



POVERTY AND HUMAN RIGHTS CENTRE

**ADVANCING THE RIGHTS
OF POOR WOMEN**

The vicious circle

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Introduction

Advancing the Rights of Poor Women (ARPW) is a project of the Poverty and Human Rights Centre. In 2008 and 2009, with the support of the Law Foundation of British Columbia, Gwen Brodsky, Melina Buckley, Shelagh Day, Sharon McIvor, and Pamela A. Murray examined, through consultations and research:

- central issues affecting the lives of poor women in British Columbia today; and
- strategic legal advocacy initiatives in Canada and other countries that provide insights into the determinants of success for innovative human rights work on behalf of poor women.

Findings from the consultations and research appear in two reports: *Advancing the Rights of Poor Women – Strategic Legal Advocacy Initiatives*; and *Advancing the Rights of Poor Women – The Vicious Circle*.



**‘SOCIAL RIGHTS’
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TO AN ADEQUATE
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The vicious circle

A **vicious circle** or **virtuous circle** (sometimes referred to as “cycle” instead of “circle”) is a complex of events that reinforces itself through a feedback loop. A virtuous circle has favorable results, and a vicious circle has detrimental results. These cycles will continue in the direction of their momentum until an external factor intervenes and breaks the cycle.

In 2008, the Poverty and Human Rights Centre (PHRC) received funding from the Law Foundation of British Columbia to investigate the most effective means of fostering public test case litigation, and related legal research, law reform, and legal advocacy to advance the social rights of poor women, and, in particular, of Aboriginal women and single mothers.

As part of the Advancing the Rights of Poor Women Project, we conducted community consultations with front-line advocates and lawyers who work with poor women in Vancouver, Victoria, Prince Rupert, and Prince George. The purpose of these consultations was to twofold: 1) to confirm our reading of the central issues affecting poor women by touching base with those who are helping poor women to solve problems on a daily basis; and to 2) to test the interest of the front line advocates and lawyers in the development of broad litigation and law reform strategies to advance the rights of poor women.

The interest in the development of broad litigation and law reform strategies is overwhelming. Front line workers and advocates are, invariably, frustrated by confinement to dealing with problems individually rather than systemically, and with trying to deal with even individual problems without sufficient resources. Also, invariably, front line advocates and lawyers confirmed our reading that inadequate income assistance, inadequate or no housing, vanishing civil legal aid, male violence, lack of adequate child care, and high rates of child apprehension are central issues and they are integrally connected.

The striking feature of these consultations was the consistent description of a circle of connected events in the lives of poor women, which we refer to as the “vicious circle.” Women may enter this circle at any point, and for different reasons. There is no particular event that always initiates the harmful momentum of the circle. Any one of the events identified can be the precipitating one. However, we heard that once a woman enters the



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vicious circle, however it happens, the likelihood of other harmful events in the circle occurring is greatly increased.

The connected events described by participants include: male violence, lack of adequate housing, inadequate welfare, child apprehension, lack of legal aid, and depression/addiction. These events are caused by, and are a consequence of, sex and race discrimination. They are difficult to escape, especially without significant supports available. One participant described the circle of events for Aboriginal women this way: sexual abuse in childhood; addictions; poverty; inadequate welfare; loss of children; loss of housing.

Another participant described this circle of events: A woman seeks to leave a violent relationship, but there are few adequate supports. Often a woman needs social assistance so that she can support herself and her family independently from the violent partner. Once she is receiving social assistance, inadequate rates mean finding and maintaining adequate housing for herself and her children is difficult, if not impossible. Children may be apprehended because they have witnessed male violence, or because living conditions are considered poor enough to constitute “neglect”. Once children are apprehended, it is often hard for women to get them back. Shelter allowances are cut when children are not present, but a mother has to show that she has an adequate place for children to live before the children can be returned. Lack of legal aid to deal with separation matters, representation *before* children are taken away, welfare entitlements, and poor housing, makes it difficult to break out of the circle.

The women we consulted are clear that male violence, inadequate welfare, lack of adequate housing, lack of legal aid, and child apprehension are integrally connected in the experience of poor women, and that effective intervention requires dealing with these events and conditions simultaneously and holistically.

However, women seeking help find each event or condition is separated from the others. Each event – lack of adequate housing, a need for legal aid, child apprehension, violence, a family law dispute – involves a different government system or service, and the routes to resolving interconnected problems are rarely available. Welfare, family law, policing, and child welfare systems are not structured to address events considered to be outside the parameters of their particular service, even when those events or conditions create the situation over which they *do* have authority.



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In two recent reports the Representative for Children and Youth, Mary Ellen Turpel-Lafond, has documented the tragic consequences of this “silo-ing” of services. In *Housing, Home and Help: A Better Path for Struggling Families*,¹ Ms. Turpel-Lafond documents the story of a First Nations infant who was apprehended from his young mother and father when he was a healthy two-month old baby because they did not have adequate housing. The baby was placed in foster care, where he was permanently brain injured by his caregivers. He was then returned to his young mother and father, with cerebral palsy, blind in one eye, and unable to walk.

In “Honouring Christian Lee – No Private Matter: Protecting Children Living With Domestic Violence”, Ms. Turpel-Lafond reported on her investigation of the murders by Peter Lee of his wife, Sunny Park, his six-year old son Christian Lee, and his parents-in-law from Korea in their home in Oak Bay, Victoria in September 2007. Ms. Turpel found that there was no coordinated system connecting the criminal law, child welfare and family law authorities. Sunny Park and her son might still be alive if there been such co-ordination.²

In this discussion paper, we describe each one of the connected events and conditions separately, through a review of what we learned during our consultations as well as a review of recent reports by non-governmental organizations. We acknowledge that in litigation it may be necessary to focus narrowly on a specific rule or policy. However, the overlap and interconnectedness between the various forces acting on poor women will be apparent in this report and needs to be made visible in future strategies.

Advancing the Rights of Poor Women is a project rooted in an understanding of this interconnection, and a recognition that each of these events can tip a woman into another inequality or deprivation in this vicious circle.

We note that the vicious circle cannot be disrupted merely by improving connections between existing systems that administer cruelly inadequate benefits and services. The goal must be to create a virtuous circle of social policy that produces favourable results for women and children. A virtuous circle needs as core components: adequate welfare and secure, decent

1 Representative for Children and Youth, *Housing, Home and Help: A Better Path for Struggling Families* (Victoria: Province of British Columbia, 2007).
Online at: <http://www.rcybc.ca/images/pdfs/reports/hhh-rpt-july-28-09.pdf>.

2 Representative for Children and Youth, *Honouring Christian Lee – No Private Matter: Protecting Children Living With Domestic Violence* (Victoria: Province of British Columbia, 2009).
Online at: <http://www.rcybc.ca/Images/PDFs/Reports/RCYChristianLeeReportFINAL.pdf>.



THE GOAL MUST BE TO CREATE A VIRTUOUS CIRCLE OF SOCIAL POLICY THAT PRODUCES FAVOURABLE RESULTS FOR WOMEN AND CHILDREN.

housing; accessible addiction treatment; effective protection from male violence; supports to keep children at home; access to education and childcare; opportunities for decent employment; and active recognition of the impacts of race, age, and disability discrimination on women.

Male violence against women

The problem of male violence against women was part of every conversation we had with participants during our consultations.

Sometimes it arises as an issue of sexual abuse experienced by girls in their homes, which precipitates them into living on the streets, being homeless, and becoming involved in drug addiction and prostitution. Sometimes it is male violence in an adult domestic relationship that catapults a woman into dependence on inadequate welfare. Sometimes it is male violence experienced by women who are sponsored immigrants, who are caught in a conflict of cultures, and at risk of deportation. Sometimes male violence is described as an ever-present risk for a homeless girl or woman, or just one of the realities encountered in shelters. Sometimes male violence is the justification for apprehending children.

