



BC GENDER EQUALITY REPORT CARD 2019/2020



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The views expressed by dialogue participants in this report are their own. Any errors, however, are West Coast LEAF’s.

This report is for the purposes of education and discussion only. It is not intended to give you legal advice about your particular situation. Because each person’s case is different, you may need to get help from a lawyer or advocate.

RED TAPE HAS YET TO FIX ANYTHING.

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EXECUTIVE SUMMARY

THE BC GENDER EQUALITY REPORT CARD for 2019/2020 assesses the provincial government's recent progress in six issue areas impacting the human rights of women and people who face gender discrimination: access to justice; economic security; freedom from gender-based violence; health care; justice for people who are criminalized; and the rights of parents, children, and youth. In order to hold the BC government accountable to international human rights standards, the Report Card highlights principles from international law. It also integrates insights from community dialogues held in partnership with PACE Society, Urban Native Youth Association (UNYA), and the Coalition Against Trans Antagonism (CATA).

While recognizing that BC has taken some steps in the right direction between December 2018 and early April 2020, the Report Card also finds that many of these steps have left marginalized communities behind. Some government services remain difficult or impossible to access for those who need them most. And some measures have been introduced without full consideration of the needs and priorities of those most impacted. The Report Card calls for action to correct these gaps and exclusions — many of which are strongly gendered — and to ensure that everyone in BC has their rights respected and their basic needs met.

ACCESS TO JUSTICE



A modest increase in funding for BC's legal aid system has allowed for a handful of new community legal clinics to offer sorely needed services across BC. However, enormous gaps in access to legal help remain, disproportionately leaving marginalized people without a way to enforce their rights. The inability to obtain legal assistance can be life-threatening — for example, in the case of people fleeing intimate partner violence who are deprived of legal aid for family law matters. Moreover, BC must actively work to ensure that its new legislation implementing UNDRIP and its recognition of transgender and non-binary identities are more than just symbolic.

ECONOMIC SECURITY



When it comes to economic security, BC took several steps in the right direction in 2019 and early 2020. Workers gained improved access to dispute resolution, and people who need income assistance now face fewer arbitrary barriers to accessing it. However, rates for income assistance and disability benefits remain woefully low. More modular homes and shelters are good news, but a reduction in the number of affordable homes that BC plans to build is a worrying setback. And the province can take longer strides towards alleviating poverty for all if it puts an intersectional lens into action. More targeted housing, social supports, and employment programs are needed for marginalized people to attain economic security in the context of systemic sexism, transphobia, racism, ableism, and other inequalities.

FREEDOM FROM GENDER-BASED VIOLENCE



BC's temporary funding top-up for services for survivors of violence falls short of the need for sustainable, comprehensive, community-based, wrap-around supports. It is disappointing that BC did not budget dedicated funds for acting on the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls, nor for adopting the rights-based framework for responding to sexual assault that community groups have been calling for. Furthermore, BC has taken only very limited steps to address violence against gender minority communities.

HEALTH CARE



BC took important steps to make health care more affordable and comprehensive in 2019: for example, it eliminated MSP premiums (finally catching up with the rest of the country in this regard), and it made gender-affirming lower surgery accessible under MSP. However, further action is needed to ensure universal access to gender-specific and sex-specific health care, as well as contraception, dental care, and other health services. BC needs to be proactive in tackling the stigma and discrimination that create barriers to health care for marginalized communities. It also needs to commit to continue providing life-saving access to a safe drug supply after the COVID-19 pandemic has passed.

JUSTICE FOR PEOPLE WHO ARE CRIMINALIZED



The BC government has still not adequately addressed major human rights concerns surrounding criminalization. Indigenous people continue to be incarcerated at appallingly disproportionate rates, and transgender people in prisons continue to face dangerous conditions. While BC's plan to reform solitary confinement practices is encouraging and long overdue, and it remains to be seen how far the changes will go towards fully respecting human rights. And, troublingly, BC recently passed two pieces of legislation, that *Community Safety Amendment Act* and the *Civil Forfeiture Amendment Act*, that are likely to exacerbate the criminalization of marginalized groups.

RIGHTS OF PARENTS, CHILDREN, AND YOUTH



BC continues on the path towards universal child care—a welcome policy direction. However, inaction in other areas continues to undermine the well-being of families in BC. The child welfare system is riddled with systemic problems that disproportionately harm Indigenous families. While BC's move to end birth alerts is a positive and hard-won change, questions remain about what will happen to children previously apprehended as a result of birth alerts, and what new supports (if any) the government will provide so that infants and new parents can thrive together. What's more, BC's family law system presents significant barriers and risks for parents and children who are survivors of gender-based violence.

INTRODUCTION

ABOUT THE GENDER EQUALITY REPORT CARD

West Coast LEAF's Gender Equality Report Card assesses what the BC government has done — or failed to do — to advance gender justice and human rights between December 2018 and early April 2020. In particular, it explores BC's performance in six broad issue areas: access to justice; economic security; freedom from gender-based violence; health care; justice for people who are criminalized; and the rights of parents, children, and youth. To hold the BC government accountable to international human rights standards, the Report Card highlights provisions in international law that protect individuals and communities against gender-based discrimination.

Our approach with this year's Report Card represents a shift from past years. From 2009 to 2018, West Coast LEAF published a CEDAW Report Card grading the BC government on its compliance with the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In 2018, our organization expanded our mandate and understanding of gender-based discrimination from focusing only on women to including all people who are marginalized based on their gender, including trans people of all genders (not only women), Two-Spirit people, people with non-binary gender identities, and gender non-conforming people. While announcing this change was a big step for our organization, many more steps will be needed as we learn, grow, and seek strategies for putting our expanded mandate into practice. As a beginning step in this process, we created this Gender Equality Report Card to call attention to the experiences of all people who are marginalized on the basis of their gender. We hope that our new Gender Equality Report Card builds on the strengths of our earlier CEDAW Report Card while also addressing some of its limitations.

As a beginning step in carrying out our expanded mandate, West Coast LEAF created this Gender Equality Report Card to call attention to the experiences of all people who are marginalized on the basis of their gender.

To accomplish this transformation of the Report Card, we sought guidance from community. From start to finish, this Gender Equality Report Card project has been informed by community dialogue participants, whose knowledge from their lived experience has guided our research focus and framing of the issues. Their invaluable contributions are described in greater detail below. We are honoured that these groups supported the Gender Equality Report Card project, especially because they represent communities we have not historically engaged with in our work. We thank them from the bottom of our hearts.

We also extend our warm thanks to our funders for supporting our work to remake the Report Card to be consistent with our mandate and values. Deepest appreciation to the Law Foundation of BC and the Health Sciences Association of BC.



PROCESS

Over the span of the project, we met with three community groups who generously shared their insights with us. Community dialogue participants were drawn from the membership of the 2Spirit Collective at Urban Native Youth Association (UNYA), the Trans Supper Club at PACE Society, and the Coalition Against Trans Antagonism (CATA). We met with each group three times. In the first meeting, we introduced ourselves, explained the project, answered questions, and reviewed guidelines for informed consent. In the second meeting, participants shared thoughts on the BC government's performance in the six issue areas and impacts observed in community, by discussing, creating collage art, and writing notes on flip chart paper. We are grateful to ArtReach Toronto for the collage methodologies described in their toolkit "Arts-Based Evaluation 101,"¹ which we adapted to create an arts-based approach to our Report Card dialogues. In the final meeting with community groups, we returned to present our findings from the dialogues and ensure we had accurately interpreted community input, and to seek guidance about how to amplify community knowledge through communication channels additional to the Report Card. (Stay tuned for a social media campaign growing out of that discussion!)

- 🗣️ Comments from community dialogue participants are sometimes represented in the Report Card in their exact words, including capitalization used when written on flip chart paper, and other times in point form based on notetaking during dialogues by West Coast LEAF staff or fellow participants. Not all comments are reproduced exactly as spoken or written, and some comments have been edited for clarity and length.

Views of participants are their own. While participants' insights are central to the Report Card, specific comments don't necessarily represent West Coast LEAF's analysis, the views of others in the dialogue group, or the views of the host organization.

We are extremely grateful to all dialogue participants and to the representatives of host organizations who did so much work to coordinate the dialogues. This year's Report Card is infinitely richer for including the firsthand knowledge of community members for the first time ever.

We would also like to thank the hardworking volunteers who conducted much of the research and fact-checking for the Report Card. Their thoughtfulness and diligence have added a great deal of depth and nuance to the Report Card.

Last but not least, our warm thanks go out to community reviewers at frontline service and advocacy organizations, who provided attentive feedback on portions of the draft.

Without the support of dialogue participants and coordinators, volunteers, community reviewers, and our generous funders, this Gender Equality Report Card would not have been possible.

INTERNATIONAL LEGAL INSTRUMENTS

While past CEDAW Report Cards focused exclusively on CEDAW to assess BC's adherence to human rights standards, this Gender Equality Report Card has broadened its consideration of international law to match its more expansive understanding of gender equality. Therefore, this Gender Equality Report Card draws from both CEDAW and the Yogyakarta Principles.

What is CEDAW?

The Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW") enshrines important protections for women and girls in international human rights law. CEDAW recognizes that it is not enough to guarantee that women and men be treated identically. Instead, state signatories must take appropriate action to eliminate discrimination against women and support substantive equality.

Canada ratified CEDAW in 1981 and it is obliged to provide a report to the UN Committee on the Elimination of Discrimination against Women (the "CEDAW Committee") every four years. Canada's compliance with the Convention was last assessed in 2016, and the CEDAW Committee raised significant concerns about Canada's commitment to women's equality rights and adherence to the treaty's protections, including with regard to areas of provincial government authority and issues specific to BC. In previous CEDAW Report Cards, we outlined many of the CEDAW Committee's concerns and recommendations. In this year's Gender Equality Report Card, we revisit the rights enshrined in CEDAW which have yet to be achieved for women and girls in BC.

What are the Yogyakarta Principles?

The Yogyakarta Principles are international principles outlining human rights as they relate to sexual orientation and gender identity. The Yogyakarta Principles were compiled in 2006 by a group of experts in Yogyakarta, Indonesia, and they were updated in 2017 ("YP+10"). While the Yogyakarta Principles are not in and of themselves a binding document, they are a compilation of binding international legal standards with which Canada and BC are obligated to comply. The annotated version of the Yogyakarta Principles sets out the legal sources that underlie each principle and state obligation.

We highlight the Yogyakarta Principles because they set out the most comprehensive overview of how international human rights standards apply to the advancement of equality on the basis of gender identity. We also highlight them because some of the community dialogue participants shared their vision that the Yogyakarta Principles should receive greater attention as an advocacy tool. Our reliance on the Yogyakarta Principles also underlines the need for a binding document in international law that codifies state obligations to advance equality on the basis of gender identity and expression.

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GRADING SCALE

This year's Report Card focuses on provincial developments between December 2018 and early April 2020. We used the following scale to assign grades to BC's progress in each area:

A	SIGNIFICANT ACTION TAKEN. ON THE RIGHT TRACK.
B	CONSIDERABLE ACTION TAKEN. NEEDS SOME IMPROVEMENT.
C	SOME ACTION TAKEN. NEEDS CONTINUED IMPROVEMENT.
D	VERY LIMITED ACTION. NEEDS SIGNIFICANT IMPROVEMENT.
F	TOTAL INACTION OR HARMFUL ACTION.

The grading of this year's Report Card was informed by consultation with community dialogue participants, community reviewers, and research volunteers. When assigning grades, West Coast LEAF staff made a concerted effort to consider the range of views expressed during these conversations.

The letter grades reflect BC's recent progress, not the overall effectiveness of the government programs and policies in each area. In other words, higher grades indicate that there has been considerable progress in the past year — not necessarily that people's needs in BC are now being fully met and their rights fully respected — while lower grades reflect minimal progress or even harmful steps.

The grades in this year's Gender Equality Report Card should not be compared directly to grades in previous CEDAW Report Cards, because the process, scope, and division of subject matter have all changed significantly with the re-making of the Report Card this year.

A NOTE ABOUT COVID-19

While the final draft of the Gender Equality Report Card was being prepared, BC experienced an unprecedented health emergency due to COVID-19. We recognize that COVID-19 is having profound and devastating impacts on many in BC, and we also acknowledge that we cannot fully and accurately capture those impacts here. While many groups are engaged in public activism around the BC government's response to COVID-19 and related human rights violations, not every individual or community has the resources to engage in this type of advocacy. Therefore, the mainstream public conversation about COVID-19 is missing many voices. It seems clear, however, that marginalized groups are bearing the brunt of the crisis.

We have included some updates in the Gender Equality Report Card about BC government steps in the context of the COVID-19 pandemic. However, within the time frame for this project, we could not address the full scope of BC's response to this health crisis or consult with community dialogue partners about the real-life impacts of new and rapidly shifting government measures. We will continue monitoring BC's response to COVID-19 and looking for opportunities to hold government to account as the situation unfolds.

ACCESS TO JUSTICE

FOR MANY in the legal community, “Access to Justice” generally refers to access to legal representation and the courts, particularly through **legal aid**. However, for some community dialogue participants, the term “Access to Justice” held an internal irony. Community contributors discussed **systemic barriers to justice**, including ongoing colonialism, patriarchy, and discrimination, which make it difficult to have confidence in the justice system.

- “” *Need to be a 75% gender parity at executive level, e.g. 75% of BC legislature should be gender diverse/women, 75% of Board of Directors, etc. etc.*
- “” *Access for marginalized people to be in leadership of feminist, justice etc. organizations*
- “” *The colonial City of Vancouver is built by and for cisgender, hetero men!*

Several community contributors were critical of a justice system that continues to center incarceration and adversarial processes. Some shared visions of what **alternative pathways to justice** could look like.

- “” *Too focused on punishment not enough on rehabilitation*
- “” *Queer and trans Assimilation vs Liberation*
- “” *Prison Abolition*
- “” *Restorative & transformative justice*
- “” *Restorative justice*
- “” *Healing circles*
- “” *Equitable system, outside of the limits of the colonial legal system*
 - *Like how “call-outs” are accessible, but in a way that’s not vulnerable to hijacking by abusers, e.g., restorative*



**Some action taken.
Needs continued
improvement.**

Community contributors discussed **systemic barriers to justice**, including ongoing colonialism, patriarchy, and discrimination, which make it difficult to have confidence in the justice system.

SYSTEMIC BARRIERS TO JUSTICE

Colonial Legal Framework

ACTION: In 2019, BC took significant legislative action that has the potential to meaningfully recognize the rights of Indigenous peoples and communities. On November 28, 2019, Bill 41, *Declaration on the Rights of Indigenous Peoples Act*, was formally passed.² The law implements the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*.³ According to the BC Government, this means that BC's laws will gradually come "into alignment with [UNDRIP]."⁴ UNDRIP requires all state parties to respect Indigenous Peoples' right to self-determination, as well as to ensure fair economic and social conditions (among other obligations).⁵ To give full effect to this law, the province will need to develop a concrete implementation plan, including a review of all provincial laws and a dispute resolution framework. Along with many others, West Coast LEAF will be closely observing how the province puts this potentially transformative law into action. The recognition of UNDRIP in BC law is therefore a beginning, not an end.⁶

HARMFUL ACTION: Notwithstanding the passage of Bill 41 in late November 2019, government action in early 2020 raised grave concerns about BC's commitment to implementing UNDRIP. UNDRIP obligates the government to obtain "free and informed consent" from Indigenous communities before proceeding with projects that affect their land and resources.⁷ In January, the Premier of BC stated that BC's commitment to UNDRIP would not apply to the proposed Coastal GasLink pipeline project on Wet'suwet'en land because it was approved before the law was passed.⁸ In early March, the BC government deployed additional RCMP officers against Wet'suwet'en people who were defending their ancestral territory.⁹ When COVID-19 hit BC, construction on the pipeline project continued, while talks between hereditary chiefs and the

INTERNATIONAL LAW

CEDAW Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: [...]

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination [...].

CEDAW Article 15

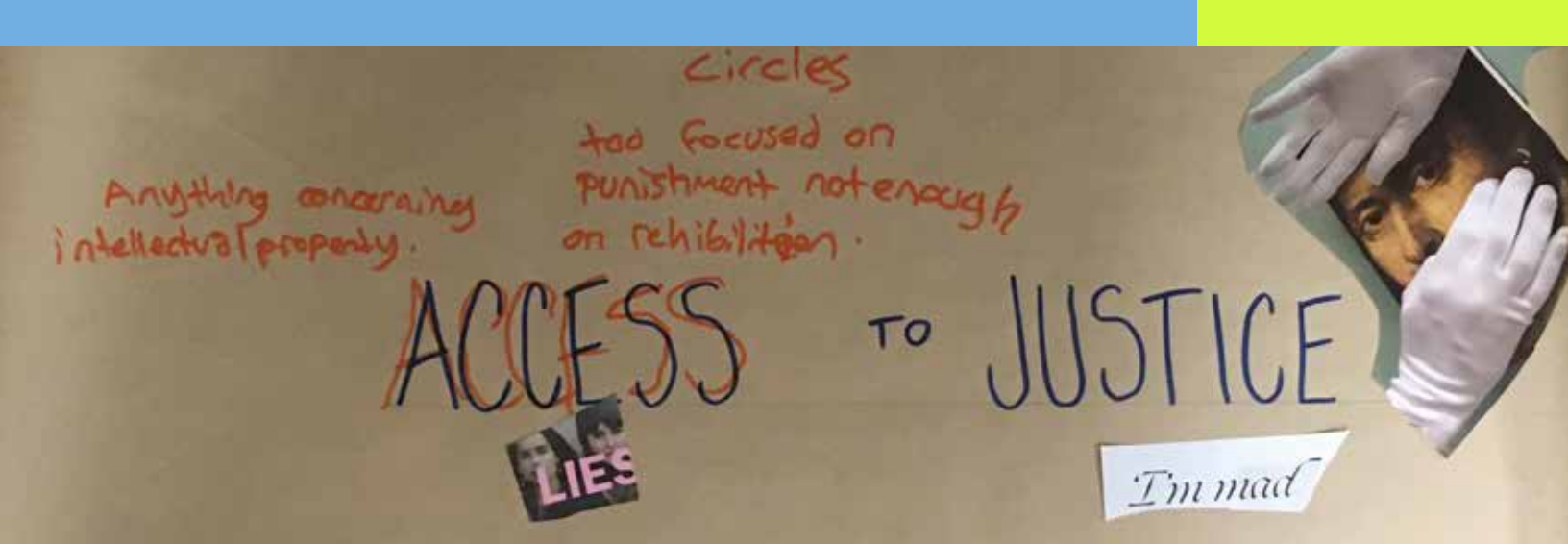
[...] 2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. [...]

Yogyakarta Principle 28

Every victim of a human rights violation, including of a violation based on sexual orientation or gender identity, has the right to effective, adequate and appropriate remedies. [...]

Yogyakarta Principle 31 (YP+10)

Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gendered information in such documents while gendered information is included in them. [...]



federal government progressed online.¹⁰ The pipeline project poses a grave threat to the land rights of the Wet'suwet'en people. Further, it threatens the safety of Indigenous women, children, and Two-Spirit people:¹¹ the National Inquiry on Missing and Murdered Indigenous Women found that “man camps” from the resource extraction industry expose Indigenous communities to higher rates of gender-based violence.¹² As the Inquiry found, there is an urgent need to use a gender-based lens when considering resource extraction projects.¹³

Discrimination in the Justice System

ACTION: A non-binary gender option was added to BC Driver's Licenses and Service Cards in late 2018. BC licenses now display 'M', 'F', or 'X'.¹⁴ For transgender and non-binary people, access to government-issued identification documents displaying their correct gender is a basic starting point for access to justice. This positive change could reduce misgendering and signify better recognition of gender-diverse people.

