



Via Online Submission

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Select Standing Committee on Finance and Government Services
Room 224, Parliament Buildings
Victoria, BC, V8V 1X4

Submission to the Standing Committee on Finance and Government Services Budget 2017 Consultations

The West Coast Legal Education and Action Fund (West Coast LEAF) urges the Select Standing Committee on Finance and Government Services (the Finance Committee) to make investing in women’s equality a budget priority for 2017. Investing in women is a matter of fairness, equality, and human rights, and it makes good fiscal sense.

West Coast LEAF is a non-profit organization that seeks to achieve equality by changing historic patterns of discrimination against women through BC-based equality rights litigation, law reform and public legal education. We have a particular expertise in equality and human rights and we have done in-depth law reform research on the impacts of BC’s laws and policies on women.

Women’s access to justice

Legal aid services in BC continue to be inadequate. This is particularly true for family and civil legal issues, the matters most relevant to women. According to the most recent Annual Service Plan Report of the Legal Services Society (LSS), there were 7,888 applications for representation in family law matters in 2015/16.¹ Of these, only 3,803—about 48%, a slightly higher percentage than previous years—were referred to legal aid for representation. In contrast, 81% of applications for criminal legal aid, services predominately used by men, were referred for services.²

Women continue to face several barriers in securing legal aid representation. First, legal aid representation is still only available for family matters deemed to be serious,³ predominantly situations involving family violence. There is generally no funding for

¹ Legal Services Society, *Annual Service Plan Report 2015/2016* (Legal Services Society, Vancouver: 2016) at 8.

² *Ibid* at 8.

³ Legal Services Society, “Serious Family Problems” (2016), online: www.legalaid.bc.ca/legal_aid/familyIssues.php.

legal representation for everyday matters like divorce or the division of property, which are key for women to improve their financial security after relationship breakdown.

In addition, in order for an individual to qualify for legal aid representation, their net monthly household income and assets must be at or below the level specified in LSS guidelines. A single woman working full time at minimum wage will not qualify because her income exceeds the financial cut off, leaving many women ineligible despite that fact that they cannot realistically afford to retain a lawyer.⁴ Because of changes to BC's social assistance laws, child support payments are no longer clawed back from income and disability assistance because those payments are now exempt from Ministry of Social Development and Social Innovation's calculation of income. However, child support payments are still included to calculate income for legal aid eligibility purposes. This results in absurd situations where women qualify for social assistance, but are assessed by the legal aid system as having incomes too high to qualify for services. It also undermines the principle that child support is the right of the child and is not intended to be used for a parent's legal costs.

Given the crucial role of family law in responding to family violence and supporting women's economic security and independence, it is clear that the lack of legal aid support for these matters is a significant equality issue. In addition, recent studies have estimated that everyday legal problems cause significant financial costs for individuals as well as for Canadian governments.⁵ Total national costs related to increased dependence on social assistance, employment insurance benefits, and health care flowing from a lack of access to justice are estimated to be over \$800 million per year, much of which is in areas within provincial jurisdiction. In addition, it is well established that high numbers of unrepresented litigants create significant costs in the justice system.

Recommendation #1: Increase legal aid funding to ensure coverage for legal issues such as divorce, property division, and poverty law matters.

Recommendation #2: Increase legal aid funding to ensure that income eligibility thresholds are set at levels that reflect an individual's actual ability to pay for legal services.

Recommendation #3: Ensure that child support benefits are exempt from the calculation of income for legal aid eligibility (as is done for social assistance).

⁴ The current minimum wage is \$10.85 per hour. At 40 hours per week, 52 weeks per year, the net income of a single person earning minimum wage would be approximately \$1,640 per month. LSS's net income threshold for a single person is \$1,520 per month.

⁵ Trevor CW Farrow et al., *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (Canadian Forum on Civil Justice, Toronto: 2016).

Women and poverty

BC continues to have high rates of poverty, particularly among single senior women and single-parent families, which are predominately headed by women. The Province has a high rate of working poverty and, in Metro Vancouver, families led by lone parents are the most at risk.⁶ One in two BC children living in lone parent families lives in poverty,⁷ and rates of child poverty directly reflect the poverty of their primary caregivers, usually their mothers.

