



**HUMAN RIGHTS DENIED**

**Single Mothers on  
Social Assistance  
in British Columbia**

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# Human Rights Denied: Single Mothers on Social Assistance in British Columbia

By Gwen Brodsky, Melina Buckley, Shelagh Day, and Margot Young.

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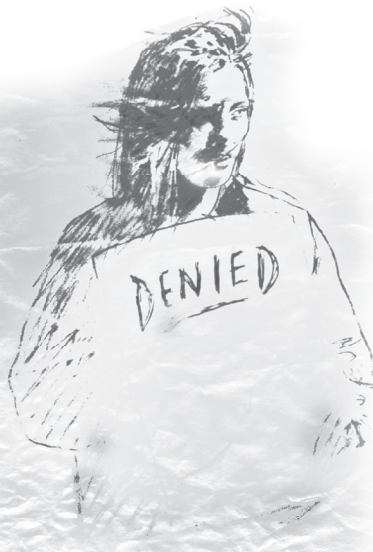
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*Human Rights Denied* documents the very difficult conditions in which single mothers are raising their children in British Columbia today. It is a call for the Government of British Columbia to abandon its current policies - because they are a cruel failure.

It is also a tribute to the courage, love and hard work of single mothers.

They are valiant; they deserve better.



# Executive Summary

In the last four years the Government of British Columbia has introduced a package of legislative and regulatory changes that disproportionately harm single mothers on social assistance and their children. These changes, especially when combined with cuts and changes to childcare, employment standards and access to post-secondary education, deepen the disadvantage of single mothers—one of the most vulnerable groups in our province.

The Government of British Columbia’s social assistance policies for single mothers are a cruel failure. The social assistance regime purports to provide for the basic needs for food, shelter and clothing of the poorest single mothers and their children, but it does not. The regime and related childcare, employment standards and post-secondary education policies also purport to help women to become economically self-sufficient, but, perversely, they have had the effect of creating more barriers to employment for poor women with dependent children.

Social assistance rules and policy treat single mother families in often confusing and contradictory ways. This is because the regime is based on stereotypes and myths about single mothers, including the myth that single mothers’ poverty is the result of bad personal choices. Single mothers’ poverty is caused by a combination of social and economic factors, including the undervaluing of child-raising work, the lower value attached to women’s paid work, lack of adequate child care, and the conflict between parent and worker responsibilities. It is too simple and inaccurate to blame single mothers for their own poverty.

It is not inevitable that single mothers and their children will be denied access to economic and social well-being. It can be different. Other countries, like Sweden for example, through income transfer programmes to families with children and facilitated access to high quality childcare, have vastly lower poverty rates among single-parent families than Canada.

**The social assistance regime purports to provide for the basic needs for food, shelter and clothing of the poorest single mothers and their children, but it does not.**



The current government has not only failed to respond to the needs of single mother-led families on social assistance—already in the 1990s living well below the poverty line—but the government has, through calculated and purposeful legislative change, orchestrated the aggravation and worsening of the economic and social inequality of these single mothers and their children.

The Government's actions are not merely bad policy; they are illegal. They discriminate against single mothers and are contrary to the rights to equality guaranteed by the *Canadian Charter of Rights and Freedoms*, the *BC Human Rights Code*, and international human rights treaties.

*Human Rights Denied* calls upon the Government to take immediate steps to stop ignoring the human rights of single mothers and to remedy this wrong.

## The Statistical Picture

Single parent families are a growing portion of the total number of families in Canada, and the vast majority of single parent families are headed by women.

- In British Columbia, about 20 percent of all families with children are headed by single mothers.
- More than 90 percent of the children living in single parent families live with their mothers
- About twice as many Aboriginal children live with a single parent—mainly their mothers—as non-Aboriginal children
- For most of the last decade over half of all single mothers have been living well below the poverty line
- In British Columbia in 2001, the poverty rate among children living with single mothers was 48 percent (57,000 children). By comparison, the poverty rate for children living with single fathers was 20.6 percent and, for children living in two-parent families, it was 10.8 percent.
- Single mothers have the highest poverty rates, their employment options are limited by child care responsibilities, and some women who become single mothers rely on social assistance to make possible escape from male violence at home. Social assistance, therefore, is a key program for single mothers. Indeed, about one third of the recipients of social assistance in British Columbia are single parents, and almost 90 percent of those are single mothers.

# The Human Picture

- Of all social assistance recipients, single mothers are the most likely to go hungry.
- Single mother families are living in unsafe, unhealthy shelter.
- Some single mothers stay in or return to abusive relationships in order to survive.
- The ability to parent effectively is hurt by deprivation and stress.
- Single mothers are increasingly vulnerable to losing their child/ren to the child apprehension system.
- The physical and emotional health of children is harmed with potential long-term consequences.

## What are the changes that harm single mothers and their children?

In 2002, *for the first time in twenty years*, social assistance rates for families with children were cut in British Columbia. A single parent family in 2002 received less (in nominal dollars) than the same family did ten years earlier.

Single mothers' social assistance benefits have been negatively affected in a number of ways.

- The basic support portion of the social assistance benefit for employable single parents was cut by \$51 a month. Most of the single parents affected are single mothers. This reduction affected families in which approximately 60,000 children live.
- Shelter allowances for families of 3 or more were reduced. Single mothers with two or more children were affected.
- The Family Maintenance Exemption, which had been in place since 1976 and permitted a single parent who was receiving child support payments from a spouse to keep 100 dollars per month, was eliminated. All child support is now deducted dollar for dollar from income assistance benefits. This exemption was used almost exclusively by single mothers.
- The Earnings Exemption was eliminated for "employable" recipients. This exemption allowed people on welfare to work and keep \$100 if they were single, or \$200 if they had children or a partner. In 2002 single parents were the greatest users of this exemption.
- Changes to eligibility rules mean that single mothers are considered "employable" when their youngest child is 3 (rather than 7 as in 2001 and 12 in 1994). Requiring single mothers to actively seek work in the paid labour

force, combined with the lack of adequate, accessible, and affordable child care, puts these women in an impossible position. They are required to seek out (and take up) any available labour force employment when their children may still be too young to be left alone, or, even, to be in school for any portion of the day.

- Full-time students are no longer eligible for social assistance. Before 2002, single mothers were specifically recognized as a group in need of support while they improved their educational qualifications and ability to become economically independent.
- The government has also eliminated back-to-work benefits that used to be available to purchase required work clothing or tools, and pay for any uncovered child care expenses. Again, many single mothers are among the most likely to need these, now unavailable, benefits.

As well, a number of other changes to laws and policies related to childcare, employment standards and access to post-secondary education adversely affect single mothers as they negotiate the difficult transition to the workforce while maintaining onerous parental responsibilities.

## Women's Human Rights

The government social assistance laws and policies documented in this report are clear instances of sex discrimination. They impact negatively and disproportionately on single mothers and their children and, together with recent changes in other legislation, constitute systemic discrimination. Single mothers' rights to economic and social equality are guaranteed at three levels in our legal system. International human rights treaties, by which Canada and all provinces are bound, provide clear protection against the kind of economic and social deprivation characteristic of the lives of single mother-led families on social assistance. The poverty of these women and their children has repeatedly been the subject of concern for a number of United Nations human rights monitoring bodies. Indeed, the province of British Columbia itself has recently been singled out by one these bodies as having failed to take adequate account of the negative impact of its laws and policies on women.

The Canadian Constitution, through the *Charter of Rights and Freedoms*, guarantees women's equality rights. The purpose of section 15 of the *Charter* is to prevent the exacerbation through government action of the disadvantage of already vulnerable groups. As such, this section prohibits the punitive and disadvantaging treatment of single mother-led families that this report documents.



British Columbia has its own human rights legislation: the *BC Human Rights Code*. This provincial legislation renders illegal discriminatory treatment in the delivery of public services. By failing to accommodate the distinctive needs and situations of single mother-led families, the government has perpetuated and compounded their disadvantage. The government has no legal justification for its treatment of single mothers on social assistance.

Welfare is a fundamental social institution within Canada. Income assistance is a last resort guarantee of the minimum necessary for food, shelter and clothing. Decisions regarding vital benefits such as income assistance benefits are not open-ended policy choices for governments. These decisions must be made in a manner that is consistent with women's right to equality.

## What's the Solution?

In light of its obligations under international human rights treaties, the *Canadian Charter of Rights and Freedoms*, and the *BC Human Rights Code*, the Government of British Columbia should take the following steps immediately to begin to address the inequality of single mothers and to correct outstanding violations of these women's rights. The Report makes a number of recommendations toward this end. They are as follows.

**In all of its legislation, policy, and public statements dealing with single mothers, the Government should:**

- Value the important child-rearing and household maintenance these women do;
- Expressly support and facilitate these women's liberty to form family structures of their own choosing; and,
- Recognize single mothers and their children as deserving of, and entitled to, public support and respect.

**To improve the situation of single mothers receiving social assistance, the Government of British Columbia should:**

- Establish a clear, fair and transparent process for determining social assistance rates that will allow single mothers to cover the actual costs of shelter, food, child care and basic necessities. This process should involve direct consultation with single mothers who are social assistance recipients, as well as with housing, nutrition and child care experts and advocates;
- Stop the clawback of the National Child Benefit Supplement from families receiving social assistance;
- Restore the family maintenance exemption;
- Restore the earnings exemption;

- Permit single mothers receiving social assistance to attend school full-time;
- Provide access to child care for the children of single mothers receiving social assistance, whether or not the mothers are working, or enrolled in an approved training programme;
- Change the definition of ‘employability’ so that single mothers are not considered ‘employable’ until their youngest child is thirteen.

**To improve the conditions of single mothers seeking employment, training and education, the Government of British Columbia should:**

- Design a five year plan for the development of a universal, accessible, affordable, quality child care system for British Columbia, beginning with the restoration of child care funding to 2001 levels, and the provision of direct public funding to licensed, non-profit, child care programmes;
- Develop a programme of income and other supports that would provide realistic and affordable access for single mothers to post-secondary education and training. This programme should be developed in consultation with single mothers and with post-secondary faculty members, post-secondary institutions, and child care experts;
- Repeal the training wage, overtime averaging, minimum 2-hour call out, and child labour rules and restore adequate enforcement of labour standards;
- Introduce and implement pay equity protections for women workers.

**To ensure stable improvements in conditions for single mothers, the Government of British Columbia should:**

- Enter into negotiations with the federal government, and other provincial and territorial governments, to develop a national strategy to reduce the poverty of single mothers and their children. This strategy should ensure that adequate income, child care, post-secondary education, and labour force supports are in place to provide decent living conditions for single mother-led families, as well as improved work and educational opportunities for single mothers.

# Introduction

Single mother-led families are an increasingly common family form. Single mothers head 20.7 percent of all families with children in British Columbia. They are doing an important job—raising children—and doing it alone.

Yet, the consequences of single motherhood are significant—for women and for their children. These families are among the most vulnerable groups in Canadian society. They are more likely to be the poorest of the poor and are one of the groups at the highest risk of persistent poverty.<sup>1</sup> Being a single mother can mean being frightened and anxious. All too often, it means living marginally.<sup>2</sup> The level and kind of deprivation single mother-led families experience has long-term negative effects on the physical and psychological health of both these mothers and their children. It is an important determinant of their life chances.<sup>3</sup> And it is a social crisis of considerable magnitude.

The growing number of single mother-led families in Canada, and in British Columbia, reflects evolving norms in Canadian society. Importantly, it represents a hard-fought victory for women to be able to choose their sexual and life partners, and to choose whether or not they will raise their children in a conjugal relationship with another parent. Women’s right to choose to enter, and to leave, a conjugal relationship and to parent outside of the traditional patriarchal family form is an important liberty right. It is a necessary freedom in any society that lays claim to basic respect for women’s human rights and equality. This freedom and women’s equality are in jeopardy in our province.

Frequently, single mother-led families must rely on social assistance programmes for income support. This is no surprise. Full-time mothering necessarily affects a mother’s ability to participate in the paid labour force. The labour market is structured by systemic sexism so that women’s involvement in paid work is more often than men’s characterized by low waged, non-unionized, part-time work with access to little or no employer-provided benefits. Women’s partici-

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pation in the paid labour force is further hobbled by the lack of adequate child care. There are structural and institutional barriers to women being both mothers and paid workers. Clearly, then, social assistance is an important and essential option for single mothers. Such assistance ought to offer economic support that is consistent with the essential family and home maintenance responsibilities of the single mother and the freedom of women to choose the form of their families. Simply put, it ought to enable and allow the single mother-led family to thrive. After all, it is our collective responsibility to ensure the material and social well-being of women who are single parents and of their children, out of respect for women’s liberty and equality rights and out of concern for the economic and social health of all British Columbian residents.

The last four years have seen the British Columbia government usher in a series of legislative, regulatory, and policy changes that routinely and systematically disadvantage and punish single mothers and their children. As this report details, these changes place too many single mothers in impossible situations with respect to their child care responsibilities and economic needs.

This report is specifically focused on changes to social assistance legislation that have affected the poorest of this group of women and their children, those reliant on social assistance. These are legislative and regulatory changes that have been particularly destructive of the economic and social well-being of single mother-led families. The report also briefly examines cuts to other social programmes—child care programmes and subsidies, employment standards protections, and the de-regulation of tuition fees for post-secondary students—as part of a larger picture of interconnecting changes that affect single mothers and their children negatively.

