



Canadian Women & the **Struggle for Equality**

Lorna R. Marsden



THE ROAD TO GENDER EQUALITY SINCE 1867

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OXFORD
UNIVERSITY PRESS

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Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
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Oxford University Press in the UK and in certain other countries.

Published in Canada by
Oxford University Press
8 Sampson Mews, Suite 204,
Don Mills, Ontario M3C 0H5 Canada

www.oupcanada.com

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Database right Oxford University Press (maker)

First Edition published in 2012

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Library and Archives Canada Cataloguing in Publication

Marsden, Lorna R., 1942–
Canadian women and the struggle for equality since 1867 /
Lorna R. Marsden.

Includes bibliographical references and index.

ISBN 978-0-19-543049-3

1. Women—Canada. 2. Equality—Canada.
3. Women's rights—Canada—History. I. Title.

HQ1453.M37 2012

305.40971

C2011-907086-3

Cover image: Three woman employees arrive for work at the John Inglis plant, Toronto,
May 1941. Credit: National Film Board of Canada. Photothèque / Library and Archives
Canada

Printed and bound in the United States of America

1 2 3 4 — 15 14 13 12

**Canadian Women & the
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Foreword

This study about social change in Canada starts with the question “Why were women ignored in the first Constitution Act of 1867?”

Historians might respond that the answer is obvious. In the nineteenth-century Western world, at the time that our constitution was framed, European women in Canada occupied a secondary position in society. Aboriginal women occupied an even lower social position. Historians have contributed greatly to our knowledge of the lives of women in Canada's past. To answer this question, I will draw on their research and, at the same time, question their conclusions.

The full explanation must show how women worked their way out of considerable inequality in just over a century. Having been preoccupied with the study of social change in Canada for many years, I have written this book in an attempt to put the question of why women and their rights were ignored in the Constitution into a different context and also to consider the particular sociological circumstances in which the major improvements in the status of women have occurred.

What has happened to reduce inequality between the sexes has come about in some unexpected ways. Women were not the only agents of change in Canada. They have had allies among men and in some world events that impinged on Canada. Women have recognized and seized opportunities as they have arisen. I cannot do justice to all

the important changes that occurred, which have both reduced and perpetuated inequality. However, since that first Constitution Act of 1867, known to most people as the British North America Act, some patterns have emerged that reveal how women's organizations and some individuals have succeeded in creating lasting changes.

The study of women is especially interesting to a sociologist because, unlike other demographic groups described as minorities, women form an important part of all social classes and economic strata. Women have always been essential to the economy, and clearly families cannot be formed or maintained without them. So tracking the changes in the status of women over the decades provides insight into the dynamics of Canadian society. It shows us the profound impact of war, economic downturns, and disease on our society, and in particular, the way these powerful forces created opportunities for changes in the status of women.

The study of particular events in the history of women allows us to explore the methods of social change. There was no year, or even decade, when Canadians took collective action to alter women's secondary status. There was no revolution in thinking or behaviour and no popular revulsion at women's exclusion. Rather the process of social change in Canada is slow and accretive, with unexpected advances and sobering retreats taking place throughout our history.

This book is written primarily for undergraduate students of sociology. I have had the pleasure of working with some superb undergraduates since 1972. So many of the students I have encountered, especially those who have not grown up in a British tradition, are bewildered by Canadian society and history. Perhaps this exploration of social change in our past and present will inspire some of them to do further research on this intriguing subject.

My personal views and experiences are found throughout this book. As a keen supporter of women's equality, rights, and independence, I have been a member of feminist organizations most of my life. Having served in the Canadian Parliament as a senator from 1984 to 1992, I have observed the strengths and frustrations of our Constitution and system of government. John A. Macdonald and George Brown, two of the Fathers of Confederation, thought they were creating a nation with strong central powers. I wish they had built a constitution to achieve that goal, but instead the provinces began Confederation with very significant powers and have fought with determination to protect and expand their powers ever since.

Why would stronger federal powers be desirable? For one thing, greater geographic mobility across provincial borders and more comparable family laws would have eased the lives of women in many ways. There are clear reasons why the founding constitution was developed in the way it was: granting extensive provincial powers was the only way to bring the colonies into Confederation at all. Reading the Quebec Resolutions of 1864 that formed the basis of the constitution, one is struck by the detailed powers and privileges conferred on the former colonies. After nearly 150 years of living with this division of powers, Canadians continue to struggle over our situation.

