment equity would be very much under consideration by all levels of government. New Brunswick had given high priority to affirmative action programmes in government, education and training for women, increased representation on boards and commissions, employment opportunities, and encouraging more women to open small businesses. Ontario had created a Women's Directorate, one of whose first acts had been to direct that all submissions to Cabinet contain a statement on the impact on women of any new policy or programme.

76. Mr. Buckley, Ms. Bellamy, Ms. Trudeau-Bérard, Ms. Germscheid and Ms. Charlebois (Canada) withdrew.

Initial report of Bulgaria (CEDAW/C/5/Add.15)

77. At the invitation of the Chairperson, Ms. Lagadinova (Bulgaria) took a seat at the Committee table.

78. Ms. LAGADINOVA (Bulgaria) thanked the members of the Committee for their interest in her Government's initial report, an interest reflected in the large number of questions asked. The Committee's evident desire for a frank and constructive dialogue with the Governments of the States parties to the Convention was greatly to be welcomed. As she had tried to make clear in her introductory statement, the Bulgarian Government in no way considered that all problems connected with the role and functions of women in Bulgaria were already resolved. However, the problems still remaining were neither violations of human rights and fundamental freedoms nor the result of failure to implement the requirements of the Convention. The very nature of social and economic relations in Bulgaria precluded the occurrence or institutionalization of discrimination of any kind, including discrimination against women. The problems in question were not of a discriminatory nature; in many cases they applied to men no less than women, and were due to the rapid development of society and economic life. The very fact of solving one set of problems often created others. What mattered was that the Government and society at large should react promptly to all new problems and take suitable measures in the light of changing circumstances.

79. Some members had expressed the view that in Bulgaria women were overprotected, especially as regards the protection of maternity. In that connection, she referred to article 4.2 of the Convention, a provision with regard to which, so far as she was aware, no State party had entered a reservation. It was better to overprotect than to provide inadequate protection or to practice discrimination.

80. In reply to the question whether Bulgaria's ratification of the Convention had led to any changes in legislation or practice in respect of equality between men and women, she said that, since such equality had already been enshrined in Bulgarian law before the adoption of the Convention, no change had been necessary. Nevertheless, a number of legal acts had been adopted following the Convention's ratification, such as a special Decree of the Bulgarian Council of Ministers providing for assistance to young married couples and especially to women. Measures of that kind corresponded to the spirit of the Convention and were an expression of Bulgaria's policy of enhancing the role of women in society in step with the country's economic development.

(Ms. Lagadinova, Bulgaria)

81. Regarding the system of guarantees of the practical implementation of equality between men and women, she said that the principal guarantee resided in the fact that equality between men and women had been elevated to the status of a constitutional principle. Furthermore, a reliable monitoring system had been established and was still being perfected with a view to further enhancing the role of women in the economy, in social and political life and within the family, the main goal being that of combining a high degree of economic and social activity for women with their fundamental function of motherhood.

82. Replying to questions as to whether Bulgarian legislation provided for special measures in cases of discrimination against women, she said that Bulgarian law did not specifically prohibit discrimination against women; however, since certain women's rights guaranteed in various parts of the law were sometimes violated in practice, measures were also provided for the restoration of those rights. Certain women's rights, such as the freedom to contract marriage, the enjoyment of parental rights, etc., were specifically provided for in the Criminal Code. In labour legislation, a number of legal acts on the protection of working women also specified the punishment to be imposed in the event of violation. In a number of cases, the possibility was provided of bringing the matter before a court. She was unfortunately not in a position to provide details concerning court decisions in cases of discrimination against women, but such decisions did exist both in the field of labour legislation and in cases of violations of family law.

83. In reply to a question concerning alcoholism and rape, she said that cases of alcoholism among women were extremely rare; for humanitarian reasons, they were rarely dealt with by the law but rather by social and medical means. As for rape, the Criminal Code provided for terms of imprisonment ranging from three to ten years. If the crime was committed by two or more persons, if it entailed grievous bodily harm or if the victim had subsequently committed suicide, a sentence of 15 years' imprisonment could be imposed.

