

Unpaid Child Support and the Impact on Women's and Children's Poverty

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This paper provides an overview of issues of, and relationships between, unpaid child support and women's and children's poverty. This paper is divided into four sections. First, I review current statistics for women's and children's poverty. Second, I consider the impact of child support on women's and children's poverty. Third, I survey child support enforcement issues, with emphasis on the Ontario Family Responsibility Office. Last, I discuss three recent steps taken by the provincial and federal governments to reduce poverty and improve child support enforcement.

I. Women's and Children's Poverty Statistics

In Ontario, and internationally, women and children are more likely than men to experience poverty. Approximately 18% of children in Ontario live in poverty and 21% of single mothers in Canada live in poverty; three times the number of single fathers.

According to Oxfam International:

- Women are in the lowest-paid work. Globally, they earn 24% less than men and at the current rate of progress, it will take 170 years to close the gap. 700 million fewer women than men are in paid work.
- Women do at least twice as much unpaid care work, such as childcare and housework, as men – sometimes 10 times as much, often on top of their paid work.
- Women work longer days than men when paid and unpaid work is counted together. That means globally, a young woman today will work on average the equivalent of four years more than a man over her lifetime.¹

According to the Ontario 2015 Annual Report, the child poverty rate was at 17.1%², an increase from the 2008 rate of 15.2%³. According to the 2016 Report Card on Child and Family Poverty in Ontario, in 2014, 1 in 6 children under 18 and 1 in 5 under 6 lived in poverty in Ontario⁴. First

¹ Oxfam International, "Why the majority of the world's poor are women", online:

<<https://www.oxfam.org/en/even-it/why-majority-worlds-poor-are-women>>

² Ontario.ca, "Poverty Reduction Strategy (2015 Annual Report)", online:

<<https://www.ontario.ca/page/poverty-reduction-strategy-2015-annual-report>>

³ Ontario.ca, "Ontario's Poverty Reduction Strategy (2014 Annual Report)", online:

<<https://www.ontario.ca/page/ontarios-poverty-reduction-strategy-2014-annual-report>>

⁴ Family Service Toronto, "2016 Report Card on Child and Family Poverty in Ontario", online:

<<https://www.cwp-csp.ca/resources/sites/default/files/resources/ReportCardOntarioNov182016.pdf>>

Nation, Inuit and Métis children in Canada have very high rates of poverty compared to the general population. In 2010, 38% lived in income poverty, compared to 17% of non-indigenous children (UNICEF, 2017).

Canada Without Poverty, a not-for-profit organization dedicated to eradicating poverty in Canada and educating Canadians about the link between poverty and human rights has collected data showing that women and children were more likely to experience poverty⁵:

- 21% of single mothers in Canada raise their children while living in poverty (7% of single fathers raise their children in poverty)⁶.
- Women parenting on their own enter shelters at twice the rate of two-parent families⁷.
- Overall, racialized women earn 32% less at work⁸.
- In Canada, 1.3 million children live in conditions of poverty (that's 1 in 5)⁹.
- 1 in 2 Status First Nations children lives in poverty¹⁰.
- 40% of Indigenous children in Canada live in poverty, and 60% of Indigenous children on reserves live in poverty¹¹.
- More than one-third of food bank users across Canada were children in 2016¹².
- About 1 in 7 of those using shelters in Canada are children¹³.
- UNICEF rated Canada 17th out of 29 wealthy countries due to the number of children living in poverty in Canada and 26th out of 35 wealthy countries for overall child inequality¹⁴.

