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A UNICEF CANADA SUBMISSION TO THE GOVERNMENT OF CANADA'S CONSULTATION: MORE FLEXIBILITY FOR PARENTS

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INTRODUCTION

Early childhood is the most intense period of human development, shaping opportunity and potential for individuals and nations. A strong start in life is a much better investment than later remediation. It includes healthy prenatal conditions, bonding, breastfeeding and healthy relationships to achieve optimal health, development and protection. It can mute the challenges of poverty and reduce inequality, which appears in measureable outcomes in the first years of life. Parents have the most important role to play in ensuring a strong start, but their capacity is heavily conditioned by public policy. Policies that support healthy pregnancy, early child development and flexible parental benefits are critical investments that are currently inadequate in relation to international practice, and evident in lagging and inequitable outcomes in infant mortality, low birthweight, low sustained breastfeeding rate and material deprivation. These are costly and unnecessary conditions in one of the world's wealthiest nations.

UNICEF Canada supports the Government of Canada's plan to strengthen parental leave and to protect pregnant mothers and their children with early leave for health and safety reasons. However, the benefits of the proposed changes will be muted without additional improvements to remuneration and access. In fact, they are likely to increase inequality with disproportionate benefit to higher income parents and children. There is no real choice or flexibility in the proposed parental leave policy changes for many families without the measures we propose. Canada will not be the best place to grow up without a competitive parental leave policy. We urge parliamentarians and the Government of Canada to decide on policy reforms with the best interests of children as the primary consideration.

ABOUT UNICEF

As a UN agency, UNICEF is active in 190 countries and we have saved more children's lives than any other humanitarian organization. UNICEF Canada is a Canadian non-governmental organization (NGO) established 60 years ago and is the representative of UNICEF in Canada. We work tirelessly as part of the global UNICEF family to do whatever it takes to ensure that children and young people survive and thrive, and have every opportunity to reach their full potential. Our global reach, unparalleled influence with policymakers, and diverse partnerships make us an instrumental force in shaping a world where the rights of all children are realized.

UNICEF Canada builds awareness, raises funds, and mobilizes Canadians across the country to help save and protect the world's most vulnerable children. We promote public policy and practices in the best interests of children, informed by our global experience and international best practice, to contribute to the fulfillment of children's rights in Canada and around the world.

UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the United Nations Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

UNICEF is entirely supported by voluntary donations and helps all children, regardless of race, religion or politics. The only organization named in the United Nations Convention on the Rights of the Child as a source of expertise for governments, UNICEF has exceptional access to those whose decisions impact children's survival and quality of life. We are the world's advocate for children and their rights. For more information about UNICEF, please visit www.unicef.ca.

OVERVIEW OF UNICEF CANADA'S POSITION

UNICEF Canada is pleased that the Government of Canada proposes to reform national parental leave policy. Both the option of a longer period of parental leave and the option of a more flexible parental leave could benefit the well-being of young children. However, neither of these options will achieve the goals of a fairer society with better child outcomes without concomitant measures. These include increasing the earnings-replacement rate, reducing eligibility requirements, protecting paternal/co-parent leave, easing restrictions on self-employed parents, and increasing the amount of time available to adoptive parents for parental leave. UNICEF Canada also supports proposed flexibility for pregnant mothers to access maternity leave early due to workplace health and safety reasons, but early leave should not significantly detract from the amount of time that a woman can spend with her child after birth. Parental leave policy has the potential to make a measurable difference in child well-being, if decided with a child-focused approach over all other interests and claims. Governments have the duty to put the best interests of the child first.[1]

SUMMARY OF RECOMMENDATIONS

1) Apply a Child Rights Impact Assessment to the reform of parental leave benefits to ensure that the best interests of children is the priority consideration and that benefits are equitably distributed among children regardless of family status and income.

2) Increase the earnings replacement rate for the currently allowed 12 months of parental leave to the level enjoyed in Quebec or the peer standard of 80%, and provide remuneration at least at the current rate of 55% for the proposed additional 6 months. At minimum, remunerate the extended 18 months of leave at the current basic level of 55%.