84. With regard to questions concerning the participation of women in social and political life, she wished first of all to emphasize that membership of political parties and social organizations in Bulgaria was voluntary. Women's membership of the Bulgarian Communist Party had risen from 23.6 per cent in 1968 to over 30 per cent in 1984. During the same period, women had accounted for 49 per cent of all newly enrolled members of the Party, so that the proportion of women was bound to rise further in the future. Two of the 11 members of the Political Bureau of the Central Committee of the Bulgarian Communist Party were women. As for the Agrarian Party, whose membership had included 15.3 per cent of women in 1983, she explained that the party was composed not only of persons actually employed in agriculture but of Bulgarian citizens of various social groups and professions. The Bulgarian Minister of Justice, a woman, belonged to the Agrarian Party.

85. Membership in a political party was not the only possibility for women to participate in social and political life in Bulgaria. As Chairman of the Bulgarian Women's Movement, she greatly appreciated the interest in the Movement's activities shown by Committee members. The Movement, whose members included women of all ages, professions and social groups, had as its main aim the continuous enhancement of the social activities of Bulgarian women and of their role in the country's social development. The Movement took part in the formulation of social policy in respect of women, children and the family and monitored the application of that policy. It had been responsible for a number of sociological research projects and, in 1971, for proposing the setting up of the commission on women attached to

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the Presidium of the Bulgarian Academy of Sciences. The Movement participated as a member or consultant in the drafting of laws and other legal acts pertaining to women, children and the family. Leading members of the Movement held responsible posts in central and local bodies of State power and were thus able to participate directly in the formulation and implementation of State policy in women's matters. The Movement represented Bulgarian women as a non-governmental organization at international forums.

86. Replying to questions concerning women's participation in Parliament, she said that prior to 1944 women had had the vote but not the right to be elected to Parliament. In the first People's Assembly elected in 1944 women had accounted for only 5.7 per cent of deputies, a proportion which had risen to 21.8 per cent in the latest elections held in 1981.

87. Replying to a question concerning the functions and role of the Bulgarian State Council, she said that the Council was a permanent body of State power, operating also between sessions of Parliament. Its members were elected by a simple majority of parliamentary deputies. The Council combined legislative power with executive power and reported to Parliament on its activities. Women accounted for 25 per cent of the Council's membership and also for 25 per cent of the membership of the Supreme Court. The aim, of course, was to increase women's participation in central and local bodies of State power, provided that the essential political, professional and efficiency criteria were respected.

88. Replying to questions concerning women's participation in international activities, she said that training for diplomatic work was the same for men and women. It could be received either in Bulgaria or abroad. A Deputy Minister of Foreign Affairs in Bulgaria was a woman. There had been several women ambassadors, and there were some women plenipotentiary ministers and embassy counsellors. A majority of women in the diplomatic service, however, held posts of medium or low rank. The reason was to be found in the lack of tradition for women in the diplomatic field. Before 1944 there had been a ban on women studying law and, at the same time, a law degree had been an essential condition for entering the Ministry of Foreign Affairs. Thus most women in Bulgaria's diplomatic service today were too young to hold the highest posts.

89. Turning to a group of questions concerning measures taken to overcome traditional views about women's stereotype roles in society and the family, she said that in Bulgaria that task was tackled by society as a whole. The educational system, the mass media, the public organizations, etc., all took part in the work. The role of education was regarded as particularly important, activities designed to develop feelings of social equality between men and women being included in the curricula of educational establishments from kindergarten to high school. All the country's newspapers had special sections devoted to the family and accentuating the equal responsibility of both spouses for household duties and the upbringing of children. There were regular television programmes about the correct distribution of men's and women's roles in the family and society, including a special programme on fatherhood.

90. In reply to questions about the activities and role of family clubs, she said that the clubs were designed as a form of preparation for family life in a spirit of equality and for the gradual elimination of stereotype forms of conduct among men and women. There were more than 1,000 family clubs up and down the country. They formed an important part of the activities of social organizations such as the

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Movement of Bulgarian Women and the Bulgarian Youth Organization. Costs were covered by local authorities, and activities included meetings and consultations on matters relating to the upbringing of children, family health, the family budget, rational housekeeping, etc., as well as cultural events of various kinds.

