

Seeking greater intersectionality in trade: Learning from women with disabilities

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Introduction

The Canadian government has put significant attention in its trade negotiations to addressing gender equality and avoiding discrimination based in gender. It promotes a two-pronged strategy of creating standalone gender and trade chapters, and mainstreaming gender-related provisions in its free trade agreements (GAC 2021). This strategy has been part of how Canada has developed its trade agreements with Chile, Israel, Uruguay, New Zealand, the European Union, and the World Trade Organization (WTO). This approach includes appointing a special advisor on gender-based analysis plus (GBA+) and trade and gender and coordinating a gender and trade advisory committee.

This strategy builds on Canada's long-standing commitment to gender-based analysis (GBA). While the Canadian International Development Agency (CIDA) had a women in development policy since the 1980s (Tiessen and Baranyi 2017), the Canadian government adopted a GBA commitment in 1995. Since then, its implementation has been uneven. In 2006-2007 the Conservative federal government cut funding and offices for women's rights, yet at the same time required all government departments to undertake gender-based analysis in their funding submissions (Paterson 2010). In 2011, Canada introduced the 'plus' to GBA,

acknowledging “...that GBA goes beyond biological (sex) and socio-cultural (gender) differences [to consider]...multiple identity factors that intersect to make us who we are...like race, ethnicity, religion, age, and mental or physical disability” (Status of Women Canada 2018). GBA+ is meant to examine “how diverse groups of women, men and non-binary people may experience policies, programs and initiatives” (Status of Women Canada 2018). In 2015, the Liberal government committed to strengthen GBA+ which is now required for all Memoranda to the federal Cabinet and Treasury Board submissions. It also substantially increased the capacity to address GBA+ by upgrading the budget and status of its bureaucratic home from Status of Women Canada to the department of Women and Gender Equality Canada.

As used in Canada, GBA+ has been critiqued for its gender-first orientation which prioritized gender over other aspects of oppression. The GBA+ approach has been less successful in addressing structural or systemic barriers and power relations at work (Hankivsky & Mussell 2018; Stienstra 2017). With the bureaucratization of GBA+, critics have also argued that the government has focussed on individual identity factors over structural and systemic equality barriers (Mason 2019). Many critics also call for an incorporation of more intersectionality-based policy analysis methods which could address these criticisms (Hankivsky and Mussell 2018).

So how does the Canadian gender and trade strategy do in addressing diverse women, most notably women with disabilities? What are the indicators of how trade policies address the needs of women with disabilities? This paper begins to explore the second question in order to create a basis from which to explore the first question (which will happen later in the

project). I argue that there are at least two barriers to addressing the situations of women with disabilities in Canada's trade:

- a) a classification system that relies on a medicalized approach to assistive devices; and
- b) no analysis of the systemic and persistent barriers to trade in the context of the *Accessible Canada Act* and human rights commitments to accessibility and inclusion.

Why women with disabilities and trade?

Given the lack of discussion of women with disabilities and trade, the first question I want to address is why should we consider the impacts on and contributions to trade policy by women with disabilities in the Canadian context?

Women with disabilities make up 24% of the Canadian population (Morris et al. 2018). That is a significant number. It is important to recognize that Indigenous women have higher rates of disability than non-Indigenous women (Hahmann et al. 2019). We also know that women with disabilities rely both on assistive devices and medications. Most women with disabilities report using at least one aid or assistive device, with 72.5% of those with mild/moderate disabilities and 93% of those with severe disabilities using at least one aid or device (Burlock 2017). Three-quarters of women with disabilities report using prescription medications at least once/week. These indicators suggest that women with disabilities are significantly affected by trade decisions and policies that affect assistive devices and pharmaceuticals.

We also know that women with disabilities have much lower rates of employment than both women and men without disabilities (Schimmele et al. 2021; Morris et al. 2018). This is linked to their income levels which are roughly half that of women and men without disabilities

(Morris et al. 2018; Wall 2017). This leads to a high proportion of low income or poverty among women with disabilities, especially lone parent with disabilities. With trade liberalization has also come a greater dependence on the market to distribute resources. This leaves women with disabilities at potentially greater risk. Since women with disabilities tend to have lower incomes and are more reliant for their income on government programs, they may have to allocate a significant portion of their income to assistive devices or health services or go without.

Women with disabilities offer a unique and important vantage point on trade policy. As consumers, they rely heavily on assistive devices, health services and pharmaceuticals. They experience greater risk from changes in prices, significant bureaucracy, access to goods and services because of their high reliance on government programs and low income. Finally, we know so very little about their experiences as they have not been imagined in trade policies.

