

IMPLEMENTATION PROPOSAL

Report of the Nova Scotia Task Force on the Status of Women

Submitted to

Premier Gerald H. Regan, Q.C.

by the

Cape Breton Working Committee on the Status of Women

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It is respectfully submitted that the Provincial Government can act immediately upon several of the recommendations of the Task Force on the Status of Women.

Action upon the recommendations discussed below will involve little cost but will bring about significant, positive improvement in the position of women and men in Nova Scotia society.

The immediate areas of concern are as follows:

LEGISLATIVE PRIORITIES

The following legislation can be enacted in the Spring Session of the Legislature. Little preparation is needed. Studies and draft legislation are available in Nova Scotia and from other jurisdictions. Drafting will not be difficult. The Legislation will not cut into the Provincial Budget.

PRIORITIES

1. LEGISLATION DEEMING HUSBAND AND WIFE JOINT OWNERS OF MATRIMONIAL PROPERTY - REAL AND PERSONAL (See Task Force Recommendations 5 & 6)

This legislation must have flexibility so that persons may opt out of the legislation by marriage, or other contract. It would apply only to property acquired after marriage, and would apply only to assets such as the matrimonial home, furniture, automobiles, and family savings. The presumption of joint ownership would not include business assets such as business investments, interests in a partnership, company, sole proprietorship or money received for business purposes. However, it should be made clear that a spouse who contributes

to a business of the other spouse, is deemed to have the same interest therein as though he or she is unmarried. This eliminates the problem raised by the Murdock case.

2. ABOLITION OF DOWER, CURTESY, THE DOWER PROCEDURE ACT AND THE DOWER ACT

This logically follows from the above. Recent amendments to the Intestate Succession Act, would become redundant with respect to the matrimonial home. (See Task Force Recommendation #7)

3. REVISION OF THE WIVES' AND CHILDREN'S MAINTENANCE ACT

- (a) to require wives to support dependent husbands, (as in the Canada Divorce Act)
- (b) to eliminate adultery as a bar to maintenance and as a factor to be considered by the Judge in awarding maintenance
- (c) to place emphasis on need, rather than fault, in the determination of maintenance awards

Reform of the Divorce act to conform with the need concept has been recommended by the federal Law Reform Commission. A detailed analysis is contained in the Commission's Working Paper # 12 on Divorce (See Task Force Recommendation # 78)

4. REMOVAL OF ADULTERY AS A BAR TO RIGHTS UNDER THE TESTATOR'S FAMILY MAINTENANCE ACT, INTESTATE SUCCESSION ACT, AND WIVES' AND CHILDREN'S MAINTENANCE ACT.

5. AMENDMENT OF THE HUMAN RIGHTS ACT TO OUTLAW DISCRIMINATION BASED ON MARITAL STATUS IN EMPLOYMENT AND GRANTING OF CREDIT SERVICES, GENERALLY AVAILABLE TO THE PUBLIC AND ACCOMMODATION

Marital status is not covered directly in the legislation. It is not covered by necessary implication although it is argued by some that it is. Direct legislation is the only solution.

6. AMENDMENT OF THE HUMAN RIGHTS ACT TO SPECIFICALLY OUTLAW DISCRIMINATION IN THE GRANTING OF CREDIT.
7. ENACTMENT OF LEGISLATION TO REQUIRE HUMAN RIGHTS "AFFIRMATIVE ACTION PLANS" FROM ALL EMPLOYERS WHO DIRECTLY OR INDIRECTLY RECEIVE PROVINCIAL FUNDING. (See Task Force Recommendation # 13)

Affirmative action plans would analyze the present utilization of women and minorities, and set forth plans for employment of women and minorities to their full potential. There should be no requirement of mandatory quotas, but rather a requirement that target goals for improvement be set. The following employees would be directly subject to this legislation: Provincial Government, Municipal Government, Subsidized industries, Crown Corporations, Firms receiving Government contracts. There is parallel legislation in the U.S. The legislation must give employers a fair amount of time, and must not require so much detail that expensive outside help will be necessary. It would perhaps require an affirmative action committee to operate within a company, municipality or department.

