

**Working for Love and Money**

**Submission of the Vanier Institute of The Family  
to  
The Government of Canada's  
Federal Labour Standards Review**

August 2005

## Executive Summary

This submission from the Vanier Institute to the Commission examines the stress experienced by families as they seek to accommodate the often-competing demands of work and family responsibilities. The challenges in balancing this accommodation is viewed through the eyes of today's families and family members who are dedicated to their jobs precisely because they are strongly motivated to provide for themselves and their loved ones.

Vanier suggests that the assumptions about both jobs and families that have been embedded in public policy for decades are now outmoded in a context of:

- profound labour market restructuring;
- two wages per household as normative;
- increasing numbers and proportions of lone-parent households without the opportunity to field more workers;
- growing earnings inequality between those who hold good jobs and those who hold bad jobs;
- the distribution of wealth as now skewed by the aging of the baby-boom population; and,
- globalization which results in greater insecurity at the personal level regardless of whatever benefits it might mean macro-economically.

The importance of paid labour as a foundation of public identity as well as the benefits and protections it affords in the context of a 'knowledge-based' economy is assessed in order to appreciate the tension between the jobs done by Canadians in the workplace and the jobs Canadians do at home to the benefit of their families and communities.

Vanier offers a number of specific 'family-friendly' policy options for consideration, and suggests, in particular, that the Review might choose to lend support to an increased minimum wage, family leave and lactation support as well as extended benefits and protections in acknowledgment of the need for updated labour standards in an era of increasingly non-standard employment.

The Institute acknowledges the need to sustain some of the traditional roles of labour standards while, at the same time, enlarging their non-legislative significance. It is, we think, likely that the non-legislative role and the public education role of federal labour standards will prove increasingly important in the years to come. Most successful societies, economies and legal systems work only because the large majority of citizens choose to do what is right, even without recourse to the law.

## **About The Vanier Institute of the Family**

Since its establishment forty years ago, the Vanier Institute of the Family has pursued its mandate to “promote the well-being of Canadian families.” Its nationally representative Board of Directors and professional staff are dedicated to making the quality of family relationships as important to the life of Canadian society as it is to the lives of individual Canadians. To this end, the Institute carries out applied research to support its programs of public education and advocacy. It works regularly with elected officials, policy makers, educators and researchers, the business community, the media, social service professionals, the public and Canadian families themselves. The Institute is respected as a reliable source of accurate information and reliable commentary about what today’s families look like, what they do and how they feel (i.e., the structural, functional and affective dimensions of family life). Its mission is to provide leadership on the importance and strengths of families in Canada and the challenges they face in their structural, demographic, economic, cultural and social diversity.

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# Introduction

This submission from the Vanier Institute of the Family to the Federal Labour Standards Review Commission examines the stress experienced by families as they seek to accommodate the often-competing demands of work and family responsibilities. The challenges in balancing this accommodation is viewed through the eyes of today's families and family members who are dedicated to their jobs precisely because they are strongly motivated to provide for themselves and their loved ones.

We note with sincere appreciation that the Commission has, in its *Consultation Paper* explicitly acknowledged the need to balance work and personal/family responsibilities as a key challenge facing individual employees, their families, unions, employers and governments. In itself, recognition that the personal and family circumstances of job-holders is relevant to how the Commissioner will propose to revise the Federal Labour Standards Code is encouraging. We say this in recognition of the profound changes that have occurred in recent decades, changes that have redefined both the jobs we do and the families we seek to provide for with our jobs.

## 1965 and 'The Times - They were a Changin'

The work of the Vanier Institute began in 1965. Coincidentally, the last time that the Canada Labour Code was reviewed in a comprehensive manner was in 1965. A year earlier, Bob Dylan heralded a new era with the lyrics of his anthem, '*The Times – They are A-Changin*'. And, sure enough, significant changes would soon enough manifest themselves, but, at the time, families, jobs, communities and public policies were still organized on the basis of a number of assumptions like the following:<sup>1</sup>

- Mothers are available to raise the children and take care of frail elders and any other dependents;
- Men and women will want to have enough children to replace themselves;
- Employees are males who arrive at work largely unencumbered by family obligations;
- One full-time job earns a wage sufficient to support a financially dependent spouse and three or four children;
- All couples are married and (it goes without saying in 1965) heterosexual;
- Almost all marriages last a lifetime;

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<sup>1</sup> For an insightful discussion of how assumptions about the socio-demographic profile of Canadian society that are now outdated are evident within existing public policy frameworks, See: Jane Jenson (2004). "Catching Up to Reality: Building the Case for a New Social Model. Ottawa: Canadian Policy Research Network Social Architecture Papers, Report F/35.

- Most jobs last for a lifetime;
- Most employees enter the labour market after high school and spend a lifetime honing their skills and ‘learning on the job;’
- The standard work week of 40 or 44 hours runs from Monday to Friday and Sunday is the ‘Lord’s Day’;
- With the exception of homes and automobiles, purchases are made with cash or by cheque;
- Almost all citizens are white, speak English or French and go to Catholic or Protestant churches every Sunday;
- These typical citizens lived in typical homes in typical neighbourhoods.

On the basis of these assumptions, a full battery of public policies could be quite reliably constructed:

- The state’s responsibility for children begins at age five;
- Income security provisions would pertain to only a small proportion of the population;
- Widowed mothers and other (‘unfortunate’) single mothers deserved income security support because their job - like that of all women with young children - was in the home;
- Old Age Security and CPP/QPP benefits, when supplemented by increasingly popular private and public pension plans would protect the financial security of seniors;
- Post-secondary educational financing would be required to support the academic aspirations of only a minority, albeit a growing minority;
- Minimum wages would keep pace with inflation and hold their purchasing power;
- Labour market participants would be gainfully employed for well over 2/3s of their lives and would draw retirement benefits for only a few years (in sharp contrast to today when more years of education coupled with earlier retirement has reduced the economists’ ratio of ‘active’ to ‘dependent’ years to about 50/50);
- Housing policies reflected the assumption that families wanted to and (by virtue of cheap oil) could be housed in the suburbs;
- Medical schools were designed to train a relatively static ratio of obstetricians and orthopedic surgeons.

**Today, forty years later, any characterization of the typical Canadian employee, citizen, or family would be inaccurate and a profoundly misleading guide to public policy.**

As difficult as their job may have seemed to the architects of the Canada Labour Code back in 1965, it is now apparent that it was then easier than it is today to draft ‘*standard*’ labour standards when the labour force was comprised of typical males who comprised a labour force of typical employees living in typical homes and doing typical jobs.

Today, forty years later, any characterization of the typical Canadian employee, citizen, or family would be inaccurate and a profoundly misleading guide to public policy. Quite frankly, when you are interviewing someone for a job these days, you do not know (and you must not ask) if they go to Church, temple or synagogue; if they are single, married or ‘living in sin’ to use an old fashioned language; if they are the sole earner in a family; if they

are a parent, and if so, whether or not they are a full-time parent or a part-time parent on Mondays and Tuesdays or alternate weekends. Moreover, the job you want them to do may be casual, temporary, contractual; it may involve early morning, late afternoon and evening or graveyard shifts; it may be time-limited with few, if any, expectations on anyone's part of advancement or career development; it may or may not come with benefits; and, in practically all instances, it can be filled by a woman or a man.