91. In connection with women's employment and social security, she noted that several members had expressed the view that Bulgaria's present policy of encouraging families to have three children was based on demographic considerations rather than on considerations relating to the protection of women and mothers. All the measures referred to in the report and in her introductory statement were aimed at assisting mothers, or rather parents, in deciding upon the future size of their families. The reason why parents were encouraged to have three rather than four or more children was that the Government wanted to avoid an abrupt population increase with all its related difficulties in terms of education, health, housing, employment, investment, etc., which a country with Bulgaria's limited natural resources could not afford to ignore. A family of five persons including three children assured a normal reproduction of the population and an optimum age structure. Nevertheless, families with more than three children continued to enjoy a number of additional social benefits provided by the State, enterprises and trade unions.

92. In reply to a question concerning the family allowance paid to a family with three or four children where the father was a student, she said that if the mother was employed the family allowance would not be affected by the fact that the father was a student. A student who was the father of three or four children would receive a grant which could be greater than the minimum wage.

93. Maternity leave and leave taken in order to care for young children, irrespective of the number of children, were not deducted from the employment record. Sixty days of leave on full pay were allowed for the purpose of caring for a sick child up to nine years of age. Medicines for children up to six years of age were free.

94. Early retirement could be taken by women having borne five or more children and raised them until the age of eight years. The age for early retirement in labour category I was 40 years and, in labour categories II and III, 45 years. A widow's pension became payable at age 50 and a widower's pension at age 60, but a widower incapable of work could obtain a widower's pension before reaching that age.

95. Replying to a group of questions concerning maternity leave and leave for child care, she said that maternity leave was granted only to mothers, but leave for the purpose of taking care of the child, which began on completion of maternity leave and continued until the child reached the age of three, could also be taken by the father. The relevant decree, which was coming into force on 1 July 1985, would in no way affect the provisions governing maternity leave.

96. Until the child reached the age of two, the parent on leave was paid the equivalent of the country's minimum wage. A woman who chose to work at home received half the minimum wage in addition to what she could earn by embroidery, knitting, drawing or other light work.

97. In reply to a question as to whether a pregnant woman could be refused work, she said that a woman's application for a job could be refused whether or not the

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woman was pregnant if she failed to have the necessary training and qualifications. A properly trained and qualified woman could not be refused work solely because she was pregnant and would shortly be taking prolonged leave.

98. In reply to a question concerning the fact that the pensionable age for women was earlier than for men, she said that the difference was due to the physiological particularities of the female organism and the function of child-bearing and child rearing which women combined with their work obligations. The existence of three categories of pensions corresponded to that of three recognized categories of work. Certain types of work were heavier and made greater demands on a woman's health, which explained why women doing such work retired at an earlier age.

99. In reply to a question whether women were obliged or merely entitled to retire at age 55, she said that the question was decided bilaterally by the woman reaching pensionable age and by the enterprise or establishment employing her. As there was a shortage of labour in Bulgaria, the employer would often invite the woman to continue working beyond that age, especially if she was well-trained and highly qualified. The woman was free to decide depending on her health, future plans, family obligations, etc. She was also free to accept part-time work elsewhere.

100. The list of occupations prohibited to women was approved by the Ministry of Health, the Central Council of Trade Unions and the Committee on Labour and Social Security and was regularly updated in the light of technical and scientific developments. The list included work on cleaning gas pipes, the mining of non-ferrous metals (copper, lead, zinc, etc.), the smelting and casting of lead, the manufacture of aniline dyes, and so forth. It had been medically established that work under conditions of heavy vibrations had adverse effects on the reproductive capacity of women and could cause lasting damage to the female organism. Accordingly, such work had also been included in the list of occupations prohibited to women.