In 2016, BC announced a modest increase to monthly disability assistance rates of \$77 per month for a single person, effective September 1, 2016. However, the new rate fails to cover the cost of living increases that have occurred since the last rate increase in 2007.⁸ In addition, the announcement was rendered nearly meaningless for many recipients because, also effective September 1, 2016, BC made significant changes to its bus pass and special transportation subsidy programs. Because of these changes, the effective benefit increase for many recipients of disability assistance will be only \$25 and \$11 per month respectively as they now have to cover increased transportation costs or give up their bus pass.⁹

Income assistance rates in BC remain frozen despite rising costs of living, with monthly benefit levels that keep those who rely on them in deep poverty. Those on regular income assistance continue to receive \$610 for a single person, an amount that fails to cover even the average cost of rent in many parts of BC. Given that people in single parent families, most of which are single mother-led, make up nearly half of income assistance recipients, the benefit rates under the *Employment and Assistance Act* are particularly important to women.

In addition, the current definitions of both “dependent” and “spouse” in BC’s social assistance legislation impose financial dependence on another person and are well out of step from definitions used in many other statutory schemes. By forcing this financial dependence, the definitions put women at heightened risk of relationship violence, undermine their independence, and prohibit them from entering new relationships that could eventually provide mutual support and even lift them out of poverty.¹⁰

⁶ Igljka Ivanova, *Working Poverty in Metro Vancouver* (Canadian Centre for Policy Alternatives, Vancouver: 2016) at 14 and 16.

⁷ First Call: BC Child and Youth Advocacy Coalition, *2015 Child Poverty BC Report Card* (Vancouver: 2015) at 15.

⁸ Igljka Ivanova, “What you need to know about BC Budget 2016” (16 Feb 2016), online, *Policy Note*: www.policynote.ca/what-you-need-to-know-about-bc-budget-2016/.

⁹ Katherine Dedyne, “I can’t afford a bus’: clawback of disability benefits sparks protest,” *Times Colonist* (17 April 2016).

¹⁰ West Coast LEAF, “Briefing Note: Amending the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act* to Better Support Women’s Financial Independence” (West Coast LEAF, Vancouver: 2016), online: http://www.westcoastleaf.org/wp-content/uploads/2016/09/West-Coast-LEAF_Dependency-Briefing-Note_Sept-26-2016.pdf; Frances Lankin and Munir A Sheukh, *Brighter Prospects: Transforming Social Assistance in Ontario* (2012) at 87-88, online:

While BC announced small increases to the minimum wage effective in 2016 and 2017, these increases are insufficient and not all workers will benefit from the increases. For example, employees who serve liquor remain subject to lower minimum wage levels; effective September 2016, their minimum wage will rise to just \$9.60 per hour, the second lowest in the country.¹¹ This is particularly concerning given that 81% of food and beverage servers in BC are women and reliance on tipping for income leaves them vulnerable to sexual harassment.¹² Most other provinces do not have lower-tier minimum wages for servers; Alberta eliminated its differential wage effective October 1, 2016.¹³

Finally, a comprehensive and coordinated approach is necessary to lift women and children out of poverty. BC remains the only province in Canada that has not committed to developing a comprehensive poverty reduction strategy despite the Finance Committee's recommendation that the Province do so in three separate budget consultation reports.

Recommendations #4: Increase income and disability assistance rates to reflect actual costs of living and index them to inflation.

Recommendation #5: Ensure sufficient funding to allow amendments to the definitions of “dependent” and “spouse” in BC’s social assistance legislation to reduce women’s risk of relationship violence and support beneficial personal relationships.

Recommendation #6: Increase BC’s minimum wage to \$15 per hour and eliminate the lower-tier minimum wage so that liquor servers are subject to the standard minimum wage.

Recommendation #7: Develop and implement a comprehensive poverty reduction plan that includes legislated timelines and targets for reducing the rates of poverty in BC.

Women in provincial prison

The Truth and Reconciliation Commission of Canada’s Calls to Action included a clear call for BC to “commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and

http://www.mcass.gov.on.ca/documents/en/mcass/social/publications/social_assistance_review_final_report.pdf;

¹¹ Government of Canada, “Current And Forthcoming Minimum Hourly Wage Rates For Young Workers And Specific Occupations” (26 Aug 2016), online: <http://srv116.services.gc.ca/dimt-wid/sm-mw/rpt3.aspx>.

¹² Kaitlyn Matulewicz & David Fairey, “Dependence on tips leave women workers vulnerable to sexual harassment” (8 Aug 2016), online, *Policy Note*: www.policynote.ca/dependence-on-tips-leaves-women-workers-vulnerable-to-sexual-harassment/.

