



"Defending the Rights of Mothers"

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The titles given to my assignment here – "State Obligations to Mothers" and "Defending the Rights of Mothers" made me blink, because as a long-standing defender of the rights of women, I had to think, one more time, about the relationship of mothers to women, and women to mothers.

So I begin by stating some starting places. To defend the rights of mothers we have to defend the rights of women. All women are perceived to be mothers, whether we have children or not. This leads to restrictions on women's access to non-mother roles, and, because mothering is de-valued, to less power, authority, income and wealth for women. To defend the rights of mothers, we have to defend the rights of women to be mothers **and** workers/ educators/ scholars/ judges/ public actors, at the same time, and/or at different times over the course of a lifetime. To defend the right of women to be mothers **by choice** we also have to defend the right of women not to be mothers – to, as Pat Robertson said, "leave their husbands, kill their children, and become lesbians" or, in more current terms, never have husbands, always be lesbian, and procreate, if at all, with the help of a sperm bank.

So first of all, all women, mothers or not, are affected by how mothers are perceived and treated. Secondly, mothers are never **only** mothers. And thirdly, defending the rights of mothers requires defending the right of women **not** to be mothers. Women need freedom **from** family, as well as freedom **to** family. Only when that is a fully realizable choice, without economic or social penalty, will women be liberated. We are not there yet.

Social conservatives claim the turf of motherhood. They say that they are better defenders of mothers than we are. But they have only pat, sentimentalized and thoroughly outdated views of mothering to offer. Mothering is sometimes great, sometimes hell. Sometimes women are good at it, sometimes not. Sometimes we are better at it than others, sometimes better with one child than another. Mostly women love their children; but sometimes we don't even like them. Mothering is demanding, fascinating, boring, heart-breaking, exhausting, and gratifying, all at once, or by turns. The **real** lives of women in families is our subject matter. Our job is to



defend the rights of the women who are mothers and the women who are not mothers - to equality, liberty and security.

That said. Let's get to the mothers and the defending part. What are the state's obligations to mothers? As well as the constitutional guarantees of equality, liberty and security, there are a number of obligations set out in international human rights treaties that Canada has ratified. I will name just a couple, and substitute the word mother for 'everyone' or 'woman'. They sound different.

The *International Covenant on Economic, Social and Cultural Rights* guarantees mothers:

- an adequate standard of living, including food, clothing and shelter without discrimination based on marital status, race, disability, or any other ground.

Under the *Convention of the Elimination of All Forms of Discrimination Against Women*, Canada is obligated to:

- Modify the social patterns of conduct of fathers and mothers to eliminate stereotyped roles;
- Ensure that mothers have the right to work and equality in work, including:
 - equal pay;
 - maternity leave with pay;
 - safe working conditions while pregnant;
 - supporting social services so that mothers can combine family obligations with work responsibilities and participation in public life, in particular through the development of a network of child-care facilities.

There is more. But perhaps this is enough for now.

One reason why these international human rights are useful is because they flesh out the meaning of the open-textured constitutional rights to equality, liberty and security. Canada is required as a signatory to ensure that there is



an effective domestic remedy available for the violation of any of these rights. The Government of Canada says that it implements these rights through domestic legislation, such as, for example, the Employment Insurance provision of maternity leave benefits, and generally through the *Charter*. The Supreme Court of Canada has stated now a number of times that the "*Charter* should be presumed to provide at least as great a level of protection as is found in the international human rights documents that Canada has ratified" and that legislators should be presumed to be creating laws that are consistent with Canada's international obligations.

I want to talk about single mothers – because their situation is paradigmatic. It sheds light on the state's view of women and mothering - and, I want to talk in particular, about the right of single mothers to an adequate standard of living.

Single-mother led families are an increasingly common family form. Single mothers now head about 20% of all Canadian families. And most of the children living in single **parent** families live with single mothers – in 1996 about 92% are living with single mothers. The percentage of single mothers is higher among Aboriginal families, and census data tells us that Black women and South Asian women are more likely than White women to be single mothers.

Before 1960 the main reason for single motherhood was the death of a spouse. Now, however, the main reason is divorce or separation from a partner. The growing numbers of single mothers can be viewed as a success of feminism. These mothers represent a hard-fought victory for women to be able to choose their sexual and life partners, to choose to leave, and to choose whether or not they will raise their children in a conjugal relationship with another parent. The right of women to choose to enter and to leave a conjugal relationship and to parent outside of the patriarchal family is an important liberty right. It is a necessary freedom in any society that claims to respect women's human rights and equality.