INACTION: Unresolved issues prevent people from accessing and using correct ID. The introduction of the new X gender marker was not well coordinated across government, lawyer Adrienne Smith reports. Neither the education nor health record systems can accommodate the marker. In addition, individuals who apply for a gender change on their ID must obtain a medical note and pay a fee. These barriers impose a discriminatory burden on transgender people.¹⁵ According to an advocate at the PACE Society's Gender Self-Determination Project, the BC government needs to make the following changes in order to ensure access to correct ID:¹⁶

- The requirement¹⁷ to submit a physician's or psychologist's confirmation of gender change should be eliminated. Both the federal government and Alberta's provincial government have already removed this gatekeeping step.¹⁸
- The barrier of fees should be removed. There are fees to change name and gender on ID, and the fee waiver process requires low-income individuals to provide a Notice of Assessment. Advocates at PACE propose that pay stubs or a letter from the Ministry of Social Development and Poverty Reduction should be accepted to make fee waivers more accessible to low-income people who have not filed tax returns.
- Vital Statistics should simplify its processes for name changes and amendments to BC birth certificates.
- Staff at ICBC and other government agencies should receive standardized training on how to follow existing policies and process name and gender changes. PACE has found that some staff are unaware of policies, and clients have had to advocate for themselves to access the process.

“” Racism

“” Confidential information

- Don't out someone
- Misgender

Barriers to accessing ID are also a problem for homeless and marginally housed individuals, people with low incomes, and immigrants.¹⁹ ID is necessary to access basic services like opening a bank account or applying for housing, but vulnerable people without ID face a catch-22: it takes ID to get ID. ICBC requires BC residents to provide two pieces of ID or to bring a person who can vouch for their identity. The Kettle Society has lobbied ICBC to remove barriers for marginalized people to obtain ID. As of summer 2019, there had been no official response.²⁰

INACTION: An early 2020 report written by lawyer Ardith (Walpetko We'dalx) Walkem, a member of the Nlaka'pamux Nation, described how Indigenous people experience human rights violations frequently but rarely benefit from the BC Human Rights Tribunal, a forum which is designed to protect those rights. The report found that many Indigenous people were not aware of the tribunal, or were deterred by barriers including flawed procedure and lawyers' lack of training in issues impacting Indigenous peoples.²¹ The Report's recommendations go beyond addressing these barriers alone, and call for human rights legislation to be reshaped to incorporate Indigenous human rights principles and to give real effect to BC's commitment to UNDRIP.²²

For other groups who have experienced discrimination on the basis of a protected identity characteristic such as gender identity or expression, procedural and systemic hurdles often block the way to legal remedies. According to Adrienne Smith, these barriers include the underfunding of human rights advocacy, the over-use of negotiated settlements which often require parties to agree to stay silent, and in-person and online harassment which make the hearing process dangerous for transgender people.²³

PROCEDURAL BARRIERS

LIMITED ACTION: The Ministry of the Attorney General released a strategy to bring “digital transformation” to BC courts. The strategy aims to use technology to improve application processes and give litigants the ability to upload documents.²⁴ Staff at Rise Women's Legal Centre expect that digitization of court processes could improve access for many, particularly for women with family law matters in rural communities. But so far they have not seen the strategy result in any noticeable changes.²⁵

The requirement to submit a physician's or psychologist's confirmation of gender change should be eliminated. Both the federal government and Alberta's provincial government have already removed this gatekeeping step.

INACTION: According to staff at Rise Women’s Legal Centre, several procedural and structural issues make it difficult for women with family law matters to access the courts. In their estimation, the following changes would improve the situation:

- Courthouses should have safe spaces for women and children, and childcare services should be available at courthouses;
- The BC Supreme Court (BCSC) should introduce free language interpretation for those who need it;
- The BCSC should provide free copies of court files to parties;
- Funding should be available to obtain transcripts of court proceedings for those who seek to appeal a lower court decision. Transcripts can add up to thousands of dollars of costs to litigants and are necessary to proceed with an appeal;
- Oral reasons for judgment should automatically be transcribed for all parties to a dispute, especially when one or more parties are self-represented.

ALTERNATIVE PATHWAYS TO JUSTICE

ACTION: Budget 2020 allocates \$8 million toward an Indigenous justice strategy. This will include the creation of Indigenous justice centres which are designed to respond to the over-representation of Indigenous people in the justice system, partly through the use of “diversion programs.”²⁶ The budget documents promise “culturally safe” services and programs, and West Coast LEAF will be watching closely to see how these programs develop. These funds are part of the \$212 million allocated in Budget 2020 to improving access to justice over three years.²⁷

LIMITED ACTION: In Victoria, a prototype set of Provincial Court rules will attempt to import collaborative dispute resolution (CDR) processes into family law cases.²⁸ Changes include “more user friendly forms,” “improved processes,” and earlier referral to services like mediation.²⁹ Streamlined procedures will be beneficial, but rules that push litigants towards collaborative processes can be inappropriate and even dangerous where there is a history of violence or abuse. West Coast LEAF and Rise Women’s Legal Centre participated in consultations about the new rules and will be watching to see whether their implementation reflects the needs of women and gender-diverse people. In particular, Rise and West Coast LEAF advocate for:

- Any changes to court rules to be accompanied by improved family law legal aid funding;
- Collaborative Dispute Resolution (CDR) processes to be available as an alternative to court, not as a replacement for legal representation;
- Freedom for litigants to opt out of participating in CDR processes without negative consequences;
- Procedural changes to ensure that protection orders are available to individuals facing violence or the threat of violence.³⁰

A prototype set of Provincial Court rules will attempt to import collaborative dispute resolution processes into family law cases. West Coast LEAF and Rise Women’s Legal Centre participated in consultations about the new rules and will be watching to see whether their implementation reflects the needs of women and gender-diverse people.

LEGAL AID

The Legal Services Society (LSS)

ACTION: In 2018, BC announced a funding increase to legal aid of \$26 million over three years.³¹ An internal infographic from LSS indicates how some of this funding has been allocated so far.³² In particular:

- LSS approved 66 more applicants seeking representation under its discretionary category between 2017 and early 2019 than in the previous year, and reports that the trend is continuing in 2020. The discretionary category allows a more generous application of financial eligibility criteria.³³
- 248 more cases were approved under the “exception” category, in which LSS approved applicants in circumstances such as an individual being unable to self-represent. LSS projects that files in this category will also continue to increase.³⁴
- In child protection proceedings, LSS began assisting extended family members like grandparents, aunts, and uncles who are able to raise children who might otherwise go into foster care. LSS reported having assisted 43 such family members as of early 2020, approximately half of whom were Indigenous.³⁵
- LSS contracted with 67% more duty counsel than the year before. Duty counsel are lawyers who provide free day-of legal advice or representation to unrepresented litigants.³⁶
- LSS supported more lawyers to complete *Gladue* reports since obtaining the funding. Indigenous people who face criminal sentences have the right to obtain a *Gladue* report, which contains information about the impacts of colonization in their life. The court must consider these factors to create a fair sentence.³⁷ *Gladue* reports are underused due to barriers including a shortage of funding and report writers.³⁸
- LSS created a new service to help people with family law disputes to manage issues related to their financial security, such as child support. It also created a criminal law service connecting people who were not eligible for representation under LSS criteria to obtain brief lawyer assistance.³⁹
- To improve accessibility, LSS is in the process of developing an online application for legal aid, but this is not yet operational.⁴⁰ This application could also reduce instances of transgender clients being outed and misgendered in court partly due to systems which do not allow clients to input their own gender and pronouns.⁴¹

ACTION: LSS launched an online mediation tool which allows parties to family law disputes to speak with a mediator together and separately over an online chat function.⁴² The function was added to the existing tool, mylawbc.com. However, the tool does not give users access to a lawyer. This means that the platform may be useful for resolving relatively simple and amicable matters. For matters involving a power imbalance, heightened conflict, complex legal issues, or self-represented parties, the platform could be unfairly exploited by abusive people or could exacerbate the risk of violence.

Data shows that the risk of intimate partner violence spikes upon relationship breakdown,⁴³ so robust processes need to be in place to screen for family violence. Mylawbc.com does have a click-through safety-planning feature, but family law practitioners see this as inadequate. Advocates at Rise are concerned that people who use the online platform may end up entering into potentially binding and life-altering

negotiations unaware of their rights and responsibilities. They stress that family law litigants must be made aware of their rights at the outset, just as people facing criminal charges are.⁴⁴

ACTION: Budget 2020 committed \$132 million in funding to improve access to court services. This will support the funding of a new courthouse in Abbotsford, additions to Surrey and Fort St. John courthouses, and resources for court staff.⁴⁵

LIMITED ACTION: Legal aid lawyers' job actions in 2018 resulted in incremental increases to tariffs, but hourly rates in BC are still low compared to other provinces, and increases have not fully corrected for decades of stagnant rates.⁴⁶ Lawyers who take referrals to represent prisoners did not see any increase to tariffs.⁴⁷ Further, lawyers can be paid for up to 35 hours to prepare for family law matters, but this is rarely enough to represent a client at a full trial, say lawyers at Rise. As a result, clients are frequently left with only interim orders and outstanding matters to be resolved without help.⁴⁸ Some clients who are ineligible for legal aid but cannot afford a lawyer rely on pro bono (free) legal help. Many of these clients are women, Indigenous, or belong to the 'queer alphabet,' says Adrienne Smith, a lawyer who focuses on transgender rights and drug policy law.⁴⁹ While individual lawyers' passion and generosity is laudable, it is not a substitute for a properly funded system. Access to human rights should not be contingent on the availability of pro bono legal services.

INACTION: Serious gaps in legal aid coverage have not been filled. Few people are able to afford the help of a private lawyer in this province,⁵⁰ and narrow criteria for family, criminal, and immigration matters prevent many from accessing needed legal support. This crisis in access to justice disproportionately affects those who are most marginalized. Ontario research tells us that transgender people have more unmet legal needs than cisgender people.⁵¹ Targeted funding for transgender people and for undocumented residents in BC is missing.⁵² And, because of ongoing colonialism, Indigenous people in BC are more likely to depend on legal aid in child protection, criminal, and family law matters.⁵³ LSS has not offered support for matters involving housing or social assistance since 2002.⁵⁴

- “” Rich people afford lawyers so govt cuts deals with them while poor people pay through the nose for everything
- “” Many barriers/language cultural gender/trans disability
- “” Total lack of legal aid funding + resources
- “” Advocacy (more) for low income poor/homeless sex working + trans/non-binary

Particularly in the area of family law, BC residents' needs far exceed LSS' ability to provide support. More than half of all applications for legal aid in family law matters were turned down in 2018. And data show that the impact of the short

Advocates at Rise are concerned that people who use the online platform may end up entering into potentially binding and life-altering negotiations unaware of their rights and responsibilities. They stress that family law litigants must be made aware of their rights at the outset, just as people facing criminal charges are.

West Coast LEAF is currently preparing to challenge the inadequacy of family law legal aid coverage for women who are leaving abusive relationships. The case, *Single Mothers' Alliance v British Columbia*, is moving to trial despite the BC government's unsuccessful attempt to have the matter thrown out.

supply of family law support is gendered, as around 70% of applicants for family law representation were women.⁵⁵ In rural communities in particular, women experiencing family violence struggle to find appropriate legal support.⁵⁶ Lack of access to representation can force family law litigants to self-represent,⁵⁷ which can mean facing abusive ex-partners in court. From an efficiency perspective, a greater number of self-represented litigants slows down court processes, as many are unfamiliar with complex rules and procedures. In sum, family law legal aid in BC is clearly in crisis: this has been acknowledged by many in the legal community.⁵⁸ In response, West Coast LEAF is currently preparing to challenge the inadequacy of family law legal aid coverage for women who are leaving abusive relationships. The case, *Single Mothers' Alliance v British Columbia*, is moving to trial despite the BC government's unsuccessful attempt to have the matter thrown out.⁵⁹

“Legal aid is massively underfunded

“Inadequate funding to the justice system means continued long waits in order to obtain legal aid

INACTION: Prisoners' Legal Services (PLS), a legal aid clinic for prisoners in BC, will be forced to scale back its operations next year unless it receives an increase in funding. The organization has not received an increase to its core funding since 2012 and has been unable to pay its staff wages equal to those of unionized LSS staff.⁶⁰ PLS represents the human rights of some of BC's most marginalized people and is an observer of conditions in prisons. The organization needs adequate funding to serve its critical role in the justice system.

INACTION: LSS has still not created a Child Protection Legal Clinic to support parents who are fighting to prevent the state from removing their children.⁶¹ Existing Parents' Legal Centres do not support parents who wish to challenge Ministry of Children and Family Development (MCFD) decisions.⁶² A Child Protection Clinic would support parents who disagree with MCFD, and could help parents before MCFD becomes involved.⁶³ Support for this resource is essential, as not all cases can be resolved collaboratively, and parents who disagree with MCFD decisions face a dramatic power imbalance.

INACTION: LSS' quality control processes need improvement, according to the 2019 external review. The organization's monitoring of legal services is mainly complaint-driven, meaning that the onus is on clients to submit complaints if they have received poor representation or advice. According to the review, the process needs to be more accessible and quality assurance should be done proactively using audits, especially since LSS clients are more likely to face vulnerability.⁶⁴ A client satisfaction survey conducted by LSS indicated that 26% of clients who accessed legal aid did not feel that they were treated fairly, and that 35% of clients did not feel the services were appropriate to their cultural beliefs and values.⁶⁵

Community Advocates

ACTION: The vast majority of legal aid in BC is provided through LSS, but a network of community advocates also provide free legal advice and representation at clinics across BC.⁶⁶ In 2019, provincial funds were allocated to open eight new legal clinics in BC. The announced clinic locations include:

- The Tenant Resource and Advisory Centre, which will help Vancouver renters with housing issues;⁶⁷
- Disability Alliance BC (DABC), which will assist clients with matters relating to disability;⁶⁸
- Active Support Against Poverty (ASAP) in Prince George;⁶⁹
- Immigrant Services Society of B.C., which will assist newcomers in immigration matters and support other advocates who serve this population;⁷⁰ and
- Sources Community Resources Society in Surrey, which will support clients with poverty, housing, immigration and accessibility matters.⁷¹

Advocates at the Migrant Workers' Centre are happy to see this last change but say that newcomers will still be under-supported due to restrictive LSS eligibility criteria and the limited number of clinics providing immigration legal services.⁷²

SUMMING UP

A modest increase in funding for BC's legal aid system has allowed for a handful of new community legal clinics to offer sorely needed services across BC. However, enormous gaps in access to legal help remain, disproportionately leaving marginalized people without a way to enforce their rights. The inability to obtain legal assistance can be life-threatening — for example, in the case of people fleeing intimate partner violence who are deprived of legal aid for family law matters. Moreover, BC must actively work to ensure that its new legislation implementing UNDRIP and its recognition of transgender and non-binary identities are more than just symbolic.



A modest increase in funding for BC's legal aid system has allowed for a handful of new community legal clinics to offer sorely needed services across BC. However, enormous gaps in access to legal help remain, disproportionately leaving marginalized people without a way to enforce their rights.

ECONOMIC SECURITY



Some action taken.
Needs continued
improvement.

Much of the input from contributors related to specific concerns about government policy in these areas. However, contributors also raised broader concerns about systemic inequality and its roots.

OUR DIALOGUES with community groups focused on factors which contribute to economic security or insecurity, including wages and conditions of **employment**, the cost and availability of **housing**, and the adequacy and accessibility of **social assistance and financial supports**. Much of the input from contributors related to specific concerns about government policy in these areas. However, contributors also raised broader concerns about systemic inequality and its roots.

- “” *Property rights as needs-based rather than wealth-based*
- “” *Why is there no maximum wage?*
- “” *Capitalism, consumerism*
- “” *Image that says, “FOR EVERY WINNER, THERE ARE THOUSANDS WHO REMAIN UNRECOGNIZED” (see page 22)*

INTERNATIONAL LAW

CEDAW Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education [...].

CEDAW Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights [...].

Yogyakarta Principle 34 (YP+10)

Everyone has the right to protection from all forms of poverty and social exclusion associated with sexual orientation, gender identity, gender expression and sex characteristics. Poverty is incompatible with respect for the equal rights and dignity of all persons, and can be compounded by discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics. [...]

EMPLOYMENT

Fair Pay and Benefits

ACTION: In response to COVID-19, the BC provincial government introduced a one-time payment of \$1,000 for residents who are unable to work due to the pandemic.⁷³ There is some uncertainty as to how this and other provincial benefits will harmonize with federal COVID-19 funds being made available to workers.⁷⁴ A temporary change to the BC *Employment Standards Act (ESA)* allows employees to take unpaid leave if they are unable to work for reasons relating to COVID-19. Employees can take as much time off as is necessary without facing job loss. As a permanent change, the government also introduced three days of job-protected leave per year for people who cannot work due to illness or injury.⁷⁵

ACTION: Statute-protected leave for employees with critically-ill family members was added to the *ESA*. Employees can now take up to 36 unpaid weeks off to care for a critically-ill child, or 16 weeks for an adult family member.⁷⁶ Women are more likely to take on caregiving responsibilities.⁷⁷ The changes therefore mitigate — albeit far from eliminate — the economic impacts of caregiving responsibilities.

ACTION: Legislative changes will give more legal protection to foreign workers. The *ESA*'s definition of "domestic worker" was expanded to include people who live outside of employers' homes, rather than only those who are live-in.⁷⁸ Additionally, the new *Temporary Foreign Worker Protection Act* introduces provisions to protect migrant workers from abuse in their recruitment to and employment in BC.⁷⁹ As of October 2019, all recruiters who help foreign workers find employment in BC are required to acquire a license in the province. Advocates report cases of recruiters engaging in abusive practices like charging illegal fees and withholding workers' passports. The new licensing requirement is designed to improve oversight.⁸⁰

INTERNATIONAL LAW

CEDAW Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: [...]

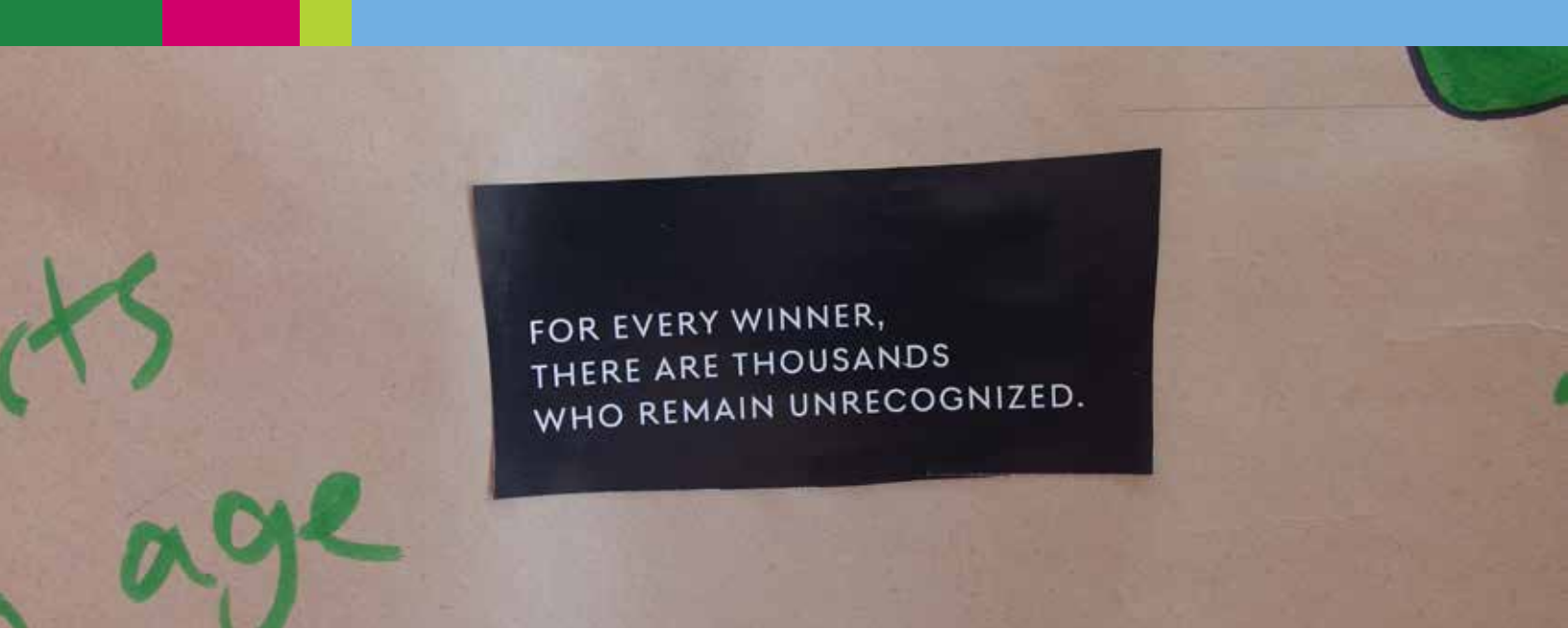
(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Yogyakarta Principle 12

Everyone has the right to decent and productive work, to just and favourable conditions of work and to protection against unemployment, without discrimination on the basis of sexual orientation or gender identity [...].