## 40 Years Later - By the end of the 20th century:

- 7 out of 10 couples raising children counted on the earnings of **both** Mom and Dad; in only 15% of all families with earnings is Dad the sole breadwinner;<sup>2</sup>
- Decreased rates of marriage, increased proportions of non-marital conjugal unions, increased rates of separation and divorce, remarriage/re-partnering, delayed ages at marriage and childbearing, smaller families, high rates of immigration and increased numbers of visible minority populations have all contributed to changing the profile of the Canadian labour force and the family responsibilities of those who participate in it:
- The boomers who grew up with three or four brothers and sisters decided to have only one or two kids when it was their turn; the fertility rate is well below the 'replacement rate' of 2.1 children per woman with two significant consequences:
  - societal aging is primarily a result of decreased fertility and smaller family size;
  - population stability and/or growth is now dependent on increased levels of immigration with the consequence being a dramatic increase in the racial, ethnic, religious, cultural and linguistic diversity of Canadian society, a diversity that is experienced far more in certain provinces, regions, cities and neighbourhoods than others.
- There are proportionately more lone-parent families today than there were forty years ago and there is a larger proportion of lone-parents holding jobs in the labour market than was the case in years gone by. As such, the labour force is partially comprised of family members who must 'do it all on their own.' The dissolution of conjugal relationships (married or cohabiting) accounts for most, though by no means all, of the lone-parent families comprising more than one of every six family households at any one point in time and which are raising close to one out of every five children at any point in time. Almost one quarter (22.3%) of those families raising dependent children are headed by lone parents.<sup>3</sup> Although most lone-parent families are led by women, courts are now far more likely to assign joint custody. (Note: Lone-parent families are not new; today, they represent 15.6% of all families, not really that much higher than the 13.6% recorded back in 1931 due to desertions and widowhood);

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<sup>2</sup> Vanier Institute of the Family (2004). **Profiling Canada's Families III** (PCFIII) Ottawa: VIF, pages 68, 70, 72, 74, 84, 90 & 'The Current State of Family of Family Finances - 2004 Report by Roger Sauve published by VIF, p. 23.

<sup>3</sup> Roderic Beaujot (2000). *Earning & Caring in Canadian Families* Peterborough, Ont.: Broadview Press, p. 89.

- Family incomes that lost purchasing power for close to 15 years have recovered in the recent past and have, in fact, never been higher. But, we must keep in mind that the notion of family income today implies two earners. More than three out of four couples with children at home send both mom and dad out to work for pay. 82% of all female lone-parents are holding down jobs. After transfers and taxes, dual wage-earner families bring home, on average, \$17,300 more than single wage-earner families.
- Moreover, the relationship between family income and number of earners is straightforward: the higher the income of the family, the more likely it is that it is earned by two jobholders. In Canada, 82% of those families earning average family incomes per year have two earners.
- The consequences of the trend toward dual wage-earning families as statistically normal and culturally normative for those families that cannot or choose not to have two incomes are severe. Mothers who are lone parents and their children are 4 to 5 times more likely to live
  - in poor families. One-third of single moms and their kids live on incomes below the Statistics Canada low-income lines and that is after taxes and transfers have been accounted for.
  - 46% of all employees in Canada are parents of children still living at home (and a good number of the others are parents of children who have moved away from home but are still looking for some advice, affection and, last but not least, money);
- In families with children, the second earner (usually the wife) brings in, on average, 35% of the total household income; in families without dependent children, the proportion is close to half at 43%;
- The average hours worked per week by dual wage-earning couples both of whom have a university degree was about 89 in 2000; 87 for those who both had a college diploma or certificate; and, 84 for those with high school graduation.

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- Even though most family households now depend upon the earnings of both men and women, it is women who, on average, struggle most to balance their lives as employees and their lives as wives, mothers and daughters. Although men's attitudes about who should do what around the home may have changed, time use studies indicate that their behaviours have not changed all that much. As a consequence, it is women who are more likely to experience the 'time crunch' and to experience significantly higher levels of stress. Obviously, lone parents are even more likely to find the tensions between their jobs and their family responsibilities to be stressful because they have to do it all on their own.

- Increasingly, it is not simply the moms and dads who have employment earnings. Although it is difficult to find current information about the labour force participation rates of teenagers, it is known that:
  - The prevalence of part-time work among secondary school students is linked to economic cycles such that when the economy is strong more students hold jobs;
  - Youth employment rates in Canada were highest in 1989 and fell dramatically during the recession of the mid 1990s;



- Among full-time students in 1997, approximately one-third of boys and girls were holding part-time jobs during the school year;
- Most research on the effects of teenage employment on academic achievement suggest that so-called “light employment” not in excess of 15 or at the most 20 hours of work per week does not impede academic progress and, in fact, may contribute to positive school performance; part-time work in excess of this kind of modest commitment is known to decrease academic performance.<sup>4</sup>
- On average, Canadian households were able to put away \$2,540 at the end of 2002. However, it is essential to acknowledge that this calculation of average savings masks another more interesting and important fact; namely that six out of every ten households spent more on regular expenditures, incomes taxes and pension contributions than they earned in 2002. Earned incomes from the jobs we hold have not grown very much over the past 20 years while expenditures (especially on electronics, recreation, health care and education) have gone up dramatically. The only way one can finance these two trends is to forget about saving for a rainy day (or your kid’s college or your retirement) and/or borrow what you need to finance your current needs and desires. Sure enough, Canadians have never saved so little and borrowed so much.
- “...the care provided by family members and friends is a mainstay of our health and continuing care system. Without their involvement, our already embattled health care system would crumble.”<sup>5</sup> (For instance, among Canadians aged 80 and over, 39% of women and 46% of men are cared for entirely by family members and friends.
- Almost 20% of Canadians over the age of 45 were providing care to one or more family members or friends over the age of 65 in 2002.<sup>6</sup>

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—Janet Fast

## Some Policy-Relevant Contentions

These trends of family change and labour market participation that have been reviewed:

- have a long history;
- are systemic;
- reflect changes in the fundamental fabric of modern industrial societies; and, they are
- Irreversible.

<sup>4</sup> Charlie Naylor (1999). « How does working part-time influence secondary students’ achievement and impact on their overall well-being? BCTF Research Report, Section XII 99-EI-02. At: [www.bctf.bc.ca/ResearchReports/99ei02/report.html](http://www.bctf.bc.ca/ResearchReports/99ei02/report.html) See also, Sandra Franke (2003). “Studying and working: The busy lives of students with paid employment.” *Canadian Social Trends*, Spring 2003 – Statistics Canada cat. No. 11-008

And, Andrew Jackson and Sylvain Schetagne (2001) “Still Struggling: An Update on Teenagers at Work. Canadian Council on Social Development. Ottawa.

<sup>5</sup> Janet Fast (2005). “Caregiving: A Fact of Life.” In *Transition*. Ottawa: VIF, Summer, p. 4

<sup>6</sup> Ibid, p. 5.

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- **Irreversible.**

Those who would characterize these trends as nothing more than the result of personal choice, changed values, excessive material aspirations or ambition are, we suggest, simply naïve. As we attempt to adapt to our new circumstances, there are most certainly questions of private responsibility and individuals must assess their priorities in recognition of their needs, the needs of their families and of their communities. However, it is equally clear that there is a shared or collective responsibility to adapt to the significant challenges now confronting society, both because the jobs we do are so different than they were forty years ago, and because we who are the job-holders are so different in terms of our skills and our family

circumstances. It would be injudicious for governments at all levels to ignore these systemic and irreversible changes in the work and home environments, and the pressures they bring to bear in the arenas of commerce and civic affairs, trusting that somehow individual Canadian families will work through these issues on their own, coping as best they are able.

**These trends have a long history** - It may come as somewhat of a surprise when the historical record makes us recognize that the “times were already changin” well before the sexual revolution, the 60s counter-culture and the second wave of feminism. The true cultural revolutionaries were, in fact, those who came of age in the middle of the 20<sup>th</sup> century. It was, in fact, the parents of the baby-boomers who had:

- chosen to leave home and community;
- to work in different jobs than their parents and grandparents;
- to educate themselves;
- to choose whom they would marry and when; and
- to educate their daughters just like their sons.

More often than not, when Statistics Canada or the *Globe and Mail* reports on “New” social trends, they are reporting on the consequences of decisions taken long ago by our parents and grandparents. For example, in 2001, **for the first time in Canada’s history**, the proportion of women with university degrees was exactly the same as for men at 23 percent. This ‘new’ fact is the consequence of millions of individual decisions taken years and years ago by our parents and grandparents. It illustrates how apparently mundane decisions carry long-term and often unintended consequences. Similarly 80% (that’s 4 out of 5) of women aged 25-44 are now in the labour force setting another new historical landmark. These ‘new’ facts illustrate how the decisions that family members make about how to earn a living or how to raise a family have tremendous momentum.