But the fight for recognition of the sexual and mothering liberty of women is certainly not over. The evidence lies in the fact that single mothers – the ones who have left or been left - have the highest poverty rate of any group in Canada. For most of the last decade, over half of all single mothers have been living below the poverty line. Poverty rates among single mothers



continue to be vastly higher than for any other family groups, or for **any other** group, including women overall, Aboriginal people, people of colour, or people with disabilities. We also know that poverty rates among young single mothers and Aboriginal single mothers are astronomically high. About 73% of Aboriginal single mothers live below the poverty line, and around 74% of single mothers under 25. By comparison, the poverty rate for single father is about 15%.

And then there are the children of the single mothers. A child living with a single mother is more likely to be poor than a child living in any other family configuration. In 2001, 45.4% of Canadian children living with single mothers were poor. The poverty rate for children living with single fathers was 20.6% and for children living in two-parent families was 10.8%.

Not surprisingly, given this picture, the proportion of single mothers who rely for some time period on social assistance is much higher than for any other group. In 2000, about a third of single mothers were social assistance recipients.

So while women's liberty to choose when, how and with whom to have sex and to parent is perhaps recognized in a formal way by the state in family law, and especially in the *Divorce Act*, the state nonetheless chooses to punish single mothers for being single and mothers by legislating their poverty. Let me use B.C. to illustrate what I mean by 'legislating their poverty'.

In 2002, in British Columbia, under what is called a "liberal" government, the government took the following steps:

- Cut social assistance rates for families for the first time in 20 years. A single parent family in 2002 received less than the same family 10 years earlier.
 - The cut included a cut to the basic support portion of welfare for single parent families; a cut to the shelter allowance for families of 3 or more; elimination of the family maintenance exemption which allowed women to keep 100 dollars a month of child support payments owed by a spouse; elimination of the earnings exemption, which allowed single mothers to keep 200



dollars a month of earnings. For single mothers, the reduction in rates, combined with the elimination of exemptions, meant that some saw a drop of their benefits of over \$380 dollars a month.

- Continued to claw back the National Child Benefit Supplement from single mothers on social assistance.
- Changed the definition of "employable" so that single mothers are now considered "employable" when their youngest child is 3, down from 7. (In 1994, a single mother with a dependent child under 12 did not have to prove that she was seeking work to be eligible for benefits.) The penalty for a single mother with all her children over the age of 3 failing to meet her employment related obligations is a \$100 reduction in benefits.
- Amended welfare regulations to explicitly disqualify full-time students from eligibility for social assistance. (Before 2002, single mothers were specifically recognized as a group in need of social assistance while engaging in full time studies. But now even teen parents on social assistance studying full time to complete grade 12 in college-based programmes have to leave welfare and apply for student loans to continue their education.)

In addition, the B.C. government made other changes that also affected single mothers and their prospects. These included:

- Diminished child care funding, subsidies, resource and referral services, making an already inadequate child care system worse and adequate day care more difficult, not easier to obtain
- Weakened employment standards, including introduction of a new training wage 2 dollars lower than minimum wage; loss of statutory holiday pay for part-time workers; overtime "flexibility" taking away a fixed daily or weekly overtime rule; 2 hour rather than 4 hour call-out times; introduction of a do-it-yourself labour standards enforcement kit; and repeal of pay equity provisions in the *Human Rights Code*.
- De-regulated tuition fees, with the result that between 1999 and 2004 tuition fees for public universities and colleges in B.C. rose by 84.4%.
- Eliminated grants for needy students.



- Eliminated key education supports and training programs, including bridging programs for women escaping violence and abuse.