Too little effective attention is paid to violent men; women and children pay the price. Usually when there is domestic violence, women and children leave the family home and the violent man stays. Women often bear the burden of seeking alternative housing, finding new support systems, trying to keep themselves and their children afloat and safe. Official strategies or policies for dealing with the needs of women who leave abusive relationships are seriously flawed and fragmented.

Services

2002 budget cuts in B.C. included cuts to 35 of 69 community-based victim services programs, and to the Crown Victim Witness Services program. In 2005, 43 new Outreach Programs (for a total of 54) were introduced to counsel and assist women and dependent children and to educate communities. But this initiative did not restore the most effective services for women, so gaps continue, and current funding remains insufficient to support the services needed by women who are victims of male violence.³

³ BC CEDAW Group, Inaction and Non-Compliance: British Columbia's Approach to Women's Inequality (September 2008) at 25. Online at: <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CEDAWCanadaBC2008.pdf>.



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Cuts to funding for transition houses and victims services are expected in 2010.

There do not appear to be consistent, effective protocols for police and Crown Counsel that ensure that they respond and adequately protect women who report male violence or who are who are in ongoing danger of male violence. With respect to male violence in adult domestic relationships, the Langley Domestic Violence Pilot Project,⁴ offered promise because there was a focus on the safety of the women victims, a concerted effort made to co-ordinate the work of police and crown counsel and to move cases forward quickly. But this was an experimental and localized project, and funding for it was eliminated. In some police jurisdictions in B.C. there are domestic violence units, in others there are not. There is inconsistency in application of the province's Violence Against Women in Relationships policy,⁵ and a lack of consistency in police recording of incidents of domestic violence.⁶

Shelters for women who are victims of male violence are increasingly under pressure to transform themselves from women-focussed, equality-supporting organizations. They are being encouraged to become gender neutral, and to become "housing", as a part of homelessness strategies; that is, just "beds".

Tracking the changes in the Government's articulation of goals with respect to violence against women is revealing. In the Government's 2008 goals for the Ministry of Community Services a major goal was to:

- Prevent and respond to domestic violence.

The Ministry assigned two performance measures to this goal; first, tracking the number of women and children in transitional housing, and second, documenting the number of outreach services accessed by abused



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4 See Jocelyn Coupal & Inspector Richard Konarski, The Langley Domestic Violence Pilot Project: Best Practices in Investigating and Prosecuting Domestic Violence Cases. Online at: <http://www.crvawc.ca/documents/The%20Langley%20Domestic%20Violence%20Pilot%20Project%20-%20Coupal%20and%20Ko.pdf>.

5 See Ministry of Attorney General & Ministry of Public Safety and Solicitor General, Policy on the Criminal Justice System Response to Violence Against Women and Children (Victoria: Province of British Columbia, 2004). Online at: http://www.pssg.gov.bc.ca/victim_services/publications/policy/vawir.pdf.

6 Linda Light, Police-reported Spousal Violence Incidents in B.C. in which Both Partners are Suspects/Accused (2009) at 8–11. Online at: http://www.pssg.gov.bc.ca/victim_services/publications/policy/PoliceReportedSpousalIncidentsDualSuspects.pdf.

women and their children. Targets were set to remain constant over four years from 2007 to 2011.⁷

In 2009, the Ministry of Community Services was restructured, and the goal of preventing and responding to domestic violence was transferred to the Ministry of Housing and Social Development (MHSD).⁸

The 2008/09 MHSD Annual Service Plan Report⁹ concluded that the performance measures of maintaining constant rates of use for transitional housing and outreach programs have been “substantially met” and “exceeded”, respectively. However, it also noted that these performance indicators would not be featured in the MHSD Service Plan Report for 2009/10 as a result of restructuring of the Ministry’s 2009/10 – 2011/12 Service Plan.¹⁰ The new service plan¹¹ includes the goal of providing “a range of housing and support services targeted to those most in need”, with one strategy being to provide funding and policy support for transitional and second stage housing. No performance measures are attached to this goal.¹²

There is an obvious disjunct between embracing the broad goal of preventing and responding to domestic violence, and measuring the government’s success at meeting that goal by: 1) determining whether rates of service usage remain at a constant level and 2) treating shelters and transition houses, which are designed specifically to assist women who have experienced male violence, as “housing”.

Most recently, responsibility for victims services and counselling appears to have been transferred to the Ministry of Public Safety and the Solicitor General, which is likely to mean that these services are much more tightly tied to a criminal justice perspective, rather than a women’s equality perspective.

We also heard that women who are victims of male violence find themselves in a catch-22. In order to access services they have to declare that they are victims of violence, but if they do declare that they are victims

7 Ministry of Community Services 2008/09 – 2010/11 Service Plan (Victoria: Province of British Columbia, 2008) at 18. Online at: <http://www.bcbudget.gov.bc.ca/2008/sp/pdf/ministry/cs.pdf>.

8 *Ibid.* at 14.

9 Ministry of Housing and Social Development, Annual Service Plan Report 2008/2009 (Victoria: Province of British Columbia, 2009). Online at: http://www.bcbudget.gov.bc.ca/Annual_Reports/2008_2009/hsd/hsd.pdf.

10 *Ibid.* at 31.

11 2009/10 – 2011/12 Service Plan Update (Victoria: Province of British Columbia, 2009). Online at: http://www.bcbudget.gov.bc.ca/2009_Sept_Update/sp/pdf/ministry/hsd.pdf.

12 *Ibid.* at 14.



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of violence, that history may come back to haunt them. We were told, for example, that women in family law disputes are often advised not to mention that they are victims of violence or that they have evidence of, or suspect, child abuse.

Women who are caregivers for children want and need to appear strong. But women have to highlight their weaknesses to qualify for many services.

Women and policing

women continue to feel that law enforcement agencies and the justice system do not treat male violence against them seriously or effectively. The lack of co-ordination, previously noted, among various services from whom women may seek help, is problematic.¹³ So is the simple matter of being able to rely on the police to come to the assistance of a woman when she calls.

In the Downtown Eastside and in our consultations in the North, we heard repeatedly about the high levels of violence against Aboriginal women.

Aboriginal women aged 25-44 are five times more likely than other Canadian women of the same age to die of violence. The Native Women's Association of Canada has now documented the disappearances and murders of 520 Aboriginal women and girls over the last thirty years. Of the 520 cases:

- 43% of disappearances and 50% of murders occurred during or since 2000;
- 43% remain open (no one charged);
- 26% of cases are in British Columbia;
- 52% are women and girls under 30; and
- the majority of women were mothers.¹⁴

The Native Women's Association of Canada, as well as Walk 4 Justice and other groups, believe that the number is actually much higher, since the incidents NWAC has entered into its database are only the ones that have been acknowledged by the police and/or reported by the media. This



THERE ARE ONGOING EFFECTS OF MALE VIOLENCE IN WOMEN'S LIVES, AFFECTING SUCH THINGS AS ELIGIBILITY FOR SERVICES.

13 See Linda Light et al, Keeping Women Safe: Eight Critical Components of An Effective Justice Response to Domestic Violence (Critical Components Project Team, 2008). Online at: <http://www.endingviolence.org/files/uploads/KeepingWomenSafe0416.pdf>.

14 Native Women's Association of Canada, Voices of Our Sisters in Spirit: A Report to Families and Communities, 2d edition, March 2009 at 88-93. Online at: http://www.nwac-hq.org/en/documents/NWAC_VoicesofOurSistersInSpiritII_March2009FINAL.pdf.

situation has led many organizations in British Columbia to call for a public inquiry into the failure of law enforcement agencies and the justice system. British Columbia non-governmental organizations have called on the Government of British Columbia to establish a full public inquiry into the responses of law enforcement agencies regarding missing and murdered women, and into the root causes of the violence. United Native Nations, which represents approximately 90,000 Aboriginal people in BC, the B.C. Civil Liberties Association, the Union of B.C. Indian Chiefs, the B.C. CEDAW Group, Walk 4 Justice, the Aboriginal Women's Action Network, and the Carrier Sekani group of First Nations have all called for a public inquiry.¹⁵

In addition to the disappearances and murders along the infamous Highway of Tears — where 18 women, all Aboriginal but one, have disappeared — women in the North are concerned about eight young women who have died in Prince George in the past year, ostensibly from drug overdoses. There is concern in the community that these deaths may represent continuing violence connected to the sexual abuse of Aboriginal girls by Judge David Ramsay,¹⁶ because some of the deaths are of girls who were his victims. Judge David Ramsay plead guilty in 2006 to charges of sexual assault and procuring for his involvement with four First Nations girls, who were between twelve and sixteen at the time of his attacks on them, and who had all appeared before him in youth criminal court or family court.

