

Gender-Based Analysis Policy



Indian and Northern
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et du Nord Canada

Canada

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I. Introduction

The *Constitution Act of 1982* holds within it the *Canadian Charter of Rights and Freedoms* (the *Charter*) which ensures fundamental equality rights to all Canadians. Section 15 of the *Charter* guarantees every individual the right to equality before and under the law and the right to equal protection and benefit of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. Section 28 of the *Charter* confirms that the rights and freedoms of the *Charter* are guaranteed equally to male and female persons.

Internationally, Canada is committed to act on its endorsement of agreements such as the *Universal Declaration of Human Rights*, the *Convention on the Elimination of All Forms of Discrimination Against Women*, and the *United Nations Declaration on Violence Against Women*. At the Fourth United Nations World Conference on Women, held in Beijing in September of 1995, member countries adopted the global *Platform for Action* with a view to accelerating progress toward equality between women and men. The *Platform* embodies ten years of review by governments of the situation of women in their respective countries.

The *Federal Plan for Gender Equality* was developed and then adopted in 1995 by the Government of Canada for the Beijing conference as Canada's contribution toward the goals of the *Platform for Action*. The *Federal Plan* documents some of the salient global and domestic issues to be addressed in the movement toward full equality for women and men in Canada, and highlights broad guidelines for future federal initiatives. Eight key objectives are identified in the *Plan* (see *Annex A*). The first of these objectives calls for the implementation of gender-based analysis, throughout federal departments and agencies, to inform and guide the federal legislation and policy-making process.

In response to the *Federal Plan*, the Minister of Indian and Northern Affairs Canada (INAC) created the Office of the Senior Advisor on Women's Issues and Gender Equality in February of 1998, which changed to the Women's Issues and Gender Equality Directorate in 1999. This Directorate is the focal point for women's issues in the department. It has the mandate to develop and implement a *Gender-Based Analysis Policy* to address gender equality issues within all departmental priorities and as they relate to First Nations and northern partners. To assist the Directorate in carrying out its mandate, a department-wide Advisory Committee on Gender Equality, now the Gender-Based Analysis Representatives network, was established, comprising of representatives from the regions and headquarters.

In developing the *Policy* for INAC on gender-based analysis, the department worked closely with the departments of Justice, Human Resources and Social Development Canada (then Human Resource Development Canada), Status of Women, and the Canadian International Development Agency, as well as liaised with the Assembly of First Nations Women's Secretariat and the Native Women's Association of Canada during the initial policy development phase.

“It must be recognized at once . . . that every difference in treatment between individuals under the law will not necessarily result in inequality and, as well, that identical treatment may frequently produce serious inequality.”

McIntyre, J. in *Andrews v. Law Society of British Columbia*, (1989) 1 S.C.R. 143, at 164.

“As long as human dignity and meaning exist as important values, social science cannot achieve the rigour of the physical sciences because it is impossible to separate human beliefs from the context and process of analysis... Today, many students of policy analysis agree that it is important to consider values in the process of policy analysis...”

Heineman, R., Bluhm, W.T., Peterson, S. and Kearny, E. *The World of the Policy Analyst: Rationality and Decision-Making*, 1990.

2. Objective of INAC’s Gender-Based Analysis Policy

INAC’s *Gender-Based Analysis Policy* requires that:

- Gender-based analysis be integrated in all of INAC’s work, including but not limited to:
 - the development and implementation of departmental policies, programs, communication plans, regulations and legislation;
 - consultations and negotiations (including but not limited to self-government and land claims, treaty land entitlement and devolution); and
 - instructions and strategies on research, dispute-resolution, and litigation.
- Where gender equality issues arise, solutions be developed and implemented to prevent and remedy any inequality.
- Where gender equality issues cannot be addressed or fully addressed, the Women’s Issues and Gender Equality Directorate be informed in a timely fashion and the issue be raised by the officer responsible for the policy, program or legislation with the Deputy Minister and, where appropriate, with the Minister.

3. What is Gender-Based Analysis?

Gender-based analysis assesses the differential impact on women and men by considering their different life situations - their different socio-economic realities - and is a required step in the development and implementation of proposed and existing policies, programs and legislation.

Gender-based analysis is a common thread woven from beginning to end throughout the entire policy, program, and legislative options process, and not merely an additional section in briefing notes or any other documents.