FOR EVERY WINNER,
THERE ARE THOUSANDS
WHO REMAIN UNRECOGNIZED.

ACTION: Budget 2020 announced \$2.4 billion in funding to support wage increases and benefits for health sector employees.⁸¹

INACTION: Pay discrimination is prohibited by the BC *Human Rights Code*, but BC's current legislative framework fails to achieve gender pay parity. In fact, BC has the largest gender pay gap in the country due to factors including the concentration of women in lower-paying occupations and, potentially, gender-based biases.⁸² In 2018, men in BC earned on average 18.6% more than women.⁸³ Yet BC is one of the only four provinces without pay equity legislation.⁸⁴ A mechanism to enforce workers' right to equal pay for work of equal value is clearly needed, and it must take people of all genders into account. Although the government does not collect data on transgender and non-binary people's wages, a survey conducted by Trans PULSE Canada suggests that these populations face pay inequity.⁸⁵ According to the survey, in BC in 2019, 39% of transgender and non-binary people over the age of 25 belonged to a low income household, despite high levels of educational attainment.⁸⁶

“” Wage gap discrimination

“” Health care wages are not enough for care aide! Activity workers, dietary aides, housekeeping

“” Validity of alternative sources of income

Protection and Enforcement of Employees' Rights

ACTION: In May 2019, the BC Government made several worker-friendly changes to the *Employment Standards Act*:

- Stronger child employment protections now make it illegal to employ children under the age of 14, limit youth aged 14 to 16 to light work, and better protect the safety of young workers aged 16 to 18 by increasing restrictions on the type of work they can perform.⁸⁷
- Employers are now prohibited from withholding or deducting tips from employees, though the distribution of tips among employees (tip pooling) is still permitted.⁸⁸ This will protect an income source which is of particular concern to women, who make up nearly 82% of liquor servers in BC.⁸⁹

- Workers now have 12 months (increased from 6 months) to recover wages which an employer has unlawfully withheld.⁹⁰
- Employees who seek to enforce their rights have easier access to the Employment Standards Branch (ESB) now that the requirement to complete a “self-help kit” has been eliminated.⁹¹ The self-help kit put employees in the vulnerable position of having to submit complaints directly to their employers before accessing the ESB.
- Increased resources at the ESB will allow the agency to take more proactive steps to enforce employees’ legal protections, such as through employer audits, investigations, and information accessibility.⁹²

INACTION: While the above changes are positive, advocates at the BC Poverty Reduction Coalition point out that more changes are needed to enforce workers’ rights. We need employer audits and unannounced inspections, particularly in industries which are known to regularly violate the ESA, and we need to improve dispute resolution mechanisms by eliminating compulsory mediation, providing translation services, and establishing ESB offices in accessible locations. Finally, the onus should be on employers to disprove complaints against them, rather than requiring individual workers to prove their complaints.⁹³

HOUSING

- “” Without reasonable housing, economic security is impossible. The shelter portion of welfare and PWD remains extremely low — \$375 per month — and has not changed since 2008...⁹⁴
- “” Housing for seniors that is safe
- “” Link with housing security when partner not well
- “” Not easy to find housing
- “” Housing inadequate + gross
- “” Affordable housing, affordable living, food etc.
- “” More housing with subsidized rents
- “” BC Housing slow to make decisions, unclear what their criteria are

INTERNATIONAL LAW

Yogyakarta Principle 15

Everyone has the right to adequate housing, including protection from eviction, without discrimination on the basis of sexual orientation or gender identity.

Housing Initiatives

ACTION: In response to job losses connected to COVID-19, the provincial government introduced temporary changes to the *Residential Tenancy Act (RTA)* and supplements for renters and landlords. Evictions and rent increases have been halted, and renters who have lost employment due to the pandemic can apply for funding of up to \$500 per month which will be paid directly to landlords.⁹⁵ This supplement for landlords is not available for the month of April, and those on income or disability assistance are ineligible.⁹⁶

ACTION: BC's 2019⁹⁷ and 2020⁹⁸ budgets each included funding to build 200 more modular homes, which will bring the provincial total up to 2,400 units.⁹⁹ This is a positive step to combat homelessness. According to the executive director of Vancouver's WISH Drop-in Centre for sex workers, the creation of modular units has improved the safety and working conditions of workers who were previously housed in single-room-occupancy hotels (SROs). However, many more units are needed.¹⁰⁰

ACTION: Budget 2020 allocates \$50 million over the next three years to provide support services for people experiencing homelessness.¹⁰¹ This will include the creation of 505 new shelter spaces in BC, and two new 60-bed "navigation centres."¹⁰² These centres will offer shelter as well as health and other services in one location.¹⁰³ \$11 million will be used to improve meal programs at 92 existing shelters and supportive housing projects over the next three years.¹⁰⁴

INACTION: Budget 2020 included a reduction in the number of affordable homes that in 2019 the province promised to build. Instead of aiming to build 15,940 new affordable homes by 2021/22, Budget 2020 reduces the number to 13,515 homes.¹⁰⁵ This sets the province back in working towards its goal of 114,000 affordable homes in ten years, a target which some housing experts view as too modest to begin with.¹⁰⁶ Now is not the time to slow down or scale back our provincial response to the housing crisis, advocates urge.¹⁰⁷

Indeed, there were 2,223 people experiencing homelessness in Vancouver last year according to the 2019 Vancouver Homeless Count — more than in any previous year.¹⁰⁸ What's more, the Vancouver and BC-wide counts tell us that homelessness affects people of all genders. In the Vancouver count, 23% of those who were experiencing homelessness self-identified as female, and 1% as non-binary. 5% of those surveyed identified as having a transgender experience.¹⁰⁹ A province-wide homelessness count conducted in 2018 estimated that 7,655 people were experiencing homelessness at the time: 30% were female-identifying, 2% identified as "another gender" than male or female, and no data was collected on the number of trans-identifying men or women.¹¹⁰ The Canadian Observatory on Homelessness calls for better data collection in order to be responsive to the housing needs of gender-diverse people experiencing homelessness.¹¹¹ Though these counts report fewer homeless women than men, women who are homeless

Though these counts report fewer homeless women than men, women who are homeless tend to stay with friends, in vehicles, in locations that make them less visible, or in unsafe situations rather than on the street. Therefore, the counts likely underestimate the number of homeless women.

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Not only is it cheaper to house people than it is to cover the costs associated with homelessness,¹¹³ the experience of homelessness is psychologically and physically traumatic and linked to higher mortality and instances of poor health.¹¹⁴ Gender-oppressed and racialized people's experiences of homelessness can be associated with particular traumas. For Indigenous women, housing insecurity and homelessness are linked with higher rates of violence, particularly sexualized violence.¹¹⁵ Housing security is a human rights issue as much as an economic one, and BC needs to escalate its response, especially at a moment when a public health crisis is amplifying vulnerability.

Law and Policy Changes

ACTION: Budget 2019 included \$10 million for a provincial rent bank which provides loans to households at risk of eviction¹¹⁶ and which is currently administered through ten organizations.¹¹⁷ Applicants generally must provide three months of bank statements to show they have a regular income.¹¹⁸ While rent banks can help people get through financial crises without losing their homes, they do not respond to long-term need.¹¹⁹ With many people facing unemployment in early 2020 due to COVID-19, rent banks quickly became overwhelmed, with advocates calling for the province to increase funding for rent banks and to administer them itself, rather than through lending organizations.¹²⁰

ACTION: The BC Government has promised that it will implement all the recommendations made by the Rental Housing Task Force in 2018¹²¹ and has announced that it will take the following steps:

- Fund Landlord BC and the Tenant Resource and Advisory Centre (TRAC) to facilitate public education about tenancy law for landlords and tenants, particularly about renovations (evictions for the purpose of renovating a unit);¹²²
- Fund new legal clinics in BC positioned to advise on tenancy issues,¹²³ as discussed in the Access to Justice section of this report;
- Create a unit within the Residential Tenancy Branch (RTB) to investigate complaints and take action against landlords and renters who are repeat or serious offenders. As of May 2019, the unit had conducted about 30 investigations;¹²⁴ and
- Create a new position responsible for liaising between the RTB and local governments to help resolve issues such as illegal renovations and demovictions (evictions for the purpose of demolishing and redeveloping a unit¹²⁵).¹²⁶

Additionally, the BC government announced that improvements have already been made to the RTB's online portal, including reduced wait times to speak to agents and to obtain urgent orders.¹²⁷ Parties to tenancy disputes can now apply for fee waivers and upload evidence online, changes which TRAC views as beneficial.¹²⁸

INACTION: Housing advocates are concerned that the Rental Housing Task Force did not go far enough and that government action has been too restrained. For example, advocates at TRAC point out that the content of the Task Force's recommendation to "stop renovations" was essentially a repetition of existing law and policy.¹²⁹ Further, BC has not introduced rent control tied to the unit, meaning that rents can still be raised

between tenancies.¹³⁰ Some BC mayors have introduced bylaws which prevent some of these hikes.¹³¹ But to address the housing crisis across BC, the government must adopt meaningful protections rather than relying on municipalities to fill in the gaps on a piecemeal basis.

INACTION: Gaps in the *RTA* continue to leave vulnerable renters without legal protection. Despite advocates' calls,¹³² the *RTA* does not cover roommates renting from a lead tenant¹³³ or individuals who live in transitional housing.¹³⁴ These renters lack the ability to fight unfair evictions or inadequate housing conditions.¹³⁵ And even for tenants who are covered by the *RTA*, very low rental vacancy rates in some BC cities¹³⁶ mean that the balance of power is heavily tipped towards landlords, making it more difficult for tenants to exercise legal rights.¹³⁷

Housing for Marginalized Groups

INACTION — Housing for transgender people: For transgender people facing housing insecurity, unaffordability combines with ongoing discrimination to create a dire situation. To our knowledge, the province has not taken any substantial action to address this.¹³⁸ One community contributor described continuing to rent from a landlord who prohibited her from eating certain types of food or from bringing home guests, and who repeatedly surveilled or followed her. She endured this treatment because she knew it would be difficult to find another home that was affordable, let alone safe. Multiple contributors shared that they had been forced to rely on shelters, and that there, too, they have learned to expect discriminatory treatment. Reporting by the CBC also shows that LGBT people, particularly transgender people, are experiencing discrimination from landlords, and that members of the trans community may be unable to afford rent in areas of Vancouver like the West End that are known to be more accepting.¹³⁹

- “” Too hard to find housing — landlords don't give housing to transgender people — discrimination. Going from shelter to shelter. Lots of women don't accept us at shelters. Tired and not happy in shelters
- “” Wish more support for housing — support for transgender
- “” Trans support: housing, community; live together, close together
- “” Make lots of housing and a community/neighbourhood specifically for transgender and gay/lesbian
- “” Creating trans-specific housing is complicated. Housing is needed, but could be ghettoizing- this works against us.

INACTION — Housing for women who use drugs: Single-room-occupancy hotels (SROs) in Vancouver are reportedly dangerous for women occupants who use drugs.¹⁴⁰ Women residents report inadequate security as well as more scrutiny from the mainly male staff, with some women involved in the drug or sex trade choosing to sleep outside to avoid this surveillance.¹⁴¹

In addition, many women who live in SROs do not feel safe accessing safe consumption sites in the buildings. These sites, called housing-based overdose prevention sites (HOPS), exist in 25 non-profit operated buildings in Vancouver, and provide safe spaces for residents to use drugs.¹⁴² However, due to fears of violence from other users of the sites, restrictive rules, and a lack of trust in staff's ability to respond to overdose, many women choose to use drugs alone in their rooms, increasing their risk of overdose. Researchers recommended gender-specific HOPS to address this problem.¹⁴³

INACTION — Housing for sex workers: For sex workers, particularly street-based workers, housing insecurity undermines their ability to work safely. The executive director of Vancouver’s WISH Drop-In Centre for sex workers has seen women staying in unsafe relationships, trading sex for a place to stay, and resorting to dangerous forms of sex work when facing homelessness or housing insecurity.¹⁴⁴ Other sex workers are pushed into homelessness as a result of neighbours’ reports to landlords.¹⁴⁵ BC does not have the power to rewrite the criminal laws that make it difficult for sex workers to screen clients or take safety measures, but the province *can* create housing that will allow workers to mitigate risk. The province must recognize that violence against sex workers is not an occupational hazard, but the product of marginalization, including misogyny, transphobia, and racism.

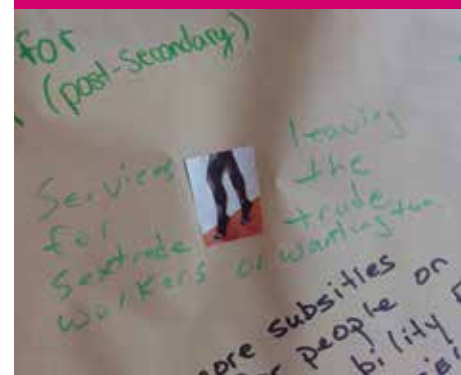
- “” Total lack of resources for all + especially Trans, Non-binary + sex workers
- “” Need supports and safe work area for trans sex workers — washroom, condoms, snacks, lighting, safety monitoring
- “” Services for sex trade workers leaving the trade or wanting to

INACTION — People with physical and mental disabilities including addictions: BC’s 2018 Homeless Counts showed that, of the nearly 7,655 individuals identified as experiencing homelessness at the time, 40% reported having a mental illness and 56% reported an addiction.¹⁴⁶ A study on mental illness and housing concluded that stable housing is linked to lower rates of incarceration and dependence on psychiatric care, showing the benefits of committing to housing for those with mental illness.¹⁴⁷ Research compiled by the BC Centre on Substance Use tells us that, for people who use substances, a major part of the housing problem is a lack of legal protection against discriminatory evictions.¹⁴⁸ Finally, a significant percentage of individuals experiencing homelessness report a physical disability,¹⁴⁹ yet there is a dearth of housing that is both accessible and affordable.¹⁵⁰ To our knowledge, neither Budget 2019 nor Budget 2020 included any funding to create accessible housing for people with disabilities.

- “” People will scream because of mental health issues and get evicted — end up on the street

INACTION — Housing for refugees: Action is needed to ensure housing is available to migrants.¹⁵¹ A recent Canada-wide study showed that migrants and refugee populations are increasingly relying on shelters as a result of housing unaffordability. The data showed that migrants who accessed shelters were more likely to do so as a family group (35% of non-citizens who accessed shelters compared to 12% of Canadian citizens).¹⁵² This shows that refugees and other newcomers have distinct housing needs.

- “” Life in Canada hard in and out of shelter



BC does not have the power to rewrite the criminal laws that make it difficult for sex workers to screen clients or take safety measures, but the province *can* create housing that will allow workers to mitigate risk.

“” More housing for refugee + low income

“” Lots of refugees — no housing

INACTION — Housing for youth: Fifteen percent of people experiencing homelessness in 2018 were youth under the age of 25, according to the BC Homeless Counts.¹⁵³ A youth-led report released in 2020 paints a picture of how intergenerational trauma and poverty combine with stigma and the housing crisis to place youth at risk of further harms. The report identifies the urgent need for youth-accessible housing, shelter spaces, and social supports.¹⁵⁴

SOCIAL SERVICES AND FINANCIAL SUPPORTS

ACTION: Federally-collected data released in early 2020 shows that BC’s overall and youth poverty rates decreased between 2016 and 2018.¹⁵⁵ *TogetherBC: British Columbia’s Poverty Reduction Strategy* was released in 2019 and includes some measures which could build on this improvement. The Strategy aims to reduce the overall poverty rate in BC by at least 25% and the child poverty rate by at least 50% by 2024.¹⁵⁶ A number of policy changes in 2019 were made under the Strategy:

- Disability and welfare rates were increased by \$50 per month for individuals and single parent families and by \$100 per month for couples and two-parent families.¹⁵⁷
- People on assistance are no longer forced to access their Canada Pension Plan funds at the age of 60.¹⁵⁸
- The length of time individuals are required to spend searching for work before accessing assistance was reduced from 5 to 3 weeks.¹⁵⁹
- For the purposes of income assistance rate calculation, people are no longer considered to be spouses until they have lived together for one year, rather than three months.¹⁶⁰
- The limit on the number of housing security deposits that people can access per year has been removed, and new access to pet damage deposits was introduced.¹⁶¹
- Critically, people experiencing homelessness can now access the same support supplements as those with a fixed address.¹⁶²

INTERNATIONAL LAW

Yogyakarta Principle 13

Everyone has the right to social security and other social protection measures without discrimination on the basis of sexual orientation or gender identity. [...]

Yogyakarta Principle 14

Everyone has the right to an adequate standard of living, including adequate food, safe drinking water, adequate sanitation and clothing, and to the continuous improvement of living conditions, without discrimination on the basis of sexual orientation or gender identity. [...]

- Asset limits were increased somewhat. Previously, individuals and couples could only access assistance if they had \$2,000 and \$4,000 worth of assets or less, respectively. The new limits are \$5,000 for individuals and \$10,000 for couples. And people who apply for assistance can now keep their primary vehicles, no matter their value.¹⁶³
- People whose addictions prevent them from seeking employment¹⁶⁴ can now access benefits through the Persons with Persistent and Multiple Barriers category.¹⁶⁵
- In a long overdue change, youth are no longer required to be independent for two years before accessing social assistance benefits.¹⁶⁶
- The plan commits to using a gender-informed analysis, as required by the legislation which brought the strategy into being.¹⁶⁷
- Budget 2020 also allocated funding in order to increase earning exemptions for those receiving income and disability assistance.¹⁶⁸ However, this change will impact relatively few people, as only about 4% of disability assistance recipients used the full earnings exemption before the increase, according to Disability Alliance BC.¹⁶⁹

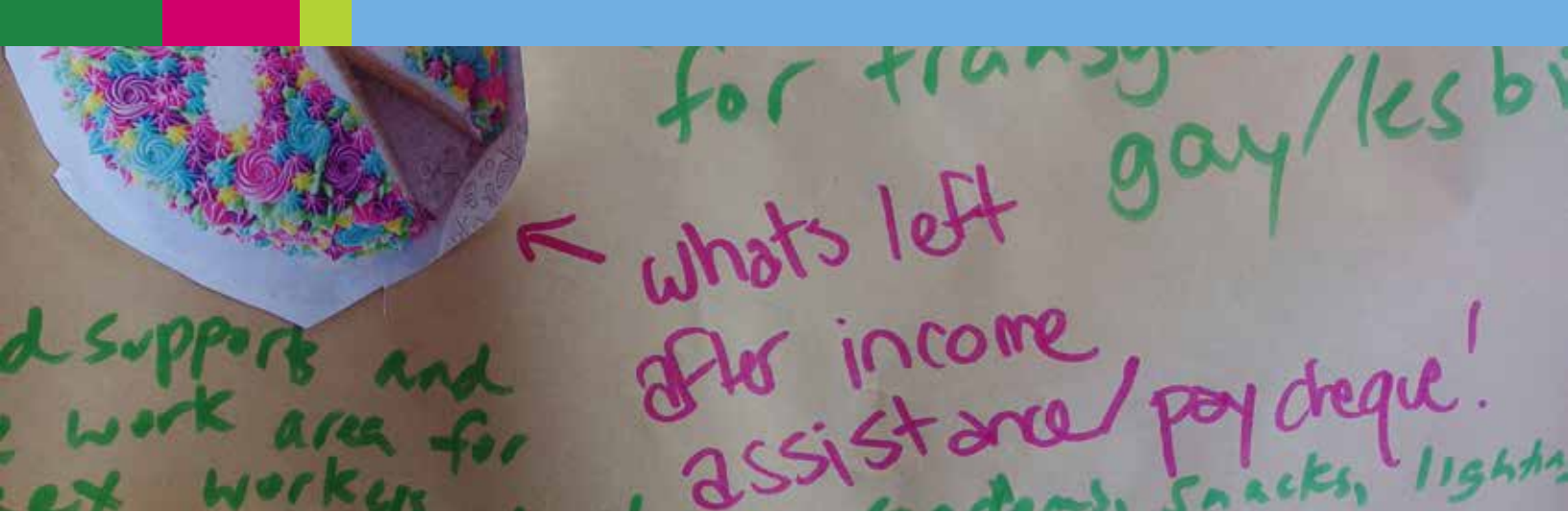
The BC Poverty Reduction Coalition (BCPRC) praises the poverty reduction strategy for its comprehensive approach. But the coalition sees major gaps in the plan and calls for far greater increases in rates, vacancy controls, and access to affordable public transportation.¹⁷⁰ An advocate at BCPRC also points out that the poverty reduction plan's stated commitment to gender-informed analysis includes few specific measures to actually address gender-diverse, feminized, and racialized poverty.¹⁷¹ As an example of how an intersectional lens can be used to effect real change, Quebec succeeded in reducing single mothers' poverty by half through measures in its poverty plan.¹⁷²