101. A question had been asked regarding the kinds of punishment provided for in the case of violations of women's working rights. The sanctions applied in such cases differed, depending on the specific infraction. The Criminal Code treated as a crime the failure by an official to carry out an order or decision reinstating in employment an improperly dismissed worker. Moreover, a woman office or industrial worker whose employment rights had been violated was entitled to seek remedy from the courts or to appeal an improper decision or order through administrative channels or through the Office of the Inspector for Labour Safeguards.

102. One Committee member had asked a question as to what proportion of the total funds allocated for social security was spent on social security benefits for mothers and children. In Bulgaria, the largest portion of public outlays went for the provision of assistance to families in the raising of children, including education and culture, health care and the improvement of living and working conditions. One of the primary concerns of Bulgarian social policy was the welfare of mothers and children. The growth that had occurred in national income had created the conditions for speeding up the solutions to a number of problems in that area. In comparison with the 1975 level, national income had increased by 64.3 per cent and during that same period public outlays for children's centres, educational establishments, special treatment facilities and health care services for mothers and children, children's cultural centres, paid pre- and post-maternity leave and leave to enable mothers to raise their young children at home had increased by 87.4 per cent.

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103. A question had been asked regarding who paid children's allowances and who received them. Children's allowances were paid to mothers out of the social security fund of the enterprise or institute where they worked. If the mother did not work, the allowances were paid to the father at his place of work.

104. A number of questions had been asked regarding the policy of the Bulgarian Government with respect to abortion. The Bulgarian Government was guided in its policy by the principle that the family had the right to decide by itself when and how many children to have. To that end, a number of government departments and private organizations were engaged in extensive educational work, including the dissemination of information on the use of contraceptive devices, which were sold freely. Studies had shown that certain young married couples, primarily those where the partners were continuing their university education and desired to complete it, readily resorted to abortion in the case of the woman's first pregnancy. Since such abortions involved the risk of later sterility, the Ministry of Public Health had looked into that question and had issued a proposal to limit abortions in the case of young women with no children or with only one child. Pursuant to that recommendation, medical commissions had been set up at the gynaecological and obstetrical departments of the hospitals and clinics for the purpose of counselling women desiring an abortion and of explaining to them the possible consequences. Experience had shown that those women who properly understood the advice of the specialist and carried to term both their first and second pregnancies were later grateful for that policy; those whom the panel of doctors was unable to dissuade from having an abortion were free to have one, performed by a physician at a hospital. All unmarried students, divorced widows and married women above the age of 40 with one child were eligible for an abortion on a number of medical grounds and for reasons of a purely intimate nature. If an abortion were performed outside a medical centre, the physician performing it was liable to criminal prosecution. The degree of responsibility was higher if the person performing the abortion did not have a medical education. The punishment for the first type of case was three years' imprisonment; for the second (abortion by a non-doctor), it was up to five years' imprisonment; and if the woman died as a result of the operation, the punishment was imprisonment from 3 to 10 years.

105. A question had been asked regarding the participation of women in various kinds of sport. The Government allocated large sums of money for the creation of physical facilities for the development of sport. That included stadia, playing areas, swimming pools, etc. There were sports clubs with rich traditions. A particularly important role in the development of mass sport was played by the Union of Tourists, a broadly-based organization that conducted various initiatives to involve large segments of the population in sporting activities. Women of all ages were actively involved in sports of all kinds.

106. Many questions had been asked regarding marriage and family relations. One expert had wanted to know whether the guilty party in a divorce had a right to maintenance. In a divorce proceeding the spouse responsible for the breakup of the marriage had no right to maintenance from his or her former partner.

107. Another question had concerned guilt in divorce. The Bulgarian Family Code provided for two forms of divorce: divorce with the consent of both spouses and divorce resulting from the breakdown of the marriage. In the latter case, the question of guilt was raised and ruled on by the court only if that was the wish of either of the spouses. If the spouses declared their desire to divorce without raising the question of guilt, the court did not inquire into that question and did not pronounce on it in its divorce decision.