Gender-based analysis recognizes that the realities of women’s and men’s lives are different and that equal opportunity does not necessarily mean equal results. The challenge is to anticipate the results of policies, programs and legislation and ensure they are as equitable as possible and as accessible as possible for all women and all men.

Gender-based analysis leads to informed policy-making and good governance. It results in policies, programs and legislation that are inclusive and consistent with the spirit and content of the *Charter*.

THE TERMS

SEX identifies the biological differences between women and men.

GENDER is the culturally specific set of characteristics that identifies the social behaviours of women and men, and the relationship between them. Gender, therefore, refers not simply to women and men, but also to the relationship between them and the way it is socially constructed. It is a relational term that, by definition, includes women and men. Like the concepts of class, race, ethnicity, gender is an analytical measure for understanding social processes.

GENDER-BASED ANALYSIS is a lens of analysis that examines existing differences between women's and men's socio-economic realities as well as the differential impacts of proposed and existing policies, programs, legislative options, and agreements on women and men. Gender-based analysis is not employment equity.

GENDER EQUITY is the process of achieving fairness among women and men. To ensure fairness, measures must often be made available to compensate for historical and social disadvantages that prevent women and men from operating on a level playing field. Equity leads to equality.

GENDER EQUALITY means that women and men enjoy the same status. Gender equality means that women and men have equal conditions for realizing their full human rights and potential to contribute to national, political, economic, social and cultural development, and to benefit from the results.

Gender equality is therefore society valuing equally both the similarities and the differences between women and men as well as the varying roles they play.

- Please refer to *Annex B* for answers to some frequently asked questions about gender-based analysis.

4. When to do a Gender-Based Analysis

Gender-based analysis is required at all times throughout our work. It is not meant to replace or exclude other types of analysis but rather to ensure that gender factors are an integral part of all processes, not just an add-on.

Some parts of our work may appear, at first glance, to be without gender implication but it is important to continue to look at possible gender impacts at every stage.

Taking a gender-based approach involves more than answering a checklist of questions, although this can be a good starting point. It requires gathering qualitative and quantitative data, questioning basic assumptions, and developing an understanding of how socio-economic factors affecting women and men may have an impact on the final product.

Gender-based analysis is part of the policy, program, and legislative options development process. It assesses the differential impact of proposed and/or existing policies, programs, and legislation on women and men by considering their different life situations (their different socio-economic realities). Gender-based analysis is a common thread woven from beginning to end throughout the entire development and implementation process, and not merely an add-on.

5. Why do a Gender-Based Analysis?

INAC plays a key role in supporting the Government of Canada's commitment to equality as presented in the *Federal Plan*, which identifies gender equality issues within the federal government and affecting our First Nations and northern partners.

Also, the concerns of First Nations and Inuit women are being brought forward through court challenges, lobbying of members of Parliament or formal complaints to human rights organizations at the national and international level. In order to mitigate such formal processes being initiated, it is important for the federal government and specifically for INAC to ensure that gender equality issues are analysed and resolved at the inception stage of development of a policy, program or legislation, to the extent possible.

6. How to do a Gender-Based Analysis

The Women's Issues and Gender Equality Directorate prepared a detailed *Guide* on applying gender-based analysis to the various areas of work in INAC.

The following checklist of questions can be a starting point in your day-to-day work. It is important to note that not all of these questions may be appropriate for all circumstances and that there may be some other questions not identified that should be asked.

Identifying the Issue

- In what ways are both women's and men's experiences considered in identifying the issue?
- How are both men and women involved?
- Is diversity being considered? If so, how?
- What do women's organizations and gender-sensitive researchers say about this issue?
- Does the issue take into account the Government of Canada's objectives on equality?

Defining Desired / Anticipated Outcomes

- What does the Government of Canada want to achieve with this policy, program, or legislation and how does it fit into its stated commitments to socio-economic equality between women and men? How can this be measured in practical and statistical terms?
- How will you determine if diversity, in addition to gender, will be a factor in the outcomes? What information have you sought (statistics, studies, consultations) to determine this? Can the Women's Issues and Gender Equality Directorate be of help? How?
- Who will be affected? How will the outcomes of this policy, program, or legislation be different for women and men? What other policy outcomes may be anticipated by looking at sex and diversity?