ACTION: On April 2, 2020, the BC government announced that it will provide crisis supplements in the amount of \$300 per month in April, May, and June, to those who receive income assistance, disability assistance, and the BC Seniors' Supplement and who are ineligible for emergency federal support programs. Assistance recipients who have a BC bus pass will receive \$52 per month while transit fares are suspended.¹⁷³ While these supplements are good news, they will still not add up to the livable wage of \$1,600 per month for a single person.¹⁷⁴

ACTION: BC continued to study the possibility of implementing a universal basic income program. The government accepted submissions from organizations and individuals last winter to inform an expert committee's research on basic income.¹⁷⁵

Housing + basic income for anyone in need

ACTION: The 2019 Budget included a transition from the Early Childhood Tax Benefit to the BC Child Opportunity Benefit. The BC Child Opportunity Benefit is available for children up to age 18, whereas the previous program was restricted to children aged six and younger. Depending on their income, families with one child can receive up to \$1,600/year, and families with two children can receive up to \$2,600. In conjunction with Affordable Child Care Benefit (which is available to families earning up to \$110,000 and can save them up to \$15,000 annually¹⁷⁶), this funding will help more families make ends meet.¹⁷⁷



ACTION: Budget 2020 allocated \$121 million in new funding over three years for Community Living BC (CLBC), a Crown corporation which provides support to adults with developmental disabilities.¹⁷⁸ This will allow CLBC to increase minimum respite rates for families to \$3,080 per year and to increase payments to home sharing providers by \$100 per month starting in April 2020.¹⁷⁹

LIMITED ACTION: Access to the Ministry of Social Development and Poverty Reduction (MSDPR) improved with the introduction of “Community Integration Specialists” whose roles include helping people access income and disability assistance and other services.¹⁸⁰ An advocate from Nelson, BC tells us that this has been helpful, but that some clients without computer access are still not getting the assistance they need to complete applications.¹⁸¹ In addition, call wait times at the Ministry of Social Development and Poverty Reduction have grown shorter, but the BC Ombudsperson was “not satisfied,” finding that clients still wait too long on hold to make contact with staff, sometimes over an hour.¹⁸² As the Ombudsperson’s original 2018 report on the issue identified, long waits are particularly challenging for those who do not have a phone and must borrow one or rely on community resources.¹⁸³

INACTION: Disability and income assistance rates remain simply too low to meet basic needs. After the 2019 rate increases, a single person on basic income assistance receives only \$760 per month.¹⁸⁴ This amount is intended to cover all expenses, including shelter, food, and transportation. This is below half of the actual cost of living in BC.¹⁸⁵ Below-subsistence rates keep people of all genders from being able to properly maintain their health or to rise out of poverty.

- “” Disability benefits are not enough to live off of. Neither is income assistance.
- “” Pension, retirement plans, robbed livable wages
- “” \$1100 welfare, Apartment too expensive, No eat, no drink: Eggs, bread
 - \$2000.00 easier to eat ok
- “” Expensive food, no meat, halal
 - Clothes
- “” More subsidies for people on disability for housing

INACTION: Almost 1,000 income assistance recipients are still owed benefits which were withheld due to the Ministry of Social Development and Poverty Reduction’s erroneous accounting. The Ministry has implemented recommendations designed to help correct accounting discrepancies in the future, but has still not repaid recipients nearly a year after the error was made public.¹⁸⁶

TRANSIT

ACTION: The 2019 provincial budget included \$21 million over three years to expand transit and HandyDART services in 30 urban and rural communities.¹⁸⁷ This is intended to provide better support to seniors and people with disabilities. However, the Mayors' Council on Regional Transportation in Metro Vancouver has expressed concern that not enough funding went to HandyDART services in the Lower Mainland, where many rely on the infrastructure to get to appointments.¹⁸⁸

INACTION: The province has not yet taken action to guarantee free transit for youth or to adopt income-based fares. This means that youth and adults living in poverty can be shut out from accessing transit. A profit-driven, one-size-fits-all approach forces low income youth to 'steal' transit in order to access jobs, school, basic goods, and social connection. This in turn leads to debt for unpaid fare penalties, contributing to the cycle of poverty.¹⁸⁹ The impact of unaffordable transit is disproportionately felt by women, who make up a greater proportion of transit users in major Canadian cities,¹⁹⁰ possibly because of the gender wage gap.¹⁹¹ We were not able to find data on transit ridership by racialized or LGBTQ2S+ individuals, but it is likely that these groups also rely on transit more heavily, given socioeconomic inequality.¹⁹² Though the BC government has expressed interest in moving to sliding rates,¹⁹³ BC is behind other places which have already made the shift.¹⁹⁴

INACTION: Public transit in BC is notoriously monolingual and challenging for newcomers to understand and access. For example, in Vancouver, there is only one Skytrain sign which displays a language other than English (Stadium-Chinatown Station), there are no translation services on TransLink's website, and all train announcements are in English.¹⁹⁵

“” *Transit — ferry fares, too much*

“” *Ferries are highways, but BC ferries cost to cross... Transit monopoly*

“” *Transit system suffers, not accessible... [for] people pay into it; Those who depend on it*

“” *Language in buses + on transit*

AFFORDABLE AND ACCESSIBLE POST-SECONDARY SCHOOL

ACTION: The province made emergency funds available to post-secondary students who are impacted by the COVID-19 pandemic. Students enrolled at one of 25 listed institutions can apply for supplements to help cover unexpected, living, travel, food, and technology expenses.¹⁹⁶

ACTION: The BC government put an end to interest charges on all provincial student loans as of February 2019, lifting a burden for new graduates from post-secondary programs.¹⁹⁷ The change ensures that students who are unable to pay up front are not penalized by higher rates on their provincial student loans. All provincial student loan payments have been suspended for six months in response to COVID-19.¹⁹⁸

ACTION: Budget 2020 introduced the BC Access Grant, a needs-based student grant program which will provide up to \$4,000 in non-repayable financial aid to low-income students for each year of post-secondary study.¹⁹⁹

EDUCATION

Budget 2020 introduced the BC Access Grant, a needs-based student grant program which will provide up to \$4,000 in non-repayable financial aid to low-income students for each year of post-secondary study.

But there was no provincial government action to prevent tuition rates in BC from continuing to climb.

ACTION: The BC government committed \$12.4 million to seven new programs which it estimates will help 2,036 women and other under-represented groups access training, apprenticeship services, and employment in trades.²⁰⁰

INACTION: There was no provincial government action to prevent tuition rates in BC from continuing to climb, as far as we aware. For international students in particular, tuition fees can be up to five times higher than domestic rates,²⁰¹ representing a serious challenge for many studying in Canada.²⁰² Student advocates call for a two-year freeze on tuition for all students to ensure that universities do not become spaces which are exclusively accessible to the rich.²⁰³

- “ ” *Other country no school*
- “ ” *Funding for school (post-secondary)*
- “ ” *Accessing education grants, where to find, esp for Indigenous and/or women*
- “ ” *Education — tuition, text books*
- “ ” *Student loans? WTF...*

INACTION: Loan applicants with StudentAid BC currently must choose between “female” and “male” in the application.²⁰⁴ Creating a transgender and non-binary-welcoming application process which allows applicants to enter their pronouns and preferred names would be a small but impactful step.²⁰⁵

INTERNATIONAL LAW

Yogyakarta Principle 16

Everyone has the right to education, without discrimination on the basis of, and taking into account, their sexual orientation and gender identity. [. . .]

ICBC ACCESSIBILITY AND AFFORDABILITY

- 🗣️ *ICBC costs skyrocketing*
- 🗣️ *Insurance — too high*
- 🗣️ *ICBC CEO — where in the insurance industry a CEO takes home millions in salaries/ bonuses while running a financial dumpster fire?*

LIMITED ACTION: In the fall of 2019, ICBC shifted their rate structure to a “private-sector model.” The new structure means that drivers with long-term, safe driving histories pay less. However, drivers considered to be high risk pay much more. This has disproportionately affected youth, some of whom report paying more for insurance than the value of their car.²⁰⁶ In 2020, the province announced plans to reduce ICBC premiums by approximately 20%.²⁰⁷ This is part of a set of dramatic changes to BC’s car insurance scheme,²⁰⁸ the impacts of which are not known yet. In light of the economic impact of COVID-19, ICBC announced a 90-day deferral option for customers.²⁰⁹

SUMMING UP

When it comes to economic security, BC took several steps in the right direction in 2019 and early 2020. Workers gained improved access to dispute resolution, and people who need income assistance now face fewer arbitrary barriers to accessing it. However, rates for income assistance and disability benefits remain woefully low. More modular homes and shelters are good news, but a reduction in the number of affordable homes that BC plans to build is a worrying setback. And the province can take longer strides towards alleviating poverty for all if it puts an intersectional lens into action. More targeted housing, social supports, and employment programs are needed for marginalized people to attain economic security in the context of systemic sexism, transphobia, racism, ableism, and other inequalities.


FREEDOM FROM GENDER-BASED VIOLENCE

D+

Very limited action. Needs significant improvement.

In 2018, men in BC earned on average 18.6% more than women. Yet BC is one of the only four provinces without pay equity legislation. A mechanism to enforce workers' right to equal pay for work of equal value is clearly needed, and it must take people of all genders into account.

GENDER-BASED VIOLENCE refers to violence that is “committed against someone based on their gender identity, gender expression or perceived gender,”²¹⁰ including sexual violence and intimate partner violence. This violence overwhelmingly targets women and Two-Spirit, transgender, gender non-binary, and gender non-conforming people.

 *People are still proud to have committed gender-based violence. They boast/brag about it*

Community groups in dialogue with us highlighted the need to approach gender-based violence in a way that centres the knowledge and needs of the people most frequently targeted, including transgender and Two-Spirit people, Indigenous people, and sex workers. Many participants called on the BC government to implement measures **for violence prevention, anti-violence education and training**, and **support services and rights for survivors** that would lead to tangible improvements to the safety of the communities most at risk.

Several dialogue participants also pointed out that **hate speech** based on gender identity and expression seriously compromises the safety of many people in BC and needs to be treated as a high priority by the provincial government. It is important to acknowledge the probable connections between hate speech and other forms of violence. According to Statistics Canada, 31 hate crimes against transgender or asexual people between 2010 and 2017 were reported by police as part of the Uniform Crime Reporting Survey, and almost half of these occurred in 2017 alone.²¹¹ Although these represent only a small

INTERNATIONAL LAW

Yogyakarta Principle 30 (YP+10)

Everyone, regardless of sexual orientation, gender identity, gender expression or sex characteristics, has the right to State protection from violence, discrimination and other harm, whether by government officials or by any individual or group. [...]

fraction of all reported hate crimes during that period, nearly three-quarters of crimes targeting transgender or asexual people involved physical violence, significantly more than the average for all hate crimes.²¹²

“TWO-SPIRITS. — > experience violence, too. — > not recognized.

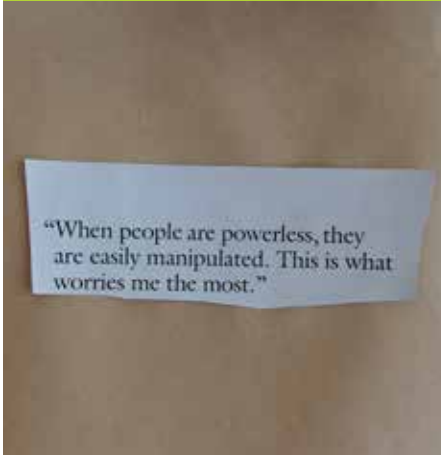
“Racism often tacked onto transphobia

Quantitative research is consistent with the point raised by community groups that violence impacts marginalized communities disproportionately. For example:

- Across Canada, Indigenous women are twelve times more likely to face gender-based violence than other women.²¹³
- The following factors are associated with a higher likelihood of experiencing sexual assault, physical assault, or both: being a woman, being Indigenous, being young, having one or more disabilities, being a sexual minority, having a history of homelessness, having mental health concerns, and using substances.²¹⁴
- Experiences of sexual assault and/or physical assault were self-reported by 38% of cisgender women in Canada overall in 2018, compared to 55% of Indigenous cisgender women and 63% of bisexual cisgender women.²¹⁵
- Trans and non-binary people in BC report high rates of violence: 69% of BC participants in the Trans PULSE Canada survey had experienced verbal harassment within the past five years, 37% had experienced physical intimidation or threats, 16% had experienced physical violence, 42% experienced sexual harassment, and 26% experienced sexual assault.²¹⁶
- Half of transgender people report having experienced physical or sexual violence in an intimate relationship, and LGBTQ2S+ people experience intimate partner violence at double the rate of cisgender and heterosexual people.²¹⁷

While the statistics above make it abundantly clear that violence affects different communities differently, anti-violence advocates have called for provincially-funded research that attends to intersections of racialized, Indigenous, trans, and Two-Spirit identities.²¹⁸ Without such research, the needs of survivors who are multiply marginalized may be erased, misunderstood, and neglected.

Of all provinces in Canada in 2018, BC had the highest percentage of cisgender women who experienced unwanted sexual behaviour in public (37% in BC, compared to about 32% throughout Canada).²¹⁹ Moreover, rates of both physical and sexual assault against cisgender women in BC were higher than the national average.²²⁰



“When people are powerless, they are easily manipulated. This is what worries me the most.”

Community groups in dialogue with us highlighted the need to approach gender-based violence in a way that centres the knowledge and needs of the people most frequently targeted, including transgender and Two-Spirit people, Indigenous people, and sex workers.

The rate of police-reported intimate partner violence in BC was the second-lowest of all provinces in Canada in 2018.²²¹ This statistic does not necessarily reflect a low rate of intimate partner violence given that only a fraction of such offenses are reported to police.²²² Alarmingly, rates of intimate partner violence in rural areas are estimated to be 1.8 times higher than rates in urban areas,²²³ suggesting the critical need for prevention and support services outside of BC's large cities and towns.

VIOLENCE PREVENTION

Community Safety

“” Municipal & provincial [governments] need to come together, get on same page

ACTION: BC's budget for 2020 allocated \$71 million to enhance public safety and support services for those affected by crime.²²⁴ It remains to be seen whether this spending will focus significantly on preventing and responding to gender-based violence and meeting the needs of the communities most impacted.

LIMITED ACTION: In 2019, BC increased funding for the Highway 16 Transportation Action Plan by \$800,000, bringing the total investment to \$8.1 million.²²⁵ Highway 16 is known as the Highway of Tears because of the many people — disproportionately Indigenous women and girls — who have lost their lives to violence or have been disappeared along this route. Improvements funded as part of this Action Plan in 2019 include 12 new grants for community vehicles, 12 new highway webcams, and 15 all-weather bus shelters.²²⁶ Additionally, the provincial and federal governments have together pledged to fund inter-community bus services through BC Bus North until March 2021,²²⁷ yet the long-term future of this vital service remains uncertain. BC Bus North routes operate only once or twice a week, and cover only a handful of departure and destination points in Northern BC.²²⁸ One dialogue participant made the point that bus shelters aren't of much use when no buses are coming. What's more, BC Bus North rides are largely unaffordable to people with low incomes, who face higher rates of violence to begin with²²⁹: effective March 2020, fares range from \$11 to \$65, depending on the distance travelled.²³⁰ Ultimately, then, BC's steps for transportation safety fall far short of what the National Inquiry into Missing and Murdered Indigenous Women and Girls determined was necessary: safe and accessible transportation for all Indigenous women, girls, and 2SLGBTQIA people living in remote or rural communities.²³¹ Similarly, the *Red Women Rising* report recommended “free public bus transportation system between each town and city located along the entire length of Highway 16 and all other highways, with a number of safe homes and emergency phone booths along the length of all the highways.”²³²

LIMITED ACTION: The BC government's 2019 report on its fulfilment of recommendations issued in 2012 following the Missing Women Commission of Inquiry lists some fairly minimal recent steps. For example, although the \$1.4 million investment in projects focused on healing and rebuilding in Indigenous communities may sound meaningful, it actually works out to an average of just \$26,500 for each of the 53 projects.²³³ The report states that work is underway “to increase diversity and Indigenous representation on police boards”²³⁴ and to develop Provincial Policing Standards for street checks,²³⁵ but it does not indicate concretely what steps have occurred. While public reporting on the status of the 2012 recommendations is a useful measure for transparency, complete fulfilment of the recommendations is urgently necessary and many years overdue.

Trans and Two-Spirit Lens to Address Gender-Based Violence


 *Policies [on gender-based violence] that are developed and driven by ALL the gender-diverse community*

INACTION: BC's Parliamentary Secretary for Gender Equity acknowledged violence against "transgender, non-binary, and two-spirit people" in her public statement for the 16 Days of Activism Against Gender-Based Violence.²³⁶ To our knowledge, though, BC has not provided dedicated funding for trans-led or Two-Spirit-led violence prevention projects. BC government opposition to transphobic violence has largely taken symbolic forms, such as raising the transgender flag at the BC legislature for the first time ever to mark the Transgender Day of Remembrance.²³⁷ While public acknowledgement of transphobic violence is important and overdue, BC needs to back up its words and gestures with funding and action. Specialized programming can be particularly vital given that many trans survivors do not regard the criminal legal system as a viable pathway to justice.²³⁸

INACTION: Some advocates have called on the BC government to make trans inclusion a requirement for accessing funding for anti-violence programming and other support services, and maintain that many such services are currently unwelcoming or inaccessible to trans people.²³⁹ While the City of Vancouver has moved to withdraw funding from organizations whose services exclude trans women,²⁴⁰ the BC government has yet to follow suit.

INACTION: BC has not taken initiative on ensuring that trans survivors of sexual and/or physical violence have access to specialized health care services. BC would do well to follow Ontario's lead. The provincially-funded²⁴¹ Ontario Network of Sexual Assault/Domestic Violence Treatment Centres has launched specialized health care services for trans survivors,²⁴² while no equivalent initiative exists in BC.

Support for Queer and Trans Youth

 *Support for young queer (trans, gender-non-conforming, lesbian, gay) youth in families, in public life, in schools*

ACTION: As of May 2019, all of BC's 60 school districts and several independent schools are participating in SOGI 1 2 3,²⁴³ an initiative that helps schools create policies, procedures, institutional climates, and teaching resources that support diversity in sexual orientation and gender identity (SOGI).²⁴⁴ In May 2019, the Ministry of Education announced a new Provincial K-12 SOGI Collaborative, mandated to develop a three-year plan to create safe learning environments for all BC students.²⁴⁵ A few months later, it pledged \$350,000 in support of SOGI 1 2 3, including funding to help expand the provincial SOGI Education Summit and to hire a SOGI education lead to provide training for schools across BC.²⁴⁶

Support for Sex Workers' Safety

 *Full decriminalization of sex work: access to finance, banking; destigmatization; unionization*

LIMITED ACTION: In its unanimous Report on the 2020 Budget Consultation, the Select Standing Committee on Finance and Government Services published a recommendation to "Provide support programs and services that promote the safety and security of all individuals who engage in sex work, regardless of gender, circumstance or type of sex work, without the sole focus being on exiting or human-trafficking services."²⁴⁷ Yet,

there was no mention of services for sex workers in BC's budget for 2020. As of February 27, 2020, a search of the BC Government News site turns up only one relevant announcement within the past year:²⁴⁸ a small grant of \$30,000 awarded to Atira Women's Resource Society in 2019 to "provide a support worker to Indigenous women who are experiencing, or have experienced, violence and homelessness, as well as those involved in street-level sex work" in Surrey.²⁴⁹ That said, some non-profit organizations serving sex workers, such as WISH Drop-In Centre Society and PACE Society, do acknowledge provincial government funding sources on their websites,²⁵⁰ and a provincial conference called Responding to Violence Against Sex Workers that was hosted by Living in Community in 2019 received a financial contribution from the BC government.²⁵¹

INACTION: BC needs a violence prevention strategy that attends to sex workers' diverse lived realities, which are shaped by their gender identity and expression, Indigeneity, racialization, immigration status, language, disability, and other aspects of identity and experience. For example, a BC-government supported study by SWAN Vancouver found that migrant sex workers in indoor workplaces face distinct barriers to reporting violence to police or accessing victim services, including concerns about immigration status and deportation, language barriers, disrespectful and judgmental police attitudes, and/or a lack of awareness of the availability of victim service programs.²⁵² Yet, there appears to be no publicly available statement, policy paper, or report from the BC government on its strategy to reduce violence and other forms of harm impacting sex workers. While the provincial government does not have the power to change criminal law surrounding sex work, which is a federal matter, it can do more to improve the safety of sex workers through its policies, programs, and services. For example, it could provide safe housing, challenge stigma through public education, collect data about sex workers' safety needs and experiences of violence, remove barriers to accessing health care and legal help, and make anti-violence services safer, more available, and more welcoming for sex workers.