After this manuscript was submitted to the publisher for review, the third edition of *Canadian Women: A History*¹ was published. Like its two previous editions, it is a truly marvellous work, drawing on several fields of knowledge and evidence, and it is so well-written that it can be read cover-to-cover with pleasure. So why repeat the authors of that book and other scholars, biographers, and

1. Gail Cuthbert Brandt, Naomi Black, Paula Bourne, and Magda Fahrni, *Canadian Women: A History*, 3rd ed. (Toronto: Nelson, 2011).

autobiographers? *Canadian Women and the Struggle for Equality* contains no original research and does not test a theory of social change. Rather, by reference to the work of others, I have attempted to expand on an earlier analysis of social change in Canada in which Edward B. Harvey and I put forward a theory of our society.²

Others are also attempting to look at the fabric of our society in new ways. In particular, the series of studies titled *Extraordinary Canadians* (edited by John Ralston Saul) is casting new light on Canada's past leaders and their contributions to how women understand themselves. In contrast to that series, this book does not single out a particular individual as an agent of change. Instead, the focus is on the means through which Canadian women have been able to move their agendas into law or common practice. These dynamics go beyond a particular social movement, such as a women's movement, and they are helped (or hindered) by social structural factors such as demography, global events, the limitations of our economy, and the powerful cultural inheritance of the British and French institutions built into our origins as a country. Given the power of these structures, the improvements in the status of women are amazing accomplishments. The determination and cleverness of so many women in seizing opportunities to change minds makes a fascinating narrative.

Many friends and colleagues have contributed to this work. In particular, my feminist colleagues—both scholars and activists—at York University, at the University of Toronto, and in women's and political organizations to which I have belonged have shaped my thinking. Without naming them individually, I acknowledge their powerful influence on my ideas and the value of their friendship. Some

2. Lorna Marsden and Edward Harvey, *The Fragile Federation: Social Change in Canada* (Toronto: McGraw-Hill Ryerson, 1979).

of these feminist colleagues are men, and I note with pleasure that progressive women throughout our history worked with male allies. Members of my family over four generations have caused me to think about the status of women, and studying in the United States during the Vietnam War gave me a great appreciation of the differences between our two societies in methods of social change.

Sarah Martin, Betanya Meru Tefera, and Alexandra Ross, all students at York University, provided important research assistance, and the librarians at the Frost Library and other York libraries have been extraordinary in their helpfulness. The University has provided research funding, and Joshua and Leeza Richman Gould dealt with many technical problems at short notice. I am grateful to them all.

I cannot thank enough my editor at Oxford, Jennie Rubio, whose patience and optimism about this work made it all happen. My husband, Edward Harvey, has been a listener, a constructive critic, and a support through 50 years of partnership, both personal and intellectual, for which I am enduringly grateful.

I am aware that many colleagues will not agree with the ideas in this book. That is why feminism and the women's movement in Canada continue to be so interesting. While my colleagues' many different ideas have helped to shape my ideas about this topic, I bear sole responsibility for the errors and omissions that may be in this book.

Lorna R. Marsden
Toronto, 2011

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I

The Setting and the Purpose

These days the equality of women and men is not an uncommon subject of discussion. This is true not only of theorists, philosophers, and activists but ordinary people as well. We all willingly accept gender equality as an important concept in daily life. The fact that it is a widespread subject of discussion, however, does not mean that women and men are equal, or treated equally or even equitably, in our society.¹ But equality is a widespread aspiration for both men and women. We will see below how this aspiration emerged some centuries ago in the writings of British and European thinkers back across the Atlantic. Crucially, however, this aspiration was not widely accepted at the founding of our constitution.

At the time of Confederation, the law and customs of the colonies failed to protect women in many significant ways. When Canada was formed from these established colonies in the late nineteenth century, the concept of equality for women was absent. The consequence of this was that

1. Being equal in social status, being treated by law and custom as equal, or being treated differently but in an equitable fashion are all different but important aspects of the development of laws, regulations, and social programs in Canada. They are discussed later in this chapter.

neither laws nor customs favoured women's citizenship; women were secondary in many ways, legally, culturally, and economically.

Constitutionally speaking, equality arrived many decades after 1867. In April 1985, the equality rights sections embedded in the Canadian Constitution Act of 1982 came into effect. At this point, the concepts and aspirations associated with gender equality became an active part of one of our most important institutions—our Constitution. Unlike most parliamentary systems built on the British model of common law, the Canadian Constitution now spells out citizens' rights and freedoms in the Charter. This innovation resonates down through the many levels of government, the courts, and most of the institutions of Canadian society. It affects us all.