It is striking that the government’s treatment of single mother-led families on social assistance conflicts with publicly espoused values of support for families, individual freedom, and protection of children. This conflict between these important values and legislative and regulatory content can be made sense of only through recognition of a number of stereotypical and discriminatory attitudes towards single mothers. These prejudices centrally inform the direction the current government has chosen in its treatment of single mother-led families on social assistance.

The identification of the discriminatory legislative and regulatory provisions, illuminated by the unearthing of the stereotypes that inform such provisions, sets the stage for the report's legal analysis. A clear case can be made that these changes to the social assistance regime run afoul of the human rights protection available to residents of British Columbia generally and to single mothers and their children specifically. All governments in Canada are obligated to observe a network of human rights protections set out in a series of international treaties that Canada has signed. Many of these treaties contain provisions that condemn the substandard quality of living available to so many single mother-led families in British Columbia. In addition, the *Canadian Charter of Rights and Freedoms* sets out rights—such as security of the person and equality—that speak strongly against such adverse and discriminatory treatment of single mothers and their children. Finally, the Province of British Columbia has its own human rights legislation that, as strongly as these other documents, speaks against the discrimination meted out to single mother-led families by recent changes to the social assistance programmes.

It is not inevitable that single mothers and their children will be denied access to economic and social well-being. It can be different. Countries such as Sweden have ten-fold lower poverty rates among single-parent families than Canada has. This is due, in part, to income transfer programmes for these families and to state facilitated full economic access to quality child care. The outcome? Swedish single mothers see better developmental rates for their children and healthier families.<sup>4</sup> We too could see these sorts of results, with their consequent revival of life chances, for single mothers and their children in British Columbia. But our government will have to take seriously its professed commitment to families, to children, and to the flourishing of all individuals. This will require, at the very least, a reversal of current social assistance policies and a fairer hand in distributing the rich resources of British Columbian society.

The data and information collected in this report show that the Government of British Columbia has failed in its responsibilities to look after all members of British Columbian society. Most specifically, the government has not only defaulted on its obligations towards single mother-led families but has also actively and intentionally targeted these families for punitive, marginalizing, and contradictory treatment. We must demand more of our government. We must demand that the Government of British Columbia observe its human rights obligations and ensure that single mother-led families are given the economic and social assistance they need to live lives that are not marred by poverty, by vulnerability to violence, and by desperation. Single mothers and their children deserve better.

**The last four years have seen the British Columbia government usher in a series of legislative, regulatory, and policy changes that routinely and systematically disadvantage and punish single mothers and their children.**



PART I:

# The Statistical, Legislative and Human Picture

## Single Mothers – A Statistical Picture

What do we know about single mothers?

### The Increasing Numbers of Single Mothers

Single parent families are a growing portion of the total number of families with dependent children, jumping from 16.6 percent in 1981 to 24.7 percent in 2001.<sup>5</sup> The vast majority of single parent families are headed by women. In 2001, women were about 81 percent of all single parents.<sup>6</sup> About 20 percent of all Canadian families with children are headed by single mothers.<sup>7</sup> In British Columbia, figures are slightly higher (20.7 percent).<sup>8</sup>

And most of the children living in single parent families – in 1996, 92 percent – live with their mothers.<sup>9</sup> Also, it is predominantly single mothers who are caring for the youngest children.<sup>10</sup> Single fathers tend to be caring for older children, those between 10 and 19. This is an important difference, as the childcare demands of young children are different from those of older children.

## More Aboriginal Single Parent Families

There are more single parent families among Aboriginal people in British Columbia than among non-Aboriginal people. Single parent families were 29.8 percent of all Aboriginal families, compared to 14.7 percent of all non-Aboriginal families in 2001. Among Aboriginal women aged 25-44, 28.6 percent are single parents, compared to 12.8 percent among non-Aboriginal women of the same age.<sup>11</sup>

And twice as many Aboriginal children lived with a single parent—mainly their mothers—in 2001 as did non-Aboriginal children. On reserves, 32 percent lived with a single parent; off-reserve, 46 percent lived with a single parent.<sup>12</sup>

## More Single Mothers Who Are Black and South Asian

Census data also shows that Black women and South Asian women are more likely than non-visible minority women to be single mothers.<sup>13</sup>

## Causes of Single Parenthood

Although single parent families have been a permanent feature of Canadian society, the causes of single parenthood have changed over time. Prior to 1960, the death of a spouse was the main reason for single parenthood. Now, however, the main reason for single parent families is divorce or separation from a married or common law partner.<sup>14</sup>

Single parent families are not static. Women who separate or divorce are likely to enter into subsequent relationships. A single mother, especially a younger single mother, is likely at some point to marry or form a new relationship. However, this also means that the percentage of mothers who are single mothers at some time in their lives is higher than the percentage of single mother-led families at any point in time. More than one third of all mothers will be a single mother at some time in their lives.<sup>15</sup>

# Single Mothers and Poverty

Single mothers have the highest poverty rate of any group in Canada. For most of the last decade over half of all single mothers have been living below the poverty line. Poverty rates among single mothers continue to be vastly higher than for any other family grouping, or for any other group, including women overall, Aboriginal people, people of colour, or people with disabilities.<sup>16</sup>

**Table 1: Poverty Rates of Single Mother-Led Families<sup>17</sup>**

	1995	1996	1997	1998	1999	2000	2001	2002
Before tax	61.9%	61.6%	58.7%	55.1%	51.9%	47.6%	44.9%	51.6%
After tax	51.5%	52.3%	49.6%	42.5%	40.3%	37.1%	34.1%	38.7%

Poverty rates for single mothers are even higher when they are disaggregated by race and age. Seventy-three percent of Aboriginal single mothers lived below the poverty line in 1996.<sup>18</sup> Seventy-four percent of single mothers under 25 were living below the poverty line in 2001.<sup>19</sup>

Single mothers consistently experience much higher rates of poverty than single fathers. The National Council on Welfare reported that in 2000 single fathers' poverty rate was 14.9 percent.<sup>20</sup>

Single mothers who are poor live well below the poverty line. Measurements for depth of poverty place the incomes of single mothers at 66 percent of the poverty line, with an average income that is \$8,886 short of that line.<sup>21</sup>

## Causes of Single Mother Poverty

Although the youngest single mothers have shockingly high poverty rates, their numbers are small. The National Council of Welfare reports that the vast majority (79 percent) of poor single mothers are between the ages of 25 and 44. The figures show "that marriage breakdown, not teenage pregnancy, was the main reason for the high rate of poverty among families headed by single-parent mothers."<sup>22</sup>

And, reports the Vanier Institute for the Family, divorce is a direct cause of poverty for women and their children. In the first year after divorce, Canadian women's household income drops by 40 percent while men's increases slightly.

Women's poverty rises from 16 percent before divorce to 43 percent after divorce. Even three years after divorce, women's income remains far below what they had during marriage and far below their ex-husbands' current income. Ex-husbands, compared to ex-wives, are less likely to be poor because their income is generally higher, they do not have full care of their children with all the attendant expenses, and their support payments are usually not crippling.<sup>23</sup>

Single mothers who work have a 35.1 percent poverty rate, which is an improvement on the 96.2 percent poverty rate among single mother-led families in which there is no earner. But in either case the rates are overwhelmingly disproportionate with respect to other groups.<sup>24</sup>

Single mothers, even when they are not living below the poverty line, have lower incomes than single fathers. In 1998, single fathers had an average income of \$44,000, while single mothers had an average income of only \$27,000, less than 40 percent of the comparative figure for two-parent families with children.<sup>25</sup>

The causes of poverty and low incomes among single mothers are these: marriage or relationship breakdown, which leaves women as the sole child-raiser and income-earner; the undervaluing of child-raising work; inadequate public child care programmes; and the fact that, when single mothers can earn income from paid work, they earn a women's wage – depressed by sex discrimination in the market.

## Poverty Among Children Living with Single Mothers

A child living with a single mother is more likely to be poor than a child living in any other family configuration. In 2001, 45.4 percent of Canadian children living with single mothers were poor. In British Columbia, the poverty rate among children living with single mothers was even higher at 48 percent (57,000 children). By comparison, the poverty rate for children living with single fathers was 20.6 percent and, for children living in two-parent families, it was 10.8 percent.<sup>26</sup>

Numerous studies show that poverty translates into developmental risk for children. Poor children live in conditions that create a greater risk for their long-term health, well-being and competence.<sup>27</sup> The National Longitudinal Survey of Children and Youth (NLSCY) found that children from poor families are more likely than children from higher income families to have basic health problems related to daily functioning, such as vision, hearing, speech, mobility, dexterity, and cognition.<sup>28</sup> They are more likely to develop emotional, behavioural and learning disorders.<sup>29</sup> Children from poor families are also at risk of performing poorly in school. They are less likely than children from higher income families to be 'school-ready',<sup>30</sup> and less likely to have strong

language<sup>31</sup> and math skills.<sup>32</sup> This pattern of risk to childhood health and educational achievement is a consequence of the poverty of the parent/s, and a cause of future poverty and poor health.

## Reliance on Social Assistance

Not surprisingly, the proportion of single mothers who rely for some time period on social assistance is much higher than that of any other group. The percentage was highest in the early and mid-1990s and diminished somewhat up to 2000.

**Table 2: Proportion of Single Mother-Led Families Reliant on Social Assistance<sup>33</sup>**

	1992	1993	1994	1995	1996	1997	1998	1999	2000
Canada	46.9%	48.0%	48.6%	50.1%	47.6%	45.4%	41.6%	36.3%	33.6%
British Columbia	46.9%	48.5%	49.3%	52.7%	49.2%	46.2%	41.3%	37.8%	37.1%

The group with the next highest use of social assistance is single persons, but figures for this group generally hover between 10 and 20 percent.<sup>34</sup>

In December 2004, there were 16,446 single parent families in BC who were reliant on social assistance, compared to 2,077 two-parent families.<sup>35</sup>

## Single Mothers and Violence

Women in abusive relationships are, in many cases, economically dependent on the men who abuse them. Choices are limited under these circumstances, particularly when the woman's employability is low due to child care responsibilities, and other barriers to employment. Women who leave their abusers have stated that without welfare they could not have done so. A 1996 survey of women's shelters by the Ontario Association of Interval and Transition Houses found that workers in 66 percent of the shelters reported that some women were returning to abusive relationships because the income available to them from social assistance was not enough to meet basic needs for themselves and their children.<sup>36</sup> It is well recognized that women's safety depends on having access to adequate social assistance.<sup>37</sup>



To summarize, a growing number of Canadian families are led by single mothers. These single mother-led families, compared to all other groups of Canadians, are most likely to be poor. Moreover, single mothers have a depth of poverty that places them among the most impoverished in our society. They are, therefore, extremely likely to be reliant upon social assistance to support themselves and their children. Importantly, the ability of many of these women to stay out of abusive relationships is closely tied to access to adequate social assistance.

# Post 2001 Changes to BC Legislation That Harm Single Mothers

Since 2001, the Government of British Columbia has introduced a package of legislative and regulatory changes that negatively affect single mothers on social assistance. This part of the report examines changes—new legislation, regulations, and policies—to the social assistance scheme (or welfare rules) that deepen the disadvantage of single mothers. This section also details changes to other legislation or policies—child care, employment standards and access to post-secondary education—that affect single mothers when they attempt to leave social assistance. All of the changes in the second category define single mothers’ chances of making an adequate living for themselves and their children through the paid labour market. Both categories of changes are important to understanding the full range of pressures and obstacles single mothers face as they attempt to care for and provide for themselves and their children.

What this report does not do is detail all of the provisions of the social assistance regime that make life difficult for single mothers and their families. We look only at those features of the scheme that have been introduced in the most recent 2001 overhaul of the legislation. So, for instance, “spouse-in-the-house” rules that assume there is a spousal relationship between a single mother and any person she shares housing with are not discussed, even though these regulations have for a long time been a source of hardship and unfairness for single mothers.

## Changes to Social Assistance

Social assistance is a key programme for single mothers. Indeed, about one third of the recipients of social assistance in British Columbia are single parents, and almost 90 percent of those are single mothers.<sup>38</sup>

A number of changes have been made by the Government of British Columbia since 2001 that affect both the adequacy of social assistance for single mothers and their eligibility to receive it. The most significant of these changes are set out below.

### Social Assistance Rate Cuts

In 2002, for the first time in twenty years, social assistance rates for families with children were cut in British Columbia. A single parent family in 2002 received less than the same family did ten years earlier.

Single mothers' social assistance rates were reduced in a number of ways.