3) Reduce the insurable hours threshold to claim parental leave benefits from 600 hours to at least the 420 hours required in order to receive regular employment insurance benefits.

4) Extend the 15 week maternity leave benefit to mothers of adopted children.

5) Reduce the 12-month qualification period for self-employed parents or provide flexible options (in registration period or insurable hours).

6) Create a leave benefit for pregnant mothers whose work conditions pose a risk and who cannot be accommodated with work adjustment - without a significant reduction in the leave time for the first year of the child's life - which can be addressed by using regular sickness benefits, extended pregnancy/maternity benefits, workers' compensation or some combination.

Flexibility of EI maternity and parental benefits and CLC leave

From infancy, children require protection and nurturing from parents and caregivers.[2] From the first days of life, children form strong attachments to their parents and the nature of these relationships affects their growth and development.[3] The relationship that children form with

their mothers during their first year of life in particular is critical for their cognitive and social development.[4] When Canada extended parental leave in 2000, research found that it resulted in increased time that mothers spent with their children.[5] The proposal to extend the length of leave available to parents from 12 months to 18 months is therefore a welcome step that could extend the bonding time available to parent and child.

A longer maternity leave also facilitates a mother's ability to breastfeed. UNICEF recommends exclusive breastfeeding for the first 6 months of a child's life and complementary breastfeeding up to the age of 2 years. Longer periods of paid maternity leave are known to improve breastfeeding rates, as has been shown in the contexts of Denmark, Norway and Sweden.[6] Likewise, research shows that returning to work is associated with the discontinuation of breastfeeding.[7]

Canada lacks a national child care strategy, which leaves many parents with inadequate options for child care upon return to work; though about two-thirds require it. Parents in Canada face a struggle when transitioning from parental leave to work, as they are often unable to find affordable, quality child care services.[8] A flexible system allowing parents to divide their parental leave into blocks of time might allow them to take advantage of child care arrangements as they become available, and to return to parental leave if precarious child care arrangements suddenly change. A longer duration of parental leave can help parents access child care for children over one year of age, which tends to be more affordable and available than infant care. Most importantly, it is also generally in the best interests of children, especially if infant child development programs are available to families in the first year.

The extension of parental leave to 18 months is therefore likely to benefit the bonding process, breastfeeding practices and children's experience of child care.

However, neither flexibility nor extended duration of parental leave from 12 to 18 months alone will rectify all the shortcomings of the current system outlined below and support the potential of parental leave in Canada to boost child well-being. UNICEF Canada recommends that consideration also be given to increasing the remuneration rate for 12 months of parental leave, and providing remuneration of at least at the current rate for an additional 6 months; easing the eligibility requirements for receiving benefits; introducing a defined paternal/co-parent leave; and rectifying the inequities that adoptive parents and self-employed parents experience. These recommendations are in line with those made by the Standing Committee on the Status of Women in 2009, which advocated that maternity and parental benefits be as flexible and equal as the Quebec Parental Insurance Plan through expanded eligibility, benefit levels and duration of benefits.[9]

Inequities in Canada's maternity and parental leave benefits

Earnings Replacement Rate

One of the most problematic elements of parental leave in Canada today is that annual household income and job quality determine in practice who is able to access parental leave benefits. Numerous studies have found that low-income families are unable to survive on the current maternity benefit earnings replacement rate of 55% of salary, a persuasive factor in early return to work. One study found that an annual salary of $30,000 is the minimum required for a mother to afford to take advantage of maternity leave.[10] Only 37% of women who earned less than $30,000 per year were able to take advantage of the maternity leave benefit compared to 65% who earned more than that.[11] A 2012 Statistics Canada report reported that 36% of

Canadian children had mothers who returned to work within two weeks of childbirth.[12] In effect, the under-use of maternity leave by low-income mothers is an inequitable impact of the current benefit on children of low-income families.

It is unlikely that low-income parents would be able to take advantage of an extended leave of 18 months without an increase in the rate of remuneration. It might also prove to be outside the reach of middle-income families. UNICEF Canada recommends that an extension of parental leave to 18 months should, at least, be remunerated at the current basic level of 55%. However, there are strong arguments for a higher level of earnings replacement for 12 or 18 months, aligned with standard practice internationally among comparable nations and in the domestic context of Quebec.