Women participants told us that in their experience police do not act to protect women and they do not investigate effectively. What we heard is supported by Amnesty International's 2004 report *Stolen Sisters: Discrimination and Violence against Indigenous Women in Canada*, which concludes that police in Canada fail to provide Aboriginal women with an adequate standard of protection, and further that:¹⁷

15 See: BC CEDAW Group letter to Attorney General Mike DeJong, December 9, 2009. Online at: http://www.westcoastleaf.org/userfiles/file/lettertoMikedejong_2_.pdf, See also British Columbia Civil Liberties Association and other organizations letter to Wally Oppal, online at: www.bccla.org/othercontent/09missing_women.pdf; <http://www.globallethbridge.com/Highway+Tears+inquiry+possible+attorney+general/2220244/story.html>; "Activists Call for Inquiry into the Highway of Tears" Vancouver Sun (June 23, 2009), online: <http://www.missingjustice.ca/2009/06/activists-call-for-inquiry-into-the-highway-of-tears>.

16 For more information about the Ramsay case, see http://www.justiceforgirls.org/justicesystemmonitoring/cc_Ramsay%20Updated.html.

17 Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada* (2004) at 2. Online at: <http://www.amnesty.org/en/library/asset/AMR20/003/2004/en/c6d84a59-d57b-11dd-bb24-1fb85fe8fa05/amr200032004en.pdf>. See also Native Women's Association of Canada, *Violence Against Aboriginal Women and Girls: An Issue Paper Prepared for the National Aboriginal Women's Summit June 20-22, 2007*. Online at: <http://www.nwac-hq.org/en/documents/nwac-vaaw.pdf>.



WOMEN IN THE NORTH ARE CONCERNED ABOUT EIGHT YOUNG WOMEN WHO HAVE DIED IN PRINCE GEORGE IN THE PAST YEAR.

- Social and economic marginalization of Aboriginal women, including some government policies, has pushed indigenous women into extreme poverty, homelessness and prostitution. This places women in positions of vulnerability and they are exploited, sometimes violently, by both Aboriginal and non-Aboriginal men;
- The people who carry out the violent acts believe that societal indifference to Aboriginal women will allow them to escape justice.

Social assistance

B.C. has the highest overall rate of poverty in the country. In 2006, 13% of all British Columbians, or over half a million people, lived below the poverty line, well above the national average of 10.5%.¹⁸ Statistics Canada figures show that in 2006, poor people in British Columbia were living not just below the poverty line, but \$7,700 below the poverty line (using Statistics Canada's Low Income Cut-Off line). They are not just poor, they are very poor.¹⁹

B.C. also has the highest rate of child poverty in Canada at 18.8% – well above the national child poverty rate of 15% (before-tax Low Income Cut-Offs (LICOs)).²⁰

Particular groups of women have very high poverty rates. In 2006, B.C. single mothers had a poverty rate of 35.7 per cent. In the same year, single senior women in B.C. had a poverty rate of 20.4 per cent (compared to 11.6 per cent for single senior men).²¹ Nation-wide data show rates of poverty for Aboriginal women at 36%, for women of colour at 29%, for immigrant women at 23%, rising to 35% for those who arrived in Canada between 1991 and 2000, and for women with disabilities at 26%.^{22 23}

18 Klein et al., *The Time is Now: A Poverty Reduction Plan for BC.*, Canadian Centre for Policy Alternatives, 2008, at 5. Online at: http://www.policyalternatives.ca/sites/default/files/uploads/publications/BC_Office_Pubs/bc_2008/ccpa_bc_poverty_reduction_summary.pdf

19 Ibid.

20 First Call, *BC Child Poverty Report Card*, November 24, 2009, Online at: <http://www.firstcallbc.org/pdfs/EconomicEquality/3-09reportcard.pdf>

21 Klein et al., *A Poverty Reduction Plan for B.C.*, Canadian Centre for Policy Alternatives, 2008, at 21-22. Online at: http://www.policyalternatives.ca/sites/default/files/uploads/publications/BC_Office_Pubs/bc_2008/ccpa_bc_poverty_reduction_full.pdf

22 Statistics Canada, *Women in Canada: A Gender-Based Statistical Report* (2005). Online at: <http://www.statcan.ca/english/freepub/89-503-XIE/0010589-503-XIE.pdf>.

23 See B.C. CEDAW Group, *Nothing to Report* at 10. Online at: www.rapereliefshelter.bc.ca/issues/nothing-to-report.pdf.



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The groups of women with the highest poverty rates are the ones most likely to need to rely on social assistance at some point.

The women we consulted spoke about a variety of shortcomings with the province's social assistance system. We heard repeatedly about administrative barriers that keep women from receiving social assistance. Inadequacy of social assistance rates also remains a key concern.

There have been substantial budget cuts over the last eight years that have had a significant impact on services. In 2002, the Province cut the operating budget of the Ministry responsible for social assistance by \$581 million (30%) over three years. The cut grew to \$609 million in the 2003 Budget. To achieve the cut, the Ministry eliminated 459 full-time equivalent positions and closed 36 welfare offices across the province. The Ministry made up the remaining cut by cutting welfare benefits and further tightening eligibility rules.²⁴ The cuts and rule changes are felt directly in women's lives.

Eligibility rules present obstacles

Eligibility rules have become serious barriers to receiving social assistance. We heard that requirements, such as the two-year independence rule, requirements for documentation and the three-week wait, are so onerous that some women do not even bother to apply.

Between 2002 and 2005, the number of claimants receiving social assistance plummeted. Since 2002, there has been a 70% reduction in the employable income assistance caseload, which follows a 47% reduction between 1996 and 2002.²⁵ The number of lone mothers obtaining social assistance halved between 2002 and 2005.²⁶

The acceptance rate of those applying for social assistance dropped from 90% in June 2001 to 51% in September 2004. The Office of the Ombudsman released a March 2009 report regarding unfairness in the social assistance system that criticized MHSD for claiming that the continuing decline reflected success in assisting employable clients to move into the workforce. In fact, the Ministry's reporting does not document what

24 Penny Gurstein & Michael Goldberg, *Precarious and Vulnerable: Lone Mothers on Income Assistance* (Vancouver: SPARC, 2008). Online at: http://www.sparc.bc.ca/index.php?option=com_rubberdoc&view=doc&id=284&format=raw. See also Gwen Brodsky et al, *Human Rights Denied: Lone Mothers on Income Assistance in British Columbia* (2005). Online at: <http://www.povertyandhumanrights.org/docs/denied.pdf>.

25 Jill Atkey & Rebecca Signer, *Still Left Behind: A Comparison of Living Costs and Income Assistance in British Columbia* (Vancouver: SPARC, 2008). Online at: http://www.sparc.bc.ca/index.php?option=com_rubberdoc&view=doc&id=131&format=raw at 16.

26 *Precarious and Vulnerable*, supra, note 24.



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happens to people who apply for social assistance but do not complete the eligibility assessment process. The Ombudsman recommended:

...that by July 1, 2009 the ministry track the number of applications it receives and whether an application is approved, abandoned or denied. The ministry has agreed to use Statistics Canada data to track whether people who abandon an income assistance application move on to employment or an educational program within two months and report this data publicly by September 1, 2010. The ministry will also develop reliable and effective mechanisms to track and publicly report these results on an annual basis beginning in 2011.²⁷

This information is not available yet.