- The basic support portion of the social assistance benefit for employable single parents was cut by \$51 per month.<sup>39</sup> This reduction affected 21,823 single parent families. Most of the single parents affected are mothers.<sup>40</sup>
- Shelter allowances for families of 3 or more were reduced. Single mothers with two or more children were affected.<sup>41</sup>
- The Family Maintenance Exemption, which had been in place since 1976<sup>42</sup> and permitted a single parent who was receiving child support payments from a spouse to keep 100 dollars per month, was eliminated.<sup>43</sup> All child support is now deducted dollar for dollar from income assistance benefits. The vast majority of single parents reliant on social assistance are single mothers, and so this exemption was mainly used by them.
- The Earnings Exemption was eliminated for “employable” recipients. This exemption allowed people on welfare to work and keep \$100 if they were single, or \$200 if they had children or a partner.<sup>44</sup>

**Table 3: Social assistance rate changes from 1990 to present for four-person, single parent families.**

Year	Basic Support Allowance in Dollars	Shelter Allowance in Dollars	Total Dollars	Regulation
1990	544	600	1144	BC Reg. 225/90
1992	616	650	1266	BC Reg. 1/92
1994 - 1994	668	650	1318	BC Reg. 50/94
1999	674	650	1324	BC Reg. 206/99
2000	697.07	650	1347.07	BC Reg. 202/2000
2001	721.07	650	1371.07	BC Reg. 163/2001
2002	674.84	590	1264.84	BC Reg. 163/2002 BC Reg. 263/2002
2003 - 2005	696.08	590	1286.08	BC Reg. 286/2003

The rates shown in Table 3 do not include the exempted amounts for which some single mothers were previously eligible. For single mothers, the reductions in rates, combined with the elimination of exemptions, meant that some saw a drop in their benefits of over \$380 per month.<sup>45</sup>

Also, the current government has continued the practice of clawing back the National Child Benefit Supplement (NCBS), recast in British Columbia as British Columbia Earned Income Benefit, from families on social assistance. The NCBS is a federal transfer whose amount is based on the number of children in a family. The NCBS benefits only families with income from paid employment. Thus, low-income “working” families receive this supplement, while the British Columbia Government claws it back dollar-for-dollar from social assistance recipients.<sup>46</sup>

As Table 4 shows, single mother-led families are living well below the poverty line, or Statistics Canada’s Low-Income Cut-Offs.

**Table 4: Social assistance rates for single parents as a percentage of the poverty line<sup>47</sup>**

Type of recipient	2001 benefit rate	2002 benefit rate	Monthly income loss	2002 benefits as a percentage of the poverty line (LICO)
Single parent, one child	\$1004	\$961	\$43	48%
Single parent, two children	\$1201	\$1,111	\$90	43%

These rates are not adequate for single mother-led families to sustain themselves. The Dietitians of Canada have expressed serious concern about the ability of social assistance recipients in British Columbia to have access to adequate amounts of safe and healthy food.<sup>48</sup> Their 2004 report concludes that purchasing a nutritious diet would take a major portion of a recipient’s income, and that:

[t]o survive, families would be forced to seek out poor housing in unsafe neighbourhoods, line up at food banks and soup kitchens, leave their children in unsafe child care situations due to the high cost of child care and go without the basic necessities of life, including healthy food.<sup>49</sup>

Single mothers are most likely to go hungry.<sup>50</sup>

## Eligibility Rules

Changes have also been made to eligibility rules governing access to social assistance. These rules determine who is able to receive benefits under the scheme. One of these changes has direct, specific, and obvious implications for single mothers.

Single parents are now considered “employable” when their youngest child reaches 3 years of age. In 1994 a single mother with a dependent child under 12 did not have to prove that she was seeking work to be eligible for benefits.<sup>51</sup> In 1995, the age of the youngest child was changed to 7.<sup>52</sup> As of April 2002, the age was further reduced to 3 years.<sup>53</sup> This change affects approximately 8,900 single parents, with children under 7 years of age, who are now expected to seek paid employment.<sup>54</sup> The penalty for a single parent with all her children over the age of 3 for failing to meet her employment related obligations is a \$100 reduction in benefits.<sup>55</sup>

Requiring single mothers to actively seek work in the paid labour force, combined with unavailability of adequate, accessible, and affordable child care, puts these women in an impossible position. They are required to seek out (and take up) any available labour force employment when their children are still too young to be left alone, or, even, to be in school for any portion of the day.

Two other changes are worth mentioning, as they significantly affect the ability of single mothers to enter and successfully stay in the labour force.

In 2002, welfare regulations were amended to explicitly disqualify full-time students from eligibility for assistance.<sup>56</sup> Before 2002, single mothers were specifically recognized as a group in need of social assistance while engaging in full-time studies. Thus, previously, the government Director (of a region) could authorize assistance for a full-time student if the programme was for 2 years (1976 – 1988) or 3 years (1988 - 1992) or for a longer period if the recipient was a single parent (1992). Many single mothers were able, through this provision, both to provide for their families and to significantly upgrade their employability.

The government has also eliminated benefits that used to assist individuals who were trying to access the workforce. Previously, “transition-to-work” benefits of up to \$150 per month for a maximum of twelve months and a one-time workforce entry benefit of up to \$200 were available to social assistance recipients. These benefits could be used to purchase any required work clothing or other items, and could also be used to pay for any uncovered child care expenses.<sup>57</sup> Again, many single mothers are among those most likely to need these, now unavailable, benefits.

All of these changes make the lives of single mothers more precarious. Rate cuts make access to adequate shelter and food more difficult. Actual shelter costs in BC are much higher, in most communities, than the amounts provided in the social assistance schedule. Social policy experts agree that single mothers cannot live securely on the current rates.<sup>58</sup> And, access to post-secondary education, which offers the best opportunity for poor single mothers to gain the credentials to be able to look after

**The Dietitians of Canada have expressed serious concern about the ability of social assistance recipients in British Columbia to have access to adequate amounts of safe and healthy food.**



themselves and their children adequately in the longer term, has been cut off. Those who want to access post-secondary education must now go off welfare and apply for student loans, thereby increasing debt and financial insecurity. Also, teen parents on social assistance studying full time to complete grade 12 in college-based programmes must leave welfare and apply for student loans to continue their education.

Struggling with the poverty that defines life for single mothers on social assistance also means that their ability to keep their children is threatened. Sixty-five percent of all child apprehensions are from single parents on welfare. And, in BC, Aboriginal children are 6.3 times more likely to be removed from their homes than non-Aboriginal children.<sup>59</sup>

There are many reasons for children being removed, but a major reason is poverty. Mothers in poverty, especially those who are racialized, are vulnerable to child welfare authorities because these mother and their children live under conditions of deprivation maintained by the state: inadequate food, substandard shelter, inadequate childcare, inadequate clothing, and generally impoverished environments. This makes parenting extremely challenging. Thus, single mothers, and Aboriginal single mothers at an even higher rate, have their children apprehended because they are living in conditions of poverty, conditions that the Government of British Columbia, through its legislative choices, has decided to maintain, and worsen.

## Changes to Other Legislation

### Access to Child Care for Social Assistance Recipients

In 2002, access to child care for single mothers on welfare also changed. Day care subsidies are now only available for single mothers receiving social assistance while they are attending work or school.<sup>60</sup> Until 1997, social assistance recipients could qualify for child care subsidies if they met “social needs criteria,” which included: work or attendance at school; short term family crisis; or child care needed as a part of child protection - because of individual assessment or need to attend pre-school.<sup>61</sup> Starting in 1997, the Ministry would only pay a child care subsidy to single mothers receiving social assistance if the child care was needed because the parent was: employed; attending an educational institution; seeking employment or participating in an employability programme; or undergoing medical treatment or participating in a rehabilitative programme.<sup>62</sup> In 2002, medical treatment, participation in a rehabilitative programme, and seeking work were dropped as reasons for subsidizing child care.<sup>63</sup> Also gone are any criteria that take into account the needs of the child, unless the child is considered officially in need of protection.

For single mothers on welfare, child care is treated as a parking place for their children while the mother is working or training. It is not regarded as a basic, high quality service that all parents and children should have access to, and particularly poor children who especially need access to toys, stimulation and interaction with other children and adults.

## Access to Child Care for Mothers in the Paid Labour Force

For single mothers receiving social assistance who are also working, or for single mothers moving off social assistance, access to safe, stable, affordable and quality child care is crucial. But that access, never adequate to fully facilitate taking up paid employment, has been made worse since 2002 by the following changes.

- Eliminating the Funding Assistance Programme of Child Care BC, which provided 15,000 child care spaces for school aged children at a maximum fee of \$7 dollars a day for before and after school care.<sup>64</sup>
- Eliminating salary top ups to child care workers in licensed day care centres, who are among the lowest paid women workers.<sup>65</sup>
- Cutting funds to child care resource and referral services, making locating appropriate child care more difficult for parents. Parents are now required to call a centralized phone number and call centre with the result that, for many parents but particularly non-English speakers, application for and management of subsidies is now more difficult.
- Lowering the income level for eligibility for child care subsidies, so that families have to be poorer to qualify. As of 2002, the day care subsidy started to be reduced for a single mother with one child when she had an income of \$16,836 annually, or, in other words, when she was earning \$9.25 an hour for full-time work.<sup>66</sup> The 2002 reduced eligibility for full subsidy negatively affected 10,500 families.<sup>67</sup> In short: 1) fewer families were able to access child care subsidies; and, 2) eligible families received fewer dollars to assist with monthly child care fees.<sup>68</sup>

**Requiring single mothers to actively seek work in the paid labour force, combined with unavailability of adequate, accessible, and affordable child care, puts these women in an impossible position.**

The operating funding programme available to child care providers was changed to a per capita grant based on enrollment. Since even a full child care subsidy does not cover the actual costs of a licensed child care space, the effect of a flat per capita grant is to favour child care centres in well-to-do neighbourhoods where families can pay

more than the subsidy amount and thus effectively top up available funding to allow higher quality care.

Recent reports show that child care centres in poor neighbourhoods have declining enrollments and some are closing, because the families in these neighbourhoods cannot pay the real costs of child care.<sup>69</sup> And, of course, then, as enrollments in poor neighbourhoods decline, their operating funding grant also declines and closure is more likely. For single mothers leaving social assistance, who are likely to be living in poorer neighbourhoods, this means that their likelihood of having access to licensed child care is diminishing, as is the quality of care that existing programmes can afford to maintain.

The bureaucracy surrounding child care is difficult to negotiate. The child care subsidy is paid directly to the child care giver. Every parent has to have a Ministry of Human Resources (MHR) worker in order to make arrangements for her child care subsidy. Every change in income, hours of child care and child care giver has to be reported personally and approved.<sup>70</sup>

Poorer women, not able to afford or unable to access licensed day care, turn to unlicensed child care arrangements. Experts in the child care field indicate that the effect of current policies, including the focus on subsidies rather than direct funding of licensed child care, seems to be to foster a large private, unlicensed daycare sector where poor women, receiving far too little compensation for their work, are looking after the children of other poor women.

In November 2005, the Government of British Columbia announced that it would put \$33 million back into child care. Most of this will go to restoring the child care subsidies to 2001 levels.<sup>71</sup> The income level at which parents qualify for a subsidy will increase by \$200 a month, a net increase of \$15 in paid benefits over the 2001 threshold level.

But funding has not been restored to the 2001 level. It is estimated that \$64 million was removed from regulated child care between 2001 and 2004.<sup>72</sup> Over the last four years, BC has received close to \$250 million from the federal government for early childhood development, including child care. Yet, BC cut its own child care budget in each of the last three years. The provincial contribution for this year alone is \$42 million, or 20 percent less than it was in 2001/02.<sup>73</sup>

The restoration of subsidies to their previous (inadequate) levels does not create the kind of new regulated child care spaces that British Columbia's women, children and families need in order to enjoy a stable, accessible, affordable, quality child care system. Nor do any of the government's actions adequately ensure that the day care that is available is of high quality. Research shows that government funding is best directed at licensed, not-for-profit child care.<sup>74</sup> British Columbia is the only government that sends funds to unlicensed caregivers.

## Employment Standards and Single Mothers

Changes have also been made by this government to employment standards, which are the basic protections for all workers. Employment standards guarantee the basic conditions of work for all workers – hours of work, basic pay, statutory holidays. But employment standards are most significant for non-unionized workers and for low-wage workers, whose employment contract is unlikely to stipulate anything other than the minimal requirements of employment standards law. For women, who are more likely to work in non-standard jobs – non-unionized, part-time, casual, temporary – these standards are particularly important.

Here are some of the changes to employment standards law that most affect women.

- A \$6 training wage, \$2 lower per hour than the \$8 minimum wage, was introduced for new entrants to the work force for the first 500 hours of work.<sup>75</sup> The most obvious impact of this change is on young people, but it is also affecting women who are entering or returning to the workforce after periods of raising children. As well, it affects women who are recent immigrants who cannot show a record of previous work in Canada.<sup>76</sup> Working full-time for the \$8 minimum wage does not provide an income that reaches the poverty level.<sup>77</sup> Working for \$6 an hour is even further below an acceptable wage level.
- Many part-time workers have lost all statutory holiday pay.<sup>78</sup>
- Overtime “flexibility” has been introduced through “averaging agreements.” Employers do not have to pay overtime unless an employee works more than 160 hours per month. Thus, for example, employers are not required to pay overtime if employees agree to work four 10 hour days, or 30 hours one week and 50 hours another. Because there is no fixed daily or weekly overtime rule now, women can be subject to employer pressure to accept irregular work hours and required to negotiate on their own for hours that fit their family’s schedule, their day care arrangements and their other responsibilities.<sup>79</sup> Given the double employment of single mothers—paid worker and unpaid sole parent—scheduling regularity and reliability is extremely important.
- The *Employment Standards Act* has also been amended to allow employers to call employees in to work for a two-hour block rather than the previous minimum of four hours. Single mothers will incur the same transporta-

**For women, who are more likely to work in non-standard jobs – non-unionized, part-time, casual, temporary – these standards are particularly important.**

tion costs and need to arrange child care for showing up for work, but can receive fewer hours' pay.<sup>80</sup>

- Enforcement of labour standards has been weakened. This has occurred two ways. First, by reducing the number of employment standards officers to investigate and enforce the rules. Secondly, workers are now required first to attempt to solve their own problems with their employer by using a self-help kit.<sup>81</sup> There is no longer any statutory obligation for the government to enforce the *Employment Standards Act* until resolution has first been attempted by the individual worker.<sup>82</sup> Yet, ironically, the very reason for having employment standards legislation is that employers and employees are not equal in the power in the workplace. Single mothers will disproportionately feel the absence of these protections as they are more likely than not, when they do work in the labour market, to be in jobs where this legislation makes a difference.
- Pay equity provisions in the *BC Human Rights Code* were repealed. This means that there is no requirement in this province that women receive equal pay for work of comparable value to that performed by men. A report from Nitya Iyer, who was appointed by Attorney-General Geoff Plant, after the repeal, to make recommendations to the Government of British Columbia about pay equity, confirmed that action was needed. Iyer noted that:
- [T]he gender wage gap [in BC] has not changed much over the last few years, even when only full-time full year workers are considered, suggesting that systemic barriers continue. In 1997, the wage gap actually widened by almost 1 percent. Despite some gains in earnings, women continue to represent a much greater percentage of those who earn under \$25,000 (59.7 percent compared to 42.1 percent of men) than those who earn over \$50,000 (7.9 percent compared to 25.3 percent of men). The problem does not appear to be solving itself.<sup>83</sup>

No action has been taken on the task force report.