ANTI-VIOLENCE EDUCATION AND TRAINING

- 🗣️ *LISTEN TO THE ONES WHO HAVE BEEN VICTIMS OF GENDER-BASED VIOLENCE*
- 🗣️ *SILENCE ≠ YES*
- 🗣️ *CONSENT IS NECESSARY*

ACTION: The BC government supported the development of a Trauma-Informed Practice Foundation Curriculum for justice, public safety, and anti-violence sectors in BC, to support them to understand the impacts of trauma and work sensitively and effectively with trauma survivors. This training resource is now being offered free of charge to police, corrections staff, Crown counsel, other lawyers, and victim services workers.²⁵³ However, the training appears not to be mandatory for individuals working in these sectors, which significantly limits its potential reach and impact. Indeed, a dialogue participant reflected that this initiative is important but may not be put into practice consistently.

LIMITED ACTION: The BC government allocated small one-time grants to a number of anti-violence education and training initiatives, which unfortunately fall far short of the need for sustainable and universally accessible programming:

- The BC Society of Transition Houses (BCSTH) received \$75,000 to deliver its Violence is Preventable (VIP) program in schools.²⁵⁴

- The Ending Violence Association of BC (EVA BC) was awarded a one-time grant of \$100,000 to enhance training for interagency case assessment teams (ICATs). ICATs aim to coordinate responses to high-risk domestic violence cases by bringing together police; Indigenous leaders; and child protection, corrections, health, and anti-violence workers, to exchange information and engage in safety-planning.²⁵⁵
- Ten community organizations across BC were given up to \$30,000 each to deliver group programming for those who commit intimate-partner violence.²⁵⁶

LIMITED ACTION: BC provided \$760,000 for post-secondary institutions to access training resources and coordinate their efforts for addressing sexual violence on campus, including funding a two-day forum in June 2019.²⁵⁷ Some campus anti-violence advocates have spoken out about the difficulty of maintaining effective violence prevention and response measures without ongoing provincial funding.²⁵⁸ No new funding has been announced to accompany the \$760,000 initiative, so serious gaps in services and responses are likely to remain, particularly for smaller, less well-resourced institutions.

INACTION: The Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls include making funding “available to Indigenous communities and organizations, to create, deliver, and disseminate prevention programs, education, and awareness campaigns designed for Indigenous communities and families related to violence prevention and combating lateral violence.”²⁵⁹ BC falls far short of meeting this Call for Justice with the woefully inadequate \$689,000 it allocated over two years for small grants to 48 Indigenous-led community projects for anti-violence education and prevention.²⁶⁰ Ranging from just \$2,500 to \$16,000,²⁶¹ these tiny grants fall so dramatically short of the need that they cannot be regarded as a meaningful step for BC.

INACTION: Several community advocates have informally observed to West Coast LEAF that certain police officers lack the knowledge to comply fully with the province-wide Violence Against Women in Relationships (VAWIR) Policy, which requires them to identify and arrest the primary aggressor and discourages them from arresting both parties.²⁶² Police do not always conduct a primary aggressor analysis and sometimes arrest people (predominantly women) for acting in self-defense against an abuser. Police training on identifying the primary aggressor should include a focus on challenging the cissexist and heterosexist stereotypes that often lead to police arresting the victim instead of the perpetrator or arresting both people in cases of intimate-partner violence against LGBTQ2S+ people.²⁶³ Moreover, some advocates report that certain police officers do not regard family violence as a criminal matter at all — even though the very first sentence of the VAWIR policy states that is “domestic violence is a very serious and complex criminal problem”²⁶⁴ — and sometimes advise survivors to seek protection from violence through the family law legal system, even when survivors lack access to legal representation or to the courts generally.²⁶⁵



YOUR BODY.
YOUR RIGHT.
YOUR POWER.

Some advocates report that certain police officers do not regard family violence as a criminal matter at all — and sometimes advise survivors to seek protection from violence through the family law legal system, even when survivors lack access to legal representation or to the courts generally.

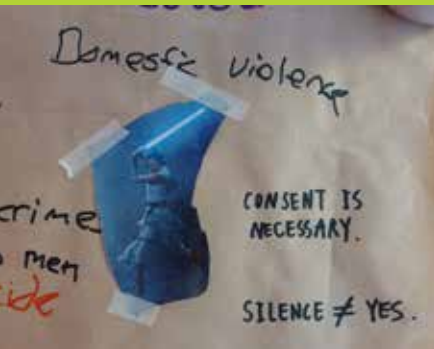
SUPPORT SERVICES AND RIGHTS FOR SURVIVORS

ACTION: Legislation was introduced in 2019 to enable tenants to end fixed-term leases if staying in their suite would expose them to a risk of household violence. The legislation's definition of household violence encompasses various forms of physical, sexual, psychological, and/or emotional abuse. For people younger than 19, direct or indirect exposure to violence against another occupant of the home can also constitute household violence.²⁶⁶ This legislation has the potential to reduce significant economic and logistical barriers to escaping violence for tenants in BC.

ACTION: The BC government introduced 10 days of unpaid workplace leave for employees dealing with domestic or sexual violence.²⁶⁷ Following community advocacy for paid leave, and results from a government-conducted survey showing that the vast majority of respondents saw a need for paid leave,²⁶⁸ BC announced that it would take the next step to provide for up to five days of paid leave.²⁶⁹

ACTION: BC's budget for 2020 includes \$13 million in additional funding over three years to assist victims, family members, and witnesses of crimes through the Crime Victim Assistance Program,²⁷⁰ which "provides financial benefits to help offset financial losses and assist in recovery."²⁷¹

LIMITED ACTION: BC has continued to roll out an \$18 million funding top-up over three years for support services for survivors of domestic violence and sexual assault, such as counselling, outreach, and crisis support.²⁷² However, West Coast LEAF and seven other organizations have called for much more: "dedicated, secure, and sustainable funding for crisis response teams and integrated sexual assault clinics across British Columbia,"²⁷³ a recommendation that was endorsed by the Union of BC Municipalities.²⁷⁴ Disappointingly, Budget 2020 contains no dedicated funding for establishing community-based emergency sexual assault services, nor for implementing the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls. The *Red Women Rising* report found that BC's existing services for survivors of violence do not meet the needs of Indigenous women in the Downtown Eastside of Vancouver and urged government to "Fund more 24/7 low-barrier emergency shelters, transition homes, and drop-ins for women with long-term funding and full wrap-around supports including culturally-centered and holistic victim services, healing supports, counselling, legal assistance, programming, and recreational activities for Indigenous survivors of violence."²⁷⁵ Although BC has extended funding for some anti-violence programs and organizations at risk of closure,²⁷⁶ it has yet to commit to providing the level of ongoing support that community groups say is needed to reverse the devastating consequences of deep funding cuts in the early 2000s.²⁷⁷



West Coast LEAF and seven other organizations have called for "dedicated, secure, and sustainable funding for crisis response teams and integrated sexual assault clinics across British Columbia," a recommendation that was endorsed by the Union of BC Municipalities.

LIMITED ACTION: BC invested about \$5 million to support 15 programs across the province assisting survivors of violence to secure employment. Some of these programs are specifically aimed at Indigenous people, women, people with disabilities, and refugees and other newcomers to Canada.²⁷⁸ However, the 675 people expected to benefit from these services²⁷⁹ represent only a minute fraction of all survivors of gender-based violence in BC. Moreover, none of the funded programs appears to be tailored to the needs of transgender, Two-Spirit, gender non-binary, and gender-diverse communities, although these groups face high rates of violence and pervasive inequalities in employment.²⁸⁰

INACTION: Advocates have been urging the BC government to provide better supports to survivors of violence who are forced to navigate parenting arrangements with an abusive ex-partner. For example, some have called for the creation of safe, supervised locations where children can be dropped off for transfer between parents, eliminating the need for parents to come into direct contact where this would pose a risk of violence.²⁸¹

INACTION: BC still lacks a provincial policy on addressing sexual assault specifically, although it does have a Referral Policy for Victims of Power-Based Crimes (including sexual assault) and a Violence Against Women in Relationships Policy.²⁸²

HATE SPEECH

- “ Support for deplatforming [denying people a platform to spread harmful ideas] of false narratives about trans & queer people & deplatform those who spread them
- “ It’s about respect for the individual. [Hate speech involves] making assumptions about people you don’t know, crossing people’s boundaries.

ACTION: In September 2019, BC swore in the first-ever fully independent Human Rights Commissioner in Canada.²⁸³ The Commissioner reports directly to BC’s Legislative Assembly²⁸⁴ and is tasked with investigating and proactively addressing systemic discrimination in BC.²⁸⁵ In a media interview at the start of her tenure, the Commissioner remarked that her work would include a focus on “colonialism and its impact on Indigenous people, the impact of white supremacy and the growth of hate in Canada and British Columbia — everything from hate speech to the way that kind of speech manifests in real-world violence.”²⁸⁶ As the Commissioner’s five-year term²⁸⁷ started only recently, it is too soon to predict impacts for hate speech in BC. That being said, the BC government’s investment in proactively tackling discrimination through the Office of the Human Rights Commissioner is a significant and welcome development.

SUMMING UP

BC’s temporary funding top-up for services for survivors of violence falls short of the need for sustainable, comprehensive, community-based, wrap-around supports. It is disappointing that BC did not budget dedicated funds for acting on the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls, nor for adopting the rights-based framework for responding to sexual assault that community groups have been calling for. Furthermore, BC has taken only very limited steps to address violence against gender minority communities.

HEALTH CARE



Some action taken.
Needs continued
improvement.

There was widespread concern about access to health care, including to trans and Two-Spirit affirming care, and barriers to accessing health care that exist for marginalized people.

COMMUNITY MEMBERS at PACE, UNYA, and CATA expressed overlapping concerns about health care. There was widespread concern about **access to health care**, including to **trans and Two-Spirit affirming care**, and **barriers to accessing health care** that exist for marginalized people. Contributors identified care provider biases against people with marginalized gender identities and expressions, racialized people, and those who engage in sex work. They pointed out that health and poverty are linked, and many were of the view that health care should be **community-based** and **holistic**. Though **menstrual care** and **health infrastructure** were not raised by community members, there were some noteworthy government steps in these areas.

- “Lack of [care] has a multitude of negative effects
- Economic security related to health + mental health — > stress

There was also broad agreement that harm reduction approaches are needed. In 2019, the number of drug toxicity deaths in BC decreased by 36% compared to 2018. But the opioid crisis continues to claim lives in the province at the scale of a public health emergency. There were 975 suspected drug toxicity deaths during 2019,²⁸⁸ which equates to a staggering 2.7 deaths per day.

INTERNATIONAL LAW

CEDAW Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. [...]

CEDAW Article 14

[...] 2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: [...]

(b) To have access to adequate health care facilities, including information, counselling and services in family planning [...]

Fentanyl or analogous drugs were detected in approximately 85% of these deaths,²⁸⁹ and women made up 24% of deaths.²⁹⁰ The BC Coroners' Service did not present data on the number of trans and gender-diverse people affected by the crisis. Young Indigenous people who use drugs in BC are twelve times more likely to fatally overdose than their non-Indigenous age-mates,²⁹¹ and there are urgent calls to indigenize harm reduction by promoting peer-led, trauma-informed, and holistic support.²⁹²

HARM REDUCTION, MENTAL HEALTH, AND CARE FOR PEOPLE WHO USE SUBSTANCES

ACTION: In March of 2020, the COVID-19 response included the closure of the Canada — US border, and the province took action to provide access to safe drugs amidst fears that the illegal drug supply from the United States would be cut off, and drugs in British Columbia would become even more toxic.²⁹³ The government used new federal exemptions to introduce guidelines which allow prescribers to provide safe drugs to those who are at risk of both COVID-19 infection and of overdose.²⁹⁴ In the year preceding this new public health crisis, BC did not substantially step up measures to fight the opioid crisis, to our knowledge. It continued to facilitate the distribution of naloxone kits and training and to maintain overdose prevention sites.²⁹⁵ The irony that it took a second public health crisis to spur real action is not lost on observers, who fear that ground could be lost once COVID-19 passes.²⁹⁶

INTERNATIONAL LAW

Yogyakarta Principle 17

Everyone has the right to the highest standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity. Sexual and reproductive health is a fundamental aspect of this right.

States shall:

(a) Take all necessary legislative, administrative and other measures to ensure enjoyment of the right to the highest attainable standard of health, without discrimination on the basis of sexual orientation or gender identity;

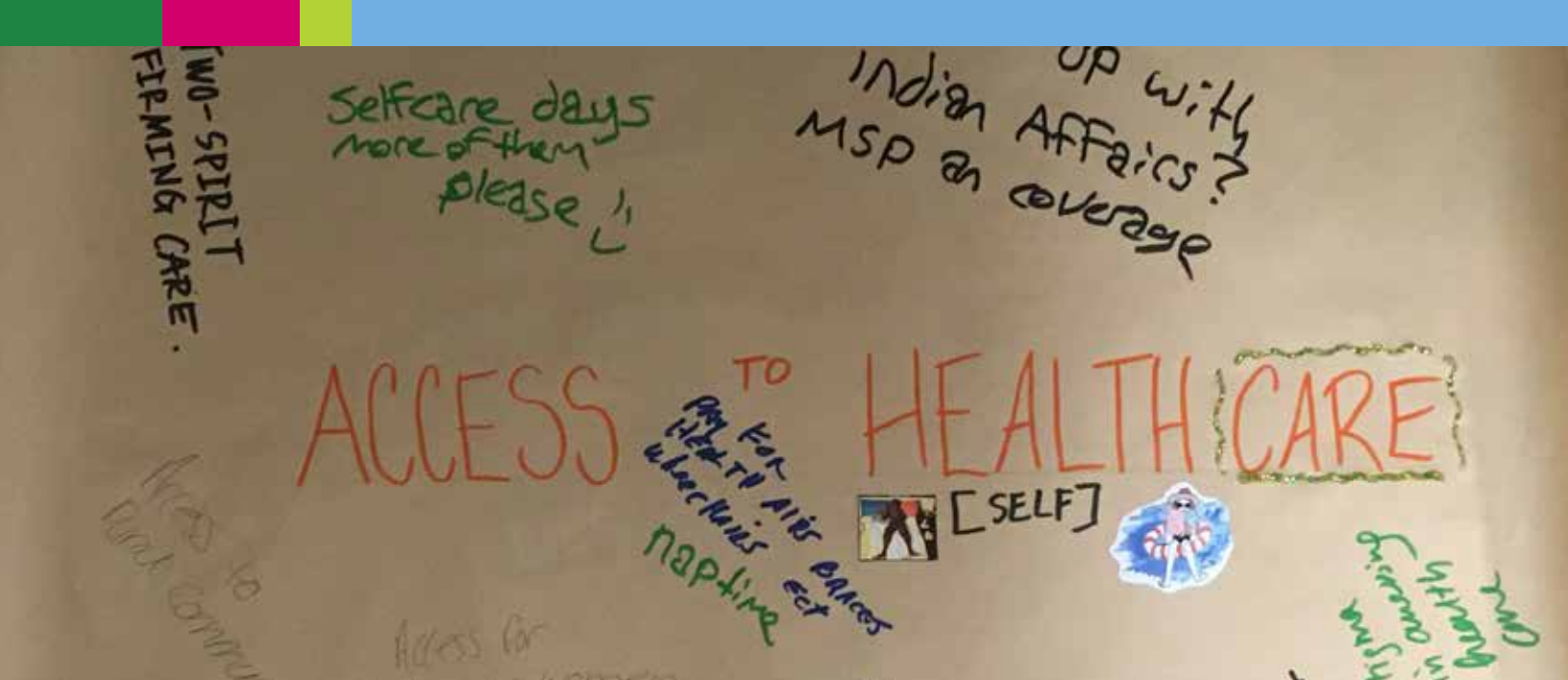
(b) Take all necessary legislative, administrative and other measures to ensure that all persons have access to healthcare facilities, goods and services, including in relation to sexual and reproductive health, and to their own medical records, without discrimination on the basis of sexual orientation or gender identity;

[...] (d) Develop and implement programmes to address discrimination, prejudice and other social factors which undermine the health of persons because of their sexual orientation or gender identity;

(e) Ensure that all persons are informed and empowered to make their own decisions regarding medical treatment and care, on the basis of genuinely informed consent, without discrimination on the basis of sexual orientation or gender identity;

[...] (g) Facilitate access by those seeking body modifications related to gender reassignment to competent, non-discriminatory treatment, care and support;

(h) Ensure that all health service providers treat clients and their partners without discrimination on the basis of sexual orientation or gender identity, including with regard to recognition as next of kin [...] [.]



ACTION: The Ministry of Mental Health and Addictions released its 10-year plan entitled *A Pathway to Hope* in 2019.²⁹⁷ The plan states that its focus will be on preventive, youth-focused, and Indigenous-led approaches to mental health and addictions care.²⁹⁸ Specifically, the plan includes:

- \$10 million in grant funding for nonprofits to provide free counselling services to marginalized groups.²⁹⁹ This pot of funding has been shared among at least 29 different agencies in the province;³⁰⁰
- Preventive programming in K-12 schools province-wide, which is designed to identify and help address early signs of social and emotional challenges or mental health and substance-use issues;³⁰¹
- A pledge to open 8 new Foundry Centres around the province,³⁰² which provide mental health and substance use support, including primary care and peer support, to youth.³⁰³
- A contribution of \$20 million to assist the First Nations Health Authority in building or upgrading First Nations-run treatment centres.³⁰⁴ Two new urban centres, two intensive day programs and 20 family care home spaces for children and youth with severe mental health or substance use issues will be created.³⁰⁵

ACTION: In early 2020, the province announced that post-secondary students in BC will soon have access to free mental health counselling and referral services. The service will be available “24/7” and will be created under a three-year contract with a private company based in Toronto.³⁰⁶

ACTION: Increased funding will go to BC Settlement and Integration Services, some of which will be used to provide trauma counseling to refugees and asylum seekers.³⁰⁷ The news was rolled into an announcement for funding for settlement services in general, so it is not clear how much of the funds will be available specifically for counselling.

ifsg *In my country, there was a lot of violence. I am suffering with it, still impacts me = instability — back home would have been killed*

LIMITED ACTION: The BC Centre on Substance Use launched a new online course which is designed to educate health care providers on how to provide care to patients who use substances.³⁰⁸ However, the province has not made the training mandatory. The program is for “interested” professionals, and its online

format seriously limits its potential impact. A community contributor and Elder who had experience working in health care and was familiar with online programming was particularly underwhelmed by this initiative.

INACTION: Despite a statement in *A Pathway to Hope* that care should be the least intrusive possible,³⁰⁹ BC did not make any changes to the *Mental Health Act*, a piece of legislation which allows mental health professionals to use detention, physical restraints, coercion, and discipline in “treatment.” Patients can be placed in disciplinary detention, secluded, or restrained without access to a review process, and they lack enforceable rights to obtain a lawyer, to see visitors, to communicate with people outside of detaining facilities, or to object to clothing removal by workers of a different gender.³¹⁰ A report by the Ombudsperson also found that some individuals and institutions were not following existing requirements to document involuntary detentions under the *Act*. The existence of these procedural requirements is the reason the state’s broad powers under the *Act* are seen as constitutional, and is crucial to institutional accountability and patient well-being.³¹¹ West Coast LEAF, along with advocates at Community Legal Assistance Society, Pivot Legal Society, Together Against Poverty Society, and the BC Civil Liberties Association, has forcefully stated that this use of coercion, detention, and discipline is not only cruel, but is also at odds with effective treatment.³¹² Until the *Mental Health Act* changes and BC commits to accountability measures, BC’s response to mental illness, including substance use, is built on a foundation which overlooks basic human rights.