**These trends are systemic and irreversible.** The dual wage-earning family is now normative - both statistically and culturally - for the following reasons:

1. There has been a significant decrease in the purchasing power of male wages;
2. Demographic aging results in pressure on all people of ‘working age’ to be active in the labour market (and, it is now clear that notions of ‘working age’ are now up for renegotiation);

3. The attitudes of young men and women *vis a vis* their respective responsibilities have changed fundamentally and now that the proportion of women with post-secondary credentials is equivalent to that of men, it is clear that they expect to make a contribution to the worlds of commerce and civic affairs, and most men expect women to make a financial contribution to the home as well;
4. The manipulation of consumer appetites and the dependence of the Canadian economy on domestic consumption reflects a systemic need to maintain or increase household spending power within an economy that is addicted to growth;
5. National prosperity is now dependent on the productivity, participation, purchasing power and TAXES paid by women on the basis of their earned incomes (amounting to more than 31 billion dollars in 2001 paid to the federal and provincial governments by women on the basis of their earned incomes).

## Jobs, Security and Personal Identities

The work we do has always been important as the principal means through which individuals provide for themselves and their loved ones. Most of us do, in fact, turn up at the factory floor, the office or the retail outlet precisely because we readily assume our responsibilities as providers. But, in industrially advanced societies, jobs have grown even more important to us as key aspects of personal identity.

Today, the jobs we hold and the ways in which our work at our workplaces is organized is central to our lives. It is from our jobs that most of us:

- derive a sense of security (both short and long-term);
- make a contribution and are acknowledged by other citizens for the contributions we make;
- are rewarded with entitlements that others do not (either justifiably or not) receive such as employment insurance benefits upon childbirth; and,
- derive a sense of identity as earned rather than inherited.

In the context of what has been characterized as a culture of ‘do-it-yourself biographies,’ your status in the community no longer depends on the name, religion or wealth you have inherited, but, instead on the education you have acquired, the skills you have mastered, and the incomes you earn on the basis of your personal achievements. Jobs have, in fact, displaced kinship and religion as the foundation of our public identities.

Given the centrality of jobs in the present-day context, it should come as no surprise to us to discover that our jobs and how they are organized and how they organize us have a determining role on many other facets of our lives – how we raise our children, how we care for elders, how anxious and stressed we are, how much we exercise and how well we take care of ourselves, how much time we have to devote to friends and community. Jobs are the central organizing principle around which we fashion the lives we live. Indeed, it is through our jobs that most of us acquire

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many of our rights. It can certainly be argued that certain kinds of needs might be better met simply because one is a member or citizen of a national community. However, such ‘universal’ remedies to inequity or injustice - though perhaps recommended - have in recent years received little support from citizens, politicians and policy-makers or their economic advisors. On the contrary, over the last twenty years, the policy assumption that has been dominant would have us believe that the performance of the public marketplace and the private decisions taken by family members should be sufficient to distribute well-being fairly and equitably or fairly enough and equitably enough. Of course, such a policy assumption may well prove to be misleading in a context of:

- profound labour market restructuring;
- two wages per household as normative;
- increasing numbers and proportions of lone-parent households without the opportunity to field more workers;
- growing earnings inequality between those who hold good jobs and those who hold bad jobs;
- the distribution of wealth as now skewed by the aging of the baby-boom population; and,
- globalization which results in greater insecurity at the personal level regardless of whatever benefits it might mean macro-economically.

## Labour – The Most Precious Resource

According to the OECD (Organization for Economic Co-operation and Development), more than half of the wealth of advanced industrial societies is now derived from intangible assets, namely the skills and intelligence and knowledge of the labor force. As Bill Wilkerson, the former president of Liberty Health says:

If you were to take \$100 and invest it in Microsoft, do you know what you would be getting? At the most, you would own one dollar’s worth of tangible assets – office buildings, machines, carpets, desks, chairs and Bill Gates cars and planes. Fully \$99.00 of your hard-earned cash is buying you the talents and experience and commitment of the people who work for the giant corporation. This is perhaps an extreme example of what it means to live in a ‘knowledge-based economy,’ but it is true that today the most important asset to any employer is the people who are able and willing to commit themselves to the corporate goals of their employers.

**In today’s world, human brains – not machines – are the backbone of the economy.<sup>7</sup>**

—*Bill Wilkerson*

And, as the management guru, Charles Handy, has written:

In organizations such as investment banks, advertising agencies or consultancies, there is almost nothing there except these intangibles. The building is leased along with the computers, the cars are on contract and the carpets are worn down. If anyone buys the business, they are buying a customer list, some product brands and maybe some research, but mainly, the hope that the best people working there will stay with the new owners for the ride. You can put a price on these things, of course, but you can’t own any of them (except perhaps the brands and the research) in

<sup>7</sup> As quoted by Margot Gibb-Clark, Oct. 20, *Globe and Mail*, p. B12.

<sup>8</sup> Charles Handy (1997). *The Hungry Spirit*. London: Hutchinson, p. 161.

any true sense of the word. You can't own hope. Those people assets which you have acquired and thought you owned could vanish overnight.<sup>8</sup>

No longer are we dealing with the three traditional factors of production as economists like to call them – land, labour and capital. There is, indeed, a fourth factor of production and it is arguably the most important. It is human capacity which combines training, motivation, health, imagination, capacity to communicate, emotional intelligence. And, it is not accidental that in this context, families seldom pass on land (or at least not much of it) or capital (or at least not much of it) or a trade. No, the most common and the most valuable legacy that parents give to their children is an education that starts with the greatest gift of all – literacy — and goes on to include educational aspirations and an identity as consumer that can be fulfilled only after certain labour market credentials have been earned.

In this context, perhaps aptly named as the 'knowledge-based economy, it is deeply ironic – even perverse - that Canada as a nation that aspires to prosperity through innovation is now burning out its talent at a very rapid pace. And, it is equally difficult to understand why, in an economy that is apparently so dependent on the experience, collected wisdom, corporate memory and talents of its workers, so many feel increasingly insecure about their jobs and the level of commitment that their employers demonstrate to them. In the increasingly competitive environment of the global economy, employees are well aware that their jobs and the financial security of their families are dependent on economic factors over which they exercise little, if any, personal control. And, they are also aware that employers may choose not to pay the customary premium for experience when productivity is measured crudely as output against the cost of a worker's time.

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Over the past twenty years, the applied research work carried out by Statistics Canada,<sup>9</sup> Linda Duxbury and Christopher Higgins<sup>10</sup>, Nora Spinks,<sup>11</sup> the Families and Work Institute in the United States,<sup>12</sup> the Vanier Institute of the Family,<sup>13</sup> Canadian Policy Research Networks,<sup>14</sup> confirm that the tension between our lives as workers and our lives as family and community members now represents a public issue of immense proportion affecting a majority of the population and affecting a minority of members severely. The evidence for this conclusion has been building over recent years and has already been consolidated and recognized by the Government of Canada.<sup>15</sup> A quick review of some of the evidence assembled in the recent past about the condition of the labour force suggest that:

- 1 in 3 Canadian employees experiences significant work/life conflict;
- ½ experience moderate to high stress;
- 4% of Canadians have panic attacks;
- 1 in 5 women are depressed according to Benefits Canada

<sup>9</sup> See, for example, <http://www.statcan.ca/Daily/English/030625/d030625c.htm> for some information on sources of workplace stress and <http://www.statcan.ca/Daily/English/991109/d991109a.htm> for information on time use and self-reported workaholism.

<sup>10</sup> See the following for list of links for access to a variety of significant work on the topic by Duxbury and Higgins.

<sup>11</sup> See the following website for a selection of resources produced by Work Life Harmony Enterprises at <http://www.worklifeharmony.ca/htdocs/htdocs/workshops.htm>

<sup>12</sup> See <http://www.familiesandwork.org/>.

<sup>13</sup> See <http://www.vifamily.ca/library/work/work.html> for a variety of resources available from the Vanier Institute of the Family including: *The Manager's Work-Family Toolkit, From the Boardroom to the Kitchen Table*.