These changes to basic protections make entrance into, and life in, the BC workforce more precarious, particularly for workers like poor single mothers, who, on their own, need to make a family-supporting wage, pay for quality child care, and, at the same time, manage child-raising responsibilities.

## Access to Post-Secondary Education and Single Mothers

From 2001 to 2005, the BC government deregulated tuition fees. For this period, there was no legislation governing fee-setting by public universities or colleges. From 1999–2005 undergraduate university tuition fees have risen 84.4 percent in British Columbia, the steepest rise during this period in any province. In 2004 – 2005, for the third consecutive year, British Columbia posted the largest increase in average undergraduate



fees of all Canadian provinces, up 15.6 percent more, on top of a 29 percent increase in 2003. In 2004 – 2005, undergraduate university students in British Columbia paid an average of \$4,735, surpassing the national average of \$4,172.<sup>84</sup>

The government has now, starting in the fall of 2005, announced that it will re-cap post-secondary tuition fees.<sup>85</sup> However, while it is unclear precisely what the Budget 2005 promise of re-capping tuition fees will entail, it is certain that it will not restore them to anything close to pre-2001 levels (even allowing an reasonable annual increase since then).

In August 2004, the government eliminated its grant programme for needy students. Low-income post-secondary students now must face a higher debt load from student loans in order to remain enrolled in school. The grant programme was the province's only programme targeted at assisting low-income students, many of whom will now be deterred from entering post-secondary education. In its place, the government has instituted a loan reduction programme. This programme does not provide grants up front but does allow students with dependent children some reduction of student loans when each year of study is completed and the student remains in good academic standing.<sup>86</sup>

In addition to making post-secondary education more expensive for poor students, the Government of British Columbia has eliminated a number of key educational support and training programmes vital to single mothers. Among them are: Institutional Based Training (IBT) which provided colleges and institutes with funds to set up programmes to support students receiving welfare; grants for first year students at colleges and universities and for first time students; Bridging Programmes for Women, that helped those facing multiple barriers (such as past abuse and violence); and programmes at the Open Learning Agency (OLA), where many low income women and single mothers on welfare have been able to continue their education and receive credit for their learning.<sup>87</sup> These are just examples.

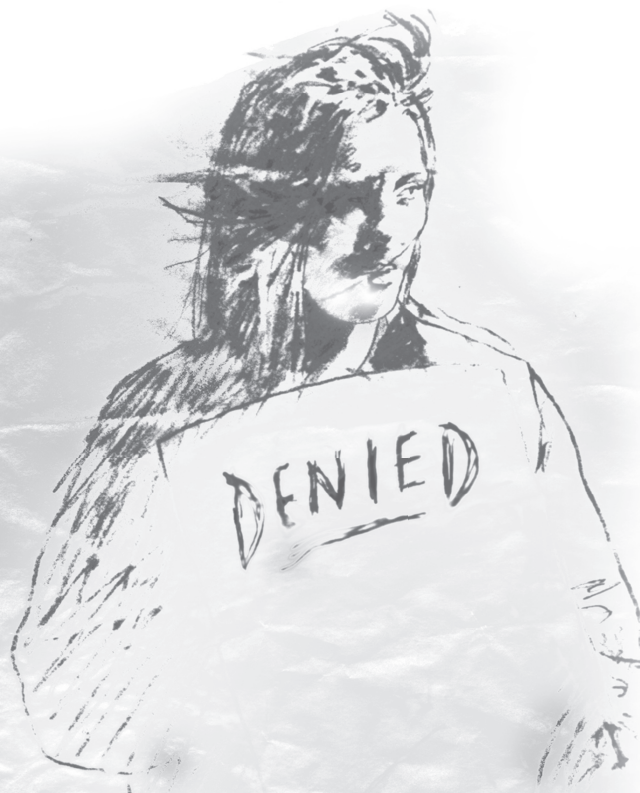
Having a post-secondary education provides a single mother with the best chance of becoming economically independent. Statistics show that women who are university graduates have higher incomes than any other education grouping - incomes that make them more able to support themselves and their children.<sup>88</sup> But the opportunity of obtaining a post-secondary education has been placed, in effect, out of the reach of most single mothers in the province of British Columbia.

**In addition to making post-secondary education more expensive for poor students, the Government of British Columbia has eliminated a number of key educational support and training programmes vital to single mothers.**



In summary, the Government of British Columbia in the years since 2001 has made the lives of single mothers and their children more difficult, more stressful, and more risky. Single mothers who are reliant on social assistance have seen their benefits reduced and their opportunities to have an already too low benefit level supplemented by other income taken away. Single mothers are now required to seek and take available paid work even with pre-school aged children. This is while child care subsidies have been reduced or eliminated and child care services closed due to government funding cuts and a changed funding formula. Required to seek employment in the labour market, yet no longer eligible for social assistance support while getting post-secondary education, many single mothers have access only to precarious employment that guarantees only that their poverty will continue.

In addition, changes to crucial social supports, like basic worker protections, have made getting and keeping decent work that will support a family harder for single mothers, not easier.



## The Human Picture: Single Mothers Tell Their Stories

The data and description of legislative and funding changes tell a compelling story. They demonstrate that, not only has the current government failed to respond to the needs of single mother-led families—one of the most vulnerable groups in our province—but the government has, instead, through calculated and purposeful legislative change, orchestrated the aggravation and worsening of the economic and social inequality of single mother-led families.

The most powerful and moving portrayal of this social policy crisis lies in the mouths of the women themselves. In 2003 and 2004, as a part of the Single Mothers' Human Rights Project,<sup>89</sup> West Coast Women's Legal Education and Action Fund initiated a survey of single mothers on social assistance and front line advocates about the impact on single mothers' lives of the cuts and changes to the BC social assistance scheme.<sup>90</sup> The 149 survey responses paint a vivid portrait of the real costs, in human terms, of the Government of British Columbia's current policies.

What follows summarizes the survey responses in two ways. First, a number of recurring themes appeared in the responses. These are set out separately. Second, a snapshot of the lives of single mothers on social assistance is provided through some of these mothers' and their support workers' own words. As the following more than documents, single mothers are working hard to maintain their families in the face of impossible conditions.

## Recurrent Themes

### Wholly inadequate living standards

- Mothers are unable to provide adequate food and other basics for their children.
- Single mother-led families are accessing food banks in record numbers, but unable to get the food they need because: there are limits on quantity, and limits on the number of times food banks can be accessed, as well as concerns about the quality of food.
- Mothers are starving themselves to ensure that their children eat.
- Mothers are going without necessary medications in order to provide for their children.
- Mothers are unable to find housing for the amount provided in their shelter allowance and so they spend their food and clothing allowance on rent and utilities.
- Single mother-led families are living in unsafe, unhealthy shelter.

### Violation of psychological and physical security

- All respondents reported increased stress, anxiety, fear, sleeping disorders and depression.
- Single mothers feel they are being devalued and punished by social assistance laws and policies and in their treatment by social assistance administrators.
- For many, the stress leads to severe consequences including nervous breakdowns, severe depression and inability to cope, consideration of/ attempts at suicide.
- Some become disabled because the stress of trying to live on existing social assistance has resulted in the development of physical and mental disability.
- Some stay in or return to unsafe relationships with spouses and other family members in order to survive, with inherent risks to emotional and physical security.
- Many live with increased risk of physical and sexual violence, due to living in unsafe neighbourhoods and unsafe housing.

### Interference with ability to parent

- Mothers are forced to leave children alone, or in the care of older (but not old enough) siblings or in other inadequate/unsafe situations in order to engage in required job search programmes.
- Mothers feel their ability to parent deteriorates due to deprivation and stress.

- Mothers' risk of having children apprehended and placed in foster care is increased because of inability to find and keep appropriate, safe daycare and adequate housing.

### Deprivations affecting children

- Children of single mothers are experiencing stress, anxiety, fear, severe anger and depression.
- Children's education and health are severely compromised.
- Children are placed in unsafe childcare situations.
- Children lose access to effective parenting when their mother's ability to cope is threatened.
- Children's security is at risk when women return to an abusive relationship/unsafe home.

### Women are forced to take dire steps

- Mothers lose motivation to try to find work, because it is so difficult without the earnings exemption, and with safe child care so hard to find. Some quit jobs and educational programmes and abandon business plans as a result of the lack of childcare and other support programmes.
- Many have considered prostitution due to financial deprivation and desperation. For some, the only way to survive is to engage in illegal activity such as under-the-table work, prostitution and drug-related activity.
- Women are giving up their children voluntarily to government care because the cuts have made their situations completely untenable.

## Women Speak

The harsh consequences, summarized above, are best described by the women themselves and those working closely with them.

“In my home, there are times when I can not afford to eat. I always make sure the kids get food first but usually there is not enough food in a month to feed us all every day.”

“I am stressed out about money all of the time because there just isn't enough to pay all the bills and feed the kids properly. I suffer from depression as a result and the quality of my parenting is suffering as a result of the stress. My family's physical, mental and spiritual health is definitely compromised and my 9 year old is always sad and when you ask him why, he says 'Life sucks because we don't have enough money.' I am afraid!”

**Single mothers are working hard to maintain their families in the face of impossible conditions.**

**“I have seen mothers walking around collecting pop bottles, for food and milk or diaper money for their children.”**

“I have seen mothers walking around collecting pop bottles, for food and milk or diaper money for their children.”

“The mothers I work with are exhibiting increasing signs of depression. They are less able to focus on their infants. They show less ability to play with their children as their energy is entirely focused on fear.”

“The moms I know are using food banks to survive and they live in constant fear of having their children apprehended due to poverty. They are despairing. The rate of depression among my clients who are single mothers is increasing.”

“Being stressed and hungry is not a good way to raise children.”

“The monetary impact of the changes in welfare for single parents is catastrophic. It’s taking food out of the mouths of the children. The mother is already used to going without for the sake of the kids.”

“As the manager of a daycare at a post-secondary campus I have had many single mothers... come to my office (many in tears) to tell me they could no longer afford to go to college. So they dropped out to find minimum wage jobs with no hope of furthering their education and therefore eliminating the possibility of improving their economic outlook.”

“I know a girl who gave up her little girl because she couldn't find a place to live.”

“All of the changes represent reductions in family income that force women either into low-wage jobs with horrendous working conditions and no benefits or into dependency relationships with men or prostitution.”

“I am hearing of so many mothers who are getting desperate – the number of prostitutes here has increased visibly.”

“And the government doesn’t think that anyone on welfare deserves any help whatsoever. They think that single parents are the lowest of the low.”

“Overall rules and policies need to change to be more client/human oriented. For single moms, there needs to be an understanding that they are not single moms for no reason. Many have faced devastation in their

lives including every abuse possible. Now, we expect that women will stay in or return to abusive relationships, placing themselves and their children in grave danger rather than face the humiliation and shame of trying to access welfare.”

To summarize, the situation in which single mother families on social assistance find themselves is dire. Changes by this government to the rules governing social assistance eligibility and benefit levels have worsened an already desperate situation for most of these families. Failure of the social assistance system to truly assist these women and their families has meant that mothers cannot feed their children, mothers are forced to consider prostitution as a way of raising money for their families, children’s education, health, and general well-being are put at risk, mothers are forced to give up their children, and both mothers and children live in conditions of great uncertainty, instability, anxiety, and stress. There can be no doubt that this is a serious crisis with great human costs.



# A Conceptual Framework

We have seen how, in British Columbia, our social assistance system falls far short of the critical support role it ought to play for single mother-led families. Indeed, two phenomena are striking. First, benefits levels are set so low that they ensure that single mother-led families reliant on welfare remain the poorest among the poor. Second, the rules that structure these families' eligibility for income support appear calculated to ensure that women's family responsibilities conflict with their obligations to seek paid employment. How can we understand the fact that our social assistance system is so inadequate and punitive in its response to the straightforward social and economic needs of single mother-led families? What beliefs lie behind this failure?

To answer these questions it is useful to identify some key contradictions between the stated policy goals of the current provincial government with respect to families, children, and work and the content of welfare rules that affect the poorest women and children. These stark contradictions reveal that a deeper set of myths and false stereotypes about single mothers and their families are at work. It is the operation of these myths that explains the failure of social assistance to support the well-being of single mother-led families.