We heard that the two-year work requirement has a disproportionate impact in the North because it is a depressed area economically and unemployment is extremely high. The two-year work requirement acts as a barrier for people who need social assistance in this area. We also heard that the two-year work requirement is a barrier for immigrant and refugee women who often cannot “prove” their prior work history due to lack of documentation.²⁸

The Province has also made a number of other changes to social assistance rules:

- Before 2002, welfare recipients could pursue an education while on welfare and could then move into decent employment. That is no longer possible;
- Rules require mothers on welfare to sign over maintenance rights. Mothers are not permitted to keep anything, despite the inadequacy of welfare rates;
- All employment income is clawed back. BC is the only province that does not have an earning exemption for single mothers on income assistance.²⁹

27 Office of the Ombudsman, *Last Resort: Improving Fairness and Accountability in British Columbia's Income Assistance Program* (Victoria: Office of the Ombudsman, 2009) at 9. Online at: http://www.ombud.gov.bc.ca/resources/reports/Public_Reports/Public_Report_No_45.pdf. See also, Seth Klein & Jane Pulkingham, *Living on Welfare in BC: Experiences of Longer-Term “Expected to Work” Recipients* (Vancouver: Canadian Centre for Policy Alternatives, 2008). Online at: http://www.policyalternatives.ca/documents/BC_Office_Pubs/bc_2008/bc_LoW_full_web.pdf.

28 See: Vancouver Status of Women, *A New Era: The Deepening of Women's Poverty*, at 27. Online at: <http://www.vsw.ca/Documents/ANewEraMarch2004revised.doc>

29 *Supra* note 28.



**RULES BAR WOMEN
FROM IMPROVING
THEIR EDUCATION
OR EARNING
INCOME WHILE
RECEIVING SOCIAL
ASSISTANCE.**

We also heard from women with disabilities that the rate of denials of applications for Persons with Disability (PWD) Assistance is going up.

Also, to obtain the disability supports that they need, women with disabilities have to find a nurse who will fill out forms verifying that they require the supports. But often women with disabilities do not have a nurse who can fill out a form saying they need a certain type of cushion for their wheelchair or dietary supplements. There are significant barriers to obtaining the aides and supplements to which PWD are entitled.

Women do not receive Persons with Persistent and Multiple Barriers (PPMB) status until they have been on welfare for 12 of the previous 15 months. PPMB, is a status that is supposed to be for people who are not permanently or totally disabled but who are unable to work because of disability, language, or level of education. This classification is not well designed to deal with the group of people who are not permanently disabled. They cannot move onto and off PPMB quickly, to reflect the real changes in their disability status.

Rates inadequate

From every front line worker and lawyer we heard that social assistance rates are wholly inadequate to support women and their children.

Other participants also told us that rates are so inadequate that women's conditions are desperate and they cannot support themselves and their children decently. The inadequacy of welfare rates is a central issue, affecting access to housing, ability to escape violence, and child apprehensions. Many participants also reported that some women in BC now engage in survival sex or prostitution to obtain food, or shelter, or additional money.

The most recent version of SPARC BC's periodic report comparing income assistance rates and cost of living confirms the inadequacy of social assistance rates. It concludes that total incomes for households on income assistance met only 45% of the monthly expenses for a single adult; 72% of the expenses of a single parent with a three-year-old; 46% of a childless couple's expenses; 62% of the expenses of a single parent with a teenager; and 70% of the expenses of a couple with two children under six.³⁰

In a 2007 report, the BC Coalition of People with Disabilities reviewed the inadequacy of benefits and the many shortcomings in the operation of



THERE IS AN INCREASED RATE OF REJECTION OF PWD APPLICATIONS. PPMB STATUS IS DIFFICULT TO OBTAIN.

30 *Supra*, note 24.

the social assistance system for persons with disabilities. The Coalition concluded that the income assistance and support programs are not meeting the needs of British Columbians with disabilities.³¹

Many women with disabilities use the support portion of their benefits to pay rent because the shelter allowance is so inadequate. Also, welfare disability supports are severely inadequate. For example, MHSD covers about 70% of what most dentists charge, so women pay for dental care out of food money. If their children need dental care, women cannot afford it. Workers at the BC Coalition of People with Disabilities now see clients who are hungry when they come into the office seeking advice and support.

Interaction with other public services

As noted earlier, we heard repeatedly that responses to issues of women's unemployment, welfare, and housing are fragmented.

For example, the interaction between social assistance and childcare is problematic. Women with children over the age of three are expected to work, but they have a hard time finding daycare and sometimes have a hard time getting it approved.

Single mothers who do not have extended family are at great risk. If a woman has a child under three, it is almost impossible to find regulated childcare. There is unlicensed care, but it may not be safe and adequate. Also there is a problem about flexible childcare times for women who are working weekends, or evenings. If a woman finds a job, she will be cut off welfare, but she still cannot afford childcare even if she can find it.

Leaving social assistance

It is difficult for women to move off welfare because there is little employment available for women who have low educational attainment that provides a decent wage.

Men are more likely to get a decent wage for labouring work, but for women it is low wage, low mobility work. It is easier for men to get casual labour work than for women, and even harder for racialized women and Aboriginal women. Women's work, even when it is casual or temporary, tends to require better clothes, and better presentation.



IF A WOMAN HAS A CHILD UNDER THREE, IT IS ALMOST IMPOSSIBLE TO FIND REGULATED CHILDCARE.

31 BC Coalition of Persons with Disabilities, *Who Benefits? How Disability Benefits are Failing British Columbians* (September 2007), online: <http://www.bccpd.bc.ca/docs/whobenefits07.pdf>.

Housing and homelessness

Shortage of adequate and affordable housing

In Vancouver, Victoria, and the Northern communities, despite some provincial and local homelessness initiatives, lack of adequate housing remains a key issue.

There is not enough affordable, decent housing. The housing that is available is often not appropriate for women with children. Income assistance is not flexible in how it provides assistance to women seeking adequate shelter.

Women seeking housing in the private rental market are often faced with discrimination – particularly if they are women of colour, immigrant women, women in receipt of social assistance or women with children. Although the *Human Rights Code* prohibits this discrimination, taking a complaint to the Human Rights Tribunal is time-consuming and not a practical solution for the poorest women.

Housing is a particular challenge for women with disabilities. Women with disabilities need to find affordable and adequate housing that is also accessible. Women who need places with limited number of stairs have difficulty finding anywhere that is suitable. Many homeless people are persons with disabilities, in particular people with mental health problems.

Secure housing for senior women is a central issue. Many senior women are trying to live on wholly inadequate pensions. We heard that if a woman has only basic Canadian Pension Plan and Old Age Security, she is living on \$1,300 a month at the most. This is a better income than welfare, but older women also have more medical expenses.

Senior women are being affected by “renovictions” in areas like the West End of Vancouver and they are being ousted from apartments and neighbourhoods they have lived in for a long time. They also feel insecure about the housing they have. For example, we heard of women unwilling to inform landlords of broken fixtures, leaks or other problems because the women are afraid of being turned out and of being unable to find an affordable alternative.

There are too few long term care beds for the number of elderly women who need them, and many beds have been turned into “assisted living”, which means that more of the costs rest with the resident.



THERE IS A SEVERE SHORTAGE OF AFFORDABLE AND ADEQUATE HOUSING FOR WOMEN WITH DISABILITIES.

BC's Auditor General recently released a report, *Home and Community Care Services: Meeting Needs and Preparing for the Future*, which notes the projected increase in the number of seniors (in BC, from 15% of the population in 2006 to 24% in 2031) and that 70% of the users of home care services are seniors. The report concludes that "[t]he Ministry of Health Services is not adequately fulfilling its stewardship role in helping to ensure that the home and community care system has the capacity to meet the needs of the population".³² The Canadian Centre for Policy Alternatives recently reached a similar conclusion.³³

Shortages of adequate housing are particularly acute in Vancouver's Downtown Eastside, where the number of SROs continues to decrease,³⁴ and on Aboriginal reserves.