What is the impact:

- The Dieticians of Canada, whose concern is nutritional health and food security, report annually now that single mothers on social assistance in B.C. cannot feed themselves and their children adequately. They also note that single mothers are the group most likely to go hungry because they put themselves last, taking care, as best they can, of the needs of their children first.
- Other social policy experts, who have undertaken various analyses of rates and costs of living, report more generally that a single mother cannot feed, clothe and shelter herself and her children adequately on social assistance benefits in British Columbia.
- The pre-conditions for poor single mothers to move into employment with wages and working conditions capable of sustaining them and their children have been weakened, not improved. Accessing affordable, safe child care – a *sine qua non* for a working single mother - is difficult, if not impossible. Workplace protections have deteriorated, and access to higher education, which studies and policies in other countries demonstrate is **the** most reliable avenue to single mothers obtaining employment capable of supporting themselves and their children, has been cut off.
- For the children, the evidence is in that poverty at an early age has life long effects on health, school readiness and educational achievement.
- And then there is the risk of poor single mothers losing their children. Sixty-five percent of all child apprehensions are from single parents on welfare. And in B.C. Aboriginal children are 6.3 times more likely to be removed from their homes than non-Aboriginal children. Mothers living in poverty, especially those who are racialized are vulnerable to child welfare authorities precisely because these mothers and their children live under conditions of deprivation maintained by the state: inadequate food, substandard shelter, inadequate child care, inadequate clothing, and generally impoverished environments. This makes parenting extremely challenging. So single mothers, and Aboriginal single mothers at an even higher rate, have their children apprehended because they are living in conditions of poverty that the



Government of British Columbia, through its legislative choices, has decide to maintain, and worsen.

Consider these contradictions:

The Government of British Columbia, like other governments, makes sanctimonious pronouncements about the importance of the family – as the building block of society. It also says that – and I quote – “Key to any family’s well-being is the means to support and provide for its members – especially children.” The same government denies the families on welfare, the vast majority of whom are single-mother led families (16, 446 in 2004 compared to 2,077 two-parent families) an adequate level of income support, and ensures that they experience damaging economic deprivation.

The Government of British Columbia says that it cares about children. “The future of any province and any family is its children.” But it cannot care for poor children except by caring for their poor parents, and particularly for their poor mothers. The professed concern for children’s welfare stands in sharp contradiction to the government’s refusal to provide social assistance that permits an adequate standard of living for poor single mothers and their children. And, further, the state cannot claim to care about children but deny women adequate child care. If women can make only unsafe or inadequate arrangements for their young or pre-teen children, children cannot flourish. Caring about children means providing publicly funded childcare that is affordable, accessible and of good quality.

The Government of British Columbia says it cares about work. Murray Coell announced that the changes to social assistance were a switch from a system based on entitlement to one that would move recipients into work. So single mothers with children over 3 are required to seek and take available paid work, but, without adequate child care, these women are asked to leave their children in unsafe conditions, or face a reduction in their already inadequate welfare benefits. And access to good employment is cut off because access to secondary education is cut off. This belies a real interest in paid work as the answer to the poverty of women and children. Marginal paid work does not end it, and women cannot access even marginal work in the paid labour force without child care.

The Government of British Columbia, like other Canadian governments, says that it cares about violence against women. But what it offers women



escaping violence is poverty, unsafe housing, inadequate child care, and hunger.

The message is that the state cares about families, but not poor single mother-led families. The state cares about children, but not the children of poor single mothers. The state believes in work but not in making access to decent work with decent income a reality.

The contradictions demonstrate that discriminatory myths and prejudices are still at play.

Among them are these:

- Single mothers' poverty is their own fault – the result of bad personal choices. They are the undeserving poor, and society, the state, owes them nothing.

This is not true. Single mothers poverty is caused by a number of factors, including the undervaluing of child-raising work, the lower value attached to women's paid work, the lack of child care, and the conflict between child-raising and paid work responsibilities.

- Single mothers have too many children at too young an age. They are sexually irresponsible.

This is also not true. Vast majority of single mothers have 1 or 2 children and most single mothers are between the ages of 25 and 44.

- Single mothers don't work and are sponges.

*This is only true if child-raising is not recognized as work, and only work in the paid labour force is. As the sole parent, single mothers have to both provide child care and economic support. They are then penalized economically because the two are **made** incompatible by state policy in the form of inadequate social assistance and lack of child care.*

- The children are deserving, but the mothers are not.



This is an excuse for doing nothing. The only effective way to help poor children is help their parents. We cannot care for poor children and loath their poor mothers at the same time. The most recent statistics tell us that in 2005 just under half of all the children living in low income families – some 320,000 Canadian children – lived in families headed by single mothers. It seems obvious that if we genuinely care about poor children, we could make a good start by dealing with the poverty of single mothers.

Of all these myths and prejudices, the most important underlying one is that single mothers are an affront to the traditional male breadwinner/female caregiver family model, and that the poverty of single mothers proves that this is an undesirable and unstable family form.