<sup>14</sup> See, for example, <http://www.cprn.com/en/doc.cfm?doc=958>

<sup>15</sup> See, for instance, <http://www.sdc.gc.ca/en/gateways/topics/wnc-rsr.shtml>

- 1 in 4 actually report that they are burned out;
- The number 1 reason for doctors visits in Canada is high blood pressure – the number two reason is depressive disorders;
- Absenteeism costs \$3 billion per year;
- Stress costs another \$5.6 billion in health care costs (\$425 million in extra doctor visits alone);
- Conference Board of Canada reports an increase in the proportion of the labour force that is stressed between 1989 and 1999 from 26.7% to 46.2%;
- The Canadian Institute of Stress reports a 220% increase in stress leave between 1990 and 1999;
- 71% of corporate leaders identify as their number one problem the retention of skilled workers;
- And, for a jolly good reason – to train and equip a new staff member is now estimated to cost the equivalent of two to four years of salary;
- The baby-boomers who were raised on notions of loyalty and job security are about to retire and hand over the reins to an entirely different generation of workers - 57% of students now identify work/life balance as their PRIMARY goal – this is not a generation raised to believe in self sacrifice for the greater good;
- Caregiver strain is estimated to cost \$567 million in extra physician visits.<sup>16</sup>
- In total, \$6 billion is spent on high role overload, \$5 billion on caregiver strain, \$2.8 billion to high work to family interference and half a billion to high family to work interference;
- Forty percent of working mothers and 25% of working fathers are experiencing high levels of work-family conflict;
- Half of parents surveyed (by Duxbury and Higgins) report high levels of difficulty in managing their family time;
- Some years ago, 42% of respondents to another survey said they felt “all used up” at the end of a day;
- Women with young children who are employed full time report the highest levels of stress as they attempt to juggle the two sides of their lives, both of which seem to ask for a full-time commitment;
- Although men too have begun to catch up with women – insofar as they too experience conflict between their family and work roles - it is still the case that women carry the lion’s share of the childcare and domestic responsibilities. To be sure, the attitudes of men have begun to change. If asked, most men will now affirm that their attitudes and values have changed. They know they should be doing more with the kids and more around the house. But, the evidence tells us that their behaviours have not kept pace with their new image of themselves as fully participating, sensitive, new-age guys. Women, it is said, carry a “double burden” of earning money through their paid jobs while also continuing to assume most of the responsibilities for the children and household work.

<sup>16</sup> See [http://phac-aspc.gc.ca/publicat/work-travail/reports3/6\\_e.html](http://phac-aspc.gc.ca/publicat/work-travail/reports3/6_e.html)

We already know that family members care about this evidence because they are the ones trying to keep all the balls up in the air at once. And, if we are employers or union representatives, we should care about all this evidence:

- At least one-quarter of the human resource challenges faced by Canadian employers is the result of employees having to manage tensions between their responsibilities on the job and at home.
- A survey recently completed by the Canada Health Monitor reveals that employees are almost three times more likely to complain of health problems arising from workplace stress than from work-related illness or injuries.<sup>17</sup>
- The single most significant reason behind the increased rates of absenteeism recorded in recent years is the need to handle family responsibilities.
- More common among employees with child or elder care responsibilities are unscheduled days off, lateness, and excessive use of the telephone, missed meetings.
- Growing demands on the job are creating problems at home for time-starved employees who then end up feeling too stressed to work effectively in what amounts to a vicious circle or as the researchers characterized it, the 1-2 punch of work stress.<sup>18</sup>

We need to acknowledge that the only reason that the labour market could expect so much from its male employees in the past was precisely because George Bernard Shaw was right: behind every successful man there once was a woman who took care of him, fed him, calmed him down, raised his children, organized his life, and made sure he looked O.K. when he left the house. Only in the recent past has it dawned on us that you pay a lot for professional chefs, stress management experts, child care professionals, time management coaches and image consultants – all the goods and services that he and his bosses took for granted because when it was done well, it was seamless and invisible.

The evidence as summarized above demonstrates that our lives are out of kilter. It also suggests that we now risk jeopardizing our own health and the well being of our children and grandchildren if this is the legacy they inherit from us.

“Work-life conflicts trigger costs in terms of productivity, occupational and public health, the well-being of families, early childhood development, the sustainability of the voluntary sector and other social costs that cut across the traditional boundaries of policy making and government infrastructures.<sup>19</sup>

## It Is Time To Act

We have known this since 1941 when the International Labour Organization first identified the problem of work/family conflict. We have known it since the late 60s and early 70s when women joined the labour force in large numbers to discover that the labour market had not been designed with their family responsibilities in mind. And, we have been reminded yet again when the Minister of Health, the Honourable Ujjal Dosanjh, announced the appointment of the Honourable Michael Wilson, former federal finance minister, as special advisor on mental health in the federal government workplace.

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<sup>17</sup> As reported by Jane Coutts (1998). “Workplace Stress More Prevalent than illness, injury.” Globe and Mail, April 8.

<sup>18</sup> Work Family Institute research reported by Associated Press in Edmonton Journal, April 15, 1998.

<sup>19</sup> Canadian Association of Administrators of Labour Legislation (CAALL) Ad Hoc Committee on Work-Life Balance (2002). “Work-Life Balance: A Report to Ministers responsible for Labour in Canada,” P. 40.

For twenty years, the Vanier Institute has worked with others to identify the strains occasioned by work/life conflicts as employees, their families, our communities and businesses experience them. In that time, we have come to appreciate the efforts of certain employers and unions to adapt to the changing family circumstances of the labour force.

One of the first observations that comes to light when surveying the many examples of innovative policies and practices intended to ease the tension between work and family is that the most progressive and committed employers have tended to be large employers and, in fact, those which employ disproportionately large numbers of women. This concern that it was only large employers who had the capacity to respond led the Vanier Institute to create along with Nora Spinks of Work-Life Harmony Enterprises *The Manager's Work and Family Toolkit*. In it, we assembled many of the lessons learned by large employers in order to make them available to smaller employers often operating without sophisticated human resources departments and without the flexibility accorded to the larger employer by virtue of economies of scale and a large pool of employees with similar or overlapping skill sets. Concern about the limited capacities of small- and medium-sized operations to commit to and sustain positive work/life initiatives persists.

We note here that most of the industries that fall under federal labour standards are small- to medium-sized. **To whatever extent a revised and 'up-to-date' set of federal labour standards can point the way – using either legislative or non-legislative responses – to other small- and medium-sized employers is welcome as an important demonstration to employers without the resources of larger employers that positive and progressive adaptations are possible. This is but one example of how the significance of federal labour standards extends beyond the employers and employees directly covered by them.**

Most recently, we have commissioned Elaine Lowe to conduct a number of Conversations on Work and Well-Being: Steps toward Healthy Workplaces. Based on her conversations with key champions of innovation in their respective workplaces, she provides us with nine case studies of small, medium-sized and large organizations from the private, public and community sectors that have made the well being of their workforce a priority. One of the key lessons we derive from these conversations is that the need to adapt is common to employers, however, the strategies of response are likely to be diverse and dependent upon a number of factors: type of goods or service being produced; skills and qualifications of the labour force; scope of operations; nature of employee representation; geographical location and available services; organizational structure and management styles.

Admittedly, the Vanier Institute of the Family approaches the topic of work/life balance with a defined interest in the well being of the nation's families. It is, however, equally significant to identify why employers need to acknowledge the family circumstances of their workers for a variety of reasons: to attract and retain qualified personnel; to reduce labour turnover; curtail absenteeism; increase morale and thereby customer/client satisfaction; to comply with government regulations and or corporate policies; or to reduce stress and long-term disability claims.

The experience of employers who have demonstrated commitment to enhancing the balance between work and family has demonstrated that the business case in support of these initiatives is strong. Among those employers who are often cited as exemplars in promoting work/family balance are the Royal Bank of Canada, Xerox, Ontario Hydro, Dupont, Bank of Montreal, Levi-Strauss, Manulife, IBM, Hewlett Packard, Price Waterhouse, Macmillan Bloedel, Vancity Credit Union, Husky Injection Molding, Vancouver General Hospital, Western Glove Works (Manitoba), Nortel, Carleton Board of Education, M & M Meatshops, Lee Valley Tools, MDS Nordion, Canadian Imperial Bank of Commerce, Statistics Canada. The observation to underline here is that these employers are also recognized among the best managed and most profitable.