Since this change in our Constitution, there have been concerns about the implementation of equality rights in Canadian law and life. Legal theorists and practitioners, sociologists, psychologists, historians, school teachers and trustees, police officers, and above all parents concern themselves with questions about gender equality on a daily basis.² This is evidence that the ideas of gender equality have been institutionalized in our thinking.

This change in the popular mind is remarkable. In the 1860s in Canada, the concept of gender equality was confined to a very few minds. Even in the expressions of women's rights in that period, "separate but equal" or "separate spheres" was as far as most enlightened citizens would go.³ These phrases suggested that women and men occupied entirely different

2. See, for example, Fay Faraday, Margaret Denike, and M. Kate Stephenson, eds., *Making Equality Rights Real* (Toronto: Irwin Law, 2009).

3. See, for example, Derrick Thomas, "The Census and the Evolution of Gender Roles in Early Twentieth Century Canada," *Canadian Social Trends*, March (2010): 40–46.

statuses within all social, political, and economic institutions—ranging from the family to Parliament and from the lowliest occupations to the justices of the Supreme Court. Most Canadians of any walk of life considered women to be secondary to men in every way. Those who did not share such views believed that it was through motherhood that women achieved a higher moral status. In practice, however, this idea relegated women to a maternal role, denying them any significant participation in other aspects of society. Unlike today, only a very small minority of people gave serious consideration to women's independence and equality.

Since then, many aspects of women's lives have changed, ranging from economic to political status and from demographic to legal conditions. Whether these changes can be considered improvements depends on the particular issue and viewpoint. However, over the decades, the efforts of a number of ambitious reformers and concerned citizens have transformed many, but not all, institutions. A good example of this kind of transformation is the case of citizenship. Until 1946, this important legal status was based on a husband's or father's citizenship—that is, children had the nationality of their father, and a wife was deemed to be of the same nationality as her husband.⁴ If a woman married someone who was not a British subject, she could lose the right to vote (along with the other rights of citizenship). It was an important legal change when the right to vote was no longer based on sex or marital status. Another example of a transformation is the dramatic change in the labour force. The proportion of adult women who worked for pay increased, and changes were made to our laws—including employment

4. Caroline Andrew, "Women as Citizens in Canada," in *From Subjects to Citizens: A Hundred Years of Citizenship in Australia and Canada*, ed. Pierre Boyer, Linda Cardinal, and David Headon (Ottawa: University of Ottawa Press, 2004), 95–106.

equity and pay equity laws—which the majority of citizens expected to follow and apply. The change is not only in the dramatic increase in the proportion of women with young children in the labour force, but also in the widespread acceptance of this dual status for women.⁵

However, improved status has not come to all Canadian women in equal measure. For example, under the Indian Act, some groups of women are still treated differently by the law. The Indian Act came into effect in 1876 and has imposed limited rights, especially for women. Despite some important changes to the Indian Act since 1985, issues of property rights and family law are still contentious. The list does not end there. Not all groups of Canadians are encompassed by equity rules of behaviour. Women in some groups are caught between their rights as citizens and their cultural practices. Some religious organizations still reject many equality rights and restrict the rights and freedoms of women in Canada. In addition, while most Canadians are law-abiding citizens, not all Canadians believe in equality or practice it in their personal relationships. This clash between value systems may contribute to incidents of domestic violence, workplace problems, and differences in political ideologies. Over time, our history, laws, practices, and notions of acceptable personal behaviour have changed, but the highest of equality ideals have seldom prevailed in daily life.

How might these social changes have played out in the lives of young women at different eras in Canadian history? Let us imagine a young woman in the 1860s, one in the 1960s, and one in the contemporary period. Each of these imaginary women would face a quite different set of horizons. For each woman, life was marked by issues of access to education; to

5. For a discussion of this period of change in the labour force, see Charles Jones, Lorna Marsden, and Lorne Tepperman, *Lives of Their Own: The Individualization of Women's Lives* (Toronto: Oxford University Press, 1990).

health care, including sexual health; and to employment—all topics discussed in different chapters in this book.