But the traditional conception of the family does not reflect anything that is inevitable. Some would say that the economic plight of single mothers is clearly the result of failed social welfare, child care and labour policies. I would go a step further. The harshness of these failed policies leads me to conclude that the poverty of single mothers is a manifestation of the state's profound discomfort with, and unwillingness to support, the autonomy of women.

So those are the rights and the violations of the rights. What about the defending, the action part.

Here are two strategies:

The National Association of Women and the Law and the Canadian Feminist Alliance for International Action, along with the Native Women's Association of Canada and the Elizabeth Fry Society and others, have worked over the last decade to build United Nations treaty body jurisprudence about the poverty of women and the erosion of social programs as violations of women's human rights.

We have done this by making submissions, starting in 1998, to treaty bodies: the Committee on Economic, Social and Cultural Rights (CESCR) in 1998, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2003, the Human Rights Committee (HRC) in 2005, CESCR again in 2006, and the Committee on the Elimination of Racial Discrimination (CERD) in 2007. In these submissions, we have



raised issues of women's poverty, homelessness, inadequate housing, social assistance, civil legal aid, social program cuts, fiscal restructuring, employment insurance, pay equity, child care, discrimination against Aboriginal women in law, appalling socio-economic conditions of Aboriginal women, racist practices and rules affecting women of colour and especially African-Canadian women, as violations of women's rights to equality and an adequate standard of living under international law.

There is now a remarkable consensus among the treaty bodies about serious failures on Canada's part to live up to its treaty obligations. Treaty bodies repeatedly express their concern about:

- High rates of poverty, particularly among women and groups of vulnerable women including single mothers, Aboriginal women, women of colour, immigrant women, and women with disabilities;
- Cuts to social assistance, restricted access to welfare, inadequate welfare rates, restrictions on employment insurance, inadequate minimum wage rates, provincial clawbacks of the National Child Benefit Supplement;
- Inadequate housing, especially for women and children and Aboriginal people;
- The negative impact of the 1995 budget and fiscal rearrangements which have led to social program erosion, with disproportionately harmful effects on women;
- Women's inequality in the labour force, poor implementation of pay equity, the racialized underclass in the labour force and overrepresentation of women in non-standard work;
- Inadequate child care;
- Inadequate civil legal aid, particularly with respect to family law and poverty law;
- Barriers to women leaving abusive relationships, including inadequate social assistance, housing, and child care.

In 2005 and 2006 the HRC and the CESCR in their concluding reports stated forcefully that Canada's failure to implement recommendations that have been made repeatedly raises questions about the sincerity of their commitment to human rights. The HRC made a direct recommendation that



Canada set up a new institutional mechanism to monitor compliance and ensure that recommendations are implemented.

The work done to get to this point is extremely important. Many do not like us for "airing Canada's dirty linen in public", for blotting Canada's international reputation as a human rights leader. But an essential part of this work is rooted in the Canadian feminist tradition of the last 25 years of defining what is necessary for women to enjoy equality, in fact.

As a friend said to me recently: "International human rights law is not about piety. It is about norms. By asking the treaty bodies to define concretely Canada's failures to meet its obligations, we establish the meaning of the norms of equality and an adequate standard of living in Canada today."

Now we have moved to a second phase of this work. Having helped to develop the treaty jurisprudence about violations, now our work is to get the state to correct them. This requires many different strategies at home to make it clear to governments that we take international norms seriously, consider them a part of domestic law, and expect Canada to live up to its obligations to women and to mothers.

Recently the Poverty and Human Rights Centre in Vancouver has worked with West Coast Women's Legal Education and Action Fund on the development of a human rights complaint on behalf of single mothers focussed on the changes to social assistance made in 2002. We believe that similar complaints could be framed in every province. The allegation is that the welfare scheme discriminates on the basis of sex by failing to take into account, and to accommodate, the particular situation of single mothers.

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

I encourage agitation on behalf of single mothers. If we believe in the liberation of women, we have to be the best, most vocal, most imaginative defenders of the rights of the poorest single mothers, because their liberty is liberty for us all.



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*This paper is based on a report on single mothers in British Columbia written in 2005 by Gwen Brodsky, Melina Buckley, Shelagh Day and Margot Young. The report is entitled **Human Rights Denied: Single Mothers on Social Assistance in British Columbia**. It can be found at: <http://www.povertyandhumanrights.org/docs/denied.pdf>.*