Single parent families are more likely to live in poverty. In 2016, the median net worth of Canadian couples with children under 18 was \$361,400, while the median net worth of lone-parent families was less than a sixth of that at only \$57,200¹⁵. In 2014, 9.2% of couples with children were living in poverty compared to 30.4% of lone parent families. 84% of single parent families are women led. The gender wage gap in Ontario may account for part of this difference

⁵ Canada Without Poverty, "Just the Facts", online: <<http://www.cwp-csp.ca/poverty/just-the-facts/>>

⁶ Homeless Hub, "Poverty", online: <<https://homelesshub.ca/about-homelessness/education-training-employment/poverty>>

⁷ Canadian Women's Foundation, "The Facts about Women and Poverty in Canada", online: <<https://www.canadianwomen.org/the-facts/womens-poverty/>>

⁸ Family Service Toronto - Campaign 2000, online: <<http://campaign2000.ca/wp-content/uploads/2016/11/NationalC2000Infographic2016.pdf>>

⁹ *Ibid.*

¹⁰ CBC News, "Half of First Nations children live in poverty", online: <<https://www.cbc.ca/news/canada/half-of-first-nations-children-live-in-poverty-1.1324232>>

¹¹ Family Service Toronto - Campaign 2000, "A Road Map to Eradicate Child & Family Poverty", online: <<http://campaign2000.ca/wp-content/uploads/2016/11/Campaign2000NationalReportCard2016Eng.pdf>>

¹² Food Banks Canada, "Hunger Count 2016", online <https://www.foodbanksCanada.ca/getmedia/6173994f-8a25-40d9-acdf-660a28e40f37/HungerCount_2016_final_singlepage.pdf>

¹³ *Supra* note 8.

¹⁴ *Supra* note 11.

¹⁵ Statistics Canada, "Survey of Financial Security, 2016", online: <<https://www150.statcan.gc.ca/n1/daily-quotidien/171207/dq171207b-eng.htm>>

as the median income for female lone parents is about \$18,000 less than for male lone parents¹⁶. In 2010, the median employment income of female lone-parent families with children under 6 who reported a non-zero income was \$21,200, about half the median of male lone-parent families with children under 6 (\$43,300) and less than one-third of the median employment income of couple families with children under 6 (\$75,600)¹⁷.

II. Impact of Child Support on Women's and Children's Poverty

Single mothers depend heavily on child support to stay out of poverty, and in Ontario nearly 80% of support orders are in arrears.

According to a 2016 report by the federal Government, entitled, *Compliance with Family Support Obligations – Just Facts*¹⁸, child support represents a significant portion of income for households led by single mothers¹⁹. In 2012, the US Department of Health and Human Services reported that child support lifted nearly one million people out of poverty.

The report also stated that in 2011, 34% of non-resident parents and 59% of resident parents with at least one child 18 years or under reported that there were no child support payments being made. Of the cases where support was being paid, 38% or 45% depending on the source, reported \$5000 or less as the annual amount paid²⁰. Of the 41% of the resident parents who received child support payments, three-quarters (75%) of receiving parents reported receiving full payment amounts, although these were not always on time (25% reported payments were late). Other receiving parents reported partial payments, including half or more (13%) and less than half (8%). Those reporting at least partial payments also reported regularly late (24%), some missed (41%) or most missed (25%) payments.

However, these statistics seem to be inconsistent with more recent data for Ontario. According to a 2014 investigation by the CBC²¹, over \$3.7 billion is owing in support orders, across Canada. The investigation found that nationally, nearly two-thirds of all support orders are in

¹⁶ Homeless Hub, "Child and Family Poverty in Ontario", online: <https://www.homelesshub.ca/sites/default/files/attachments/Child%20and%20Family%20Poverty%20in%20Ontario%20_2018.pdf>

¹⁷ Statistics Canada, "Income Composition in Canada (2013)", online: <<http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-014-x/99-014-x2011001-eng.pdf>>

¹⁸ Department of Justice, "Compliance with Family Support Obligations", online: <<https://www.justice.gc.ca/eng/rp-pr/fl-lf/divorce/jf-pf/cfso-ooaf.html>>

¹⁹ US Department of Health and Human Services, online: <<http://www.acf.hhs.gov/programs/cse/blogs/voice/2014/02/05/history-demonstrates-child-support-lifts-children-out-of-poverty/>>

²⁰ *Supra* at note 18.