8. AMENDMENT OF THE HUMAN RIGHTS ACT.

(a) to limit the investigation-conciliation process to three months, at the option of the Complainant

- (b) (i) to provide the right of direct access to the County Court rather than to a Board of Inquiry, or
 - (ii) to change the Board of Inquiry system to a tri-party board with inquisitorial responsibility, as well as quasi-judicial powers, with the provision that one person on the Board must be a lawyer familiar with Human Rights Problems, and one person must represent the religion, race, marital status, etc. of the complainant.
- (c) Provision of a right of appeal from the Trial Division (b) (i) or the Board of Inquiry (b) (ii).
 - (d) Provision of a time limit within which a Board of Inquiry or the Trial Division must render its decision.

The Roberta Ryan case is a classic in demonstrating the need for all of the reforms mentioned here. The process can take almost two years, by which time, a decision is of little value to the complainant.

9. LEGISLATION TO ABOLISH COMMON LAW MALE-ONLY RIGHTS OF ACTION FOR CRIMINAL CONVERSATION, HARBOURING, ENTICEMENT AND LOSS OF CONSORTIUM.

Such common law actions are insulting and degrading to women. They are extremely rare, and yet the possibility of a suit is enough to cause many hospitals to refuse hysterectomies and tubal ligations to separated women, in case husbands should sue for interference with conjugal rights.

One can preserve the right of a husband to sue for the loss of "services" of his wife by expanding and rationalizing the concept - to encompass the right of both marriage partners

to sue for loss of the economic contribution of the other marriage partner - this change will destroy the idea of sexual property, which underlies the old law of consortium. (See Task Force Recommendation #83)

10. LEGISLATION TO ABOLISH THE "HEAD OF THE FAMILY CONCEPT"

The statutes which contain this offensive concept are listed in Appendix E to the Report. It is attached. (See Task Force Recommendation # 82). Included in this legislation should be provision for wives to appoint guardians for their children. Where there is a conflict between the wishes of the husband and wife in "head of the family" matters, the courts should be given the power to decide the issue in accordance with the established principal - that whatever is in the best interests of the children of the marriage - should prevail. This legislation should be retroactive.

11. AMENDMENT OF THE LABOUR STANDARDS CODE, to provide mandatory pro-rated benefits to part-time employees, and full protection and benefits for domestic servants. (See Task Force Recommendations # 14 and 15).

Prince Edward Island has prepared guidelines for benefits for domestic servants. As domestic servants and part-time employees provide useful and valuable services, it is unlikely that introduction of such requirements will deter employers from utilizing their services.

12. REGULATIONS UNDER AND AMENDMENT TO the Human Rights Act to more clearly define what is meant by discrimination based on sex, and to more clearly define the exception based on bona fide occupational qualification based on sex.

As human rights cases are heard, loopholes will emerge. For example, in the Ryan case, the Board of Inquiry ignored the issue of whether or not the height and weight qualifications were inherently discriminatory. A regulation should correct this defect by stating that unless body structure qualifications are a necessary prerequisite to efficient job performance, they cannot be imposed in a manner that will exclude one sex or the other or a racial minority. There are several American cases on this topic. The regulatory power of government under the Human Rights Act has been ignored, and can be a useful tool in dealing with situations in which specific methods of discrimination are discovered which ought to be outlawed.

13. AMENDMENT OF SECTION 55 (1) OF THE LABOUR STANDARDS CODE, TO REPLACE THE CONCEPT OF EQUAL PAY FOR SUBSTANTIALLY THE SAME WORK, WITH THE CONCEPT OF EQUAL PAY FOR WORK OF EQUAL VALUE

Work of equal value, is a stronger term than "substantially the same work". It decreases the opportunity of the employer to manipulate the job descriptions enough to avoid paying equal wages to men and women employees. It is neither just nor logical under this concept to distinguish between work in different establishments.

BUDGET-RELATED LEGISLATION

The Cape Breton Working Committee respectfully urges the implementation of some legislative changes which may cost the Province some money, but which, in the long-term, will provide economic benefit.

1. LEGISLATION WHICH REQUIRES THE DEPARTMENT OF SOCIAL SERVICES TO GUARANTEE ALL MAINTENANCE ORDERS FOR THOSE ELIGIBLE FOR SOCIAL ASSISTANCE, AND WHICH MAKES THE DEPARTMENT, RATHER THAN THE INDIVIDUAL, RESPONSIBLE FOR THE COLLECTION OF ARREARS.

Many wives must go back and forth to court innumerable times - at considerable expense in babysitters, transportation costs, days off work (if on supplementary benefits), in order to attempt to collect arrears, to satisfy Social Services requirements. Persons are often not deemed eligible for assistance if they are nominally the beneficiaries of a maintenance order. The delay necessary to get into court to try and collect from the husband causes undue anxiety and can leave the family penniless.