In the 1860s, a young woman contemplating her future in Canada would foresee a life of marriage and children, unless she had a religious calling. This young woman might anticipate a life of very hard work as the wife of a farmer or a rancher. If she was an urban woman, she might think of working at home on piecework for the textile industry. If she were an upper-middle-class woman, she might consider how she would manage her future household in order to be a successful hostess in support of her family. Her view of her prospects of old age would be tempered by her knowledge that many women died in childbirth or of a communicable disease, such as tuberculosis. Her children would be her responsibility when they were young; although their father would control their education and other major decisions about their lives as they grew up. This woman would not have the vote for the legislatures even if she was interested in political affairs; nor in most cases would she enjoy property rights. She would be able to engage in community activities and domestic arts if she had the time and resources. In times of ill health or other crises, she would have to rely on her family and friends: maintaining those relationships would be crucial to her well-being. If our imaginary woman were an Aboriginal woman, her life would be totally different from the lives of the non-Aboriginal women of her time, except in unusual cases. Outside her own culture, she would be treated almost as a non-person and her rights would be non-existent in European terms.⁶ In the dominant culture,

6. Exceptional cases were well known and included Aboriginal women, such as Amelia Douglas in Victoria, who were married to Europeans. Even more in the post-Confederation years than in the earlier years of the fur trade, Aboriginal women were excluded or badly treated. See, for example, Brandt et al., *Canadian Women*, 73–75.

if our imaginary woman had a sexual preference other than heterosexual, she would keep it a secret from her community, where she would attract criticism or worse.⁷ If she had cancer, she would not talk about it. In some social classes, she would not talk about pregnancy until close to giving birth.

This context describes the Victorian age. Respectability would be an important personal goal. She would be judged by the values of the period, even if she did not share them. There were many reforms during the period, both in the Canadian colonies and in the mother country. Those reforms, however, did not embrace the idea of women's equality but were concerned with women's protection. So, as Lori Chambers says of the Married Women's Property Act in Ontario in 1884,

None of the acts was motivated by any desire to emancipate women. Instead the guiding intent of legislation was to "better protect" women from the potential coercion and cruelty of their mates, to allow women to support themselves and their dependent children when husbands were absent, abusive, or economically irresponsible. Reform was popularly justified by the belief that women, being "weak and liable to be imposed upon by their husbands," required special legal protection not equal rights based on their humanity.⁸

Consider Agnes, the new wife of John A. Macdonald. Agnes and John had been married in London days before the British North America Act began its passage through the British Parliament in 1867. Like many other women, upon marriage she became a stepmother, and in her case she also became a helpmate for her husband's political career. (Macdonald's first wife had died some years earlier.) Agnes Bernard had grown

7. Close friendships between women, including sexual ones, were by no means unknown. See, for example, Sharon Marcus, *Between Women: Friendship, Desire, and Marriage in Victorian England* (Princeton, NJ: Princeton University Press, 2007).

8. Lori Chambers, *Married Women and Property Law in Victorian Ontario* (Toronto: The Osgoode Society/UTP, 1997), 4.

up in Jamaica and England but also lived with her mother and brother in Barrie, Ontario, so she knew what to expect of life in Canada. Her life story tells us a great deal about the contours of a woman's life in the nineteenth century.



One hundred years later, in the 1960s, a young woman contemplating her life in Canada would have seen her future very differently. This young woman was very likely to have been born elsewhere and been part of the postwar immigration. She would have been encouraged in high school to think of a career, but not to the exclusion of marriage and children. Children would be viewed as her main responsibility, as they had historically been, but she and her husband would jointly make decisions about the education of their children. Her anticipation of a long and quite comfortable life—in comparison to the life of a woman living in the nineteenth century—would be justified. However, it is important to note that even in the 1960s, Aboriginal women faced much poorer life chances than other Canadian women.⁹

World War II had ended a decade or so earlier, and (like World War I) had brought a new round of changes to the lives of all women. Women who had been in the armed forces might now be settled into new work or a new life. The war had also left numerous war widows in any town or village.

Women in the 1960s had more years of education than their counterparts of a hundred years earlier, and many became teachers, nurses, or office workers, among other possible

9. For a discussion of the life expectancy of Aboriginal women in Canada, see Cleo Big Eagle and Eric Guimond, "Contributions that Count: First Nations Women and Demography," in *Restoring the Balance: First Nations Women, Community, and Culture*, ed. Gail Guthrie Valaskakis, Madeleine Dion Stout, and Eric Guimond (Winnipeg: University of Manitoba Press, 2009), 46–60.