## Welfare Contradictions

### Welfare Contradiction #1: Family

Rhetoric around the central social importance and sanctity of the family abounds. For instance, in its recent Throne Speech, the Government of British Columbia stated that:

The family is the fundamental building block of any community or society. Key to any family's well-being is the means to support and provide for its members — especially children.<sup>91</sup>

Yet, welfare regimes, and British Columbia's in particular, target single mother-led families for particularly punitive and denigrating treatment. Rather than provide the support necessary for so many of these families, BC's social assistance programme makes life on welfare extremely difficult. Most immediately and obviously, as the data set out earlier show, social assistance denies single mother-led families anywhere near an adequate level of income support. So, while the government, in a wide range of other contexts, acknowledges the importance of and pledges to respect the need for economically sustainable families, it ensures, through lowering already inadequate rates of welfare support, that single mothers routinely, regularly, and unexceptionally cannot properly support and provide for their children, let alone themselves. On one hand, the government recognizes how crucial well-supported families are to society's health while, on the other hand, the same policy makers ensure that the majority of single mother-led families experience damaging economic deprivation.

### Welfare Contradiction #2: Children

Children are an important social policy concern and our provincial government has been clear that we share a collective responsibility for the welfare of children: "The future of any province and any family is its children."<sup>92</sup> Indeed, the government has publicly recognized the importance of promoting stable and secure family environments for children. For instance, in 2002, at the time most of the changes to social assistance were brought in, the Minister for Children and Families stated that:

Time and time again, research tells us that the safety and well-being of children are better secured by promoting family and community capacity. In our ministry this means we will strive to keep children with their families where possible, by putting the necessary supports in place.<sup>93</sup>

As the above government statement accepts, providing for children means providing for the adults responsible for children. After all, children are poor because the adults to whom they are attached are poor.<sup>94</sup> More, specifically, there is a close link between child poverty and women's poverty.<sup>95</sup> Yet, welfare incomes for single mothers with children fall well below common poverty lines. Indeed, as already documented, the government in 2002 brought in benefit level reductions that targeted single mother-led families and families with three or more members. This is a direct assault on the conditions for well-being of the children in these families. Caring about children, when it stops short of caring about their parents, makes for poor public policy and legislation. The provincial government's professed concern for children's welfare stands in sharp contradiction to its refusal to actually provide for these children's families.

Failure to provide accessible and quality child care also jeopardizes children's well-being. To enter the workforce, mothers of young or pre-teen children are often forced to use child care arrangements that are either unsafe or inadequate, or both. Children do not flourish in such circumstances, as numerous reports and studies have documented over and over again. Caring about children means instituting publicly funded daycare that is affordable, accessible, and of good quality. Not doing this conflicts directly with government professions of concern about and commitment to the well-being of children in this province.

### **Welfare Contradiction #3: Work**

The provincial government's changes to social assistance were heralded by the Minister responsible, the Honourable Murray Coell, as marking a switch from a system based on entitlement to one emphasizing a move to employment:

The specific impetus for the change in the legislation was a change to move people from income assistance to employment...— from a culture of entitlement to one of helping people to get off income assistance and helping them to get employment that pays a lot more than income assistance.<sup>96</sup>

Thus, single mothers with children over the age of three are now required to seek and to take available paid employment. At the same time, these mothers are legally required to provide adequate care and supervision for their children. But, changes detailed earlier have made child care even more inaccessible for single mothers on welfare, or indeed, in the paid labour market. Without sufficient, stable, and affordable child care, single mothers with young children cannot work in the labour market and will have to rely on social assistance. Single mothers on welfare are asked to either

leave their children in inadequate child care situations or face a reduction to their below-subsistence-level social assistance benefits.

The government has also eliminated the earned income exemption that had previously been available to all welfare recipients but particularly to families on welfare. That is, single mothers prior to this government's changes to social assistance law were permitted to keep up to \$200 of earned income without incurring any deductions from their welfare cheques. The rationale for this exemption was that the ability to supplement social assistance benefits through working would both increase the economic welfare of the family and facilitate entry into the paid labour market. Yet, this exemption was eliminated at the same time that the government proclaimed its new emphasis on paid employment.

As well, basic support for employment searches —money for work clothes, bus fare, and so on—is no longer available. Income received from social assistance is inadequate to provide for the basics of food and shelter, let alone the additional costs of work searches. So, to meet their obligations under social assistance to look for work, single mothers must spend money they don't have.

Faced with significant logistical obstacles cemented in place by recent government legislation, how can single mothers be both mothers and workers?

Moreover, an individual's best option for sustainable and well-paying employment is to be trained and educated past the secondary level. Yet, income assistance no longer allows recipients to receive benefits while obtaining a post-secondary education. So, single mothers, who are told by the government that they must provide primary economic support for themselves and their children through paid employment if at all possible, are prevented from obtaining the kind of skills most likely to make that possible.

## The Message

The government cares about families, but not poor single mother-led families. The government cares about children, but not the children of poor single mothers. The government believes in work, but not in making access to decent work with decent income a reality. What do these contradictions tell us? For one thing, they tell us that many single mothers find themselves in an impossible situation. Government policy and regulation makes it very difficult for single mother-led families to flourish.

The contradictions also tell us something else. The government says it values families, children, and work—yet, when it comes to single mothers and social assistance, this is not true. There must be something else at play. And, indeed, there is. Encoded into the provincial government's policy and legislation are other assumptions and value judgments, often unstated but always powerful.

# Welfare Myths

The following myths about single mothers on social assistance figure largely in the shaping of social assistance policy and legislation.

**Single mothers' poverty is a result of bad personal choices; these women are the "undeserving poor" and, as such, are owed nothing.**

**MYTH:** Single mothers are responsible for their own economic hardship.<sup>97</sup> These women suffer from a long chain of bad personal choices: loving the wrong man, leaving the right man, having too many children, immoral behaviour, irresponsibility, lack of personal drive to succeed in the labour force, or to stay in school. The list goes on. Moral character is at the root of their problem.

**REALITY:** Single mothers' poverty is caused by a combination of social and economic factors including: the undervaluing of child-raising work, the lower value attached to women's paid work, lack of adequate child care, and the conflict of responsibilities between paid work and child-raising. It is too simple and inaccurate to blame single mothers for their own poverty.

**Children's poverty, not their mothers' poverty, alone is deserving of collective action.**

**MYTH:** The high rates of child poverty are the real concern. Children alone are deserving of state assistance and support. Unlike the adults who care for them, children bear no responsibility for their poverty.

**REALITY:** The best way to help children is to help their parents. Children of single mothers are poor because their mothers are poor. Unless and until the provincial government ensures that the labour market no longer systemically discriminates against women, that affordable, accessible and quality child care is available to all women, and that social assistance rates adequately support single mothers who work at home on raising their children, British Columbia will continue to have high numbers of children living in poverty. Single mother-led families suffer from the failure of the government to recognize the child rearing and house maintenance work of the mother as important and worthy of economic and social support. Addressing women's poverty and validating and rewarding women's child care work is the only way to deal with child poverty.

**Single mothers need a male head of household; they are an affront to family values and subvert the desirable male breadwinner/female caregiver model.**

**MYTH:** The single mother-led family is an unhealthy family type. Women cannot be both mother and father to their children and children are denied the important presence of a male figure in their household. The poverty single mothers suffer is a feature of this family form and of its economic and social instability and undesirability.

**REALITY:** There is opposition to women’s formation of autonomous solvent households independent of male partners. This opposition reflects dominant and highly political assumptions about the proper family form. These conceptions envision a traditional grouping of two parents—one male and one female—living in an intimate, long-term conjugal relationship with children. The male parent holds primary responsibility for economic family support, while the female parent is responsible for the raising of children and the maintaining of the private family household. The traditional nuclear family is seen as the ideal setting for rearing children. This imagery persists in public debate and continues to inform public policy, despite evidence that two-earner families are now the norm and that Canadians are structuring their families in diverse ways.

Those who oppose women’s formation of autonomous solvent households fear that welfare for single mothers encourages women to stay out of traditional families and perpetuates a flawed family form: a form that is not an appropriate environment for raising children, perverts the proper maternal role of the mother, and denies men their central role in relation to women and children. Thus, one can account, in part anyway, for many of the punitive measures and the disdain we see leveled at single mother-led families.

It bears repeating that the dominant and traditional conception of the family does not reflect anything that is inevitable or necessarily true about single mother-led families. Their economic plight is clearly the result of failed social welfare and labour policies; it is not anything that sound social policy cannot address. Choosing what form their families will take is an important personal freedom for women that must be respected and supported. Indeed, some single mother-led families are obviously healthier without the fathers present because some single mothers and their children are fleeing abusive men. These families need government support to protect them and ensure that their domestic situations are safe.

**Single mothers on welfare don’t work and as such are not deserving of the full rights of citizens.**

**MYTH:** Single mothers are obligated, like every one else, to seek and hold employment in the paid labour force. If they do not do this, they have breached their obligations of self-support and independence. They are not workers. And they are not full ‘citizens’, having foregone their obligations of self-sufficiency and industry.

**REALITY:** Closely connected to the model of individual responsibility is a set of assumptions about the central importance of work in the paid labour force. This model emphasizes paid employment as a key feature of individual responsibility and independence. The worker is the central figure of society: the citizen achieves the conditions of his independence through his involvement with the labour market. So, paid work is important not only for creating the conditions for self-support, but also for its role in constituting an individual’s sense of accomplishment and personhood. Thus, in 2002, the British Columbia Minister responsible for social assistance stated:



“I believe that if we work closely with people... we will find them jobs, and they will achieve a greater satisfaction and a greater potential with their lives.”<sup>98</sup> As the Minister also said: “We are shifting away from being a dispenser of money to supporting people gaining the direction and the skills they need to get a job and to lead more fulfilling and independent lives.”<sup>99</sup> Work requirements have thus become the core of welfare entitlement for most recipients as it is explicitly assumed that only through paid work that an individual achieves the best life. The measure of success set out for the individual recipient of social assistance, then, is moving off welfare and into paid employment.<sup>100</sup>

Yet, all mothers work: they do childcare and house maintenance work for their own children and their own home. This work is simply not valued or recognized by the welfare system. Preoccupation with work in the paid labour force makes the work mothers do invisible, no longer treated as a socially necessary and valued activity.<sup>101</sup> Refusal to acknowledge and value women for their child-raising work negates such work, collapsing parental duties into simply providing, through paid work, for children.<sup>102</sup> Work that women traditionally do for their children is assumed or ignored in favour of an emphasis on work that fathers traditionally have done for the family. This time, however, as the sole parent in the family, women are assigned both tasks and penalized if either remains undone, or done badly, even if the two are incompatible, absent adequate social assistance and available quality child care.

As well, for single mothers, employment is not the only issue. Other issues are equally important and relevant: safety, the welfare of their children and themselves.<sup>103</sup> The role of the worker—as understood in terms of the paid labour market—is at odds with these women’s position as mothers. It is simply not true for many individuals, single mothers included, that a fulfilling and independent and happy life is dependent upon work in the paid labour market.

Moreover, many single mothers on welfare already work in the paid labour force. They do so, typically, in conditions which reveal the sexist structuring of the labour market. Thus, these women disproportionately work in that sector of the market with the lowest pay and poorest benefits. Some work part-time, some work full-time. But most of these women also on social assistance work for so low a level of pay that they qualify for some social assistance just to bring their incomes up to social assistance levels. Having an adequate income available from social assistance would mean that these women would have more bargaining power in the labour market—able to hold out for better jobs, better wages, and better working conditions. It would allow these women to move out of a cycle of poor paying jobs, tided over by periods on social assistance. It means that women could really decide how best to meet their own and their children’s needs as these needs change over time.

### **Single mothers have too many children, at too young a maternal age.**

**MYTH:** Single mothers on welfare are accused of irresponsible childbearing, of having large numbers of children the state is then obliged to support. As well, the spectre of teenage mothers haunts popular imagery of mothers on welfare.

**REALITY:** The vast majority of single parents and couples with children on income assistance have either one or two children. The average number of children in single mother-led families on social assistance is under two children.<sup>104</sup> And, marriage breakdown, not teenage pregnancy, is the main reason for single motherhood and for the poverty of single mothers.<sup>105</sup>

In summary, social assistance rules and policies treat single mother families in often contradictory and punitive ways, which are rooted in highly contentious beliefs, assumptions, and stereotypes that circulate about single mothers and their families. These stereotypes and myths are embedded in the social assistance scheme, and result in law and policy that is inconsistent and misinformed.

# Human Rights Protections for Single Mothers

This report, so far, has discussed four important features of discrimination against single mother-led families:

- the statistical picture of the disadvantage suffered by single mother-led families;
- the recent legislative provisions that especially disadvantage single mother-led families;
- the actual experience of single mothers living on social assistance that reveals their desperate circumstances;
- the set of false stereotypes or myths, based on mistaken understandings of the situations and characteristics of single mother-led families, that negatively value the life choices and circumstances of these mothers and their children.

The essential fifth element of this picture is the legal protections that prohibit the kind of treatment and lack of regard for single mother-led families documented here. Single mothers who receive BC social assistance are guaranteed equality under three layers of law that protect and promote the human rights of disadvantaged individuals and groups in Canada. First, all levels of Canadian government are bound by the international human rights regime that provides for a broad range of equality guarantees. Second, section 15(1) of the *Charter of Rights and Freedoms* provides for protection against discrimination. And, third, provincial human rights legislation establishes a specific guarantee against discrimination in the provision of public services. In BC, this protection is set out in the *Human Rights Code*.