“” *Alternatives to being locked up in psych*

ACCESSIBILITY OF MEDICAL CARE

Community contributors were vocal about the need for care to be more accessible, noting that the system can be confusing, unilingual, expensive for certain treatments, and difficult to reach from rural communities.

“” *Disability access/policy*

“” *Services to help queer people navigate confusing mental health system*

“” *2 tiered system, federal and provincial for First Nations: now City (Vancouver Coastal Health) gave a healthcare number — > have to remember that on top of Status [number]*

“” *No healthcare support until it’s too late*

“” *Accessing healthcare in addiction*

- *Treatment options*
- *Opiate replacement therapy, stigma & fear & cost*

“” *Access to rural communities*

“” *Medicine not covered*

“” *Not knowing about local support due to language*

“” *Make it easier for immigrants who were doctors to be allowed to practice*

In this vein, participants also gave feedback that community-based care could both improve access and mitigate bias and prejudice that people face when seeking health care.

- “” More CHCs (Community Health Centres)
- “” More drop-in shelters (24 hours) will reduce emergency room calls. Most people call an ambulance just to get a sandwich or get warm (esp. in the winter)
- “” Access for Queer/trans PoC [people of colour] to community groups, queer community, etc. Make it less white-focused thing

ACTION: In 2019, the BC government made legislative changes to put an end to MSP premiums starting in January 2020. This means that BC is now in line with all other Canadian jurisdictions in providing health care without a monthly premium.³¹³ The province also made changes to Fair PharmaCare which entitle more households to deductible-free coverage or to lower deductibles and lower family maximum amounts. Once a family's spending on prescription drugs reaches the family maximum amount, any further medication expenses are fully covered.³¹⁴

ACTION: The province made plans to open or expand several health care centres in 2019. New urgent and primary care centres will open in Vernon and Prince George,³¹⁵ a new long-term and hospice care facility is coming to Comox Valley,³¹⁶ and there will be expansions to existing care facilities in Sooke³¹⁷ and Trail.³¹⁸

In announcing several of these developments, the BC Government has stated that the facilities will take a “team-based” approach to care.³¹⁹ BC doctors' new agreement with the government incorporates this approach and moves away from the fee-for-service structure.³²⁰ This shift is positive, according to the National Director of the Canadian Centre for Elder Law, who has heard from seniors who have experienced long waits and rushed appointments under the fee-for-service model, with appointments limited to as little as seven minutes.³²¹ A team-based approach could help address BC patients' lack of access to primary care and reliance on piecemeal care from walk-in clinics.³²² Advocates also believe that interdisciplinary health teams will be able to better serve members of ethno-cultural communities.³²³

LIMITED ACTION: In response to COVID-19, the BC government has temporarily waived the three-month waiting period which generally prevents new immigrants, temporary foreign workers, and returning Canadians from accessing MSP coverage upon arrival in Canada.³²⁴ While this is good news in the short term, the government's plan to reinstate the wait will put migrants back in the position of having to delay seeking care, resulting in worse health outcomes and ultimately putting more strain on the health care system. The delay has serious implications for women and gender-diverse newcomers to Canada, who may be unable to access time-sensitive services like prenatal care and trauma care for those who have fled persecution.³²⁵

Trans and Two-Spirit Full-Spectrum Affirming Care

ACTION: As of September 2019, BC became the first province in Western Canada to fund lower surgery. BC's Medical Services Plan (MSP) now fully covers chest construction surgery and lower surgery including gonadectomy and genital reconstruction.³²⁶ The government took steps to make these procedures available in BC, whereas patients had previously been required to travel out of province to access them. Gender-affirming surgeries are now available in Burnaby, Kamloops, Kelowna, Port Moody, Prince George, Victoria, and Vancouver,³²⁷ where there is a new gender surgery clinic at Vancouver General Hospital.³²⁸ For people with First Nations status, there is some extended availability of gender-affirming items, including bras and binders, if prescribed by a provider.³²⁹

As part of the COVID-19 response in March 2020, all non-emergency surgeries in BC have been put on hold, including consults and surgeries for gender-affirming procedures.³³⁰

INACTION: Many gender-affirming procedures and items are still not covered, including facial procedures, hair reconstruction and removal, vocal feminization, speech language pathology, binders, packers, and breast forms. Nor are many of the costs associated with accessing gender-affirming procedures, including travel and accommodation costs, surgical aftercare, and supportive garments for chest surgery. TransCare BC's website acknowledges that these costs will be a barrier to surgery for some, and suggests "organiz[ing] fundraisers online or in person" as ways to cover these costs.³³¹

- “ Health resources for queer immigrants
- “ Two-Spirit Affirming care
- “ Laser hair removal too expensive
- “ Make hospitals for trans people. Should be cheaper for plastic surgery. Lots of people go to Mexico, Middle East, Brazil to access cheaper surgery.
- “ Info about gender-affirming health care not available to people who speak languages other than English
- “ Not affordable to access surgeons, plastic surgery < — affordable elsewhere why gap? — > unhappy; Use drugs
- “ Gov says “off you go” after you’ve had lower surgery — no support for other surgeries for face, body, etc.
- “ Drugs to cope with gender dysphoria
- “ Expensive for feminizing surgery
- “ Went to Montreal for surgery... this was good. But no one to visit at home, no nurse

Many of the community contributors we spoke with had experience navigating BC's health care system while transitioning. They identified gaps including access to procedures deemed “aesthetic” and a lack of aftercare or support. One contributor commented that access to gender-affirming surgeries is “crucial to survival.” Statistical research illustrates this point. Rates of suicide and suicidal ideation among transgender people in Canada are extraordinarily high.³³² However, a study conducted in Ontario found that certain factors are linked to a reduced risk of suicide. These factors included access to medical transition (for those who desired it), social inclusion, and protection from transphobia.³³³ This confirms what the community already knows: the health of trans, Two-Spirit, and gender-diverse communities depends on equitable treatment in society, which includes fair access to health care as much as it does social acceptance and freedom from stigma.



In 2019, the BC government made legislative changes to put an end to MSP premiums starting in January 2020. This means that BC is now in line with all other Canadian jurisdictions in providing health care without a monthly premium.

Expansive and Wholistic Health Care

Community members pointed out gaps in BC's health coverage, and expressed a need for health initiatives which understand wellness holistically.

- “ Different tiers of coverage hard to navigate —> “people say it's free” not true! Have to pay for glasses, if want anything extra
- “ Free dentistry
- “ Pay for health access Braces, wheelchairs, etc.
- “ MSP coverage
- “ Self care days, more of them please :)
- “ Free pharmacies support

ACTION: The province announced up-front and ongoing funding to the Lu'ma Medical Centre in Surrey, which will allow the centre to expand Indigenous primary care services. Indigenous patients can access the care of nurses and doctors as well as traditional healers, Elders, and navigators. The government announcement estimates that the expansion will allow the medical centre to serve 1,750 new patients.³³⁴

ACTION: New funding will be used to increase the number of trained caregivers for seniors. The Provincial Government will create 418 new seats in post-secondary schools for students to train for these positions.³³⁵

ACTION: Budget 2020 announced \$1 billion in new funding to “improve the quality of health care services, enhance patient outcomes, and manage the growing demand.”³³⁶ The budget document states that this money will be used to improve existing care services; respond to increased demand; support seniors' care, overdose response, and team-based primary care; reduce wait times; and make prescription drugs more affordable. West Coast LEAF will be watching to see how these funds will be used specifically.

INACTION: Dental care is not covered by MSP in BC. The Provincial Government has announced that it is considering changing regulations to make it easier for patients to get dental care from dental hygienists.³³⁷ This is a move that could make routine dental care more affordable. Premier John Horgan stated in 2018 that he was open to the possibility of expanding MSP to include dental coverage for low-income residents.³³⁸ However, there has been no action on this front yet, leaving low-income people in the position of being forced to go without necessary care or to drain savings that they might have to access it.³³⁹

INACTION: BC is the only province without a comprehensive strategy to provide personal supports to people with disabilities, according to the co-executive director at Disability Alliance BC.³⁴⁰ There is limited coverage for people who receive disability assistance to access wheelchairs and scooters.³⁴¹ Programs funded through WorkBC can help provide people with disabilities with assistive technology that they need to find or keep employment opportunities. For example, mobility supports, specialized keyboards, and voice input equipment may be available.³⁴² This program may encourage employers to hire people with disabilities, as it makes it easier for them to meet their legal duty to accommodate the needs of these workers.³⁴³ But it is not enough to provide assistive technology only to those people with disabilities who are employed or currently seeking employment. Disability Alliance BC's Co-Executive Director points out that BC fails to ensure that all low-income people with disabilities, especially those who fall just above the cut-off for disability assistance, have essential equipment like wheelchairs and scooters.³⁴⁴

Barriers and Bias in the Health Care System

Our conversations with community members told us that, aside from gaps in coverage, bias and prejudice get in the way of many communities accessing health care.

- “” Total lack of diversity training and competency
- “” Trans/Sex worker diversity training and competency (huge lack thereof)
- “” Nurses are often the ones that are ok, but when you see a doctor, it’s not good
- “” “Trans friendly” docs are still uncomfortable with non-binary people and drug users
- “” Mental health services competency with trans
- “” Lawyers/Doctors have 8 years of education and perpetuate violence and are indoctrinated into a system
- “” Doctors cannot say no, their job is to provide a service, the question should be, “how do I do this.” E.g. abortion, gender affirming care, etc.
- “” Access to healthcare education so we can have trans/queer doctors, nurses, other healthcare workers
- “” Stigma in accessing care
- “” Going to ER and being called previous/wrong name even after name change on birth certificate + asking to be called right name
- “” People falling through cracks in the system, think because TransCare BC exists we live in a utopia

LIMITED ACTION: Trans Care BC’s website currently includes links to resources for care providers including online toolkits and webinars.³⁴⁵ The site states that a “very limited number” of in-person trainings are available for specific groups.³⁴⁶ Widely-accessible and mandatory or incentivized training for care providers is needed. Research suggests that the amount and/or quality of training that is currently available to care professionals is sorely inadequate.

A 2017 study found that, among 35 patients accessing, or in the process of accessing, gender-affirming surgery in the BC health care system, multiple participants reported having to educate their own health care providers on basic aspects of caring for transgender patients, including using correct pronouns and appropriate language.³⁴⁷ Patients also had difficulty finding trans-competent doctors, especially those patients who live in smaller cities or who must rely on walk-in clinics for their health care. This limited access to primary care providers was, in turn, linked to delays in accessing assessors in order to seek gender-affirming care.

Canada-wide survey data gathered in 2013 and 2014 showed that stigma and other factors get in the way of transgender youth accessing mental health care. 68% of youth aged 14 to 18 reported not receiving the mental health services they needed. This was



Our conversations with community members told us that, aside from gaps in coverage, bias and prejudice get in the way of many communities accessing health care.

due to fear of parents' or doctors' responses, previous negative experiences, thinking the problem would go away, or not knowing where to go.³⁴⁸ A majority of all 923 youth surveyed had a family doctor (70%), but a slim minority of 15% felt 'very comfortable' discussing trans-status specific health needs with that doctor.³⁴⁹

Later in life, LGBTQ+ people are also faced with few appropriate care options. A report by QMUNITY found that there is no policy which allows seniors to be placed at LGBTQ-positive care facilities, and that there is a need for facilities to incorporate competency training and inclusive policies.³⁵⁰ As a result, LGBTQ+ seniors who found accepting communities earlier in life may be forced to spend their last years separated from them.

INACTION: MSP's billing system uses codes which are associated with binary genders. MSP has rejected billing requests when trans patients have accessed procedures, for example a Pap test, which its system links to a particular gender. Some clinics have a practice of making a note to MSP when billing, but others have left it to transgender patients themselves to sort out the issue when expenses are rejected.³⁵¹

INACTION: Indigenous people still experience worse health outcomes than others in BC,³⁵² with national data showing that Indigenous people are more than twice as likely to die of avoidable causes.³⁵³ A report on the health of Métis youth in BC described the resiliency of the youth as well as finding that these young people experience more health challenges. Those whose relatives had attended residential school were more likely to be experiencing suicidal ideation.³⁵⁴ Health inequities experienced by Indigenous communities are due to racism embedded within the healthcare system³⁵⁵ and to a legacy of colonialism that disrupted many determinants of health, such as social safety nets, connection to culture, and economic security.³⁵⁶ Bias in the system needs to be addressed.

REPRODUCTIVE RIGHTS

ACTION: The BC government has confirmed that abortion access will be treated as an essential service and will continue to be available during the COVID-19 response.³⁵⁷ Access to abortion has improved in BC since 2018, when the provincial government expanded MSP coverage to include Mifegymiso, the medical abortion pill.³⁵⁸ This has been particularly beneficial for those who live in rural communities, as people who can use this type of abortion do not need to travel to an abortion clinic.³⁵⁹

INACTION: Some barriers to accessing abortion remain unaddressed. Abortion using Mifegymiso is not available after the first ten weeks of gestation or if there are complications such as ectopic pregnancy.³⁶⁰ In the former case, surgical abortion is the only option to terminate the pregnancy, and pregnant people must travel to an abortion clinic or hospital that offers abortion. One such clinic on Vancouver Island stopped providing surgical abortions due to decreased demand.³⁶¹ People in rural communities can therefore face higher costs for travel and missed work. In addition, BC law permits doctors and pharmacists to refuse to provide abortion care or even a referral for religious or personal reasons.³⁶² Finally, according to the Executive Director of Abortion Rights Coalition of Canada, online misinformation can also get in the way of accessing abortion.³⁶³

For racialized and gender-diverse people who seek abortion, prejudice may be a major barrier. According to researcher AJ Lowik, who created a manual on trans-inclusive policies for abortion providers,³⁶⁴ trans people are likely to encounter mistreatment ranging "from misgendering to blatant transphobia" in seeking abortion.³⁶⁵

- “” Gender + sexual diverse access to reproductive rights
- “” Indigenous sterilization
- “” If men could get abortions they would be available at gas stations

INACTION: Despite advocates’ pressure on the BC Government, contraception is still not covered by MSP.³⁶⁶ People frequently cannot access the contraception option that works best for them because they cannot afford it.³⁶⁷ AccessBC describes the province’s inaction as a missed opportunity to both improve health outcomes and save money. Cost-benefit research has found that the savings associated with providing free birth control to all youth in Canada would more than offset costs.³⁶⁸ The Canadian Paediatric Society emphasized that contraception needs to be free for young people who are particularly affected by the cost barrier.³⁶⁹

INACTION: A growing number of communities in BC do not have access to prenatal and birth care (sometimes called maternity care), and over 40 percent of pregnant people in rural BC must drive more than an hour to give birth. The need to travel results in riskier births and may deter some families from having children, especially those who cannot afford the additional costs of travel. Birth care has been eliminated in dozens of rural communities.³⁷⁰

ACCESS TO MENSTRUAL PRODUCTS

ACTION: A ministerial order issued in 2019 required all BC schools to provide free menstrual products in school bathrooms by the end of 2019.³⁷¹ However, the order did not require schools to place the products in all bathrooms. Some schools have placed menstrual products in female bathrooms, gender-neutral bathrooms,³⁷² and at the school office, but we are not aware of any announcements that the products will be available in boys’ bathrooms. The province should be open to considering how to ensure that this positive change benefits students of all genders who menstruate.

ACTION: The BC Government also issued one-time grant funding to 12 non-profit agencies to provide free menstrual products to vulnerable clients for one year.³⁷³ The organizations’ feedback and recommendations will be reported back to the province at the end of the year.³⁷⁴ BC has the chance to follow the lead of jurisdictions like Scotland, who have decided to address period poverty and stigma by providing free menstrual products.³⁷⁵

SUMMING UP

BC took important steps to make health care more affordable and comprehensive in 2019: for example, it eliminated MSP premiums (finally catching up with the rest of the country in this regard), and it made gender-affirming lower surgery accessible under MSP. However, further action is needed to ensure universal access to gender-specific and sex-specific health care, as well as contraception, dental care, and other health services. BC needs to be proactive in tackling the stigma and discrimination that create barriers to health care for marginalized communities. It also needs to commit to continue providing life-saving access to a safe drug supply after the COVID-19 pandemic has passed.

JUSTICE FOR PEOPLE WHO ARE CRIMINALIZED


D-

Very limited action taken. Needs significant improvement.

BC policymakers and institutions make decisions impacting people who are criminalized at the stages of policing, sentencing, incarceration, and release from prison.

CANADA'S FEDERAL GOVERNMENT is responsible for enacting criminal law, including the laws that criminalize substances and sex work. However, BC policymakers and institutions make decisions impacting people who are criminalized at the stages of policing, sentencing, incarceration, and release from prison. BC prisons and jails house all those who are sentenced to less than two years' imprisonment and all those who are awaiting trial, sentencing, or immigration review.³⁷⁶ There continue to be more adults in detention awaiting trial in provincial remand centres across the country than there are serving sentences in federal prisons, and that margin is growing.³⁷⁷

In discussing criminalization with community members, the following themes emerged which apply to each of these stages. First, **overrepresentation** of Indigenous and Black people exists at every point of the criminal justice process. Second, our system effectively **criminalizes poverty** when it unequally enforces laws and imposes conditions that hold marginalized people to a higher standard. Third, **criminalization is cyclical** in that the prison system generally compounds marginalization rather than achieving rehabilitation. Finally, there is a **need for a harm reduction approach** to help disrupt the cycle.

 *Stop criminalizing people. First Nations and Black people were illegal forever... we've built a society on those foundations.*


PROVINCIAL POLICING AND DISCRIMINATION

INACTION: As the BC Human Rights Tribunal recognized in a recent decision, Indigenous people are both over and under-policed³⁷⁸ in that they are more likely to be stopped by police, but have learned they cannot rely on the police for protection. Indeed, research from 2018 reveals that, in Vancouver, Indigenous women experience a higher proportion of street checks than any other group.³⁷⁹ 'Street checks' occur when police stop individuals and question them, even if they are not investigating any particular offence.³⁸⁰ These

disruptive and humiliating practices may be experienced by Indigenous people differently depending on their specific identity and relationship to the state. This report does not convey the breadth of experiences in interacting with the state for Indigenous people who are status-holding versus non-status; Métis, First Nations, or Inuit; and those who reside in urban, reserve, or rural communities.

In recognition of one Indigenous woman's experience of discriminatory policing, the BC Human Rights Tribunal ordered the Vancouver Police Board to implement training for its officers to minimize the effects of stereotypes against Indigenous peoples.³⁸¹

Over-policing is a reality for other groups who experience marginalization in one or more forms. A majority of the 76 people who participated in a 2018 study, many of whom had been criminalized for substance use, "would never call the police if they were in trouble."³⁸² Transgender people surveyed in Ontario in 2013, particularly those who were racialized, experienced high rates of harassment by police.³⁸³ To many sex workers, the police represent a threat of harassment or violence rather than protection.³⁸⁴ And for those experiencing homelessness, observation by police is nearly constant, with some homeless people in Vancouver being approached by police multiple times per day.³⁸⁵

 *Criminalizing people is giving permission to vandalize them.*

INTERNATIONAL LAW

CEDAW Article 12

[...] 2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Yogyakarta Principle 9:

Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity.