¹³ Staff, “Alberta minimum wage going up on October 1,” *Global News* (30 Sept 2015).

evaluate progress in doing so.”¹⁴ Despite this, Indigenous women are still being disproportionately incarcerated. Although Aboriginal women make up about 5% of BC’s female population, in 2014/15 Indigenous women comprised 35% of the female provincial prison population,¹⁵ illustrating a trend of shocking over-representation and systemic bias. Aboriginal youth make up half of the youth in custody in BC.¹⁶

In addition to the continued over-representation of Indigenous women and girls in BC’s corrections systems, conditions of incarceration continue to be inadequate. There is still no correctional facility for women on Vancouver Island. As a result, women must be transferred to a mainland facility away from their support networks, or held in inappropriate police cells that are not designed for long-term stays.¹⁷ Given the disproportionate numbers of incarcerated Indigenous women, this amounts to discrimination.

Youth facilities are also inadequate. The Province shut down Victoria Youth Detention Centre in 2014, citing high costs and empty beds.¹⁸ Consequently, youth must be transferred off the Island to facilities in either Burnaby or Prince George.¹⁹ The old Victoria Centre is currently being used as a homeless shelter.²⁰ While this is a positive step for those in urgent need of housing, the fact that women and youth are being taken further away to serve sentences is problematic. It is more difficult for these individuals to maintain connections with children and family, rehabilitate, and reintegrate into their communities. The lack of suitable local facilities designated for women and youth also creates safety issues. For young inmates from Vancouver Island, the lack of consistent services that results from ongoing transfers between the Lower Mainland and Vancouver Island has been connected to increasing unsafety, escalating violence, and a major riot at the Burnaby Youth Custody Centre in July 2016.²¹

The correctional facilities that do exist are not safe. In June 2016, the Office of the Ombudsperson issued a report entitled *Under Inspection: The Hiatus in BC Correctional*

¹⁴ Truth and Reconciliation Commission of Canada, *Calls to Action* (2015) at para 30.

¹⁵ Statistics Canada, “First Nations, Metis and Inuit Women” (23 Feb 2016), online: www.statcan.gc.ca/pub/89-503-x/2015001/article/14313-eng.pdf at 5; *supra* note 91 at 9. Note that BC Corrections statistics classify incarcerated people as “Aboriginal”, “Metis” or “Native”. Inmates under these three categories are referred to here as “Indigenous”. Unfortunately despite several requests, DataBC has not updated its Corrections Dashboard to include 2015/16 data, another concerning development.

¹⁶ Ministry of Children and Family Development, “Average Number of Youth in Custody in BC” and “Average Number of Aboriginal Youth in Custody in BC,” obtained from West Coast Prison Justice Society.

¹⁷ Richard Watts, “Mainland judge aghast at lack of jails for women on Island,” *The Times Colonist* (27 April 2016).

¹⁸ Sunny Dhillon, “B.C. watchdog concerned over ‘temporary’ youth custody centre,” *The Globe and Mail* (10 May 2016).

¹⁹ *Ibid.*

²⁰ Megan Thomas, “Former Victoria Youth detention centre opens as homeless shelter,” *CBC News* (6 Mar 2016).

²¹ BCGEU, “Riot marks increasing violence at Burnaby Youth Custody Centre” (20 July, 2016), online: <http://bcgeu.ca/riot-marks-increasing-violence-burnaby-youth-custody-centre>.

Centre Inspections.²² Prison inspections are mandated by both s. 27(1) of the *BC Correction Act*²³ and the newly revised *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)*, which require an internal inspection to be done by an independent body.²⁴ The frank report concluded that BC Corrections failed to adequately carry out inspections to ensure that its correctional centres were safe and complying with the law for nearly 11 years due to inadequate planning and a failure to prioritize matters relating to the human rights, health, and safety of prisoners. The report concluded that these failures were in violation of legal and international standards and put the health and safety of incarcerated people at risk.

Recommendation #8: Ensure that a coordinated, effective and transparent system is in place to address the over-incarceration of Indigenous people in BC.

Recommendation #9: Expand support and funding to ensure regular and robust inspections of provincial correctional facilities, as required by international and domestic law.

Recommendation #10: Provide funding and support for the development of appropriate correctional facilities for youth and women on Vancouver Island.

Conclusion

The above recommendations make financial sense and will improve the security and dignity of women in BC. The issues explained above create financial costs for our public services and violate the legal rights of women and children in BC. The provincial government must do more, as a matter of urgent priority, to respect, protect and fulfill equality rights.

We call on the Finance Committee to urge government to make investing in women's equality a focus of the 2017 BC Budget. Thank you for considering our submission.

Yours truly,



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²² Office of the Ombudsperson, *Under Inspection: The Hiatus in B.C. Correctional Centre Inspections* (16 June 2016).

²³ SBC 2004, c 46.

²⁴ *Supra* note 22 at 5.