This report does not set out the detailed legal arguments relevant to each level of human rights protection. Instead, it illustrates generally how the harmful treatment of single mothers on social assistance by the Government of British Columbia implicates all levels of protection. More specifically, it shows that this treatment of single mothers is an infringement of substantive equality as guaranteed by law—that these laws and policies constitute sex discrimination and as such are prohibited under international human rights law and illegal under constitutional and legislative human rights law.

## Guarantees of Substantive Equality

Canadian courts have clearly stated that the right to equality is a substantive guarantee. This means that it is a guarantee of equality in actual conditions, not merely of equality in the form of the law. Substantive equality promises the redress of inequality as it gets played out in the unique social, political and economic contexts of different groups in society. This makes it different from formal equality, which dictates simply that all individuals, regardless of individually different circumstances or contexts, should be treated the same. As such, a substantive equality approach acknowledges that apparently neutral, universal norms or standards can be discriminatory. Rules that ignore the specific circumstances of people with disabilities, for example, or rules that disadvantage individuals because of these disabilities, will fall afoul of a substantive equality guarantee. Substantive equality acknowledges and values difference and recognizes that the current and historical subordination of particular groups, including women, cannot be fixed by treating everyone in the same way. Indeed, the Supreme Court of Canada has recognized that “the accommodation of differences” is the essence of “true equality.”<sup>106</sup>

Inequality is a product not merely of isolated incidences of discrimination but rather of patterns of practices that create and reinforce discrimination, disadvantage, and disenfranchisement. Such patterns constitute what is called systemic discrimination. It is systemic both because the forms of discrimination are deeply embedded in our

culture and institutions but also because it is widespread, often unintentional, and frequent. Many times what we accept as “normal”, “common sense,” or “just the way things are” is, in fact, discriminatory. Remedying inequality thus entails adjustment of social and cultural patterns, attitudes, and expectations—including those about single mothers.

Substantive equality is important for women:

To the extent that women are not like men, because they are biologically different from men or because society has assigned them a subordinate status, they cannot achieve equality through the application of formal equality.<sup>107</sup>

The guarantee of substantive equality is also particularly important to single mothers who, as a group of women, have specific and unique responsibilities and circumstances in our society. In other words, it is not sufficient for British Columbia’s social assistance legislation, regulation, policies and practices to treat single mothers in a manner similar to other welfare recipients. This would amount to what the Supreme Court has called a “thin and impoverished” version of equality, that is, formal equality or similar treatment. Social assistance laws and policies will violate equality rights to the extent that they fail to take into account the distinctive needs and circumstances of single mothers who require social assistance.

## Why Discriminating Against Single Mothers is Sex Discrimination

Why do we say that the current welfare scheme in BC discriminates against single mothers on the basis of sex? Not all women are single mothers. Some men are single parents who need social assistance, and male and female single parents are treated the same way in the social assistance regime. This is an important question.

It is true that welfare rules do not single out single mothers in their formulations. But equality law recognizes that laws that appear, on their face, to treat distinctive groups in the same way, can discriminate in effect. When the effect of a law is examined in the context of a group’s actual circumstances, it often becomes clear that the law has a very group-specific impact.

Adverse effects discrimination is that discrimination that arises when a neutral rule, which is applied equally to everyone, has a disproportionate and negative impact on members of a group protected by equality rights provisions.<sup>108</sup> Recently Canadian courts have found that in some cases “neutral” rules are in fact biased because they reflect the needs and experiences of socially privileged groups.<sup>109</sup> There are several

cases in which women have challenged rules because they were based on an underlying male norm. For example, these cases have challenged the assumptions that workers do not become pregnant<sup>110</sup> or that job-related physical fitness tests can be based on male physical capacity and ways of working.<sup>111</sup>

Adverse effects discrimination is what happens in the case of single mothers and social assistance law. It occurs because the impact of certain changes falls disproportionately on single mothers. We know that the vast majority of single parents on welfare are women. Statistics tell us, therefore, that when a welfare law or regulation is passed that targets all single parents, it is affecting primarily women. Moreover, it is a basic principle of equality law that a law does not have to affect all or only members of the identified group to be held to have a specific effect on that group, for discriminatory impact does not always coincide perfectly with the categories of “women” and “men”. If, in practice, a law disproportionately affects women, it will be considered a law that discriminates against women.

This kind of analysis permitted the Court to see that discrimination against breast-feeding women or pregnant women was in fact sex discrimination, because, while it did not affect all women, it was disproportionately (in these cases, only) women who were affected.<sup>112</sup> The legal responsibility to take this reality into account under human rights law has been recognized in ringing terms by the Supreme Court of Canada:

Combining paid work with motherhood and accommodating the child-bearing needs of working women are ever-increasing imperatives. That those who bear children and benefit society as a whole thereby should not be economically or socially disadvantaged seems to bespeak the obvious.<sup>113</sup>

Thus, the disadvantageous treatment of single mothers must be understood as sex discrimination more generally. The gendered division of labour within the family is one important aspect of women’s inequality within society. Discrimination on the basis of sex and family status are intimately related. Due to a combination of social and economic factors, women are the primary caretakers of children and other dependent persons. The nurturing demands placed upon the single mother place her invariably in a disadvantaged situation with respect to meeting employment requirements.<sup>114</sup> As a consequence the attachment of many women to the world of employment outside the home is more episodic, less prestigious, and less well paid than men's. Together these factors mean that many women depend on male earnings for primary support of themselves and their children, a fact that often contributes to unequal power in the family. In general, family responsibilities are an integral aspect of women’s situ-

**Statistics tell us, therefore, that when a welfare law or regulation is passed that targets all single parents, it is affecting primarily women.**



ation and intimately connected to their lower social and economic status. This is an important overarching pattern that helps to define women's inequality. Social and economic actors and institutions—such as schools, employers, and the media—expect that domestic work is done primarily by women. These assumptions in turn help to reproduce gendered and unequal structures.<sup>115</sup> Women have less power and less respect in a society and an economy where paid work is valued over other types of contributions.

The link, therefore, between laws that negatively affect women as single parents and sex discrimination generally is fairly straightforward. The status of being a child care giver—of, when a relationship between two parents breaks up, having sole or primary child care responsibility—is one that is distinctly female in our society. It is distinctly female because of dominant gender roles, expectations, and behaviours. Of course, some men find themselves in this position, but they are in a clear minority.

The Supreme Court of Canada has enunciated the principle that human rights law requires society to recognize and accommodate the impact of childbearing on women's participation in society and the workforce.<sup>116</sup> The Supreme Court has also recognized the reality of women's poverty and its relationship with marital and family status: that women incur a number of burdens associated with the breakdown of spousal relationships, particularly economic disadvantage and hardship. This effect is a consequence of traditional divisions of labour within marriage and particularly women's primary responsibility for childrearing.<sup>117</sup> Primary responsibility for childcare is not an immutable characteristic based on biology in the same way as pregnancy and breastfeeding. Nevertheless, women's primary responsibility for childcare as a pronounced social phenomenon carries similar social determinacy and immutability.

Women's inequality is the result of complex social and economic phenomena. Sometimes it can be perceived through a direct comparison of the differential treatment experienced by women as compared to men. However, this is not always the case. In some situations, a comparison between women and men obscures rather than clarifies the discriminatory law, policy or action. Direct comparisons between the sexes can end up perpetuating or privileging men and maleness as the norm. For example, direct comparison between women and men with respect to incidents of discrimination on the basis of such things as pregnancy and breastfeeding is not necessary, and indeed is nonsensical. It is sufficient that when there is negative treatment attributable to a characteristic predominantly found among women, the connection to gender is obvious. The same approach applies to negative treatment attributable to women's status as primary childcare provider.

# International Human Rights Law

## International Protections

*The Universal Declaration of Human Rights*<sup>118</sup> and numerous international human rights treaties, all signed and ratified by Canada, recognize a number of fundamental human rights that are relevant here. For example, Article 11 of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*<sup>119</sup> obligates governments in Canada to realize the right of everyone to an adequate standard of living including adequate food, clothing, and housing. Article 9 of the same *Covenant* recognizes the right of everyone to social security.<sup>120</sup> These general rights to economic and social well-being in the ICESCR are explicitly extended equally to men and women.<sup>121</sup> As well, other international agreements contain broad prohibitions against discrimination by governments: for example, the *International Covenant on Civil and Political Rights (ICCPR)*.<sup>122</sup> *The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, ratified by Canada in 1981, obligates governments in Canada to:

...take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purposes of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.<sup>123</sup>

Similarly, the *Beijing Declaration and Platform for Action*, to which Canada agreed in 1995, acknowledges that many concrete and diverse strategies are needed to address women's inequality.<sup>124</sup> The *Platform for Action* includes an agreement by governments to pursue and implement policies designed to eradicate women's poverty and provide adequate social safety nets as an integral part of social policy.<sup>125</sup>

It is also a settled principle of international human rights law that rights to equality or non-discrimination are obligations of immediacy: that is, governments cannot delay in implementation of them.<sup>126</sup> Equality is an immediate, threshold human rights requirement. Women's rights to non-discrimination and equality obligate governments both to refrain from acting harmfully and to take positive steps to advance women's equality.<sup>127</sup>

International human rights protections are relevant in a number of ways to domestic, national politics and law. First, they serve as a benchmark of international standards, collectively generated and agreed upon by the international community. As such, they are important markers of when national and provincial governments go astray of common standards of human rights observance. The Province of British Columbia stands clearly in breach of these international standards with respect to its treatment of single mother-led families dependent on social assistance. Second, international

human rights guarantees can sometimes be the basis of individual complaints considered and decided by various treaty bodies. More specifically, some conventions, such as CEDAW, provide individual complaint mechanisms through which specific rights breaches can be adjudicated. Third, international human rights are an important interpretive aid in domestic human rights adjudication. Both human rights statutes and the *Charter of Rights and Freedoms* in our Constitution have been held to be importantly informed by the content of rights protection found in international law. Thus, the discussion about British Columbia's breach of these human rights norms is relevant to the constitutional and legislative discussion that follows it.

## United Nations Consideration of British Columbia's Actions

The UN monitors whether or not Canadian governments are in compliance with international human rights treaties through treaty bodies, which are committees established for each treaty such as the ICESCR and CEDAW. In successive periodic reviews of Canada, various UN treaty bodies have repeatedly expressed concern about high rates of poverty in the country. Single mothers, and their poverty, have been highlighted as subjects of great Committee concern.<sup>128</sup> Moreover, treaty Committees have communicated particular dismay about the impact on women of cuts to social assistance and related social programmes. For example, the Committees have expressed concern that:

- More than half the single mothers in Canada live in poverty;<sup>129</sup>
- “[C]uts in social assistance rates, social services and programmes have had a particularly harsh impact on women, in particular single mothers, who are the majority of the poor, the majority of adults receiving social assistance and the majority among the users of social programmes;”<sup>130</sup>
- “[T]he significant reductions in provincial social assistance programmes, the unavailability of affordable and appropriate housing and widespread discrimination with respect to housing create obstacles to women escaping domestic violence. Many women are forced, as a result of those obstacles, to choose between returning to or staying in a violent situation, on the one hand, or homelessness and inadequate food and clothing for themselves and their children, on the other;”<sup>131</sup>
- “Many women have been disproportionately affected by poverty. In particular, the very high poverty rate among single mothers leaves their children without the protection to which they are entitled under the Covenant...the Committee is concerned that many of the programme cuts in recent years have exacerbated these inequalities and harmed women and other disadvantaged groups.”<sup>132</sup>

Furthermore, the Committees have gone beyond these expressions of concern to make specific recommendations to Canadian governments for immediate action. In particular, they have recommended that:

- “social assistance programmes directed at women be restored to an adequate level;”<sup>133</sup>
- “a greater proportion of governmental budgets be directed specifically to address women's poverty and the poverty of their children;”<sup>134</sup> and,
- “[that Governments make]... a thorough assessment of the impact of recent changes in social programmes on women and that action be undertaken to redress any discriminatory effects of these changes.”<sup>135</sup>

In the 2003 Report of the CEDAW Committee, British Columbia was singled out for specific criticism for the negative impact that cuts to provincial welfare and related social programmes have had on women in the province. Once again, single mothers were identified as a particularly vulnerable group of women whose poverty is aggravated by cuts in social services.<sup>136</sup> The CEDAW Committee specifically recommended that the government of British Columbia review recent changes to programmes and policies to determine their impact on women and to change them as necessary.<sup>137</sup>

The result is a clear message coming from these international human rights experts that Canadian governments are in breach of their international human rights obligations with respect to addressing the general social crisis of poverty and women's poverty, and the more specific issue of single mothers' poverty. Tellingly, the recent CEDAW Committee singled out the government of British Columbia, among all the provincial governments, as raising concerns about the direct imperilment of vulnerable groups of women, single mother-led families included.

The Government of British Columbia has refused to respond to the recommendations of the CEDAW Committee and of other United Nations bodies. The result is that the current social assistance regime in BC is in clear violation of international human rights treaties. The government has failed to respect its obligations under international human rights law to take steps to ensure that single mothers and their children have an adequate standard of living and enjoy equality. Indeed, the Government of BC has moved the situation of these families backwards: it has taken retrogressive measures that reduce or eliminate benefits upon which women were disproportionately reliant.<sup>138</sup> The Government's actions have worsened the conditions of poverty and inequality that mar the lives of so many single mothers. These are clear violations of international law.