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108. In reply to a question regarding the regulation of relationships between parents and children, the representative said that an entire chapter in the Bulgarian Family Code was devoted to that question. It contained a detailed regulation of various aspects in the relationship between parents and children and defined the responsibilities of parents vis-à-vis their children and of children vis-à-vis their parents. For example, article 59 of the Code required of parents that they care for their children and prepare them for socially useful work. The Code also defined the obligation of children to respect their parents and to help them within the limits of their ability. Also regulated was the question of the place of residence of the children, who as long as they were minors had to reside with their parents except when compelling reasons required that they live somewhere else.

109. A question had been asked as to how the nationality of a child was determined if it had been born abroad and one of its parents was a Bulgarian citizen. According to the Law on Bulgarian Citizenship, a child born abroad of one Bulgarian parent was regarded as a Bulgarian citizen, except in cases in which the child had been born in the country of the alien parent and when the law of that parent's country recognized the child as a citizen of that country.

110. One expert had inquired how the question as to which of the spouses was responsible for the breakup of the marriage was resolved and whether the question of guilt had any bearing on the children, residence and division of property. As she had explained, the question of guilt did not necessarily arise. If one of the spouses requested a ruling as to guilt, that issue could play a role in the court's decision regarding the assignment of the family residence or the custody of the children, together with other factors. For example, in the case of a court ruling as to which of the parents was to be granted the family residence, the court took chiefly into account, in addition to the question of guilt, the interests of the children, the health of the spouses and other circumstances. In a ruling concerning which of the spouses the children were to live with, the decisive factor was the protection of the interests of the children.

111. A question had been asked regarding how many marriages ended in divorce and the proportion of single mothers. The number of single mothers in Bulgaria was growing and they represented 9-10 per cent of all mothers. With regard to divorces, in 1982 13,282 marriages had ended in divorce, and in 1983 14,546.

112. One expert had wanted to know how many women, on marrying, assumed the name of their husband, how many retained their own name and how many added their husband's name to their own. Although there were no statistics on that question, the normal practice was for the wife, when she came from a prominent family or when she was a specialist (doctor, jurist, artist, etc.) and was known by her maiden name, to preserve it in order not to create complications in her professional work. The more common situation was for the wife to take the husband's name, and there were instances, although fewer in number, in which the husband took the name of his wife.

113. A question had been asked regarding the manner of resolving the question of the control of family property when there were disagreements on that issue between the spouses. The spouses jointly disposed of their common property and rights to property, or one of them did so with the consent of the other. Either of the spouses could exercise normal control over joint property and either of them was free to dispose of his or her personal savings without the consent of the other. In contentious situations in which the spouses were unable to reach a decision, the question was submitted to the court.

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114. One Committee member had asked at what age a woman could enter into marriage and whether she could in certain circumstances marry before that age. Bulgarian legislation had set the minimum age for marriage at 18, which was the age of political maturity. In exceptional cases, when warranted by valid reasons (for example, in the case of pregnancy), the judge could allow a marriage before that age, providing the person was at least 16 years of age.

115. One expert had wanted to know why a marriage was declared invalid if there was evidence of the payment of bride money. Bulgarian society regarded the payment of bride money as contrary to the dignity of women and to the principle of voluntary selection and consent in marriage. The payment of bride money led not only to the invalidity of the marriage, but was also regarded as a crime under the Bulgarian Criminal Code, which punished it with imprisonment for a period of up to one year or a fine of up to 1,000 leva accompanied by public reprimand.

116. A question had been asked as to whether it was possible to renew Bulgarian citizenship following a divorce or the death of an alien husband. In accordance with the Law on Bulgarian Citizenship, a man or woman who had lost his or her Bulgarian citizenship or had been released from Bulgarian citizenship as a result of marriage to an alien, could request the restoration of citizenship if the marriage had been terminated through the death of the other spouse or through divorce.

117. It had been asked whether the conditions for the granting of a loan by the State were the same for men and women. Every Bulgarian citizen was entitled to apply for a loan, whether from the State Savings Bank, from a commercial bank or from the credit union at his or her place of business. It made no difference whether the person requesting the loan was a man or a woman.