Information gathering

- Is available data disaggregated by gender at all levels of analysis? Is information regarding equity groups, including Aboriginal people, people with disabilities, and visible minority groups, disaggregated by gender? If not, where can this information be obtained?
- In collecting basic information in your subject area, have you ensured that the resulting data will support gender-based analysis if necessary?
- How will both qualitative and quantitative data be collected?
- Will you consult with women's organizations and key women in the subject area about available resources and about women's experiences of this issue? If you are asking organizations or individuals to compile, fax or mail resources, or to attend consultations, how will you compensate them for their time and expenses?
- Have you consulted documents about the gender implications of the issue, including pamphlets, parliamentary briefs and statements by women's organizations? Can INAC's library or the Women's Issues and Gender Equality Directorate help?
- If you are conducting primary research, are data collection questions appropriate and respectful of the dignity of the research participants? Have affected groups been invited to participate in developing the research plan?
- In what ways do the research findings you consult and the research you are conducting address the differential experiences of sex and diversity? Do the documents you are using or researchers to whom you are assigning tasks consider gender issues?
- If you are hiring consultants, have they demonstrated a capacity to perform a competent gender-based analysis? How?
- If you are using a computer-simulation model, are you using gender as a factor? Do you have access to the expertise of someone knowledgeable about gender issues to help interpret the results? Can the Women's Issues and Gender Equality Directorate help?

Development and Analysis of Options

- In what ways will the option disadvantage some groups or provide an advantage to others? Does the option have a differential impact on women's or men's socio-economic positions?
- Will further consultation take place with women's organizations and key women in the area about the impact of each policy option on women? Do you need the advice of the Women's Issues and Gender Equality Directorate?
- Will the analysis of each option outline how it supports gender equality and point out where gender equality may be compromised?
- Have you endeavoured to develop innovative solutions to the gender and diversity issues you have identified? What solutions have the affected groups suggested?

“Gender analysis is based on the standpoint that policy cannot be separated from the social context, and that social issues are an integral part of economic issues. Social impact analysis, including gender analysis, is not just an add-on, to be considered after costs and benefits have been assessed, but an integral part of good policy analysis.”

Ministry of Women's Affairs, New Zealand

Where gender-equality issues cannot be addressed or fully addressed, the Women's Issues and Gender Equality Directorate will be informed in a timely fashion and the issue will be raised by the responsible officer with the Deputy Minister and, where appropriate, with the Minister.

Communication

- How will any differential consequences based on sex and diversity, and their socio-economic costs, be communicated to the decision-makers?
- In what ways will gender equality be a significant element in weighing and recommending options?
- Will the recommendation suggest how to implement the policy in a gender sensitive and equitable manner?
- Have communication strategies been designed to ensure information is accessible to both men and women and fair to diverse communities?
- How will the information be communicated to women who are members of other equity groups (Aboriginal women, women with disabilities, visible minority women)?
- How will the participation and contributions of both women and men in the policy, program, and legislative development process be acknowledged and communicated in an appropriate and respectful way?
- How will the aspects of the policy, program, or legislation supporting gender equality be highlighted and communicated?

Evaluation

- Are gender-equality concerns incorporated into the evaluation criteria?
- What indicators will be used to measure the effects of the policy on women and men?
- Who will analyse the quality of the analysis? To whom will the assessment be reported? Will women's organizations or key women in the area be consulted?

7. Monitoring and Evaluating the Gender-Based Analysis Policy

The Women's Issues and Gender Equality Directorate, in consultation with the Audit and Evaluation Branch, will develop measures to monitor the implementation of the *Gender-Based Analysis Policy* and evaluate its effectiveness. This will include issuing a yearly report on the activities.

Annex A

The Government of Canada's commitments as a result of the *Federal Plan for Gender Equality* are centred on the following eight objectives:

- Objective 1: Implement Gender-Based Analysis throughout Federal Departments and Agencies** — Puts forward a systematic process to inform and guide future policies and legislation at the federal level by assessing any potential differential impact on women and men. Hence, this objective underpins all subsequent objectives.
- Objective 2: Improve Women's Economic Autonomy and Well-Being** — Promotes the evaluation of paid and unpaid work performed by women, women's equitable participation in the paid and unpaid labour force and the equitable sharing of work and family responsibilities between women and men; encourages women's entrepreneurship; and promotes the economic security and well-being of women.
- Objective 3: Improve Women's Physical and Psychological Well-Being** — Advances a women's health strategy that fully acknowledges and responds to the nature of women's lives, in research, policy, program, and legislative development and practices in the health sector.
- Objective 4: Reduce Violence in Society, Particularly Violence Against Women and Children** — Strengthens existing measures to reduce violence against women within the overall context of federal efforts to reduce violence in our society generally.
- Objective 5: Promote Gender Equality in all Aspects of Canada's Cultural Life** — Strengthens the commemoration of women's diverse contributions to Canada's history, improves their access to the means of cultural expression, promotes their participation in cultural life and supports the realistic and positive portrayal of women in popular culture and the mass media.
- Objective 6: Incorporate Women's Perspectives in Governance** — Contributes to achieving the active participation of women from diverse experiences and fields and equal access to all levels of decision making.
- Objective 7: Promote and Support Global Gender Equality** — Reaffirms Canada's international leadership role in promoting gender equality globally.
- Objective 8: Advance Gender Equality for Employees of Federal Departments and Agencies** — Contributes to the equitable opportunities and outcomes for federal women employees.

Annex B

Frequently Asked Questions About Gender-Based Analysis

Why is it that gender-based analysis seems to be concerned with improving women's socio-economic status? Is gender analysis biased against men?

Gender-based analysis is about fully analysing the consequences of federal policy, program, and legislation, not about promoting or belittling anyone in particular. Such an analysis looks at socio-economic data on both women and men. Without both sexes represented, no valid comparisons or conclusions can be drawn. When socio-economic data is broken down by sex, it becomes evident that, on average, men have higher incomes compared to women, and that women face socio-economic disadvantages as a result of the social roles they perform and the value accorded to those roles. Where men are socio-economically disadvantaged, such as making up a majority of homeless people, a gender-based analysis will capture this fact as well.

Doesn't gender-based analysis mean turning everything into a "women's issue"? Isn't it looking at gender at the expense of race, or socio-economic status or other factors?

Gender-based analysis means looking at the potential impacts of policy on men and women in addition to, not instead of, other factors. It broadens and deepens the analysis, rather than limiting it. It recognizes that sex and gender, as well as socio-economic status, race, ability, geographic location, and so on, are important factors in our socio-economic structure. To understand these factors and take them into account is to have a better grasp of the realities of all Canadians and how policies might affect them.

Is gender-based analysis advocacy?

Gender-based analysis looks at data and describes a socio-economic context. It does not advocate a response but it does enable decision-makers to consider potential differential impacts on women and men when choosing between policy, programs, and legislative options, and it may mitigate against *Charter* challenges.

Doesn't gender-based analysis impose particular views on government and on society?

Gender-based analysis does not promote any particular view, such as a lobby groups' views. While the views of organizations can certainly be examined in the course of the analysis, gender-based analysis is not about simply accepting these views without question. It is research and analysis that takes both women's and men's realities into account using a variety of quantitative and qualitative data.

Women and men in Canada have fought for many decades for legal, social and economic equality. The vast majority of the Canadian population supports equality between women and men and considers it an important issue. The Government of Canada has responded by entrenching equality rights in the *Canadian Charter of Rights and Freedoms* and by making other specific commitments to equality, and subsequently conforming to public standards and legal requirements.

Why is it called gender-based analysis or gender-equality analysis? Is there a difference?

The name doesn't matter as long as it conveys the idea that both women's and men's situations are taken into account at every stage of the policy, program, and legislative development.

Isn't gender-based analysis only appropriate for a narrow range of policy development?

On the contrary, gender-based analysis can be useful in developing a wide range of policies, programs, and legislative options. At first, a program or policy may appear to be gender-neutral. Gender-based analysis looks at research, both quantitative and qualitative, that is broken down by sex. It prompts policy-makers to ask such questions as:

- What is the breakdown by sex of the affected population?
- Are there significantly more women than men?
- What is the socio-economic position of women and men, and how will the policy, program, or legislation impact on people with low or middle incomes?
- Have there been complaints or suggestions that the policy, program, or legislation has been unfair and why?

It is only after you have answered these questions that you can determine whether the policy, program, or legislation will have the same impact on women and men.

Why do we need this? Aren't women and men already equal?

Women make up a little over half of the population and less than half of the paid labour force. They earn lower wages and are generally expected to do more unpaid work. Although women and men have made great strides toward socio-economic equality in this century, they are not there yet. The Government of Canada is committed to helping Canadians achieve equality.

Isn't this gender-based analysis patronizing toward women?

Gender-based analysis looks at reality and takes it into account when developing policy.