If the Department of Social Services acted as prosecutor, it would undoubtedly develop a fairly consistent track record, in comparison with the record of individuals attempting to collect. The Department could employ investigating officers to double check on the excuses offered by the defaulting parties. Ultimately, the province would probably decrease the amount now being paid in benefits to deserted families.

2. LEGISLATION TO PROVIDE FOR COMMUNITY OR NEIGHBOURHOOD CONTROLLED DAY-CARE CENTRES, AND FOR FLEXIBLY REGULATED FAMILY CHILD-CARE HOMES, WHICH WILL BE ELIGIBLE FOR PROVINCIAL SUBSIDIES.

INTRA-GOVERNMENT NON-LEGISLATIVE ACTION

Some action has already begun by the Government to implement recommendations of the Task Force. Certain steps have been taken to sensitize civil servants to certain women's issues. However, much has been left undone. The Cape Breton Working Committee on the Status of Women believes that much can be accomplished in 1977 without significant infringement of budgetary restraint.

1. DAY-CARE:

The Department of Social Services could make existing staff available as consultants and development workers in the area of promoting community and family home day-care services.

2. EDUCATION

School Boards can be actively encouraged by the Department of Education to improve the representation of women in all levels of the education system.

The provision of career counselling for female students can be improved by:

- (a) sensitivity workshops for counsellors and classroom teachers.
- (b) the encouragement of seminars, and courses for counsellors, aimed at non-biased counselling

The Department of Education and School Boards can set up committees to investigate and remove sex bias from school texts, curriculum and classroom practices. The Committee does not encourage interference with

literary material, but it wants the schools to be free of bigotry and prejudice in textbooks and classroom teaching.

The Department of Education can take immediate steps to introduce more courses in family life education, and to incorporate more knowledge about women in culture and history into the existing curriculum.

3. HEALTH CARE

The Department of Health can promote the utilization of existing mental health centres for family crisis counselling, and rape crisis counselling.

Subsidies can be made available for visiting home-maker and nursing care services, so that more persons can stay at home during their illnesses, rather than enter hospital.

4. HUMAN RIGHTS

In order to actively pursue the idea of compulsory affirmative action, the Human Rights Commission will have to be expanded to include officers who can work with affirmative action committees, and who can deal with failure to implement and carry out affirmative action plans. In regional offices, the local officer may be able to handle this without additional staff.

The Commission should also set up a committee to actively pursue the need for regulations to cover methods used by persons to avoid the letter of the law.

ON-GOING STRUCTURE

The Cape Breton Working Committee supports the concept of a separate Department for Women. Women need an influential representative at the centre of governments' decision-making power. Without such representation, progress will be slow and unco-ordinated.

The Committee believes that any on-going structure will eventually outgrow its usefulness, and should be directed to the achievement of its goals in as brief a period as possible.

The Committee believes that the head of the structure should have Deputy-Ministerial status and should be responsible directly to the Premier and the Executive Council. There should be a central office, not necessarily in Halifax, with a small but highly qualified professional staff, along with support staff.

The central office should, aside from its other duties be the focal point for at least six regional offices, each employing at least one community field worker (if not two in Halifax-Dartmouth, and perhaps industrial Cape Breton).

There should also be a Central Advisory Council, drawn from persons of all walks of life, and similar in geographical diversity and in funding to the Steering Committee for International Women's Year.

In addition, there should be a Regional Council to complement each of the regional offices. The regional councils might act as the feeder group out of which members for the Central Advisory Council are drawn.

Some of the objectives of the on-going structure would be as follows:

- (a) to monitor and encourage implementation of the Task Force Report.
- (b) to make on-going recommendations for policies and legislation to improve the status of women and family life.
- (c) to act as a liaison between provincial and federal departments where necessary, to implement recommendations of the Task Force, the Royal Commission, the Law Reform Commission and the Federal Advisory Council.
- (d) to serve as a catalyst for consciousness-raising about the abilities, needs, rights, and responsibilities of women.
- (e) to act as a liaison and communications source between all private and public organizations, groups and individuals concerned with the status of women.

Some of the activities of such a structure would be:

Public education.

Information gathering and reporting.

Research, including encouragement of outside research.

Co-ordination of intra and inter-departmental programs, some of which are already in existence.

Promotion of community resources pertaining to the status and needs of women.



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