²¹ CBC News, "'Deadbeats' across Canada owe more than \$3.7B in support", online: <<https://www.cbc.ca/news/canada/manitoba/deadbeats-across-canada-owe-more-than-3-7b-in-support-1.2782955>>

arrears, and in Ontario that figure jumps to 80%. At the time, Kathleen Wynne, Premier of Ontario, attempted to water down the astonishing figure, stating that many of the 80% of arrears cases are making "some payments".

Additionally, in 2015, HER Grey Bruce released the initial findings of its 'Survey on Parent Experiences with the Family Responsibility Office (FRO) of Ontario,' for parents registered to receive their child support through the FRO. The survey found that among Ontario parents registered to receive their child support through the FRO:

- 79% report that their child support is overdue.
- 54% are owed 12 months or more in overdue child support.
- 76% are supporting two children (on average) on a single family income.
- 67% are owed \$2000 or more in overdue child support, while 23% are owed \$20,000 or more²².

III. Support Enforcement Issues

Despite calls for improvements and solutions, nearly \$2.1 billion in child support continues to go uncollected. The Ontario Family Responsibility Office remains the most complained-about Ontario government organization with more than 1,000 complaints made annually.

Ontario Family Responsibility Office

The CBC²³ found that, nationally, government maintenance enforcement programs are not up to the task; 2014 data suggested there were just over 1,600 full-time jobs devoted to managing more than 470,000 open cases with caseloads ranging from a ratio of one employee to 233 cases in Quebec to 725 cases per employee in British Columbia.

In 2014, the office of Bruce-Grey-Owen Sound MPP Bill Walker confirmed that as much as \$2.1 billion was uncollected by the Family Responsibility Office, which handles more than 180,000 cases a year, while as many as 80% of child support cases in Ontario are non-compliant²⁴.

The 2010 Annual Report of the Office of the Auditor General of Ontario included a report on the results of an audit of the Family Responsibility Office²⁵. At that time, it was reported that there had been no substantial improvement in the collection of unpaid support payments. A number of issues were identified:

²² Owen Sound Hub, "Court-ordered child support overdue; survey finds", online: <<http://owensoundhub.org/news/1606-court-ordered-child-support-overdue-survey-finds.html>>

²³ *Supra* at note 21.

²⁴ Owen Sound Hub, "Get to know FRO (Family Responsibility Office)", online: <<http://owensoundhub.org/life/1133-get-to-know-fro-family-responsibility-office.html>>

²⁵ Ministry of Community and Social Services, "2012 Annual Report of the Office of the Auditor General of Ontario", online: <<http://www.auditor.on.ca/en/content/annualreports/arreports/en10/303en10.pdf>>

- unlike in most other provinces, Ontario's payers and recipients do not have direct access to their assigned enforcement services officer, and the call centre remains the primary means by which they can contact the Office;
- there is only limited access to enforcement staff working in the call centre because, as noted in the next section, many calls do not get through or are terminated before they can be answered;
- there is still no one assigned to proactively oversee a case, and many different front-line workers continue to work on the same case over time; and
- the average number of assigned cases per enforcement services officer is relatively high at 1,377, which results in a large—and in some cases an almost overwhelming—number of outstanding bring-forward notes, indicating that many issues still aren't being dealt with on a timely basis.

In a 2012 follow up²⁶, the Office of the Auditor General reported:

"Significant improvements have been made in registering support obligations and in introducing a case management client-service model, and further improvements are expected once implementation of the new case-management technology system is completed. Efforts to reduce payments in arrears and suspense account balances and to improve performance measurement are ongoing."

Improvement efforts continued, including a much more accessible call centre (busy signals have been entirely eliminated at FRO, and call wait times have been reduced to less than two minutes from a previous average of eight to twelve minutes) and improved collection of support payments. The agency collected \$714 million in the 2015–16 fiscal year, the most in the FRO's history²⁷.

However, in spite of efforts to improve services, the Family Responsibility Office was the most complained-about Ontario government organization again in 2016-2017, with 1,036 complaints, up slightly from 1,025 in the previous year²⁸.