# Section 15(1) of the *Charter*

The *Canadian Charter of Rights and Freedoms*,<sup>139</sup> generally referred to as the *Charter*, forms part of the Canadian Constitution. The Constitution is the most basic, fundamental law that governs Canada's legal and political system. While, much of the Constitution sets out the framework for the roles and responsibilities of governments vis-à-vis each other, the *Charter* sets out the rights and freedoms that the governments must ensure for the people of Canada. The *Charter* applies to actions by governmental bodies or agents. As part of the Constitution, it is the "supreme law." This means that it supersedes all other Canadian laws. As a result, laws, government laws, policies or practices that are in conflict with the *Charter* are invalid. Once a court makes a *Charter* decision, the government must act in accordance with the court's decision.<sup>140</sup>

The *Charter* sets out a guarantee of equality in section 15, which states:

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Under section 15, the *Charter* protects against infringements of equality by any governmental actor, such as the legislature when it passes a law or an administrator when she is carrying out the law or government policy. It also provides that governments must ensure that all Canadians enjoy the equal benefit and protection of the law. The section 15 right to equality is further reinforced by section 28 of the *Charter*. Section 28 provides that the responsibilities and benefits created by law should apply equally to women and men.

## Violation of Section 15(1)

A law or policy will violate section 15(1) of the *Charter* whenever it draws a discriminatory distinction between a claimant on the basis of a personal characteristic or discriminatorily fails to take into account the claimant's already disadvantaged position within Canadian society.<sup>141</sup>

The BC social assistance scheme infringes the equality rights of single mothers on social assistance in at least two ways. First, the legislation and regulations fail to take into account the already disadvantaged situation of single mothers and, by doing so, perpetuate this disadvantage. The government bears a positive obligation to ensure that these women and their children have a standard of living and a level of social inclusion that is consistent with dignity and equality. Clearly, social assistance rates that keep these families well below Statistics Canada Low-Income Cut-Offs do not satisfy these obligations.



Secondly, the 2002 modifications make this group's already vulnerable and precarious situation even worse. Serious consequences have flowed from these changes including: depriving women and children of access to adequate food, clothing and shelter; subjecting them to severe mental and physical stress and in many cases danger; and, putting them at risk of irreparable consequences such as loss of custody of their children. This differential treatment is based on their status as single mothers, a status which combines the protected grounds of sex and family status. This is clearly a case of substantive discrimination because it involves differential treatment that perpetuates and worsens their pre-existing social and economic disadvantage, and that such treatment is rooted in the view that single mothers are undeserving of equal concern and respect.

## *BC Human Rights Code*

Human rights laws create a third layer of equality protection. These laws prevent and remedy discrimination in particular spheres of activity such as employment and the provision of public services. In addition, provincial human rights legislation provides for specialized tribunals to deal with discrimination claims.

Canadian courts have emphasized that provincial human rights legislation is not an “ordinary law” but rather a “fundamental law” that takes precedence over other laws.<sup>142</sup> Furthermore, human rights laws provide individual rights of vital importance, capable of enforcement. The rights enunciated must be given their full recognition and effect. In the words of the Supreme Court of Canada: “We should not search for ways and means to minimize those rights and to enfeeble their proper impact.”<sup>143</sup> In fact the opposite is true, governments and tribunals should adopt a “purposive approach” – one that works towards the desired ends or “purposes” of human rights protection, that is, the elimination of discrimination and the promotion of equality.

Equality analysis under human rights legislation is similar to that under section 15(1) of the *Charter*. But under human rights legislation, Canadian courts have articulated an additional principle: the duty to accommodate the needs of individuals from historically disadvantaged groups. Recently, the Supreme Court of Canada has expanded the concept of the duty to accommodate to make it clear that employers and governments have a responsibility to minimize any adverse impact that arises from their practices, policies or laws.<sup>144</sup> Employers and governments must do all that is practically possible to ensure that laws, policies and practices take into account the needs of previously excluded groups. In each case, the responsible party must show that they

Canadian courts have emphasized that provincial human rights legislation is not an “ordinary law” but rather a “fundamental law” that takes precedence over other laws.



have reviewed whether and how accommodation is possible. The legal responsibility is to accommodate to the point of “undue hardship.” The fact that accommodation will impose costs on the employer or government does not in itself constitute ‘undue hardship.’<sup>145</sup> The concept of ‘undue hardship’ requires respondents in human rights cases to consider seriously how complainants can be accommodated.<sup>146</sup>

## Single Mothers and the BC *Human Rights Code*

The purposes of the *Human Rights Code*<sup>147</sup> are set out very broadly and include the goal of fostering a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia. The *Human Rights Code* also has the objectives of:

- preventing discrimination prohibited by this *Code*;
- identifying and eliminating persistent patterns of inequality associated with discrimination; and,
- providing a means of redress for those persons who are discriminated against contrary to this *Code*.<sup>148</sup>

In cases of conflict between the *Code*’s provisions and any other enactment, the *Code* prevails.<sup>149</sup>

The *Code* establishes that the government cannot deny a public service or discriminate in the provision of a public service because of, among other things, the family status or sex of a person or class of persons.<sup>150</sup> It is clear that the harms documented against single mothers on social assistance fall within this definition of discrimination. That is, that the BC social assistance regime, and specifically the 2002 amendments, discriminate against women, and in particular single mothers, on the basis of sex and family status. Several cases have already confirmed that income assistance benefits are a public service within the meaning of this guarantee.<sup>151</sup> As a result, the BC government has a legal obligation to provide social assistance benefits in a non-discriminatory manner.

While the current income assistance regime is inadequate for everyone, it has a particularly onerous impact on single mothers. Rather than taking the needs of single mothers into account, the 2002 amendments dramatically worsened the situation of single mothers, and they did so in a multi-faceted way.

Some provisions under the *Employment Assistance Act* directly discriminate against single mothers by singling them out for detrimental treatment. For example, the elimination of the maintenance exemption and the provision that deems single parents to be employable when their youngest child is three, are aimed directly at single parents. Other modifications amount to adverse effects discrimination against single mothers because even though the welfare rules appear neutral on their face, they have a particularly onerous impact on single mothers. For example, the denial of assistance to full-time students affects many social assistant recipients but has a

particularly adverse effect on single mothers since they are the sole adult responsible for themselves and their children, and education is an essential gateway to economic independence. These income assistance provisions penalize women for their roles as mothers and primary caregivers.

The cumulative effect of BC welfare policy amounts to a failure to accommodate the already disadvantaged position of single mothers and this failure perpetuates and compounds their disadvantage. Under the *Human Rights Code* the BC Government has a positive obligation to accommodate the needs of single mothers. It has failed to meet even the minimum requirement of the procedural duty to take steps to ascertain how welfare policy should accommodate single mothers and the substantive duty to carry out this accommodation to the point of undue hardship. Social assistance rules and practices discriminate against single mothers contrary to the *Human Rights Code*.<sup>152</sup>

### Can this discriminatory treatment be justified?

In order to justify the type of adverse effects suffered by single mothers and their children, the Government of British Columbia would have to demonstrate that they have undertaken a good-faith process in considering how laws, rules or policies have an adverse impact on a disadvantaged group and how these discriminatory effects could be reduced or eliminated. Tribunals and courts will also review whether or not the government has successfully discharged the substantive content of this obligation, that is, whether or not they have been successful in redesigning rules and policies to accord with substantive equality principles. Recently a BC Human Rights Tribunal confirmed that a party responding to a discrimination complaint has a positive duty to obtain information about the situation and take appropriate steps. A failure to give any thought or consideration to the issue of accommodation, including what, if any, steps could be taken, does not satisfy the duty.<sup>153</sup>

There is no evidence that the BC Government took steps to investigate what impact the 2002 amendments to the BC social assistance scheme would have on single mothers.<sup>154</sup> Nor is there any evidence that steps were taken to minimize the deleterious impact as required under human rights law. While it is certainly true that all welfare recipients were adversely affected by the 2002 changes to the social assistance regime—affects in their own right quite probably also human rights offences—this is insufficient to defend or justify the Government’s practice of discriminating against single mothers.

Welfare is a fundamental social institution within Canada. Income assistance is a last resort guarantee of the minimum necessary for food, shelter and clothing. The Ontario Court of Appeal has stated that welfare benefits should reflect the actual economic situation of a protected group, relative to other income assistance recipients.<sup>155</sup> Decisions regarding vital benefits such as income assistance benefits are not open-ended policy choices for governments. These decisions must be made in a manner that is consistent with women’s right to equality.

# A Call to Action

## Conclusion

Single mother-led families are an important group of families in Canadian society. Yet, as this report documents, these families are not only subject to a wide range of damaging stereotypes and myths but are, as well, discriminatorily targeted and disadvantaged by social assistance legislation—legislation that is critical to the well-being of single mothers and their children. The legislation targets single mothers in ways that are directly connected to their important child-rearing responsibilities. The result is disproportionate poverty among single mother-led families, with the consequent damage that such poverty does to both the women and their children. The short and long term costs of this kind of material and social deprivation are huge.

Our legal system contains protections against such discriminatory treatment. All levels of government in Canada are bound by the human rights obligations of a number of international human rights treaties. The Government of British Columbia is clearly in breach of these obligations, a denial of human rights already brought to its attention by several international human rights bodies. Yet still the discriminatory treatment persists.

The social assistance scheme, and in particular the 2002 amendments, also violate the *Charter* and the *BC Human Rights Code*. This report lays out a strong legal case on behalf of single mothers on social assistance against the Government of British Columbia. A BC Human Rights Tribunal looking at these issues would have large remedial powers to direct the BC Government to amend its social assistance policies.<sup>156</sup> At a minimum, the Tribunal could declare that these amendments amount to discrimination under the *Code* and order the Government to refrain from committing this contravention. It could also order the Government to take certain steps to ameliorate the effects of this discriminatory practice, and remedy the conditions of disadvantage experienced by single mothers on social assistance.

But, we look first to the Government of British Columbia to act. The responsibility for ensuring that laws and policies conform to international law, to the Canadian *Charter of Rights and Freedoms* and to the *Human Rights Code* lies with government. The Government of British Columbia has a positive duty to protect and promote the equality of its residents, and to ensure that access to the benefits and riches of life in the province is not denied to a significant sector of our society. We call on the Government of British Columbia to take all necessary steps to bring its treatment of single mothers into conformity with human rights law.

# Recommendations

In light of its obligations under international human rights treaties, the *Canadian Charter of Rights and Freedoms*, and the *BC Human Rights Code*, the Government of British Columbia should take the following steps immediately to begin to address the inequality of single mothers and to correct outstanding violations of these women's rights.

## General

In all of its legislation, policy, and public statements dealing with single mothers, the Government should:

- Value the important child-rearing and household maintenance that single mothers do;
- Expressly support and facilitate women's liberty to form family structures of their own choosing; and,
- Recognize single mothers and their children as deserving of public support and respect.

## Social Assistance

To improve the situation of single mothers receiving social assistance, the Government of British Columbia should:

- Establish a clear, fair and transparent process for determining social assistance rates that will allow single mothers to cover the actual costs of shelter, food, child care and basic necessities. This process should involve direct consultation with single mothers who are social assistance recipients, as well as with housing, nutrition and child care experts and advocates;
- Stop the clawback of the National Child Benefit Supplement from families receiving social assistance;
- Restore the family maintenance exemption;
- Restore the earnings exemption;
- Permit single mothers receiving social assistance to participate in post-secondary education full-time;
- Provide access to child care for the children of single mothers receiving social assistance, whether or not the mothers are working, or enrolled in an approved training programme;
- Change the definition of 'employability' so that single mothers are not considered 'employable' until their youngest child is thirteen.

## Child Care, Post-Secondary Education, and Employment

To improve the conditions of single mothers seeking employment, training and education, the Government of British Columbia should:

- Design a five year plan for the development of a universal, accessible, affordable, quality child care system for British Columbia, including the provision of adequate funding directly to licensed, non-profit, child care programmes;
- Develop a programme of income and other supports that would provide realistic and affordable access for single mothers to post-secondary education and training. This programme should be developed in consultation with single mothers and with post-secondary faculty members, post-secondary institutions, and child care experts;
- Repeal the training wage, overtime averaging, minimum 2-hour call out, and child labour rules and restore adequate enforcement of labour standards;
- Introduce and implement pay equity protections for women workers.

## Provincial Responsibility in A National Anti-Poverty Strategy for Single Mothers

To ensure stable improvements in conditions for single mothers, the Government of British Columbia should:

- Enter into negotiations with the federal government, and other provincial and territorial governments, to develop a national strategy to reduce the poverty of single mothers and their children. This strategy should ensure that adequate income, child care, post-secondary education, and labour force supports are in place to provide decent living conditions for single mother-led families, as well as improved work and educational opportunities for single mothers.



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- <sup>83</sup> Nitya Iyer, *Working through the Wage Gap: Report of the task force on pay equity* (28 February 2002) Ministry of Attorney General, online: Ministry of Attorney General [http://www.ag.gov.bc.ca/public/working\\_through\\_the\\_wage\\_gap.pdf](http://www.ag.gov.bc.ca/public/working_through_the_wage_gap.pdf) (date accessed: 16 June 2004) at 88-9.
- <sup>84</sup> "University Tuition Fees" *The Daily* (2 September 2004), online: Statistics Canada <http://www.statcan.ca/Daily/English/040902/d040902a.htm> (date accessed: 1 February 2005).
- <sup>85</sup> British Columbia, Legislative Assembly, *Speech from the Throne*, (8 February 2005, Hon. Iona Campagnolo, online: British Columbia Legislature <http://www.legis.gov.bc.ca/37th6th/4-8-37-6.htm> (date accessed: 16 February 2005).
- <sup>86</sup> Online Government of British Columbia Student Financial Aid <http://www.aved.gov.bc.ca/student-services/student/loanreduction.htm> (date accessed: 4 April 2005).
- <sup>87</sup> Friends of Women and Children, Volume 2, Number 3, Report Card March 2003, *Closing the Doors to Education and Training for Women on Low Income*, (Prepared by Shauna Butterwick, Wendy Frisby & Yulia Kolpakova).
- <sup>88</sup> *Women in Canada 2000*, at 143. This Statistics Canada report says: "Female university graduates working full-time, full-year earned an average of \$42,700 in 1997, whereas no other education grouping of women made over \$30,000 that year."
- <sup>89</sup> The Single Mothers' Human Rights Project is a joint initiative of West Coast LEAF, and the Poverty and Human Rights Centre and is supported by the Community Legal Assistance Society and lawyers in the private bar.