Homelessness

BC's Auditor General recently observed that despite the growing problem of homelessness, the Province has not developed a clear direction for addressing the issue.³⁵

Shelters, the prevailing approach to housing the homeless, are not adequate housing. Many homeless people do not want to use them because they are unhealthy, noisy, and there is often violence. There are few shelters where women are separated from men. In mixed shelters, women encounter sexual harassment and assaults. Being homeless has serious risks for women: assaults, rapes, sexual harassment, unwanted pregnancies.³⁶

32 BC Auditor General, *Home and Community Care Services* (Victoria: Province of British Columbia, 2008) at 5. Online at: <http://www.bcauditor.com/pubs/2008/report7/home-and-community-care-services-meeting-needs-and-prepar>.

33 Marcy Cohen et al, *An Uncertain Future for Seniors* (Vancouver, Canadian Centre for Policy Alternatives, 2009). Online at: http://www.policyalternatives.ca/~ASSETS/DOCUMENT/BC_Office_Pubs/bc_2009/CCPA_bc_uncertain_future_full.pdf.

34 Jean Swanson, *Still Losing Hotel Rooms: CCAP's 2009 Hotel Survey and Report* (Vancouver: Carnegie Community Action Project, 2009). Online at: <http://ccapvancouver.wordpress.com/2009/06/17/study-shows-downtown-eastside-housing-situation-is-getting-worse/>.

35 BC Auditor General, *Homelessness: Clear Focus Needed* (Victoria: Province of British Columbia, 2009). Online at: <http://www.bcauditor.com/files/publications/2009/report16/report/homelessness-clear-focus-needed.pdf>.

36 While working on this project, the Poverty and Human Rights Centre intervened in the BC Court of Appeal in the appeal from *Victoria (City) v. Adams*, 2008 BCSC 1363 to raise these issues. The Court of Appeal's decision (2009 BCCA 563) recognized a limited right to shelter. See also Tamara, *Homelessness and Violence Against Women* (Vancouver: Battered Women's Support Services). Online at: <http://www.bwss.org/law-reform/homelessness-violence-against-women/>.



DESPITE THE GROWING PROBLEM OF HOMELESSNESS, THE PROVINCE HAS NOT DEVELOPED A CLEAR DIRECTION FOR ADDRESSING THE ISSUE.

Women's mental health and addiction challenges are compounded by lack of housing. For example, we heard about a woman in Victoria who had a mental health crisis and left her belongings in a shelter when she went to the hospital. She sent friends to retrieve them, but the shelter had thrown out everything including clothes and baby pictures. This is standard practice. Without housing where women can store their small belongings, they have no way to hold on to their sense of connection and identity. Lack of any stable housing causes and exacerbates mental health issues.

Justice for Girls released a 2008 report, *More than Bricks and Mortar: A Rights-Based Strategy to Prevent Girl Homelessness in Canada*. The Report notes that 30-50% of homeless youth in Canada's large cities are girls and they make up 6-12% of the overall homeless population. Aboriginal girls are disproportionately represented.³⁷

Civil legal aid

This is a significant issue, raised by all participants and intertwined with all other issues, especially for women dealing with family law, police protection, tenancy, housing, welfare entitlements, and child apprehension issues.

Since 2002, the legal aid system in British Columbia has been decimated by successive cuts and rule changes. In 2002, the Province cut funding to the Legal Services Society (LSS) by 38%. The LSS cut full-time legal staff from 147 to 21, and replaced 60 offices around the province with nine regional centres. Legal aid is no longer provided for poverty law, which includes issues like tenancy and income assistance, or for family law except in cases of family violence or when children may be removed from the home.³⁸

A 2004 report by the Canadian Centre for Policy Alternatives concluded that women were bearing the brunt of the cuts because women's need for legal services is overwhelmingly in the areas of family and poverty law, where deep cuts were made, rather than in criminal law legal aid, where almost no cuts were made.³⁹

37 Asia Czapska, Annabel Webb & Nura Taefi, *More than Bricks and Mortar: A Rights-Based Strategy to Prevent Girl Homelessness in Canada* (Vancouver: Justice for Girls, 2008). Online at: http://www.justiceforgirls.org/publications/pdfs/jfg_housing_web.pdf.

38 See http://thetyee.ca/News/2004/02/12/Small-town_justice_steps_back_into_the_past/.

39 See "Women Pay the Price of Legal Aid Cuts" BC Issues (Vancouver: Canadian Centre for Policy Alternatives, 2004). Online at: http://www.policyalternatives.ca/documents/Popular_Primer/bc_issues/bc_issues_primer_legal_aid.pdf.



**HOMELESSNESS
IS A GROWING
PROBLEM THAT HAS
PARTICULAR HARMS
FOR WOMEN.**

Writing in 2004, West Coast LEAF reported that prior to the 2002 cuts women received only 38% of LSS services; following the cuts, that dropped to 30%.⁴⁰

In a 2008 Battered Women's Support Services report, *A Women's Right to Legal Representation: A Critical Examination of Legal Aid in BC*, Karen Osachoff observes that many women who have sought BWSS's assistance are dissatisfied with the legal aid system:

Specifically, they state that they are ineligible, or alternatively if they are eligible, they are not satisfied with the time lawyers spent with them, they do not feel heard or respected and they report that the effect(s) of violence on the family are often left out of the legal proceedings.⁴¹

In early 2009, while our consultations were ongoing, the Legal Services Society (LSS) announced that as a result of an increased demand for services and an expected decline in non-government funding, it would implement further cuts including a 16% reduction in staff in the Lower Mainland, which translates to 38 fewer positions.⁴² Cuts also include:

- Cuts to the tariffs for family, immigration and criminal law;
- Stricter screening processes and eligibility requirements;
- Closing the family law clinic; and
- Reductions in services for people who cannot access legal representation through the LSS, including cuts to LawLINE staffing and family and other duty counsel.⁴³

It is of significant concern that a key part of the rationale given for the cuts is that need is increasing. According to the LSS, at the end of November 2008, referrals for emergency family services were 21% over budget and criminal referrals were up 5%. Immigration referrals were up 76% over the previous fiscal year.

40 Ibid.

41 Karen Osachoff, *A Women's Right to Legal Representation: A Critical Examination of Legal Aid in BC* (Vancouver: Battered Women's Support Services, 2008) at 1. Online at: <http://www.bwss.org/wp-content/uploads/2009/01/batteredwomenjusticedeniedfinaldecember2008.pdf>.

42 See Legal Services Society Backgrounders at <http://www.lss.bc.ca/assets/media/newsReleases/serviceAndStaffChanges.pdf> and <http://www.lss.bc.ca/assets/media/newsReleases/backgrounderServiceStaffChangesFeb25.pdf>.

43 See <http://www.thepetitionsite.com/1/access-to-justice>.



**WOMEN CANNOT
OBTAIN LEGAL
ASSISTANCE AND IF
THEY ARE ELIGIBLE
ARE NOT SATISFIED
WITH THE LEGAL
ASSISTANCE
AVAILABLE.**

West Coast LEAF has expressed concern about these additional cuts.⁴⁴ A press release issued by LEAF tells the story of a woman LEAF has worked with who lost custody of her children because she decided not to leave her children with her drunk ex-husband and was unable to obtain legal advice at the time about what she should do. Her husband's lawyer subsequently successfully argued she was denying access to the children.

Shashi Assanand of Vancouver and Lower Mainland Multicultural Family and Support Services Society, described the impact of inadequate family law legal on immigrant women at a Legal Aid Town Hall Meeting in April 2009. She said that many immigrant women come from societies where what happens in the family, including abuse and violence, is considered a private affair, to be dealt with by family members. In Canada, women are instructed that violence and abuse are wrong and need not be tolerated by women, and that they should seek outside assistance. However, Ms. Assanand notes that in the current circumstances in British Columbia, when immigrant women do seek outside help, they find themselves alone, not supported. Immigrant women, living between two cultures, facing violence do not receive adequate support. If they attempt to leave the relationship, without adequate legal aid, they find themselves trying to represent themselves, in a language which is not their first language, before courts where custody of their children and the division of family assets — sometimes in two countries — are at stake.⁴⁵

In early November 2009, more cuts were announced. The Legal Services Society announced it would be closing five regional offices, discontinuing its LawLine Services, and laying off more than 50 staff.⁴⁶

The legal aid cuts of the last decade have had serious impacts on women and children.