IV. Steps Forward

In addition to efforts to improve operations and increase efficiencies at the Family Responsibility Office, steps have been taken by the Ontario and federal governments to reduce child poverty and child support arrears.

²⁶ Ministry of Community and Social Services, "2012 Annual Report of the Office of the Auditor General of Ontario", online: <<http://www.auditor.on.ca/en/content/annualreports/arreports/en12/403en12.pdf>>

²⁷ TVO, "It looks like change is finally coming to the Family Responsibility Office", online: <<https://www.tvo.org/article/it-looks-like-change-is-finally-coming-to-the-family-responsibility-office>>

²⁸ Ombudsman Ontario, "2016-2017 ANNUAL REPORT", online: <<https://www.ombudsman.on.ca/resources/reports-and-case-summaries/annual-reports/2016-2017-annual-report>>

Ontario Poverty Reduction Strategy

The Poverty Reduction Strategy (Annual Report 2017) reported that, according to 2015 data, 24.4% fewer children were living in poverty in 2015 compared to 2012, and 37.3% fewer children were living in deep poverty in 2015 compared to 2012²⁹.

As part of the provincial strategy, in 2017, Ontario ended the “clawback” of child support from social assistance payments. In effect from January 2017 for ODSP and February 2017 for Ontario Works, this 100% exemption of child support meant that approximately 19,000 families, the majority of whom are single-parent households, would see an increase of approximately \$3,380 annually. The exemption was expected to put more than \$75 million a year more in the hands of families receiving social assistance and would help increase the monthly income of almost 19,000 families, most of whom are single-parent households³⁰.

Canada Child Benefit

The new federal Canada Child Benefit (CCB), which took effect July 1, 2016, replaced the Canada Child Tax Benefit (CCTB), including the National Child Benefit Supplement, and the Universal Child Care Benefit³¹. The CCB provides a maximum annual benefit of \$6,400 per child under the age of six, and \$5,400 per child aged 6 through 17³². The maximum benefit is available to families with incomes under \$30,000. In Ontario, unlike the previous CCTB, this benefit will not be “clawed back” from families on social assistance. This change was made in line with Ontario’s economic plan and to combat child poverty. Specifically, the CCB does not affect the amount of, or eligibility for:

- Ontario Works benefits
- Ontario Disability Support Program benefits
- Child care subsidies under the Child Care and Early Years Act
- Healthy Smiles Ontario, the province’s dental program for low-income youth
- Rent-geared-to-income subsidies
- Portable housing benefits³³.

²⁹ Ontario.ca, “Poverty Reduction Strategy (2017 Annual Report)”, online:

<<https://www.ontario.ca/page/poverty-reduction-strategy-annual-report-2017>>

³⁰ Ontario.ca, “Ontario Ensuring that Vulnerable Families Keep Child Support Payments”, online:

<<https://news.ontario.ca/mcys/en/2016/06/ontario-ensuring-that-vulnerable-families-keep-child-support-payments.html>>

³¹ *Ibid.*

³² Government of Canada, “Canada Child Benefit”, online: <<https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/federal-government-budgets/budget-2016-growing-middle-class/canada-child-benefit.html>>

³³ *Supra* note 30.

Divorce Act revisions

Canada's *Divorce Act* received Royal Assent in June 2019, and comes into effect on July 1, 2020. Helping to reduce poverty is identified as one of its objectives, which will be achieved through a number of changes affecting child support³⁴.

The Hague Conference on Private International Law (Hague Conference), an international intergovernmental organization, has developed family law conventions to address the increase in global mobility and transnational families, which creates the challenge of enforcing cross-border child support.

The revised *Divorce Act*³⁵ brings two international conventions, the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children* (1996 Hague Child Protection Convention) and the *Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance* (2007 Hague Child Support Convention), into force in Canada³⁶. Canada signed both the 1996 Hague Child Protection Convention and the 2007 Hague Child Support Convention on 23 May 2017. Bill C-78 has incorporated into Canadian law the text of both conventions. According to the Department of Justice, "being a party to the Convention[s] would make it easier to resolve some family law issues when one or more parties lives in another country." The 2007 Child Support Convention was designed to "establish an international system for the recovery of maintenance which is fair, efficient, and effective."