One significant example is the 2020 World Trade Organization/ World Bank report on gender and trade which does not discuss women with disabilities, even with its focus on three roles – workers, consumers and decision-makers. The study includes several implicit assumptions, including about who is vulnerable and what that means in a trade context, as well as how productivity shapes women's access to trade, that structure out a discussion of women with disabilities out. I hope to develop more of that analysis in a later version of my paper.

Using the Canadian gender and trade policy to examine the impacts of trade on women with disabilities is an especially useful case study for two reasons. First there is already a commitment to intersectional analysis through GBA+. While we may challenge the depth of that commitment, it is there. Equally importantly the federal government has adopted the

Accessible Canada Act in 2019. For areas under federal jurisdiction, there is a legislative requirement to ensure identify, remove, and prevent barriers to accessibility, including in procurement (Stienstra 2020). As recent Statistics Canada data suggests (Choi 2021), there continue to be significant barriers to accessibility in transportation, the built environment, information and communications technology and employment. Accessibility in each of these areas can be enhanced by the use of assistive devices and technologies. Using both a GBA+ and accessibility lens on trade policy will help us to better understand and address barriers that shape trade and women with disabilities.

Research methodology

This paper draws on research completed for Status of Women Canada in 2004 called *Women with Disabilities: Accessing Trade*. During that research, the team undertook focus groups and interviews with 42 women with disabilities including: 6 entrepreneurs; 11 ethno-racial women; 2 Indigenous women and women with a range of disabilities – Deaf, blind, low-vision, hard-of-hearing, mental health, multiple, and invisible. Most of the data collected was in English, and one focus group was held in ASL. The research team also did key informant interviews with vendors of assistive devices, program coordinators, and brokers in Manitoba, Ontario, Newfoundland and Labrador, and Saskatchewan. We also did an analysis of the related trade data and statistics. To complement this earlier research, I did a policy scan, and a co-op student, Michael Lanc, assisted by updating the trade data from 2002 to 2020.

Access to Assistive Devices

In this paper I focus on one key finding from the research -- that access to assistive devices is directly linked to trade policies and demonstrate implicit and explicit systemic barriers that perpetuate ableism.

For Statistics Canada, assistive devices include personal aids and devices such as canes, walkers, other mobility devices, specialized software as well as prescription medication (Morris et al. 2018). In trade data and under the Harmonized System codes, only a few specific devices are included, all under medical technology. There is no separate classification for assistive technology, although there is a special classification (9979.00.00) for goods which assist people with disabilities “in alleviating the effects of those disabilities, and articles and materials for use in such goods”. Goods under this classification are imported into Canada duty-free. This is found in chapter 99 of the Harmonized System which is reserved for special classifications determined by individual countries.

In 2011, Wolseley Canada took the Canada Border Services Agency (CBSA) to the Canadian International Trade Tribunal (CITT 2013). They argued that a specific good – a sink developed for use by people with disabilities – should be duty-free under tariff item 9979.00.00 since it was specifically designed for wheelchair users. Wolseley argued that

(i) that the good in issue was specifically designed to meet the *ADA [Americans with Disabilities Act] Guidelines*, which are themselves directed at the elimination of discrimination by ensuring that persons with disabilities have access to various facilities, including sinks, and (ii) that TOTO’s design process includes testing at its universal design centre in Japan to ensure that its products conform to the principle of “universal

design”, whereby products can be used by persons with and without disabilities. (CITT 2013).

The company further argued that the sink was ‘specifically designed’ for people with disabilities and that fact that it can also be used by people without disabilities does not detract from its original intent and purpose. In contrast, the CBSA argued that since the sink was universally designed it could not be ‘specifically designed’ for people with disabilities, although people with disabilities were clearly one of a number of populations considered in the sink’s development. In its ruling in 2013, the CITT agreed with Wolseley’s argument and approved the classification.

In 2015, the CBSA issued a memo on goods to assist people with disabilities (CBSA 2015). The memo outlines the two conditions required to meet the classification: the good must be specifically designed to assist people with disabilities and must assist in alleviating the effects of those disabilities. The memo notes that “Care should be taken not to assume that simply because a person with a disability uses a particular good and benefits from the use of the particular good, that the two ‘specifically designed’ conditions of tariff item 9979.00.00 have been satisfied” (CBSA 2015). To claim the benefits of this tariff item, importers must provide the name of the specific disabilities, a description of how the good alleviates the effects of this disability, and evidence that it was designed to alleviate the effects of this disability.