# Labour Standards in a New Era

With all this information about our families, our jobs and the tensions between them, what might be the role of labour standards in acknowledging the profound changes affecting both jobs and job-holders and in supporting the kinds of adjustments and accommodations that can ease the tensions between our responsibilities as employees and our responsibilities as mothers and fathers, sons and daughters, brothers and sisters?

The place to start in fashioning an answer to this question is to acknowledge that in one way or another, employers – big, medium-sized, small, private sector/ public sector, for profit/not-for profit, corporate or family-owned - are already accommodating to the family circumstances of their employees and assuming costs of short-term disability claims, accidents, productivity losses, turnover, career mobility limitations and inferior customer service. Consciously or unconsciously, explicitly or implicitly, well or not so well, employers are dealing with the fact that their employees do not leave home at 6:30 or 7:00 in the morning as free-standing atomized individuals. The evidence reviewed here impresses upon us the need for organizational investments in employees as though they were real people with real families living in real neighbourhoods and communities. It is no longer sufficient, if ever it was, to treat employees as nothing more than human capital or as the embodiments of specific job-related skill sets. It is now in the interests of both employees and employers if we can find ways to acknowledge that family matters and matters a lot.

**...in one way or another, employers – big, medium-sized, small, private sector/ public sector, for profit/not-for profit, corporate or family-owned - are already accommodating to the family circumstances of their employees and assuming costs of short-term disability claims, accidents, productivity losses, turnover, career mobility limitations and inferior customer service.**

## First Things First: Some Important Family Matters

It is important to remember that families are served by those labour code provisions that are not specifically defined as pertaining to the conflict between work and family responsibilities. For sure, regulations pertaining to maternity leave, parental leave, family leave are all vitally important to today's families.

In reality, however, it is often other labour standards that family members most appreciate such as those that regulate hours of work, vacation time, and part-time work. This understanding is analogous to the acknowledgement that there are both explicit and implicit family policies and it is often the implicit policies that exercise more influence on families than those explicitly designed to do so. For example, publicly sponsored health care and publicly financed education are not explicitly defined as family policies. They are, however, from the point of view of families, the policy domains that have perhaps the greatest impact on both the immediate and long-term interests of families.

In the same way, minimum wage legislation in the various provincial labour codes has been intended to protect individuals and is not explicitly intended as work and family provisions per se. Minimum wages do nevertheless influence dramatically the financial circumstances of family households and how many family members will seek employment and for how many hours each week. We note here that many families have been affected directly and profoundly by the diminished purchasing power of minimum wages that has been evident across the country. Other families have also been affected by the decrease in the protection once provided by minimum wages because these provincially established minimums have always served as a reference point for pay scales throughout the overall economy. Given that the federal minimum wage rate applicable to employees and employers under the legislative authority of the Parliament of Canada is simply pegged to the provincial minimum wage rates and in light of the leadership role that the federal government as employer assumes, it might be hoped that **the federal government and the**

**Minimum wages do nevertheless influence dramatically the financial circumstances of family households and how many family members will seek employment and for how many hours each week.**

provinces would work together to review the fundamental purposes of minimum wage legislation and, in fact, seek to renew and sustain the protections it once provided.<sup>20</sup>

Among the roster of priorities that family members would identify for consideration by the Federal Labour Standards Review would be: various kinds of leave as well as the job protections and/or benefits associated with family care leave, bereavement leave, marriage leave, emergency leave, and so on. Also of concern to families are provisions pertaining to the employment of

their sons and daughters. Some of these themes that will be studied by the Commission deserve special comment in their own right or because the issues they pose can serve to illustrate general questions of principle. For example,

**Family Leave (Care Leave)** - For most families these days, it is a crisis of major proportion when a young child wakes up with a fever or an adolescent is injured or an elder is sent home following treatment in a hospital or the child-care provider withdraws service at the last minute because she is sick or has to attend to her own family obligations. The reality is that even for the most dedicated of employees, the obligations of a mother or father or son or daughter trump the requirements of the job.

- What message do we send to people when we structure the workplace and our systems of remuneration on the assumption that employees will 1) unfairly take advantage of all standard benefits and 2) when we structure the system in such a way as to invite or insist that they lie and claim their own sick leave when they are simply trying to take care of a loved one?
- The need for some form of protection for those who are absent from work because they are taking care of family members is clear and justified. Even here, there will be difficult questions that need to be addressed by the Federal Labour Standards Review Commission. Is it sufficient to simply ensure that absences occasioned by the illness of an employee or a close member of their family cannot be a ground for dismissal or discipline? Certainly, provision of unpaid family responsibility leave would provide some minimal protection. At the same time, however, the Commission is also interested in labour standards as ensuring some measure of fair and equitable treatment of employees. In reality, only some members of the labour force who are protected by collective agreements or others who hold jobs in which they are allowed to exercise their own responsibility are not likely to lose money if they stay at home to care for a sick child or other relative on an occasional basis. Others, and somewhat ironically, those most likely to be earning modest wages and who therefore need this kind of protection the most are unlikely to be able to take a few days off each year without losing wages.

**The reality is that even for the most dedicated of employees, the obligations of a mother or father or son or daughter trump the requirements of the job**

<sup>20</sup> For a detailed analysis of minimum wage trends and the policy implications and options, see: Ken Battle (2003). *Minimum Wages in Canada: A Statistical Portrait with Policy Implications*. Ottawa: Caledon Institute.

<sup>21</sup> William Shakespeare. *Hamlet*, Act III, sc. I, lines 57 - 91.

- And, should employees be allowed to ‘bank’ their family leave from year to year which, in point of fact, would make sense from a family point of view given that the “heartache and thousand natural shocks that flesh is heir to”<sup>21</sup> do not necessarily appear when it is convenient to us or for a set number of days within any one calendar year?
- And, how does one address the concerns of other employees who might begrudge the protections and/or benefits accorded to their workmates in the misguided belief that they will not be able to draw equally from the same bank of collective or public resources because their family circumstances are different?

**Bereavement Leave** remains an important provision within the federal labour standards and serves as an example to other employers.

**Marriage Leave** is noted here as an example of an entitlement one might have expected to see provided under federal labour standards but, apparently, is not included.

Recognition within labour standards legislation and/or non-legislative practices that would support mothers who are **breastfeeding** their young children would simply serve to acknowledge the blindingly obvious fact that the labour force is composed of mammals, many of whom are women and some of whom will, at any point in time, be nursing their babies. Failure to ensure that mothers of young children are (at a minimum) protected from discrimination or sanctions if they are breastfeeding or (more optimistically) supported by their employers, immediate supervisors and co-workers when they do so creates a Catch-22 conflict. On the one hand, Health Canada is unequivocal in the advice it provides to young mothers:

Breastfeeding is the unequalled way to provide optimal nutritional, immunological and emotional nurturing for the growth and development of infants. The Joint Statement on Nutrition for Healthy Term Infants from Canadian Pediatric Society, Dietitians of Canada and Health Canada recommends exclusive breastfeeding for at least the first four months of life and to continue breastfeeding for up to two years or more. Breastfeeding ensures a safe, secure and self-reliant food source that is nutritionally efficient and complete and ecologically sound, and it can benefit the mother physically, psychologically and economically. Active public health, hospital, community and workplace support will increase initiation and duration of breastfeeding.