As of July 1, 2020, the *Divorce Act* provides a new regime for governing interjurisdictional proceedings, where the parties live in different provinces, territories or countries. Section 18 provides that where the former spouses live in different provinces, either may apply to obtain, vary, rescind or suspend a support order, or to have child support calculated or recalculated, without notice to the other. Section 19 provides that when a former spouse lives in a "designated jurisdiction" outside Canada and seeks to vary a support order or to have child support recalculated, they may proceed through the relevant authority in country where the

³⁴ Department of Justice Canada, "Legislative Background: An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act (Bill C-78)", online:

<<https://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/c78/03.html>>, see also Government of Canada, Department of Justice Canada, "Strengthening Canada's Family Justice System: Bill C-78 and what it means for Canadians and Legal Professionals", online: <<https://www.canada.ca/en/department-justice/news/2018/08/strengthening-canadas-family-justice-system-bill-c-78-and-what-it-means-for-canadians-and-legal-professionals.html>>

³⁵ Bill C-78 Details: <https://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=9868788>

³⁶ Legislative Summary of Bill C-78:

https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/421C78E

former spouse lives, applies to the “designated authority” in the province where he or she believes the other party lives. The application is then heard in that province.

The process is as follows:

- the former spouse seeking relief submits an application to the designated authority in their own province or country (if they live in a designated foreign jurisdiction)
- That designated authority reviews the application and makes sure it is complete. They then send it to the designated authority in the respondent’s province
- The designated authority in the respondent’s province then sends the application to either a court in that jurisdiction or to a child support service, if there is such a service in that province
- The respondent is then be served with the application along with a notice of where to appear and what information and documents to provide
- Based on the information from both the applicant and the respondent, either a court or a child support service in the respondent’s jurisdiction makes a decision³⁷

The revised *Divorce Act* also offers improvements to the challenges of recalculating child support. The amendments:

- allow recalculation to be performed at the request of either or both former spouses rather than only at “regular intervals” (for example, if there is a job loss during a year)
- provide for rules allowing for the deeming of income by recalculation services if a spouse refuses to disclose their income information
- allow for the recalculation of an interim order
- allow a provincial recalculation service to apply the same rules to an order made under the *Divorce Act* as would apply to a support order made under provincial law³⁸

There is also a new framework for child support calculation. Under the old *Divorce Act*, only a court could determine initial child support in an order. The new *Divorce Act* permits a province to enter into an agreement with the Government of Canada to authorize a provincial child support service to establish child support amounts administratively under the *Divorce Act*. This framework will apply where a divorce proceeding has been initiated and will use the applicable child support guidelines to establish child support amounts in a child support decision. If either or both spouses disagree with the amount of child support established by the provincial child support service, the proposed framework permits either party to apply for an initial child support order under the *Divorce Act*.

³⁷ *Supra* note 34.

³⁸ *Ibid*.

This will ensure that the amount established in a child support decision has legal effect throughout Canada. The enforceability of the decision will be the same as a child support order. This framework will be faster and less costly than applying to a court for a support order³⁹.

V. Conclusion

In consideration of the foregoing, there is a clear and urgent need to do more to address the issue of unpaid child support. The pervasive gender inequalities that continue to disadvantage single mothers, such as the gender pay gap, combined with the increasing cost of living in Ontario, and nationally, are setting the stage for a further increase in the rate of women's and children's poverty.

In this paper I have endeavoured to establish that women and children are more likely than men to experience poverty and child support can often be the difference for these families, between living in or out of poverty. Despite calls to action, efforts to date have been insufficient and unpaid child support amounts remain at shocking and unacceptable levels in Ontario, and across the country.

³⁹ *Ibid.*