A related problem is a shortage of lawyers to take family law legal aid referrals. A recent LEAF study surveyed attitudes of law students towards family law practice found students were unlikely to choose to work in

44 See West Coast LEAF, "Press Release: Legal Aid Cuts Hit Women Again" (January 15, 2009), online: <http://www.westcoastleaf.org/index.php?newsid=62&pageID=1> and West Coast LEAF, "Press Release: Access to Justice and Open Letter about Legal Aid Cuts" (April 29, 2009). Online at: <http://www.westcoastleaf.org/index.php?newsid=63&pageID=1>.

45 Shashi Assanand, Presentation to Legal Aid Town Hall Meeting, April 27, 2009. For the complicated interaction for immigrant women of immigration law, welfare rules and male violence, see Vancouver Status of Women, *A New Era: The Deepening of Women's Poverty*, at 28-29. Online: <http://www.vsw.ca/Documents/ANewEraMarch2004revised.doc>

46 See "B.C. Legal Aid Closes 5 Offices" (Vancouver: CBC, 2009). Online at: <http://www.cbc.ca/canada/british-columbia/story/2009/11/03/bc-legal-aid-cuts.html>.



LEGAL AID HAS REPEATEDLY BEEN CUT, WHILE THE NEED FOR SERVICES HAS INCREASED.

family practice because of prevailing negative perceptions of the work. LEAF suggests this perception contributes to a current shortage of family law lawyers available to provide services to women.⁴⁷

Child apprehension

We consistently heard from the advocates and lawyers we consulted that child apprehension issues are a frequent part of the vicious cycle for poor women and that the problems in the system are many and varied.

The child apprehension system, particularly in its dealings with Aboriginal children, is in crisis and has been for a considerable period of time. Recent reports by the Child, Family and Youth Advocate and the Province's Auditor General identify ongoing shortcomings in the system.

In his 2006 review of the child protection system, the Honourable Ted Hughes observed:

The strongest impression I have gleaned from this inquiry is one of a child welfare system that has been buffeted by an unmanageable degree of change. There has been a revolving door in senior leadership positions; emphasis in practice has shifted between child protection and family support; functions have been shifted out to the regions and then pulled back to centre; new dispute resolution processes have been introduced. And much of this has gone on against a backdrop of significant funding cuts, even though it is commonly understood that organizational change costs money.⁴⁸

Mr. Hughes made a number of recommendations for improving the system. In a December 2008 report, the Representative for Children and Youth, Mary-Ellen Turpel-LaFond, observes that as of December, 2008 while some of the Hughes Review recommendations had been implemented, none of those relating to Aboriginal people had been.⁴⁹ The Ministry of Children and Family Development (MCFD), which is responsible for the child protection



THE CHILD APPREHENSION SYSTEM, PARTICULARLY IN ITS DEALINGS WITH ABORIGINAL CHILDREN, IS IN CRISIS.

47 Zara Suleman, *Not with a Ten Foot Pole: Law Students' Perception of Family Law Practice* (Vancouver: West Coast LEAF, 2009). Online at: <http://www.westcoastleaf.org/userfiles/file/Not%20with%20a%20ten%20foot%20pole.pdf>.

48 The Honourable Ted Hughes, *BC Children and Youth Review* (Victoria: Province of British Columbia, 2006). Online at: http://www.mcf.gov.bc.ca/bcchildprotection/pdf/BC_Children_and_Youth_Review_Report_FINAL_April_4.pdf at 3. See also the Ministry's materials regarding implementation of the recommendations: <http://www.mcf.gov.bc.ca/bcchildprotection/review.htm>.

49 Mary Ellen Turpel-LaFond, *Progress Report on the Implementation of the Recommendations of the BC Children and Youth Review* (Victoria: Representative for Children and Youth, 2008) at 29-35. Online at: <http://www.rcybc.ca/Images/PDFs/Reports/Hughes%20Progress%20Dec%2008%20FINAL.pdf>.

system, agrees that the recommendations relating to Aboriginal families are “in progress”, three years later.⁵⁰

Reasons children are apprehended

Physical harm or abuse accounts for only about 10% of child apprehensions.⁵¹ In the vast majority of cases, apprehensions are due to poverty, addiction, mental health issues, or male violence in the home.⁵²

Neglect is the form of abuse most frequently reported to MCFD. Neglect, which MCFD defines as the “failure to provide for a child’s basic needs: food, clothing, adequate shelter, supervision and medical care” is, almost by definition, poverty.⁵³ 41% of child apprehensions are from families in receipt of social assistance.⁵⁴

Yet foster parents receive more money for care of the children than parents on welfare. Foster parents are able to better provide for the children than the children’s parents because of differences in financial supports provided by government.⁵⁵

Children are also sometimes apprehended because there is violence against their mother by a male partner. According to 2003 research on child welfare investigations across Canada, children witnessing their mother’s abuse was the second most commonly cited form of abuse or neglect, accounting for 28% of cases.⁵⁶

But the MCFD does not help women keep violent men away. The advocates we consulted reported, for example, that some women who need protection intervention orders have been told to deal with the men on their own.

A key conclusion in a recent report by Pivot Legal Society was that survivors of violence are poorly supported and, at times, re-victimized

50 See http://www.mcf.gov.bc.ca/bcchildprotection/pdf/Status_of_Recommendations.pdf.

51 *Inaction and Non-Compliance*, *supra*, note 3 at 54.

52 Darcie Bennett & Lobat Sadrehashemi, *Broken Promises: Parents Speak about B.C.’s Child Welfare System* (Vancouver: Pivot Legal Society, 2008), online: <http://www.pivotlegal.org/pdfs/BrokenPromises.pdf>.

53 See http://www.mcf.gov.bc.ca/child_protection/keeping_kids_safe.htm.

54 *Inaction and Non-Compliance*, *supra*, note 3 at 54.

55 There is ongoing litigation before the British Columbia Human Rights Tribunal and the courts regarding differential payments for grandparents, as opposed to foster parents, who care for children. See *British Columbia v. McGrath*, 2009 BCSC 180. Online at: <http://www.courts.gov.bc.ca/jdb-txt/SC/09/01/2009BCSC0180.htm>.

56 Angela Marie MacDougall, “Crisis! BC’s Child Welfare System and Violence Against Women” (undated). Online at: <http://www.bwss.org/law-reform/child-welfare/>.



PHYSICAL HARM OR ABUSE ACCOUNTS FOR ONLY ABOUT 10% OF CHILD APPREHENSIONS.

by the child protection system.⁵⁷ Although in 2004 the MCFD adopted a set of best practice guidelines for social work practice in cases involving domestic violence, which suggest an approach where a child is only to be apprehended in the rarest of cases, Pivot reports the guidelines are not being followed.

During our consultation with Pivot lawyer Lobat Sadrehashemi, she referred to a New York State case regarding mothers whose children were removed solely because the children had witnessed violence. The New York State Court of Appeals decided unanimously in *Nicholson v. Scoppetta*⁵⁸ that a child has not been neglected simply because he or she has witnessed domestic violence.