Health practitioners/educators can positively influence attitudes toward breastfeeding during the prenatal period. The support of health practitioners is very important to successful breastfeeding. The need for health practitioners to promote, protect and support breastfeeding as the healthiest choice for both infant and mother is well recognized. They may also help by providing practical advice on overcoming potential barriers.<sup>22</sup>

There is, as such, reason for all employers across the country to reduce workplace impediments or barriers to breastfeeding. Moreover, simply for the sake of consistency in the messages that parents receive from the federal government, **there is a strong rationale for federal labour standards to include protections and supports to breastfeeding mothers.**

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<sup>22</sup> See Health Canada’s Office of Nutrition Policy and Promotion at [http://www.hc-sc.gc.ca/hpfb-dgpsa/onpp-bppn/national\\_guidelines\\_06a\\_e.html](http://www.hc-sc.gc.ca/hpfb-dgpsa/onpp-bppn/national_guidelines_06a_e.html)

# The Role of Labour Standards in an Era of Non-Standard Employment

Until recently, it was reasonable to call upon 'standard' labour standards because the labour force was itself, in many respects, quite standard. One of the most significant challenges that confronts us today is to fashion similarly effective protections for today's workers when so many are working in 'non-standard' jobs and are living somewhat 'non-standard' lives when compared to the conventions of 1964 when the foundations of Canada's federal labour standards were laid down.

The problem is that our taken-for-granted assumptions about what work is, who performs it for whom and under what conditions are predicated on an image of the so-called "standard individual employment relationship model" within which an employee and an employer establish a stable, permanent (as long as everything goes O.K.), continuous job held by an employee (usually male) who works full time for one employer on company premises and using the resources of the company. In the recent past, however, we have observed:

- Increasing numbers of part time, temporary and casual employees and according to Statistics Canada, temporary work accounted for practically one-fifth of the overall growth in paid employment between 1997 and 2003; in addition, temporary jobs are less well-paid than permanent full-time work and two categories of temporary positions – part-time and casual – are disproportionately filled by women;<sup>23</sup>
- Increasing numbers of workers engaged by temporary employment agencies making it difficult to know precisely who they are employed by. While some might opt for the flexibility of this kind of job, many others would, if it were available to them, prefer permanent employment with the protections and benefits it affords;
- A dramatic increase in the number of employees working non-standard hours (sometimes by choice and other times by force of circumstance) - part-time, on call 24/7, early morning, evening and weekend shifts; many of these jobs involving non-standard workdays and work-weeks in the health care and telework sectors are filled by employees with non-standard temporary, part-time or casual terms of employment which means that a large number may not be eligible for the protections accorded by labour standards.<sup>24</sup>
- Increasing numbers of multiple job-holders with 6% of female labour force participants and 4% of males holding more than one job in 2004;<sup>25</sup> Between 1978 and 1998, the number of multiple job-holders tripled while growth in employment grew by only 40%; 'Moonlighting,' as it is called, is more common among women, more common among those with at least some postsecondary education (22% hold a university degree); multiple job-holder earn lower hourly wages.<sup>26</sup>

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<sup>23</sup> See: "Study: Earnings of temporary versus permanent employees." In *The Daily* January 26, 2005 at <http://www.statcan.ca/Daily/English/050126/d050126b.htm>

<sup>24</sup> See: Richard P. Chaykowski (2005). "Non-standard Work and Economic Vulnerability." CPRN, Vulnerable Workers Series No / 3.

<sup>25</sup> Roger Sauve ((2005). "Men and Women in Canada 2005 - National and Provincial Trends." Sooke, BC, People Patterns Consulting, p. 53.

<sup>26</sup> Deborah Sussman (1998). "Moonlighting: A Growing Way of Life." In *Perspectives* (Summer, 1998 cat. No. 75-001-XPE) Ottawa: Statistics Canada, pp. 24-31.

These trends that describe various dimensions of the now proportionately larger non-standard and precarious/vulnerable work force pose, we think, profound challenges to our conventional ways of thinking about work, workers and worker protection. For instance:

- Who really employs the temporary workers assigned by an agency and what obligations as employer are to be assumed by the agency? Or by the organization with work to be done? Or, by the employee (in the manner of the self-employed)? Or by the broader society that benefits from their labour no less than it does from the work the rest of us do? In all likelihood, these temporary employees have family responsibilities and although the term casual employment may make sense to employers and labour lawyers, it is unlikely that the people who hold these casual jobs are casual about the work they do or those they provide for.
- Given the increasing importance of part-time work within the overall economy as a means through which employers can more readily adapt to immediate business needs, why should part-time employees receive less protection and less generous wages and benefits than full-time workers? And, how does the differential treatment of part-time workers contribute to the general inequity between male and female employees recognizing that part-time employees are more likely to be women. According to the Canadian Policy Research Networks, male part-time employees tend to be young, female part-time employees have a larger proportion in the middle age distribution and presence of children is a factor associated with female part-time employment. Relative to full-time employees, they are more likely to have very low tenure levels, fewer training opportunities and very few receive fringe benefits. Assessments of vulnerability indicate that the depth of vulnerability is greatest among part-time workers, lone parents, and the young are more likely to be vulnerable.<sup>27</sup>
- How, if at all, might we try to acknowledge that balancing work and family life is going to be very different and more challenging if you are a parent of a severely disabled child. Any family raising a disabled child or caring for a frail elder knows from experience that even the minimum labour standards will not make their job of caring easy. They will, of necessity, call upon whatever formal protections are available to them but they will also hope to receive the understanding and support of a compassionate employer and concerned workmates.
- In the world we have constructed, individuals are acknowledged and rewarded on the basis of the jobs they hold and not on the basis of the contributions they make nor the responsibilities they assume. The ‘individualism’ implicit in the way we conceive of and organize work may well be justifiable, but, it is also a source of substantive inequality that cannot be eliminated by formal guarantees of equal treatment.
- Is there a role for federal labour standards in paving the way to systems of ‘phased retirement’ that have been suggested as essential to ease the burden of societal aging? – If the theory of phased retirement is to be made real or realistic, will there not have to be accommodation in labour standards? For example, if only full-time or permanent employees are entitled to be covered by various medical and dental plans, do we have to re-evaluate the criteria that we use to categorize who is eligible for benefits?

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<sup>27</sup> Richard P. Chaykowski (2005). “Non-standard Work and Economic Vulnerability.” CPRN, Vulnerable Workers Series No / 3.

**In point of fact, much of the most important and vital work that sustains the economy and the society is performed by those who labour outside of the paid market on socially productive activities like raising children or caring for the elderly or investing in their communities but who receive no protection as workers.**

The Consultation Paper prepared by the Review has acknowledged that labour standards do not now offer equivalent protection to all workers. This acknowledgement is followed by a question about whether or not coverage should be extended to more workers. The question reminds us that eligibility for protection and benefits is defined as a function of one's status as a wage-labourer that has become increasingly the way in which identity is formed and rewarded. In point of fact, much of the most important and vital work that sustains the economy and the society is performed by those who labour outside of the paid market on socially productive activities like raising children or caring for the elderly or investing in their communities but who

receive no protection as workers. Ironically, even some of the most progressive efforts to facilitate greater harmony and balance between work and family roles can reinforce a gendered division of labour. Alison Morehead writing for the Australian Institute of Family Studies provides this illustration:

A simple way to consider this is to imagine household discussions following the birth of a child regarding the paid working hours of the parents. While families might discuss how the father could cut back on overtime in his full-time paid job, or whether it was feasible for him to take a few weeks leave immediately following the birth, it is unlikely they would discuss whether he should abandon his job or even drop to part-time hours. On the other hand, the matter of how many paid working hours (if any) the mother should do is likely to be the subject of much discussion not only after the birth of the child, but during the pregnancy, and perhaps even prior to that. The point here is that father's paid employment roles do not change according to the age of his child whereas this is one of the prime determinants of a mother's labour force attachment and the nature of that attachment,<sup>28</sup>

And, quoting Morehead again:

This type of work arrangement, particularly where the mother works part-time and the father works full-time, is the one that "naturally" falls into place after the birth of a child. It is what could be called "the structurally prescribed work arrangement." Social institutions are to a large extent set up to support it. For example: school hours do not overlap very often with paid working hours and they make it hard for both parents to work full-time; child care and outside school hours care, unlike school, is not freely provided; two part-time jobs often do not provide enough income for a family so at least one parent usually has to work full-time; and so on. There are also strong social norms that elevate mothers' role in the parenting of young children above the fathers'; and women's jobs are often not as well paid, nor as likely to be full-time, compared with men's jobs. Combined with the strong household effects ...that help reproduce these influences on an everyday basis, it is easy to see why this skewed work arrangement is by far the most common – basically, our society supports it."<sup>29</sup>

And, finally, from Morehead:

The supports for the skewed type of work arrangements include family-friendly policies. Because of their highly gendered take-up rate, family-friendly policies can help maintain inequities – they free up the mother to do more of the unpaid work. Part-time work is the same – it is great for mothers who are trying to meet the terms of a skewed work arrangement because it means at least they can do some paid work; but it can help maintain inequities because a mother doing part-time

<sup>28</sup> Alison Morehead (2005). "Governments, workplaces and households." In *Family Matters* {Australian Institute of Family Studies} No. 70, Autumn, 200, p. 6.