States shall:

[...] (b) *Provide adequate access to medical care and counselling appropriate to the needs of those in custody, recognising any particular needs of persons on the basis of their sexual orientation or gender identity, including with regard to reproductive health, access to HIV/AIDS information and therapy and access to hormonal or other therapy as well as to gender-reassignment treatments where desired;*

(c) *Ensure, to the extent possible, that all prisoners participate in decisions regarding the place of detention appropriate to their sexual orientation and gender identity;*

(d) *Put protective measures in place for all prisoners vulnerable to violence or abuse on the basis of their sexual orientation, gender identity or gender expression and ensure, so far as is reasonably practicable, that such protective measures involve no greater restriction of their rights than is experienced by the general prison population;*

[...] (f) *Provide for the independent monitoring of detention facilities by the State as well as by non-governmental organisations including organisations working in the spheres of sexual orientation and gender identity [...].*

Yogyakarta Principle 35 (YP+10)

[...] *States shall:*

[...] (e) *Ensure that places of detention have adequate sanitation facilities which can be accessed safely and with dignity by all detainees, staff and visitors without discrimination on grounds of sexual orientation, gender identity, gender expression or sex characteristics.*

LIMITED ACTION: The Vancouver Police Department (VPD) updated its policy on street checks in January 2020, and now requires officers to have a “justifiable reason” to stop an individual.³⁸⁶ According to the BCCLA, the review that informed the policy change denied that the VPD had made arbitrary stops in the past, and maintained that street checks are beneficial without providing strong support for the legality or usefulness of the practice.³⁸⁷ Some aspects of the new policy are positive, but the BCCLA points to concerns about auditing and accountability processes.³⁸⁸

HARMFUL ACTION: The BC government passed legislation in 2019 that creates a way for neighbours to police one another and for authorities to evict tenants with fewer procedural safeguards. The *Community Safety Amendment Act* allows neighbours to make anonymous complaints to a Director of Community Safety about activities like illicit substance use, gaming, or suspected gang activity.³⁸⁹ The Director can then seek a court order prohibiting a person from entering a particular property or ending a tenancy agreement.³⁹⁰ Individuals’ past criminalization can be used in a determination about current wrongdoing, including instances when a court has found a person to have committed a criminal act but to lack responsibility due to mental illness.³⁹¹ Individuals will have to face an action in court rather than at the more user-friendly Residential Tenancy Branch. In addition to these procedural concerns, the new legislation is redundant. It duplicates parts of the *Criminal Code* and the *Residential Tenancy Act* which already attach consequences to carrying out illegal activities on private properties.³⁹² As the BC Civil Liberties Association (BCCLA) cautions, the *Act* creates an avenue for targeted prejudicial harassment and is likely to worsen the over-policing of vulnerable communities, particularly Indigenous women and girls.³⁹³ For sex workers, the law could exacerbate housing insecurity by creating a channel for neighbours to complain about workers seeing clients.

SENTENCING AND PROBATION

ACTION: The provincial government announced that BC’s seventh Indigenous sentencing court would open in Williams Lake in April 2020.³⁹⁴ Indigenous sentencing courts aim to use a “holistic and restorative” approach to sentencing Indigenous individuals.³⁹⁵ The specialized courts purport to focus on healing plans rather than punitive measures, and some Indigenous women who have appeared before the specialized courts have described them as more compassionate and understanding than traditional courts.³⁹⁶ However, the courts are only accessible to those who plead guilty.³⁹⁷ And participation in restorative processes may be unsafe for survivors of intimate partner violence.³⁹⁸ Finally, it is hard to draw conclusions about the specialized courts’ success in reducing the incarceration of Indigenous people due to BC’s failure to collect and publish data on sentencing and recidivism outcomes.³⁹⁹

“” Restorative justice

“” Healing circles

“” Too focused on punishment not enough on rehabilitation

“” Equitable system, outside of the limits of the colonial legal system

INACTION: When a person is convicted of a criminal offence or released on bail, judges often choose conditions from documents called “picklists” which contain standard wording.⁴⁰⁰ In January 2020, the Provincial Court of BC revised its picklists for bail, probation, and conditional sentences,⁴⁰¹ but failed to eliminate wording that steers judges towards harsh conditions. For example, a judge can include wording which imposes a



curfew, prohibits an individual from carrying drug paraphernalia or from entering a proscribed area (known as a red zone), or even banishes them from an entire city.⁴⁰² Red zones have been criticized for failing to prevent repeat offenses, and for instead causing homelessness, isolation, and dislocation from essential services including addiction treatment and safe consumption sites.⁴⁰³ Curfews can disrupt women's ability to protect themselves by relying on their social networks.⁴⁰⁴ According to the Court's announcement, the changes to the picklists were made in consultation with judges.⁴⁰⁵ Future changes should involve consultation with communities themselves and incorporate the recommendations of Pivot's *Project Inclusion* to create responsive rather than destructive sentences.⁴⁰⁶

INACTION: We know that racialized people are massively overrepresented in prisons,⁴⁰⁷ but neither the provincial nor federal governments publish data which would help identify to what extent this is due to sentencing disparities. Concerned individuals in other provinces have undertaken research that confirms that Indigenous people in particular receive longer sentences than their non-Indigenous counterparts.⁴⁰⁸ BC needs to gather information on sentencing to better understand disparities for Indigenous and other racialized people. This type of information is also necessary to assess systemic bias against gender-diverse people.

HARMFUL ACTION: The *Civil Forfeiture Amendment Act* received Royal Assent in 2019,⁴⁰⁹ and will require accused individuals to prove that their belongings are not the proceeds of criminal activity in order to prevent them from being seized.⁴¹⁰ This creates what is called a "reverse onus" because the burden of proof is on the person who is facing accusations from the state. Individuals facing the seizure of assets do not have access to legal aid, making the burden particularly onerous.⁴¹¹ The BC Civil Liberties Association has stated that the proposed change is likely unconstitutional.⁴¹² The stated purpose of the law is to combat the fentanyl trade,⁴¹³ but it does not draw any distinction between high-level and subsistence-level dealers. This means the law could help the state remove assets from people who live in poverty, making it more difficult for them to build stability. In this way, the Act could entrench rather than deter criminal involvement. The new changes are particularly problematic in combination with provisions which already allow the government to seize assets without providing evidence of wrongdoing through a process called administrative civil forfeiture.⁴¹⁴

BC needs to gather information on sentencing to better understand disparities for Indigenous and other racialized people. This type of information is also necessary to assess systemic bias against gender-diverse people.



PRISONS

Prison Conditions

ACTION: The province announced in June 2019 that the Nanaimo Correctional Centre will be replaced with a new “campus-style” facility by 2023.⁴¹⁵ The centre will “add a new 12-room unit for short-term custody for women from Vancouver Island” as well as “modernized spaces” for programming. This update will improve the physical space of the facility, but there is no indication that the project will bring about significant institutional change.

ACTION: Budget 2020 allocates “\$14 million to initiate reforming the use of segregation practices.”⁴¹⁶ The *Mandela Rules*, the United Nations’ standards for the treatment of prisoners, prohibit solitary confinement of prisoners for more than 15 days and state that uses of solitary confinement must be used only exceptionally, and be subject to independent review.⁴¹⁷ An official at BC Corrections also tells us that regulations are being changed to prohibit unlawful segregation practices.⁴¹⁸ According to Jennifer Metcalfe, Executive Director of Prisoners’ Legal Services (PLS), BC Corrections has made some progress in reducing overuse of solitary confinement, but racialized prisoners and prisoners with mental health disabilities continue to be confined for long periods of time. There needs to be more investment in health-oriented alternatives to segregation, says Metcalfe.⁴¹⁹

“People NEED daily human contact... The ability to socialize & form meaningful relationships

Overrepresentation of Indigenous & Black People

INACTION: There is a lack of data on the proportion of Black people and other racialized groups who are incarcerated in BC. At the federal level, data from 2012 showed that Black people represented less than 3% of the general population but more than 9% of the population incarcerated in federal institutions.⁴²⁰ Even though BC has a comparatively small Black population,⁴²¹ it is critical that the province gather data on racial inequities in prisons in order to be responsive. BC Corrections did tell us that inmates now self-report information including their race, gender, and citizenship, a change that PLS views as positive.⁴²²

INACTION: To our knowledge, the BC government did not take any significant new action in 2019 to improve prison conditions for Indigenous inmates, despite the dramatic and increasing overrepresentation of Indigenous people,⁴²³ particularly women, in BC prisons. In 2017-2018, 46% of incarcerated women in BC were identified by institutions as Indigenous,⁴²⁴ though only 6% of women in BC self-identified as Indigenous as of 2016.⁴²⁵ In youth prisons, the trend of Indigenous overrepresentation has persisted as well. Canada-wide data shows that, in 2017/2018, almost half of youth admitted to correctional facilities were Indigenous, though only

REVOLVING
DOOR

see
patterns
& investigate

To our knowledge, the BC government did not take any significant new action in 2019 to improve prison conditions for Indigenous inmates, despite the dramatic and increasing overrepresentation of Indigenous people, particularly women, in BC prisons.

8% of youth in Canada are Indigenous.⁴²⁶ *Red Women Rising* identifies the prison system as a continuation of the colonial trauma of residential schools. The report calls for an end to solitary confinement for Indigenous women, for automatic initial placement of Indigenous women in minimum security level facilities,⁴²⁷ and for programming in prisons that is accessible, geared towards decarceration and reintegration, and not contingent on inmates' security classification or behaviour.⁴²⁸ But the report maintains that, to end the cycle of colonization, the government's foremost priority needs to be the "full decarceration of Indigenous women."⁴²⁹

Transphobia in the Prison System

INACTION: Data on prison demographics are collected federally and categorize inmates as 'Male' or 'Female,'⁴³⁰ erasing trans and non-binary prisoners. But research from Ontario found that transgender prisoners experienced heightened physical and verbal violence even when they were placed in institutions that matched their gender.⁴³¹ There is no reason to think that the circumstances of transgender people are any better in BC's prisons. BC needs to collect data on transgender people's experience in prisons, and to develop alternatives to incarceration. To our knowledge, there was no significant government action in 2019 to improve prison conditions for trans people in BC. However, several cases covered by the media and the courts give insight into the realities facing gender-diverse people in BC prisons.

Hayden Patterson is bringing human rights complaints for the treatment she received at the Surrey Pretrial Services Centre (a men's prison) and the Alouette Correctional Centre for Women.⁴³² Ms. Patterson was held at Surrey Pretrial Centre for six months past the time that a doctor recommended she be transferred to a women's facility. When Ms. Patterson was transferred to a women's prison, she says she was made to sign a "Behaviour Contract" with the prison, which stated that she was not allowed to request to bunk with another prisoner and restricted how she could express her gender.⁴³³ Ms. Patterson's matters are currently awaiting hearing.

Similarly, Michelle Wiens was denied transfer from Surrey Pretrial Centre to a women's facility in 2017, and is now bringing a human rights complaint.⁴³⁴ When she was incarcerated, Wiens says that her request for privacy when using the bathroom and showers was denied, and that she was consistently misgendered.⁴³⁵ Wiens also states that she asked to be placed in solitary confinement in order to protect her personal safety, believing this was her only option because prison staff did not make her aware that she could apply for transfer to a women's facility.⁴³⁶

Bianca Bailey Lovado was a transgender woman who also sought to be transferred from Surrey Pretrial Centre to a women's facility. Her request was denied in October of 2018, shortly after changes were made to BC Corrections' *Adult Custody Policy* which weakened trans prisoners' rights to be appropriately housed.⁴³⁷ Where the policy previously stated that transgender inmates' placement in prisons should be based on their self-identified gender or housing preference, the September 2018 changes made inmates' gender identity only "a factor to be considered in placement."⁴³⁸ Ms. Lovado brought an action in BC Supreme Court to challenge the decision, but she passed away in late 2019.⁴³⁹ The judge hearing the matter declared that the issue was moot after her death.⁴⁴⁰ These outcomes underline the need for the government to take proactive steps to protect the rights of transgender prisoners, rather than leaving the onus on extremely marginalized groups to bring legal challenges.

 *Countering false narratives that ...*

- *Trans people are violent — we aren't.*

- *Trans people are sexual abusers, “men” are faking transness to get into women’s prisons — this is a false narrative.*
- *It would be sufficient to create a “third space” for queer people — it wouldn’t.*

REINTEGRATION AND REHABILITATION

ACTION: BC Mental Health and Substance Use Services introduced community transition teams to help people who have recently been incarcerated to access health and addictions support.⁴⁴¹ The initiative is responsive to the BC Death Review Panel’s 2018 finding that people who have been recently released from prison are at heightened risk of fatal overdose — 18% of those who fatally overdosed were within a month of release from prison.⁴⁴² The new teams are each made up of a social worker and a peer with lived experience of substance use, the correctional system, or both. They work with clients for the thirty days following release to help connect them with medical services and other supports.⁴⁴³ The teams are currently in five BC communities and there are hopes to expand the project in 2020.⁴⁴⁴

INACTION: BC prisons fail to take simple steps which would allow people to preserve their social safety nets during incarceration and which would facilitate their reintegration into society upon release. For example, BC Corrections should allow inmates to make free phone calls and to visit loved ones outside of the prison setting.⁴⁴⁵ Prisoners’ Legal Services (PLS) noted that, though BC Corrections has policies which theoretically allow temporary absences, they are seldom granted, and staff at PLS could not remember a client being permitted to visit a family member’s funeral.⁴⁴⁶

INACTION: Community groups decry a continued lack of support for people who are released from prison. To counteract the destabilizing effect of prisons, *Red Women Rising* calls on government to provide supports including housing, counselling, and childcare.⁴⁴⁷

- “” Funding for folk after they are out of prison
- “” Revolving door
- “” People who made bad youth decisions trapped in system as adults
- “” Better support reintegrating into society

SUMMING UP

The BC government has still not adequately addressed major human rights concerns surrounding criminalization. Indigenous people continue to be incarcerated at appallingly disproportionate rates, and transgender people in prisons continue to face dangerous conditions. While BC’s plan to reform solitary confinement practices is encouraging and long overdue, and it remains to be seen how far the changes will go towards fully respecting human rights. And, troublingly, BC recently passed two pieces of legislation, that *Community Safety Amendment Act* and the *Civil Forfeiture Amendment Act*, that are likely to exacerbate the criminalization of marginalized groups.

RIGHTS OF PARENTS, CHILDREN, AND YOUTH

WHEN ASKED which areas of BC government action and inaction were having the biggest impacts for families with children, many community dialogue participants expressed deep concerns about **the child welfare system**. In particular, they emphasized the need for youth in care to have strong rights and be informed of their rights, and they criticized the severe over-representation of Indigenous children and youth in government care.

Child apprehensions continue to impact Indigenous families in BC at a grossly disproportionate rate — a consequence of ongoing colonial injustice. At the end of 2018, 4,100 of the 6,400 children and youth in care in BC were Indigenous⁴⁴⁸: fully 64%. A recent report suggests that this devastating inequality is even more pronounced for Indigenous children and youth with disabilities and their families, who often lack access to appropriate support services and education in their home communities.⁴⁴⁹ According to a 2019 report prepared by West Coast LEAF based on knowledge shared by Indigenous caregivers at Fraser Region Aboriginal Friendship Centre, Lii Michif Otipemisiwak Children and Family Services, and Tillicum Lelum Friendship Centre, BC's child welfare system is riddled with systemic problems including a lack of accountability for government actors, gaps in supports, and ongoing colonialism.⁴⁵⁰

“STOP TAKING INDIGENOUS KIDS FROM THEIR KIN

Foster care system is broken

Many dialogue participants also identified a need for enhanced **supports for families** (especially supports for parents and youth who are transgender and/or queer). They highlighted the needs of queer and trans children and youth who are rejected or otherwise harmed by their families of origin, as well as the needs of queer and trans parents, foster parents, and caregivers faced with systemic discrimination that impedes equal access to parenting.

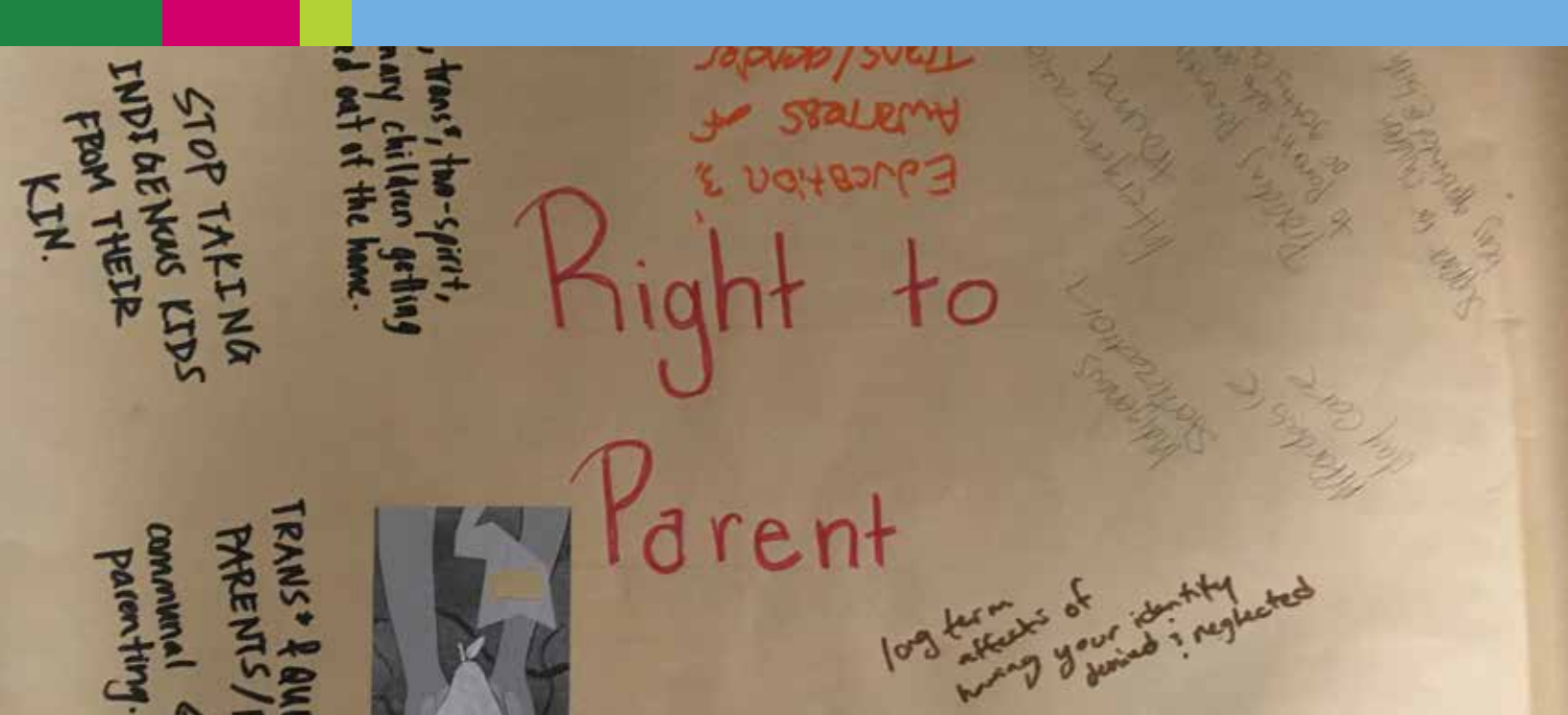
Who has to fight to parent? Who should have the right to parent?

The prevalence and impacts of **family violence**, in all of its forms, were also a notable focus in the dialogues. Several contributors called for BC's **family law** system to become more responsive to the realities of violence and the needs of survivors.

C

Some action taken.
Needs continued
improvement.

When asked which areas of BC government action and inaction were having the biggest impacts for families with children, many community dialogue participants expressed deep concerns about the child welfare system.



Affordable, universal, high-quality **child care** was also identified as a priority in one of the dialogues. Indeed, child care is an area of BC government policy with profound ramifications for the human rights of parents and other caregivers, when it comes to economic security, health, the ability to flee violence, the likelihood of contact with the child welfare system, and more.⁴⁵¹ And, given persistent gender imbalances in the division of caregiving labour in our society,⁴⁵² child care is certainly a gender justice issue.

INTERNATIONAL LAW

Yogyakarta Principle 24

Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of sexual orientation or gender identity of any of its members. [...]

CEDAW Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

[...] (c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

[...] (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

THE CHILD WELFARE SYSTEM

Overrepresentation of Indigenous Children and Youth in Care

- *Millennial Scoop*
- *Need to learn connections & lineage & history*
- *Culture is a big thing*

ACTION: In 2019, BC announced an end to birth alerts: a practice whereby families deemed ‘high-risk’ were flagged for contact with the child welfare system, without their consent, before the birth of their children.⁴⁵³ These alerts were being issued because of suspected problems with substance use or violence, or simply because the parents themselves had been involved with the child welfare system as youths.⁴⁵⁴ When it banned birth alerts, BC introduced a new policy allowing MCFD and medical staff to engage in pre-birth planning and information sharing between agencies only with the consent of the pregnant person.⁴⁵⁵ BC’s move to eliminate birth alerts is in keeping with the finding of the National Inquiry into Missing and Murdered Indigenous Women and Girls that “Birth alerts are racist and discriminatory and are a gross violation of the rights of the child, the mother, and the community.”⁴⁵⁶ While many Indigenous advocates welcomed the end of birth alerts as a change they had long been pushing for, they also emphasized how much more action was still needed to make significant progress on systemic discrimination in child welfare.⁴⁵⁷ It is currently unclear what will happen to children previously apprehended as a result of birth alerts⁴⁵⁸ or whether BC will provide the supports that pregnant people, new parents, and infants need to thrive.