This Canadian approach is thus two-fold. For those who wish to trade in devices already classified, and this is primarily as medical technology, they access this technology in the same category as hospitals, institutions and clinics that purchase medical technology. This has a dual effect of contributing to the medicalization of disability and putting individuals with disabilities

who must use and may need to import it in a more challenging position because it can be much more difficult for individuals than for institutions to access this technology.

For those who wish to use a device that has not been classified under tariff item 9979.00.00 they are required to prove that the good is of use to ‘alleviating’ the effects of a disability, name the disability, and demonstrate that it was designed to do this. That puts the onus on those who purchase goods to prove how it is assistive and has the impact of reducing access to these goods.

Both approaches come from a medicalized understanding of disability and support a very complicated and patchwork system of disability supports in Canada (Stienstra 2020). In many provinces to receive assistive technology, medical professionals are required to act as gatekeepers, providing approval and signing forms, even when they have no expertise in the area. People with disabilities who are most knowledgeable about their own needs are prevented from obtaining their own devices unless they are willing and able to incur the related expenses and navigate a very complicated system.

In both approaches, disability is understood primarily to be in the body of the person with an impairment or condition. Despite widespread understanding of the disabling nature of environments (Stienstra 2020), Canada’s trade policy in relation to assistive devices continues to use language that perpetuates the discourse of disability being about bodies in need of fixing, rather than about creating inclusive environments that can adapt to a variety of human beings with different ways of knowing and being.

In the case of tariff item 9979.00.00, the onus to prove a good or device is assistive is on the importer. If they are not able to provide adequate evidence, duty is applied and the good

costs more. The current approach increases requirements to justify and reduces the flexibility that is at the core of much assistive technology – that different technology may have different functions, depending on the user.

At the heart of both approaches is ableism – a set of assumptions that create a world, including trade policies, for people without disabilities. The needs of people with disabilities are largely invisible and when made evident perceived as extraordinary and needing to be justified to be considered valid.

[Intersectional approaches to understanding trade barriers](#)

With the two Canadian frameworks of GBA+ and the *Accessible Canada Act*, there is a significant opportunity to explore how trade policies shape and are shaped by women with disabilities. To date, this type of analysis has not been done. Our team's 2004 study suggests there are some important areas to consider, most importantly access to assistive devices and technologies. Data from the 2017 Canadian Survey on Disability (Morris et al. 2018, Choi 2021) reinforces the importance of assistive technologies and devices in enhancing accessibility and addressing barriers.

Recent policy changes by the CBSA suggest that despite recognition (only after a tribunal ruling) of the need for some classification for assistive devices and technologies, the mechanisms to do this create more barriers to access for people with disabilities. Women with disabilities are more reliant than men with disabilities on these devices and, because of their lower incomes and increased reliance on government supports, have less capacity to pay extra money or make the extra effort required to get these devices. It is not surprising that three in

ten people with disabilities between 15 and 64 years old had an unmet need for an aid, device and/or prescription medication due to cost (Morris et al. 2018). This increases for those with more severe impairments, and for women. For women with disabilities living with poverty 41% had unmet needs due to costs compared with 33% for men with disabilities in similar circumstances (Morris et al. 2018).

What can trade policy do to address these barriers? First, we need more intersectional data gathered. We need to be able to understand how gender, disability, race, Indigenoussness and other social locations work together. Statistics Canada and Women and Gender Equality Canada have begun to provide more detailed analyses of the situations of women with disabilities (Schimmele et al. 2021; Burlock 2017), but because of the methods used, there remains much we do not know. What we have learned is that many women with disabilities are unable to get the aids and devices they need due to costs. What we do not know is how costs for these devices are affected by our trade agreements and practices. Trade data is organized by type of goods as well as industry. As our team learned, it is challenging to identify assistive devices in the online data. The data we gathered related to wheelchairs, mechano-therapy devices, and orthopaedic appliances. We were not able to gather data on other assistive devices, nor on what had been approved in tariff item 9979.00.00. Access to additional qualitative and quantitative data to fill these gaps would help to develop a more complete analysis.

Second, using both a GBA+ and accessibility lens, the federal government could undertake through its gender and trade initiative an analysis of persistent and systemic barriers from trade policies and practices for women with disabilities. Again, we are getting a clearer

understanding from the perspective of women with disabilities about the barriers they face in accessing aids and devices. What is less clear is how these barriers are created and maintained from the industry and government sides. What policy measures could we take to reduce the costs of aids and devices and increase access to them? How do our trade agreements address and/or perpetuate these barriers? What could be done within chapters on gender and trade to create a more intersectional approach?

Finally, as researchers, we can widen our view to examine the diverse experiences of gender and trade, including women with disabilities.

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