118. Another question had concerned the division of property between the spouses in the case of divorce. The Bulgarian Family Code followed the principle of community property with respect to goods acquired during the marriage by both spouses, with the exception of the chattels and real estate acquired during the marriage by one of the spouses as a gift or through inheritance. The family property did not include the savings of each of the spouses or things he or she required for the exercise of his occupation or trade. In the event of a divorce, the community property system ended. If the divorce was by mutual consent, the spouses were required to submit in writing to the court a statement describing the division of the family property. In the case of a divorce granted as a result of marriage breakdown, the court ruled on the division of the family property. Both spouses were entitled to equal parts when the joint estate was terminated, although the court could assign a larger portion of the estate to that spouse to whom was awarded the care and raising of minor children. With the termination of the joint estate through divorce, each of the spouses was entitled to a portion of the chattels of the other spouse which the latter had acquired during the marriage for the exercise of his occupation or trade, or their equivalent value.

119. One member had wanted to know who decided which divorces were unfounded. That term applied to hasty, unconsidered divorces. The legislator had provided that before granting a divorce the spouses should be given time to reflect carefully on whether they really wished to separate. For example, a consensual divorce was not granted until the couple had been married at least two years. In addition, upon receiving a request for a consensual divorce, the president of the court invited both parties to a reconciliation session, which they were required to personally

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attend. If the spouses continued to insist on the divorce, the court entered their application on the court calendar, and the case could not be heard before two months from the date of the reconciliation session.

120. In reply to a question as to whether a woman working in agriculture could enter into a contract under her own name or whether it had to be done in the name of the farm at which she was employed, she said that a woman working in the agricultural sector was free to conclude a contract in her own name.

121. One expert had asked about the concept of coercion in the contraction of marriage. A fundamental premise of Bulgarian family law was the free and voluntary nature of marriage. In accordance with the Family Code, family relations were regulated in keeping with that principle. The selection of a spouse and the decision to marry should be an act of free choice. Where coercion had been used, the marriage could be declared null and void, and forms of coercion used in former times had been defined as crimes under the Criminal Code.

122. It had been asked whether prostitution represented a problem. Prostitution, in the form in which, according to United Nations data, it existed in many of the world's countries as an organized activity, and trafficking in young women and girls, did not exist in Bulgaria. With the guarantee of work for women, the elimination of illiteracy, the provision of education and the eradication of poverty, the bases for the exercise of prostitution as a profession had been eliminated, although it was possible that individual instances continued to exist.

123. A number of experts had raised questions concerning the equality of women in education. One had asked whether illiteracy had been a problem for Bulgarian women prior to the revolution and how it had been eliminated. Illiteracy had represented a problem for Bulgarian society during the first years of development after 1944. As a result of the economic backwardness of capitalist Bulgaria, nearly 50 per cent of the female population of the country had been illiterate. A nationwide campaign including the adult population had been launched to eliminate illiteracy, as a result of which within a brief period Bulgaria had fully rid itself of that problem.

124. Concerning the educational system and free choice of occupation, she said that an essential pre-condition for guaranteeing free choice of occupation was the unimpeded access of every citizen to education. In that regard, the Bulgarian People's Republic had not only proclaimed in its Constitution the principle of free education at all stages, including post-graduate studies, but had fully implemented that principle in actual practice. Competitive examination was used to determine who would pursue studies for professions for which the country had only a limited requirement (for example, doctors, agronomists and others). Everyone could participate in such examinations on a basis of equality. Selection was based on objective criteria. The legal system in effect in Bulgaria protected the right to the free selection of an occupation or trade, thereby guaranteeing women the right of free choice in that area. During the 1983/84 academic year, girls and women had accounted for 51.5 per cent of the students at higher institutes of learning, and 43.5 per cent of the students at technical colleges and art schools.

125. One expert had asked about the participation of women in polytechnical institutes of learning. Women represented 50.3 per cent of all students at the unified polytechnical schools (second degree of education); among specialists with higher education and graduates of advanced engineering and technical institutes, they accounted for 35.6 per cent.

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126. With respect to sexual education, there was no difference in the instruction given to boys and girls.

127. Regarding military service, it was not compulsory for women, although women were free to serve in the army medical corps as volunteers.

The meeting rose at 5.40 p.m.