<sup>29</sup> Ibid, pp. 6-7.

work is likely to be more available than the father (who is likely to be in a full-time job), to do household work. .... But while these sorts of supports make the workplace more accessible for mothers, they were policies designed from a workplace perspective, not a household perspective. As a result they get women doing paid work, but they do not get men doing the unpaid work in the household.<sup>30</sup>

Ideally, Canada's labour code(s) would, one might naively hope, reflect a concern for all workers and a commitment to supporting and enhancing their contributions to the nation's prosperity.

The exclusion of self-employed persons and the discrimination that entitles some employees to benefits while others are excluded from coverage on the basis of their position in the organizational hierarchy reflects an industrial mode of production. And, it is essential to acknowledge that the industrial mode of production assumes divided interests. Perhaps, it is time to examine the extent to which this assumption of divided interests now threatens our common purposes. The crude problem is that only some work and some workers are able to acquire social rights and protections.

There are good jobs and bad jobs as the once influential Economic Council of Canada observed many years ago. Since then, it has become evident that there is an increasing disparity in Canada between those with secure, well-rewarded jobs and those whose labour force attachment is more precarious. Good jobs are defined as good only partially by reference to the wages paid. Increasingly, good jobs are those that carry with them a degree of occupational security over the long-term and/or adequate provisions for severance, access to health and dental benefits, opportunities for advancement, pension contributions, educational and training opportunities, flexibility in hours of work and location of work, access to family-friendly amenities and support services and so on. Good jobs are not evenly distributed across the country or across economic sectors. Nor are they divvied up equitably between men and women or between groups distinguished by ethnicity, immigrant status, ability/disability and so on. In point of fact, we know little about how work/family issues are different for various sub-populations.

Given that federal labour standards establish a minimum set of entitlements for those who are covered (and sets an example for other employers), should a revised federal code of labour standards seek to restrain the growing disparity between good jobs and bad jobs and/or minimize the consequences of that growing disparity? As Chaykowski has recently observed:

The disadvantaged economic position of vulnerable workers, arising from their low pay, relatively high risk in the labour market, and limited workplace protections, means that they are also among the least able to influence their employment conditions. Moreover, while they are perhaps the most in need of coverage under current policy frameworks, many appear to be employed outside the reach of the very policies that should provide them with support and protections. For example, one of the important features of non-standard employment is the wide variety of employment modes and combinations of contract characteristics. Non-standard workers are now found in some combinations of full-time, part-time, self-employment, permanent, or temporary arrangements; in addition, the rise of temporary help agencies has obscured the employer-employee relationship. The increased complexity of employment relationships contributes to the fact that non-standard workers often fall outside the scope of standard labour policy and legislation.<sup>31</sup>

The Review will, we know, carefully assess and consider a variety of strategic responses with which to address these issues. In terms of how to offer greater protections to part-time workers, the experience of Saskatchewan

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<sup>30</sup> Ibid, p. 7.

<sup>31</sup> Richard P. Chaykowski (2005). "Non-standard Work and Economic Vulnerability." Ottawa: Canadian Policy Research Networks, CPRN Vulnerable Workers Series No.3, p. 52.

will prove instructive as will the work of the Work and Family Unit within Saskatchewan Labour in reviewing, on an international comparative basis, the public policy options pertaining to working conditions which are beneficial to work and family.<sup>32</sup>

Key questions that will challenge this review include the following:

- Should we seek to expand coverage of existing protections to a greater proportion of workers?
- Shall we try to expand the nature of the coverage we provide under labour codes to those already covered as well as to any others we would hope to see covered.
- Shall we, more ambitiously, look to labour codes which thus far pertain only to those who are in an employee/employer relationship in such a way as to acknowledge and respect the fact that labour codes have a direct impact on the status of other kinds of work (unpaid and often invisible) as well as on the health of the population generally, the stress they experience, the way in which they raise their children and how they care for their elders?

In assessing these options, the recent work of the Canadian Policy Research Networks will, we think, prove helpful. Of particular note is Guylaine Vallée's assessment of three distinct policy 'platforms' to address the needs of vulnerable workers who confront three different problems: exclusion; differential treatment of those who do the same kinds of work and poor enforcement of the rules and regulations that already exist. Vallée identifies the potential strengths and limits of strategies predicated on the:

- existence of a relationship between employer and employee as the basis for defining rights and benefits;
- the assertion that individuals are the holders of social and economic rights regardless of their employment status; or,
- a commitment to distribute rights and benefits on the basis of a broader notion of work (both paid and unpaid) in order to provide protections to those who do socially usefully work outside the paid labour market.

**Of course, from the Vanier Institute of the Family's point of view, what really matters is that employees are in almost all cases family members who have financial and other responsibilities to provide for and care for their loved ones and it really doesn't matter from a family point of view whether or not Mom or Dad is a part-time employee, a casual employee, a temporary employee, or works for three bosses or one.**

The conclusion drawn by Vallee is:

Overall, the analysis suggests the need to further explore avenues under each of the platforms. If we could enhance the scope of coverage of the laws currently governing employment protections, expand access to collective representation, and, at the same time, identify rights or benefits where there is a strong case for universal access, then we could help vulnerable workers improve their well-being.<sup>33</sup>

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<sup>32</sup> For a series of relevant research undertaken and underway, see <http://www.workandfamilybalance.com/rr%20TOC.htm>

<sup>33</sup> Guylaine Vallée (2005). "Towards Enhancing the Employment Conditions of Vulnerable Workers: A Public Policy Perspective." Ottawa: Canadian Policy Research Networks, Vulnerable Workers Series - No. 2 p. v.



Review proceeds to compare and evaluate the various strategies that might better extend the protections of the labour code, important considerations from a family perspective would include:

- The need to anticipate, monitor and assess, on an ongoing basis, how the provisions of the labour code affect different families differently and how they affect the different members of families differently;
- Recognition that the development and health of individuals is, in significant measure, a function of Socio-economic-psychosocial (SEP) conditions or “The effects of access to material resources, social isolation, civil society functions, income distribution, and stresses of daily living.”<sup>34</sup> One of the startling findings from the literature pertaining to the determinants of health has been the role of human agency; namely, those who can exercise some influence over the conditions of their work are healthier and, as such, an important consideration in assessing potential revisions to labour codes is whether or not they tend to encourage or discourage trust and responsibility as much as is reasonably possible in any particular work setting;
- Acknowledgement that it is the attitudes and behaviors of immediate supervisors that is often even more important than official policies and procedures;
- Protections for those families that choose to organize their affairs and share responsibilities between spouses. In the concrete, if a family decides to have one member work for two days per week in order to ensure that the home is managed well, that worker’s labour force commitment of 15 hours per week may fall below the threshold of labour standards protection or the minimums required by private carriers. Similarly, increasing numbers of workers are working for multiple employers – and yet they may wind up with two jobs but yet not qualify for benefits and protections that are contingent on a minimum number of hours recorded. Moreover, what protection do they have if one of their employers changes the hours or work without consideration for the employee’s commitment to the other employer?
- Assurances of consent by employees when employers introduce changes into scheduling or conditions of work that would disrupt work/family balance and protections from reprisal if employees refuse.

## **In Conclusion: A Renewed Role for Federal Labour Standards in the 21st Century**

Traditionally, federal labour standards have provided a minimal level of protection that has been vital to those workers who are covered by the standards and have no other claims upon their employers. This role remains important.