BC’s move to eliminate birth alerts is in keeping with the finding of the National Inquiry into Missing and Murdered Indigenous Women and Girls that “Birth alerts are racist and discriminatory and are a gross violation of the rights of the child, the mother, and the community.”

ACTION: In 2019, the Cowichan Tribes signed a letter of understating (LOU) with the governments of BC and Canada agreeing to a framework and process to implement Cowichan jurisdiction over child welfare. This LOU is in line with the principle affirmed by the Truth and Reconciliation Commission that Indigenous governments have a right “to establish and maintain their own child-welfare agencies.”⁴⁵⁹

ACTION: BC’s strategic plan for 2019/20-2021/22 additionally refers to ongoing discussions between the BC government and the Shuswap Nation Tribal Council, Huu-ah-ayt First Nations, and Northern Secwépemc te Qelmuw (NStQ) regarding jurisdiction and self-determination in child welfare matters.⁴⁶⁰

LIMITED ACTION: In 2019, changes to the *Child, Family and Community Service Act (CFCSA)* came into force to allow BC’s Ministry of Children and Family Development (MCFD) to share more information with Indigenous communities from the time an MCFD file is first opened. In a press release, the BC government explained that the amendments to the law were intended to ensure that Indigenous communities have “greater involvement in child-welfare decisions to help keep their children out of care, safe in their home communities, and connected to their cultures.”⁴⁶¹ As a result of the changes, the *CFCSA* now includes as guiding principles that Indigenous families and “Indigenous communities share responsibility for the upbringing and well-being of Indigenous children,” and that Indigenous children are entitled to “belong to their Indigenous communities” and to “learn about and practise their Indigenous traditions, customs, and languages.”⁴⁶² However, many have voiced concerns that the new legislation will not significantly transform the child welfare system, that it leaves critically important recommendations unfulfilled, and that it was developed in a rushed and unilateral way.⁴⁶³

Bill C-92

An important piece of context for understanding the current child welfare landscape in BC is the federal government's recent passage of Bill C-92 (*An Act respecting First Nations, Inuit and Métis children, youth and families*),⁴⁶⁴ which supplements BC's *Child, Family and Community Service Act (CFCSA)* and will prevail in case of any conflict between the two pieces of legislation. The new federal Act gives Indigenous governments the right to exercise their own jurisdiction over child welfare regulation in their communities, although many have questioned whether it goes far enough in this direction.⁴⁶⁵ Ultimately, the impact of Bill C-92 in the lives of Indigenous families in BC will depend very much on how much funding will accompany it, how broadly it will be interpreted, and how consistently it will be applied.⁴⁶⁶

LIMITED ACTION: The total number of Indigenous children and youth in care at the end of 2018 was the lowest since 2014, raising the possibility that certain steps taken by the BC government may be helping to keep families together.⁴⁶⁷ That said, the fact that fewer young people are in government care cannot be taken to mean that those children and youth not in care and their families have access to the services and supports they need. Moreover, the population of Indigenous young people in care is decreasing at a slower rate than the population of their non-Indigenous counterparts.⁴⁶⁸ The result is that the proportion of children and youth in care who are Indigenous is growing, even as the total population of youth in care declines.⁴⁶⁹

HARMFUL ACTION: In January 2019, MCFD expanded the range of educational and experiential qualifications it would accept for frontline staff. Although preference continues to be given to applicants with degrees in social work, hiring managers can now consider certain other educational credentials when these are combined with two or more years of work experience.⁴⁷⁰ This change was aimed at improving diversity — especially when it comes to representation of Indigenous workers — and at addressing recruitment challenges in certain regions. While MCFD does urgently need to increase the number of Indigenous workers it hires,⁴⁷¹ and while understaffing and the resulting heavy caseloads for MCFD workers are an extremely dangerous systemic problem,⁴⁷² accountability and oversight are compromised when workers are not part of a regulated profession. West Coast LEAF has called on MCFD to explore the possibility of creating a regulatory body for child welfare workers, to work with the BC Association of Social Workers to assess and address impacts of changes to its hiring policy, and to include caseloads and staffing needs as part of its annual audit process.⁴⁷³

HARMFUL ACTION: Alarming, a shrinking percentage of Indigenous children who are adopted in BC are placed in Indigenous homes: from 51% in 2015/16 to just 23% in 2018/19.⁴⁷⁴ Urgent action is needed for BC to reverse this regressive trend.

HARMFUL ACTION: Research published by Discourse Media in 2019 documented MCFD's long-term failure to meet its own performance standards: in Child Welfare Practice Audits from 2014 to 2018, MCFD routinely gave itself "a failing grade on nearly 40 per cent of its critical performance measures."⁴⁷⁵ MCFD has said that problems revealed by internal audits become the focus of action plans, which are then monitored for implementation. However, one long-term MCFD employee reported that there is in fact very little follow-up on the areas of concern uncovered by audits.⁴⁷⁶

Rights of Youth in Care and Youth Ageing Out of Care

- “”” *Hard for youth-in-care, MCFD pushes this aside, does not want them to have knowledge, Minister won't say what they have rights to, important to know what they have rights to*
- “”” *Better group homes*
- “”” *Support for children being apprehended at birth*

LIMITED ACTION: In 2019, the Fostering Change campaign urged the BC government to make good on its stated commitment to ensuring universal access to the Agreements with Young Adults (AYA) program, which provides some financial and other assistance to youth who have recently aged out of care.⁴⁷⁷ The abrupt withdrawal of financial and other supports when youth age out of government care has dire consequences for their security, safety, and well-being, and often leads to homelessness.⁴⁷⁸ Fostering Change pointed out that some youth cannot access AYA because of where they happen to live or which MCFD staff member happens to be working with them, and that the rigid enforcement of eligibility requirements deprives youth of needed services such as mental health care. They called on BC to ensure province-wide consistency in administering the program to meet youth needs and to eliminate the requirement for enrollment in a life skills program. While BC's 2020 Budget does provide for a slight expansion of AYA eligibility,⁴⁷⁹ the changes do not go far enough and are expected to benefit only about 250 young adults every year.⁴⁸⁰

INACTION: Under BC's child welfare legislation, children younger than 12 have no legal right to have their views heard and considered regarding their care and permanent living arrangements.⁴⁸¹ The Society for Children and Youth of BC recommends law reform to ensure that children's perspectives are sought out and respected in matters of such fundamental importance to their lives.⁴⁸² Indeed, a recent study by the Representative of Children and Youth of BC found that many youth with experiences of homelessness could recall experiences with the child welfare system where “their voices were not respected or taken seriously,” which were a serious contributing factor to their becoming homeless.⁴⁸³

HARMFUL ACTION: The BC government failed to produce records relevant to the rights of children and youth in care after a request was submitted by the Representative for Children and Youth (RCY), who is researching young people's right to legal representation in child welfare, family law, and mental health legal proceedings. A BC Supreme Court judge found that the RCY clearly has a right to the requested information in order to conduct her investigation.⁴⁸⁴ BC's resistance to releasing these records shows a concerning lack of transparency.

The fact that fewer young people are in government care cannot be taken to mean that those children and youth not in care and their families have access to the services and supports they need.

Supports for Families Engaged with the Child Welfare System

- “” Providing parenting skills to parents who are at risk of getting children taken away
- “” Scared to speak out because the finger might be pointed at you. e.g. your relationship is a bit unstable but you're scared to talk about it or ask questions because your child might be taken away.
- “” Fathers need same rights to parent as mothers — > all parents are parents

ACTION: BC's budget for 2020 includes \$146 million for a range of supports for children, youth, and families, including:⁴⁸⁵

- \$84 million to support children in care
- \$24 million for autism supports
- \$23 million for services that support the well-being of children and youth, including child welfare legal services, a medical benefits program to assist families with the costs of caring for children and youth with severe disabilities, and permanency services with the aim of reducing the number of children and youth in care
- \$5 million for the Cultural Connections Program, which supports Indigenous children to maintain connections with their community and participate in cultural programs

ACTION: For the first time since 1989, the province increased respite care funding, an investment that cut the waiting list for respite services in half. The \$6.3 million dollar increase is providing respite services to 1,300 families, as well as increasing the base annual funding amount per family from \$2,800 to \$3,080 annually.⁴⁸⁶ This funding will allow more families to access services from qualified professionals, and will reduce caregiver stress and associated risks to health and well-being.

LIMITED ACTION: The BC government increased financial support rates for all caregivers as of April 2019⁴⁸⁷ and eliminated a gap in the compensation received by foster parents and by caregivers participating in the Extended Family Program (EFP)⁴⁸⁸ — which allows for children and youth to be cared for by family members, important friends, or people who are culturally or traditionally connected to them.⁴⁸⁹ However, the EFP is designed to be a temporary program (although it may remain in place indefinitely through a series of extensions⁴⁹⁰), and it is not available to legal guardians, including kinship caregivers who are caring for children through a *Family Law Act (FLA)* guardianship order rather than an EFP agreement reached under the *CFCSA*.⁴⁹¹ Only a tiny minority of the children living in kinship care arrangements are benefiting from the EFP, partly because social workers often do not provide information about the program to caregivers who are eligible⁴⁹² and sometimes actively encourage the *FLA* guardianship path or adoption instead.⁴⁹³ West Coast LEAF has recommended that MCFD provide all kinship caregivers with a plain-language fact sheet outlining all available options.⁴⁹⁴ We have also called for a universal benefit for all children and youth being cared for by their kin, all of whom need extra support to cope with the trauma of family separation.⁴⁹⁵

INACTION: Poverty-related child apprehensions are devastatingly widespread and violate the human rights of children and parents.⁴⁹⁶ Parents struggling to keep their children out of government care have long been speaking out about how unjust and counterproductive it is that they cannot access the same financial supports as foster parents.⁴⁹⁷ At this time, it is unclear what portion of MCFD's budget goes towards supporting parents at risk of having their children apprehended.⁴⁹⁸

INACTION: Some advocates with firsthand knowledge of the child welfare system in BC have sounded the alarm about the chronic underfunding of MCFD and the systemic problems that result, including unmanageable caseloads for workers, inadequate professional supervision and ongoing training, and low wages compared to other government social work positions. Frontline workers face a number of other obstacles to carrying out their work in the best possible way, including limited decision-making powers; the risk of vicarious trauma; a lack of institutional support for finding creative solutions with families; and low public regard for their professional role. Worker turnover tends to be high, which leads to disruptions and inconsistencies for families in contact with MCFD. These system-level problems need to be addressed before families can be properly and fully supported.⁴⁹⁹

Support for Queer and Trans People in Families

QUEER AND TRANS YOUTH

- “Long term effects of having your identity denied and neglected
- Children’s right for justice from gender/oppressive parents
- Queer, trans*, two-spirit, non-binary children getting kicked out of the home

QUEER AND TRANS PARENTS

- Denied access
- Support for same sex people that want to foster
- Trans parents post divorce: proper access to children, legal visitation rights, etc.
- Destigmatize trans women breastfeeding — better resources & research & information

INACTION: To our knowledge, the BC government has not taken recent steps to respond directly to the needs of queer and trans youth within unsupportive families, or to the needs of queer and trans parents seeking to assert their parental rights. Both were areas of concern highlighted by community dialogue groups. Recent research by BC’s Representative for Children and Youth found that discrimination and stigma based on gender identity and sexual orientation, within families and in the broader community, are significant drivers of youth homelessness. Many young people with lived experience of homelessness who participated in the study “highlighted a lack of supports for LGBTQ2S+ young people and a need for safe environments.”⁵⁰⁰

INACTION: The Society for Children and Youth of BC has recommended government-funded “education and training to legal professionals regarding LGBTQ2S+ inclusivity and the negative impacts, especially for children, of identity-erasing practices such as intentional misgendering.”⁵⁰¹ To our knowledge, the BC government has not moved to introduce such training.



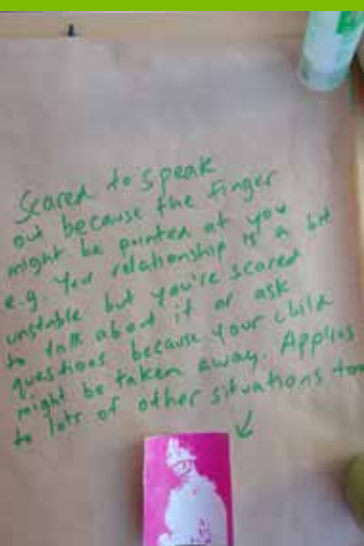
INACTION: Inadequate access to family law legal aid, as detailed in the Access to Justice section of the Report Card, may have particular consequences for transgender, Two-Spirit, non-binary, and gender non-conforming people within families. Recent court cases suggest that litigation can be an important avenue for transgender parents to assert their parental rights,⁵⁰² as well as for transgender youth to enforce their right to access gender-affirming medical care against the wishes of one or more parents.⁵⁰³

FAMILY LAW AND VIOLENCE

- “” Domestic violence
- “” Gender based violence offenders forfeit their parental rights. It should be the sentence.
- “” Every man who is on a birth certificate should be made to pay child support. It's tied to taxes, income, bank account, etc. Too many women are impregnated nonconsensually.

INACTION: Advocates have raised concerns about the difficulty of obtaining fair child support, which can be a major barrier to escaping abuse. The current system places an unjust burden on child support recipients (disproportionately women) to fight for the payments they are owed. For example, when a person ordered to pay child support has an increase in income, there is no automatic increase in child support; the onus is on the recipient to go to court to ask to change the child support order. Moreover, a person who does not fully disclose assets and income for the purpose of determining child support rates is unlikely to face consequences. Enforcement services need to be quicker and more effective.⁵⁰⁴

INACTION: Advocacy groups continue to be concerned about the consequences of court-ordered parenting assessment reports under section 211 of the *Family Law Act* for the rights of women and children in family law cases involving violence.⁵⁰⁵ These concerns include the overuse of the reports; many assessors' lack of qualifications regarding family violence; the lack of risk assessments and safety planning; the cultural inappropriateness of the assessments, particularly for Indigenous families; the misuse of psychological testing; the assessors' lack of impartiality;⁵⁰⁶ and the reports' costliness for parents (which places a disproportionate burden on women and others who face systemic economic inequalities).⁵⁰⁷ In 2018, the BC government indicated that it was considering introducing requirements for assessor qualifications,⁵⁰⁸ but it has not yet done so, even though mediators, arbitrators, and parenting coordinators under the *FLA* are all required to have special training.⁵⁰⁹ At least one former psychologist in BC has been investigated multiple times over concerns regarding improper parenting assessment reports, which have resulted in at least one mother losing almost all access to her children.⁵¹⁰



INACTION: According to some advocates, legal restrictions on relocating with a child after separation place a disproportionate burden on survivors of family violence in rural and remote areas. Outside of large towns and cities, survivors often lack access to necessary resources including housing, employment, and social services, and they often find it difficult or impossible to avoid their abusive ex. Yet, they must give notice to their ex before moving to a bigger and safer community and may be brought to court over the matter and ordered not to leave.⁵¹¹

CHILD CARE

ACTION: BC is continuing with its Childcare BC Plan and has committed to funding the remaining 11,600 of 22,000 promised new child care spaces this year.⁵¹² According to the Canadian Centre for Policy Alternatives, BC's historic investments in child care are responsible for reducing the living wage needed for a two-parent, two-child family to afford basic necessities in communities across BC.⁵¹³ A May 2019 survey found that a majority of parents in BC who had dealt with the child care system found the government's new measures to be beneficial.⁵¹⁴

ACTION: In partnership with the federal government, the Aboriginal Head Start Association of BC (AHSABC), and the First Nations Health Authority (FNHA), the provincial government announced a \$30 million dollar expansion of the Aboriginal Head Start (AHS) program. Six-hundred new, free child care spaces will be made available in 30 communities in BC. Each AHS program is tailored to the community it serves and offers high-quality and culturally specific early childhood education.⁵¹⁵ A recent report recommended a single and stable funding model such as AHS for Indigenous early learning programs, in order to save providers from spending their limited time and resources competing for multiple sources of funding.⁵¹⁶ So, the expansion of AHS is a step in the right direction even if it does not respond fully to the need for culturally appropriate care for Indigenous children.

ACTION: BC has taken some significant steps to attract and retain early childhood educators (ECEs). Through the Early Care and Learning Recruitment and Retention Strategy, ECEs have been granted a \$2 per hour wage enhancement from the BC government over the past two years.⁵¹⁷ The province is also funding an additional 620 ECE student places at post-secondary institutions over the next three years⁵¹⁸ and additional student bursaries through the ECE Education Support Fund. Due to the high demand for the bursaries, some applicants were waitlisted, but extra funding allocated to the program this year has increased the number of students receiving bursaries.⁵¹⁹ Because the majority of ECE students are women, this program has particular benefits for women's careers options and financial security.

ACTION: In 2020, the BC government introduced legislation to recognize that school boards can operate their own onsite child care rather than relying on separate licensed providers to offer child care on school grounds. School boards will be eligible for provincial government grants to create and run these child care facilities. This change holds promise for expanding access to before-school and after-school care conveniently located at schools children already attend. What's more, participating school boards "will be required to have a child care policy in place that addresses reconciliation and inclusive education commitments."⁵²⁰

ACTION: During the COVID-19 pandemic, BC introduced temporary emergency funding to support licensed child care facilities and the families who depend on them. This funding covers about 20% of average operating expenses for child care providers that close temporarily due to the public health crisis and about 75% of expenses for providers that stay open. This funding is available only on the condition that child care facilities waive fees for parents who have withdrawn their children temporarily, maintain spaces for all enrolled children, and prioritize inclusion for children with extra support needs.⁵²¹

LIMITED ACTION: Although the Childcare BC Plan has reduced the financial burden associated with child care, affordability remains a pressing concern. The latest report on child care costs by the Canadian Centre for Policy Alternatives (CCPA) found that the BC government’s fee reduction initiative for child care was more or less cancelled out by inflation between 2017 and 2019, at least when it comes to child care for preschoolers. During this two-year period, the amount paid by parents stayed approximately the same in Vancouver, Burnaby, and Richmond, and actually increased in Surrey, despite government measures to make child care more affordable.⁵²² The CCPA concludes that some child care providers, particularly for-profit centres, ended up benefiting from the fee reduction initiative themselves by increasing their fees rather than passing the savings to parents.⁵²³ The CCPA observes that, although government has given some indication of being aware of the problem of spiraling child care costs, “there are still not hard and fast limits” on allowable increases to child care fees.⁵²⁴

INACTION: The \$10 a Day campaign is calling on BC to “develop a provincial child care capital budget, separate from the operating budget” and work with public partners to add child care modular buildings on public property. Additionally, it recommends investing in child care facilities as a public capital project, rather than providing significant capital funding to for-profit businesses to offer child care.⁵²⁵

INACTION: The provincial child care licensing system has been criticized for failing to distinguish between Indigenous and non-Indigenous programs and lacking attunement to Indigenous approaches to child-rearing and the importance of Elders and culture.⁵²⁶ In a recent study of Indigenous not-for-profit early learning programs in BC, some participants expressed that licensing seemed to depend too much on individual officers’ discretion and interpretation of the legislation. In Northern communities, some Indigenous child care facilities additionally reported hurdles in becoming licensed because they could not remain open daily in cases of extreme weather.⁵²⁷

SUMMING UP

BC continues on the path towards universal child care — a welcome policy direction. However, inaction in other areas continues to undermine the well-being of families in BC. The child welfare system is riddled with systemic problems that disproportionately harm Indigenous families. While BC’s move to end birth alerts is a positive and hard-won change, questions remain about what will happen to children previously apprehended as a result of birth alerts, and what new supports (if any) the government will provide so that infants and new parents can thrive together. What’s more, BC’s family law system presents significant barriers and risks for parents and children who are survivors of gender-based violence.

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In collaboration with community, West Coast LEAF works to advance gender equality and human rights through litigation, law and policy reform, and public legal education in British Columbia.

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