The system fails Aboriginal women and their children

More than half of the children in care in British Columbia are Aboriginal. An Aboriginal child is around six times more likely to be taken into care than a non-Aboriginal child.⁵⁹ While the number of non-Aboriginal children in state care has decreased, the number of Aboriginal children being taken into care continues to rise.⁶⁰

Many of the apprehensions from Aboriginal women are as a result of reports of neglect. The Canadian Centre for Policy Alternatives notes that “[i]n many cases, this neglect is an effect of poverty. Aboriginal children are twice as likely to be poor than non-Aboriginal children--Aboriginal children under 6 have a poverty rate of 40 per cent compared to a poverty rate of 18 per cent for non-Aboriginal children under 6”.⁶¹

We were told there is a particular problem of Aboriginal children being apprehended at birth, usually because of a history of poverty, reliance on welfare, and the youth of the mother. In Prince George, approximately a dozen children have been apprehended from Aboriginal mothers at birth in the past year. The mothers are not provided with supports that would



**INSUFFICIENT
PROTECTION FROM
VIOLENT MALE
PARTNERS CAN
PRECIPITATE CHILD
APPREHENSION.**

57 *Broken Promises*, *supra*, note 53 at 11.

58 USCOA, 2 No. 113. Online at: <http://www.nycourts.gov/courts/appeals/decisions/oct04/113opn04.pdf>.

59 BC Auditor General, *Management of Aboriginal Child Protection Services* (Victoria: Government of British Columbia, 2008) at 2, online: <http://www.bcauditor.com/files/publications/2008/report3/report/management-aboriginal-child-protection-services.pdf>.

60 *Ibid.* at 18-19.

61 Seth Klein et al, *A Poverty Reduction Plan for BC* (Vancouver: Canadian Centre for Policy Alternatives, 2008) at 23. Online at: http://www.policyalternatives.ca/~ASSETS/DOCUMENT/BC_Office_Pubs/bc_2008/ccpa_bc_poverty_reduction_full.pdf.

permit them to keep and bond with their children. This is permanently damaging for the children and the mothers.

Pivot reports that in Vancouver social workers at Vancouver Aboriginal Child and Family Support Services use a standardized risk assessment tool to predict the likelihood of future harm if a child is left in his or her present circumstances. There is no research that confirms that the factors child welfare practitioners believe to be indicators of risk are good predictors of future harm to children. Notably:

One section of the assessment relates to the abuse or neglect suffered by the parent as a child. Social workers assign a score based on the severity of the abuse suffered as well as disruptions to attachments during childhood. For children who grew up in care, their life history, including the factors that led to their apprehension, as well as any subsequent instances of abuse and the number of different foster homes they lived in while in care, is readily available to the social worker making the assessment. Factors that relate to the parent's childhood negatively affect the outcome of assessments for parents who grew up in state care (whether foster care or residential schools), a disproportionate number of whom are Aboriginal.⁶²

The current risk assessment model is designed in such a way that Aboriginal parents, and parents who grew up in care, are likely to continue to see their children taken into care at a higher rate than other parents. Without any attention to the strengths, present coping strategies and the larger environment in which they live, these groups are likely to continue to be overrepresented in the child welfare system.

In 2008, BC's Auditor General released Management of Aboriginal Child Protection Services,⁶³ which concludes that: 1) the MCFD has not identified the needs and resources required for Aboriginal child protection services, 2) the MCFD's change management practices are not in step with its current service delivery goals, and 3) the MCFD does not report on how well Aboriginal child protection services are being delivered.

Also, Mary-Ellen Turpel-LaFond notes that while the Province's April 2008 *Strong, Safe and Supported: A Commitment to B.C.'s Children and Youth* "makes a commitment" to "closing the gap" between Aboriginal and non-Aboriginal children in terms of health, safety, education and well-being, "...no



**RISK ASSESSMENT
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CHILDREN BEING
TAKEN INTO CARE.**

⁶² *Broken Promises*, *supra*, note 53 at 86-87.

⁶³ *Supra*, note 52.

measures have been set to define what this means, no lead responsibility has been identified, and it is not clear what outcomes support progress, or are targeted year-to-year across government”.⁶⁴

Kelly MacDonald for the CCPA observes that the MCFD’s implementation of establishing Regional Aboriginal Authorities to oversee aboriginal child protection, recommended by the Hughes Report, has been confusing and difficult and has not yet resulted in the establishment of any permanent Aboriginal authorities.⁶⁵

Failure to attempt less disruptive options prior to removal

The women we consulted say the MCFD does not provide supports to women that would help them to look after their own children; that is, they do not take steps to prevent situations that result in the children being taken away.

For example, we heard that some women who are in their 30s or older may have Fetal Alcohol Spectrum Disorder but have not been diagnosed because recognition of the disorder is fairly recent. Because of a lack of diagnosis, they do not have access to services and supports that would help them stay with their children. For women who have been diagnosed with the disorder, there is one collaborative care home for women and children. Collaborative care can work. But there are only three beds.

Adequate housing to keep families together is a key concern. BC’s Representative for Children and Youth’s recent report regarding a young First Nations couple, whose two-month-old boy was taken into care because of inadequate housing, noted that although there was discretion in the system to help them, they did not receive assistance. Instead, their child was taken into foster care, placed in three successive foster homes that had no connection to his culture, and was profoundly injured while in foster care. According to the Representative, “[t]he removal of children through the child welfare system appears to be the default approach that kicks in when other supports and services (emergency housing, transitional



THE MCFD DOES NOT PROVIDE SUPPORTS TO WOMEN THAT WOULD HELP THEM TO LOOK AFTER THEIR OWN CHILDREN.

64 Progress Report, *supra*, note 50 at 11.

65 Kelly A. MacDonald, *The Road to Aboriginal Authority over Child and Family Services: Considerations for an Effective Transition* (November 2008: Canadian Centre for Policy Alternatives and Centre for Native Policy and Research) at 6. Online at: http://www.policyalternatives.ca/~ASSETS/DOCUMENT/BC_Office_Pubs/bc_2008/CCPA_BC_Aboriginal_Authority.pdf.

supports for families on the move) are not in place or are difficult to access”.⁶⁶

A recent report by Pivot confirms what we heard during our consultations about a shortage of services to keep women and children together. In *Hands Tied, Child Protection Workers Talk About Working in and Leaving BC’s Child Welfare System*, Pivot researchers interviewed former child protection workers about their experiences in the system. Of the former workers Pivot surveyed, only 29% responded they could “always” or “usually” fully explore options for less disruptive measures before removing a child. The researchers note that the concern over the lack of services was most pronounced among respondents from Aboriginal service teams, 63% of whom said they were “rarely” or “never” able to provide adequate services.⁶⁷

We also heard that if women are receiving social assistance, once children are apprehended, the housing portion of welfare is reduced, which makes it more difficult for women to locate and afford adequate housing. A woman will not have her children returned unless she can show that she has housing that is fit for them.

Pivot reports that the Ministry of Housing and Social Development (“MHSD”) will reduce a mother’s shelter allowance when her children have been removed, even if they are in temporary care of the MCFD or the Vancouver Aboriginal Child and Family Services Society and not in permanent care. The current policy of MHSD permits a mother’s shelter allowance to be cut immediately following a removal, although financial assistance workers have discretion to maintain the shelter allowance for up to three months.⁶⁸

We also heard that women who have children apprehended who are living in social housing are notified that they will lose their housing.

When having adequate housing or treatment for substance abuse is the issue preventing children from being returned to their parents, Pivot also points out that no government agency takes responsibility for providing



CONCERN OVER THE LACK OF SERVICES WAS MOST PRONOUNCED AMONG RESPONDENTS FROM ABORIGINAL SERVICE TEAMS.

66 Mary-ellen Turpel-Lafond, *Housing, Help and Hope: A Better Path for Struggling Families* (Victoria: Representative for Children and Youth, 2009) at 2. Online at: <http://www.rcybc.ca/Images/PDFs/Reports/HHH-Rpt-July-28-09.pdf>.

67 Darcie Bennett et al, *Hands Tied, Child Protection Workers Talk About Working in and Leaving, BC’s Child Welfare System* (Vancouver: Pivot Legal Society, 2009) at 2. Online at: http://www.pivotlegal.org/pdfs/Pivot_HandsTied.pdf.