Labour standards, have, as well, conveyed a broader message to all employers and employees and, indeed, to citizens about what Canadian expectations for fair and equitable treatment are. This role remains important and, in our opinion, may well grow increasingly important in a context of greater diversity across jobs, jobs sectors and among job-holders. A re-designed code of labour standards can, we think, serve as a common or shared frame of reference within which labour negotiations and collective bargaining can proceed in recognition of the personal/family circumstances of employees and the competitive realities of today’s economy.

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<sup>34</sup> See Public Health Agency of Canada at <http://www.phac-aspc.gc.ca/ph-sp/phdd/resources/gradient.htm> for a discussion of the determinants of health.

Federal labour standards might, as has been suggested in the Consultation Paper, aim to incorporate the standards of other advanced economies and the so-called “best practices” of Canadian employers<sup>35</sup> simply as a way of ensuring competitiveness remembering that in a ‘knowledge-based economy’ it is the skills, capacities, and commitments of employees that now amount to the most valuable corporate asset or factor of production. The notion of “best practices” may, however, be tricky to implement because there will, in all likelihood, be different best practices depending on geographical location, size of labour force, economic sector, age of labour force, cultural traditions of workers and so on and so forth. Perhaps, what the code needs to aspire to beyond establishing certain minimums would be to demonstrate that its provisions a) encourage the use of the most valuable and promising practice innovations and, equally important b) do not discourage experimentation and implementation of adaptive strategies.

Implicitly, labour standards have functioned to acknowledge that there are both private and public purposes to be advanced when we recognize that the ways we organize work have significant consequences for the health and welfare of the population as well as the distribution of opportunities, incomes, and wealth and that this distribution carries significant consequence for the quality of life in Canada as a whole.

Minimum wages are a case in point. They have not kept up. No longer is a minimum wage even close to being a living wage. No longer can a minimum wage employee hope to provide for a family. Even two minimum wages in a household will not protect its children from the short-term and long-term consequences of poverty. Compelling evidence has been assembled in recent years about the devastating affects of low income on the health, well being and long-term prospects of children growing up in poverty. The need to invest in the developmental prospects of our children has been well documented.

As such, legislation pertaining to minimum wages is perhaps the most striking example of how labour standards go well beyond shaping the particularistic relationship between an employee and his or her employer. They are, instead, one of the building blocks of the society in which we live. The strict ‘letter of the law’ or more precisely ‘letter of the (labour) standard’ is obviously first and foremost. However, it would be our suggestion that the ‘spirit of the law’ or the spirit that this review is able to infuse into the revised federal labour standards is equally important in order:

- to better attune labour practices within those industries covered to the needs and circumstances of today’s labour force in the interests of employees and employers
- to serve as an exemplar to other employers recognizing that this has been and continues to be an important role that is less likely to be fulfilled by an enterprise driven solely by market considerations.

**Given that the recent evolution of the labour force has created fewer standard jobs and that it may prove increasingly difficult to define standards that can be broadly applied, it is all the more important that we find ways to convey a strong and consistent message to all employers about what we as Canadians and fellow citizens think to be fair and equitable.**

It is, we think, likely that the non-legislative role and the public education role of federal labour standards will prove increasingly important in the years to come. We remember that most societies and most economies and most legal systems succeed only because the large majority of citizens choose to do what is right even without recourse to the law. Given that the recent evolution of the labour force has created fewer standard jobs and that it may prove increasingly difficult to define standards that can be broadly applied, it is all the more important that we find ways to convey a strong and consistent message to all employers about what we as Canadians and fellow citizens think to be fair and equitable.

Most employees dedicate themselves to their jobs precisely because it is through their employment that they are able to provide

for their families. And, were it not for the caring work that families do, the economy that dominates the conversation around the nation's boardroom tables – be they in corporate skyscrapers, local union halls or council chambers – would falter without enough human energy, purpose and commitment to drive Canada's productivity and prosperity. In the end, the kitchen table and boardroom table have a lot in common. It may seem as though attending to these work-family life issues simply adds one more layer of tasks on top of the guilt pile that resides on most manager's desks but, in the end, if managers can actually focus on the work at hand rather than on the human resource challenges that are, as noted above, so costly, they will increase their own efficiency and decrease stress among those upon whose energy and commitment they depend. It is a bottom-line issue that speaks not only to employer and employee interests but also to profits and shareholder value.

What we have failed to adequately realize is that the invisible work of family members, both in the past and continuing today underwrites the participation of today's workers and subsidizes their productivity in the workplace. The tensions between work and family obligations cannot be resolved entirely by a revised and renewed code of labour standards. A coherent and coordinated system ensuring high quality, and accessible childcare services to support today's parents would help. Better-resourced Parent Resource centers would help. Respite care for families caring for frail or disabled relatives would help. But, labour standards are important precisely because we depend so heavily – personally and collectively – on the jobs we do and the levels of knowledge, commitment, and energy we bring to them.

Ironically, it seems that what everybody – both employers and employees - is after is flexibility. Both tell us that it is discretion over time and how to allocate resources that they most desire. Unfortunately, we have managed to create a situation in which one person's discretion is another's chains. If the employer exercises discretion over production schedules or conditions of temporary work, it is often at the expense of employees. Similarly, if employees exercise discretion over when and how they will work, it may be at the expense of organizational efficiency or collegial relationships. This is like a 'winner takes all' game which may, in the present circumstances, amount to a no-winner at all game.

A clue to unlocking this puzzle might lie in recognizing that what is at issue in the demand for flexibility is not just about the quanta or amount of benefit (wages, profits, widgets) but it is equally about the security or assurance that the future is manageable. In the short term, the interests of employers and employees are often at odds. In the long term, neither employer nor employee can succeed without each other. Is it realistic to think of a revised federal labour code as an innovative attempt to extend the time frame of decision making to ensure that neither employer nor employee decisions sacrifice the future security of either in the interests of short-term priorities?

**In the short term, the interests of employers and employees are often at odds. In the long term, neither employer nor employee can succeed without each other.**

Frankly, questions about how the various provisions and regulations of a revised code of labour standards should be implemented and enforced are beyond the expertise of the Vanier Institute of the Family. We simply cannot presume to offer an informed response to these questions. What is clear is that various human rights and employment equity provisions that exist in all jurisdictions deny discrimination on the basis of sex, marital status, family status, and religion and ethnic origin. While this prohibition is primarily intended to ensure that individuals are not denied benefits or entitlements because of their obligations and responsibilities, it would also seem to make it impossible for employers to introduce policies and programs intended to favour employees because of their family responsibilities; for example, the once standard practice of paying a higher 'family wage' to employees with dependent spouses and children more than a single individual is today unacceptable and understandably so. At the same time, these protections of individual rights make it difficult to introduce policies and practices that acknowledge the variety of obligations and responsibilities which employees have. To some extent, complaints of this nature have been dealt with by saying that if there is a range of supports that recognize the needs of different individuals over time it may be fair to suggest that it all comes out (fairly and equitably) in the wash eventually. However, this is not a strong argument of principle.

Perhaps what we need to do is work towards a public policy foundation for relationships of reciprocity (and citizenship) through which we are encouraged to choose to make a contribution to the well-being of others knowing that we too can look to others if and when needed but without an expectation of necessary *quid pro quo* pay-back for contributions rendered. This 'contributory' foundation of citizenship and social participation would be based on an understanding that it is a privilege (as well as an obligation) to ensure the well-being of those around us and that in the end, we do benefit as individuals from a higher quality of civic life.

The dilemma here is that we are trying to introduce into the marketplace some of the values of a civic order when the recent past has - mistakenly we think - led us to believe that the two are separate. Civic society resides neither with the individual nor the collectivity. It is neither personal nor political. Rather, **the notion of a civic society implies 'personal' commitments to the 'public good.'** In fact, it grows more and more apparent that if we are to serve our own interests, we will do so best if we commit ourselves to purposes that are not ours alone. Reciprocity will serve as a better foundation of the future than will the individualism we have perfected, to a fault. And, it is perhaps not too much to hope that federal labour standards have a role to play as one of the building blocks of a renewed civic order.

**Appendix:**

*Profiling Canada's Families III*