- <sup>90</sup> The survey was distributed via email lists, various list serves, at community events, and through in-person visits to various community agencies. In addition, PovNet developed an online version of the survey that allowed advocates and single mothers from around the province to fill it in online, and have the results come to West Coast LEAF in the form of an email. Approximately 150 responses were received, the vast majority of which were from single mothers who were directly affected by changes to the social assistance scheme and the remainder from front line workers who assist single mothers.
- <sup>91</sup> British Columbia, Legislative Assembly, *Speech from the Throne*, (8 February 2005, Hon. Iona Campagnolo, online: British Columbia Legislature <http://www.legis.gov.bc.ca/37th6th/4-8-37-6.htm> (date accessed: 16 February 2005).
- <sup>92</sup> *Ibid.*
- <sup>93</sup> British Columbia, Legislative Assembly, *Hansard*, Vol. 3 No. 6 (18 February 2002) at 1174 (Hon. M. Coell), online: British Columbia Legislature <http://www.legis.gov.bc.ca/hansard/37th3rd/h20218p.htm#1171> (date accessed: 20 April 2005).
- <sup>94</sup> National Council of Welfare, *Child Poverty Profile 1998, Summer 2001, Volume 114* (Ottawa: Minister of Public Workers and Government Services, 2001).
- <sup>95</sup> Wanda Weigers, *The Framing of Poverty as "Child Poverty" and Its Implications for Women* (Ottawa: Status of Women Canada, 2004).
- <sup>96</sup> British Columbia, Committee of Supply, *Hansard*, Vol. 5, No. 5 (2 April 2002) at 2383 (Hon. M. Coell), online: British Columbia Legislature <http://www.legis.gov.bc.ca/hansard/37th3rd/h20402p.htm#2383> (date accessed: 16 February 2005).
- <sup>97</sup> Louise Armstrong, *Of "Sluts" and "Bastards": A Feminist Decodes the Child Welfare Debate* (Monroe: Common Courage Press, 1995) at 17.
- <sup>98</sup> British Columbia, Legislative Assembly, *Hansard*, Vol. 4, No. 10 (26 March 2002) at 2112 (Hon. M. Coell), online: British Columbia Legislature <http://www.legis.gov.bc.ca/hansard/37th3rd/h20326a.htm> (date accessed: 20 April 2005).
- <sup>99</sup> British Columbia, Legislative Assembly, *Hansard*, Vol. 3, No. 6 (18 February 2002) at 1171 (Hon. M. Coell), online: British Columbia Legislature <http://www.legis.gov.bc.ca/hansard/37th3rd/h20218p.htm#1171> (date accessed: 20 April 2005).
- <sup>100</sup> Diana Pearce discussed this phenomenon in the American context. See, Diana Pearce, "Rights and Wrongs of Welfare Reform: A Feminist Approach," (2000) 15 AFILIA 133 at 135.
- <sup>101</sup> Melodie Mayson, "Ontario Works and Single Mothers: Redefining "Deservedness and the Social Contract (Families, Restructuring and the Canadian Welfare State)," (Summer 1999) 34 Canadian Studies 89 at 97.
- <sup>102</sup> Mayson, *ibid.* at 105.
- <sup>103</sup> Diana Pearce, "Rights and Wrongs of Welfare Reform: A Feminist Approach," *supra* note 100 at 133 – 152.

<sup>104</sup> BC Employment and Assistance Statistics, online: BC Government <http://www.sdes.gov.bc.ca/research/keyfacts.htm> (date accessed, 21 April 2005)

<sup>105</sup> See text at footnote 14.

<sup>106</sup> *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143; *Law v. Canada (Minister of Employment and Immigration)*, 1 S.C.R. 497; *Eaton v. Brandt County Board of Education*, [1997] 1 S.C.R. 241; *BC(PSERC) v. BCGSEU*, [1999] 3 S.C.R. 3 [Meiorin].

<sup>107</sup> Shelagh Day and Gwen Brodsky, *Women and the Equality Deficit: The Impact of Restructuring Canada's Social Programmes* (Ottawa: Status of Women Canada, 1998).

<sup>108</sup> *Ontario Human Rights Commission v. Simpsons-Sears*, [1985] 2 S.C.R. 536.

<sup>109</sup> Meiorin, *supra* note 106.

<sup>110</sup> *Brooks v. Canada Safeway Ltd.*, [1989] 1 S.C.R. 1219.

<sup>111</sup> Meiorin, *supra* note 106.

<sup>112</sup> Brooks, *supra* note 110; *Poirier v. BC (Ministry of Municipal Affairs, Recreation and Housing)*, (1997) 29 C.H.R.R. D/87 (BCH.R.T.).

<sup>113</sup> Brooks, *supra* note 110.

<sup>114</sup> *Brown v. M.N.R., Customs and Excise*, (1993) 19 C.H.R.R. d/39 (Can. Trib.), at para.74.

<sup>115</sup> Susan Okin, *Justice, Gender and the Family* (New York: Basic Books, 1989).

<sup>116</sup> Brooks, *supra* note 110.

<sup>117</sup> *Moge v. Moge*, [1992] 3 S.C.R. 813; *Marzetti v. Marzetti*, [1994] 2 S.C.R. 765.

<sup>118</sup> *Universal Declaration of Human Rights*, G.A. Res. 217 (III) UN GAOR, 3d Sess., Supp. No. 13, UN Doc. A/810 (1948) 71. The United Nations General Assembly adopted and proclaimed the *Universal Declaration of Human Rights* on December 10, 1948. Article 25 of the *Declaration* provides that everyone has the right to a standard of living adequate for their health and well being, and for their family's health and well being. This includes adequate food, clothing, housing, medical care, necessary social services, as well as the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood beyond their control.

<sup>129</sup> *International Covenant on Economic, Social and Cultural Rights*, GA Res. 2200A (XXI), 21 UN GAOR, (Supp. No. 16), UN Doc., A/6316 (1966), 993 U.N.T.S. 3, Can. T.S. 1976 No. 46 [ICESCR]. Article 11(1) states:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Canada ratified this treaty in 1976, with the express consent of the Province of British Columbia.

<sup>119</sup> ICESCR, *ibid.*, Article 9 states:

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

<sup>120</sup> ICESCR, *ibid.*, at Articles 2(2) and 3. Article 2(2) states:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3 states:

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

<sup>121</sup> *International Covenant on Civil and Political Rights*, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, Article 26.

<sup>122</sup> *Convention on the Elimination of All Forms of Discrimination Against Women*, GA Res. 34/180, UN GAOR, 34th Sess., (Supp. No. 46), UN Doc. A/34/46 (1981), U.N.T.S. 13 [CEDAW] at Article 3.

<sup>123</sup> *Beijing Declaration and Platform for Action, Fourth World Conference on Women*, UN Doc. A/CONF. 177/20 (17 October 1995) [Platform of Action].

<sup>124</sup> *Ibid.* at paras. 47 and 58.

<sup>125</sup> Guarantees of non-discrimination based on sex and legal guarantees of equality for women, though expressed differently are expressions of the same obligation. See: *Montréal Principles on Women's Economic Social and Cultural Rights*, 2004), 26(3) *Human Rights Quarterly* 760. Regarding the obligation of immediacy, see CESCR *General Comment 3: The nature of states-parties' obligations* (art. 2, par. 1). 14/12/90. Contained in document E/1991/23, para. 1.

<sup>126</sup> *Ibid.* at para. 16.

- <sup>127</sup> Committee on the Elimination of Discrimination against Women, *Consideration of Reports of States Parties: Canada Fifth Periodic Report, Twenty-eighth session 13-31 January 2003*, online: CEDAW <http://www.un.org/womenwatch/daw/cedaw/cedaw28/ConComCanada.PDF> (date accessed: 21 April 2005). at para. 33-34; Committee on the Rights of the Child, *Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding Observations: Canada*. CRC/C/15/Add.215 (Concluding Observations/Comments) CRC 2003 at para. 43; Aboriginal people: Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada*. E/C.12/1/Add.31. (Concluding Observations/Comments) CESCR 1998 at para. 17.
- <sup>128</sup> *Friends of Women and Children in BC, Report Card, April 15, 2000*, online: *Women Studies and Gender Relations UBC* <http://www.wmst.ubc.ca/Reports.htm> (date accessed: 21 April 2005)
- <sup>129</sup> Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada*. E/C.12/1/Add.31. (Concluding Observations/Comments) CESCR 1998, para. 23.
- <sup>130</sup> *Ibid.* at para. 28.
- <sup>131</sup> Human Rights Committee, *Concluding Observations of the Human Rights Committee: Canada*. CCPR/C/79/Add.105. (Concluding Observations/Comments) CCPR 1999, para. 20.
- <sup>132</sup> *Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Canada*. 12/08/97. A/52/38/Rev.1 ,paras.306-343, online: Office of the High Commissioner For Human Rights [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/b5dce41c28f858478025649d002d37f7?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/b5dce41c28f858478025649d002d37f7?Opendocument) (date accessed: 21 April 2005) at para. 342.
- <sup>133</sup> Committee on Economic, Social and Cultural Rights, *supra* note 129 at para. 54
- <sup>134</sup> Human Rights Committee, *supra* note 132.
- <sup>135</sup> *Consideration of reports of States Parties: Canada Fifth Periodic Report, Committee on the Elimination of Discrimination against Women, Twenty-eighth session 13-31 January 2003*, online: CEDAW <http://www.un.org/womenwatch/daw/cedaw/cedaw28/ConComCanada.PDF> (date accessed: 21 April 2005). paras. 33, 34 & 35
- <sup>136</sup> *Ibid.* at para. 36.
- <sup>137</sup> For example, see *ibid.* at para. 35-36.
- <sup>138</sup> *Canadian Charter of Rights and Freedoms, Part 1, Schedule B to The Canada Act 1982 (U.K.) 1982, c. 11.*



<sup>139</sup> The only exception is that governments can specifically adopt laws that violate some sections of the *Charter* if they specifically invoke s.33 of the Constitution, the “notwithstanding clause”. This means that the government chooses to enact a law even though it may have an unconstitutional effect. This provision has been used very rarely.

<sup>140</sup> *Law*, *supra* note 106.

<sup>141</sup> *Insurance Corporation of British Columbia v. Heerspink* [1992] 2 S.C.R. 145 at 158, [3 C.H.R.R. D/1163 at D/1166].

<sup>142</sup> *Canadian National Railway Co. v. Canada (Canadian Human Rights Commission)*, [1987] 1 S.C.R. 1114.

<sup>143</sup> *Meiorin*, *supra* note 106.

<sup>144</sup> *Saskatchewan Human Rights Commission v. Saskatchewan Department of Social Services* (1988), 9 C.H.R.R. D/5181 (Sask. C.A.) [Chambers].

<sup>145</sup> *Gordy v. Painter's Lodge (No. 2)* (2004) C.H.R.R. Doc. 04-361, 2004 BCH.R.T. 225 at para 84.

<sup>146</sup> *Human Rights Code*, R.S.BC 1996, c. 210.

<sup>147</sup> *Ibid.* at s. 3.

<sup>148</sup> *Ibid.* at s. 4.

<sup>149</sup> This guarantee is set out in s. 8(1) of the *Code*. The full section is:

Discrimination in accommodation, service and facility

8 (1) A person must not, without a bona fide and reasonable justification,

(a) deny to a person or class of persons any accommodation, service or facility customarily available to the public, or

(b) discriminate against a person or class of persons regarding any accommodation, service or facility customarily available to the public, or

(c) because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex or sexual orientation of that person or class of persons. *Ibid.* at s. 8.

<sup>150</sup> *BC Human Rights Coalition v. BC (Ministry of Social Services)*, (1987) 8C.H.R.R. D/4275 (BCC.H.R.) [GAIN], *Chipperfield v. BC (Ministry of Social Services)*, (1997) 30 C.H.R.R. D/22262 (BCH.R.T.).

<sup>151</sup> The standard analysis is set out in a number of cases including *Waters v. BC (Ministry of Health Services)*, (2003) 46 C.H.R.R. D/11139, 2003 BCH.R.T. 13.



<sup>152</sup> *Gordy v. Painter's Lodge* (No. 2), supra note 145 at para. 84.

<sup>153</sup> *The Single Mother's Human Rights Project* has tried to obtain this information through a series of information requests under *Freedom of Information* legislation over the course of more than one year. However, the responsible government ministries have denied access to this information.

<sup>154</sup> *Falkiner v. Ontario (Ministry of Community and Social Services)*, (2002) CanLII 49902 (Ont. C.A.) at para. 80, 97. This is a s.15 Charter case.

<sup>155</sup> Pursuant to s. 37 of the *Human Rights Code*.