68 *Broken Promises*, *supra*, note 53.

the housing or treatment that is necessary to ensure that the children can be returned.⁶⁹

Problems in the post-apprehension hearing process

We heard that in many cases, the time it takes to resolve a child protection case is itself a barrier to children being returned. Children are seen to have bonded with the foster parents, and officials and courts are reluctant to return children to parents who are strangers. The *Child Family and Community Services Act (CFCSA)* says child protection hearings must be dealt with in a timely manner; however, there are systemic problems of administrative and court delay.

Pivot reports:

A guiding principle in B.C.'s child welfare legislation is that "decisions about children should be made in a timely manner." Accordingly, the legislation requires that court appearances adhere to a strict timeline. For example, once a child is removed, the first hearing, the presentation hearing, must take place within seven days of the removal. However, at this first hearing, the parent does not have the opportunity to tell her side of the story. If the parent is opposed to the removal, she has to schedule another date to appear before a judge. There is no timeline in the *CFCSA* for scheduling this hearing. The date of this hearing depends on a number of factors – the court's availability and the schedule of parent's counsel and counsel for the Director. Currently, there are three lawyers contracted to represent the Ministry in Vancouver. Given the busy schedule of parent's counsel and the fact that the Ministry's entire court caseload in Vancouver is handled by only three individuals, securing a date can be difficult. The result could be a delay of six to eight weeks. In the meantime, the child remains in care even though no judge has yet considered the reasonableness of the removal.⁷⁰

There are women, particularly Aboriginal women, who are not represented in child protection cases because they do not know to ask for representation. There is a high level of illiteracy among Aboriginal women, and they cannot navigate the system.

⁶⁹ *Ibid.* at 51 and 116.

⁷⁰ *Ibid.* at 80.



THE HOUSING PORTION OF WELFARE IS REDUCED WHEN CHILDREN ARE REMOVED. THIS MAKES IT MORE DIFFICULT TO HAVE CHILDREN RETURNED.

Advocates from the Prostitutes Empowerment Education Resource Society (PEERS) report that plans are supposed to be developed to help women get their children back after they have been apprehended, or to have contact with them, but, in their view, the system has broken down. Many of the women PEERS deals with have been denied legal aid to deal with these issues.

Outcomes

We were repeatedly told that many children in the child welfare system, particularly Aboriginal children, fare poorly. We heard that multiple placements and abuse experienced while in foster care contribute to homeless youth on the streets, addiction and involvement in prostitution, sending children into the same vicious cycle affecting their mothers.

BC's Auditor General recently observed:⁷¹

Neither the federal nor the B.C. government knows enough about the outcomes. What happens to these children who receive child welfare services? Are they better off? Our legislatures and Aboriginal and First Nations communities need to know if the services being provided make a difference. More and better information on outcomes is critical to measure the impact of services and to change or improve them where necessary.

Aboriginal communities see what happens to some of their children in foster care.

Less than 16% of Aboriginal children in care are placed with an Aboriginal caregiver.⁷² Placing Aboriginal children with non-Aboriginal foster parents means children lose their sense of who they are. In our consultations, participants repeatedly referred to the placement of apprehended Aboriginal children in non-Aboriginal foster care homes as privatized residential schools.⁷³

There are not only consequences for the apprehended children. When women lose their children, they lose themselves, and mental health issues emerge or worsen, sending them into a downward spiral.

71 *Management of Aboriginal Child Protection Services*, *supra*, note 60 at 2.

72 *Inaction and Non-Compliance*, *supra*, note 3 at 54.

73 See e.g. Angela Marie MacDougall, "Crisis! BC's Child Welfare System and Violence Against Women", *supra*, note 49.



**LESS THAN 16%
OF ABORIGINAL
CHILDREN IN CARE
ARE PLACED WITH
AN ABORIGINAL
CAREGIVER.**

Mothers with disabilities, particularly women with Fetal Alcohol Spectrum Disorder, are affected. They cannot keep appointments, they have no bus tickets or phones. These mothers who have children in care — even if they are not going to get their children back — need to see them, to stay connected. Yet child apprehension is mainly talked about as a problem for the apprehended children.

Social workers do not provide supports for mothers. Child apprehension must be understood to be a serious problem for the mothers and the children.

Mental health and addiction

In Vancouver, Victoria and in the Northern communities we visited, participants reported a shortage of detox beds and support services for women with mental health problems and addictions.

In Victoria, there are currently seven detox beds, which will be increasing to 21. These are mixed facilities, not separate beds for women. Also they are in a stabilization unit, where there is no real treatment. There are also detox facilities in Kelowna and Vancouver. But for women with no children who have no extended family, there is no assistance provided to find housing and care for children while a woman is seeking treatment.

Underfunding of women’s organizations and other NGOs

A major issue identified by virtually all participants in the consultations was the inadequacy of funding support available to NGOs to assist the poorest women in their communities. Those participants who work for NGOs that receive funding from the Province repeatedly noted that the terms of the funding have become increasingly restrictive and hamper their ability to provide the services that women need. Women who are a part of the community that they serve founded many of the most effective NGOs. They are often knowledgeable about the needs of the women they serve and about what works, but their funding is now tied to self-defeating requirements. In their view, the lack of funding, the distortion of funding priorities, and the paucity or plain absence of support services for women has become a part of the vicious circle.



MOTHERS FARE POORLY AFTER APPREHENSIONS AND THEIR INTEREST IN KEEPING THEIR FAMILIES TOGETHER IS OFTEN OVERLOOKED IN POLICY AND IN ADVOCACY EFFORTS.

On the issue of self-defeating restrictions in funding criteria, for example, PEERS reported that in its Bridging Employment Program it can only have a withdrawal rate of 35% of the 40 women. The women PEERS serves have addiction problems and associated relapses. The funding restriction forces PEERS to screen for the highest functioning women and bars them from serving the ones who are neediest and are likely go through the program two or three times before they are successful. PEERS cannot serve the most disadvantaged women because of the focus on outcomes.

Smaller specialized agencies are not eligible to bid on larger government contracts to provide services because they would have to serve all “People with Multiple Barriers” across a region, not just those in their own community. Because of these requirements, contracts go to large social service agencies, or to private contractors, and sometimes to American corporations. The contracting process is biased against smaller agencies, and particularly women-run, community-rooted agencies.

There is an essential need for core funding. Because of repeated cuts to government sources of funding, many NGOs only get this from gaming agencies. However, in late summer 2009, the Province made significant cuts to gaming funds available to community organizations. While much of the press attention focused on arts groups, women’s organizations were also affected. For example, as reported in Victoria’s *Times Colonist*, the Ending Violence Association of British Columbia announced that hundreds of battered and sexually abused women and children would be denied counseling and support this year following \$400,000 in cuts to its programs.⁷⁴ After a serious political struggle, this small amount of money was restored in the fall of 2009 but it will only maintain already inadequate services.

It is destructive to be forced to continually rely on project funding and detrimental to the women who need services that contracts are going to large agencies and that smaller, community-based ones cannot get core funding. One size fits all does not work for diverse client groups.

Funding terms are also politically charged. Women’s sexual assault centers, which have been key service providers for over 20 years, are being controlled by strings attached to funding.



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74 “Community Groups Stagger as Funding Cuts Run Deep: Decline in Grants Will Force Many to Close the Doors” *Victoria Times Colonist* (September 20, 2009). Online at: <http://www.timescolonist.com/news/Community+groups+stagger+provincial+funding+cuts+deep/2013600/story.html>.

At our Northern consultations, participants stated forcefully and repeatedly that while services in the urban centres are certainly not adequate, in the Northern rural communities they are virtually non-existent. Too many poor women in these communities simply cannot get help.

Intervening in the vicious circle

It is a difficult time for the Province's poor women. They need help now from stable organizations with resources to interrupt the vicious circle.

We heard repeatedly and consistently that a broader strategy is needed to address the systemic issues that poor women are facing and the interconnectedness of their problems. This report will give the Poverty and Human Rights Centre a framework to start that work.

We thank the many advocates and front-line workers who contributed to this report and thank them also for their dedicated work on behalf of British Columbia's poorest women.



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