The Quebec Parental Insurance Plan has two options: a basic plan with a lower replacement rate for a longer period of time, and a special plan with a higher replacement rate for a shorter period of time.[13] In both cases, the remuneration offered is higher than what is offered in the rest of Canada.[14] These options enable low-income mothers to better afford time off work. In fact, 42% more low-income mothers in Quebec take advantage of maternity leave benefits than in the rest of Canada.[15]

Certain wealthy countries have even more generous and flexible benefit plans. Sweden offers the most generous option, providing 480 days of leave per child up to the age of eight years.[16] Parents can also reduce their working hours to part time until the child has finished their first year of school, and take their leave in blocks of time.[17] They have an earnings replacement rate of 80% for the first 13 months.[18] Norway offers 36 weeks of leave at a 100% replacement rate, or 46 weeks of leave at an 80% replacement rate, and an additional 12 months of child care leave which can be taken by both fathers and mothers.[19] Most industrialized countries have higher earnings replacement rates and longer leaves.[20]

Higher earnings replacement rates allow parents to take longer parental leaves.[21] Reforms to Canada's parental leave benefits should include an increase in the earnings replacement rate if the aims are to be achieved along with the broader goals of social equality and improved child well-being. Furthermore, provincial governments should not claw-back child-focused benefits for families on social assistance; these are valuable resources that support better child outcomes in challenging environments.

Qualifying Hours of Work

To qualify for parental leave benefits, parents across Canada (excluding Quebec) must have acquired 600 hours of work prior to their leave date. This insurable hours threshold is higher even than the 420 hours required in order to receive regular employment insurance benefits.[22] For non-standard, part-time, seasonal and temporary/contract workers this minimum is difficult to achieve.[23] In fact, Canada has one of the highest levels of part-time work for women among the OECD countries.[24] Research published in May 2016 found that 41% of mothers outside of Quebec didn't meet the minimum insurable hours threshold to qualify for maternity leave, and this study excluded mothers in Canada's three territories and in First Nations communities.[25] On the other hand, in Quebec, where there is no minimum insurable hours threshold but rather a base earnings threshold of $2,000 in the previous year, less than 11% of mothers didn't qualify.[26] Reducing eligibility requirements would benefit a large number of Canadian children and families and promote equality, and should be a priority of parental benefits reform.

Paternal/Co-parent Leave

The Convention on the Rights of the Child emphasizes that, '…both parents have common responsibilities for the upbringing and development of the child'.[27] Research suggests that fathers who take leave are more likely to be involved in the lives of their young children, which has positive effects on the child's development.[28] It also increases the likelihood that women will return to employment, advancing the greater goals of gender equality.[29] Furthermore, as men tend to earn more than women generally, the earnings replacement for the father's leave will likely be higher than what is received by a mother, which means that the family's income may be higher if the father use parental or paternal leave, as opposed to the mother.

Quebec has had a dedicated paternal leave for some time which demonstrates benefits for families. In Sweden, 60 of the 480 total days of leave are allocated solely for the use of the father, while the remaining allowance can be divided as the parents see fit.[30] Norway also explicitly protects the right of fathers to share in parental leave benefits.[31] Providing fathers with a right to paternal leave would therefore be in line with international best practice. However, an inclusive approach must also recognize the rights of children with diverse families, with a broader entitlement for co-parents and single parents.

Adoptive Parents

Currently, adoptive parents are entitled to a parental leave of 35 weeks, yet they are not entitled to the 15 weeks of maternity leave which biological mothers are entitled to in the weeks leading up to and following the birth of a child. However, integrating an adopted child into a family is a complex process, and the need for parent-child bonding is just as important in this instance as it is in the case of a biological child. Adopted children should also benefit from the 15 week maternity leave period that biological children receive, in the best interests of the child.

Self-Employed Parents

The eligibility requirements for self-employed parents to claim parental benefits are different than they are for those who aren't self-employed. Self-employed parents must have registered for employment insurance special benefits 12 months prior to when they wish to claim them. This may act as a much higher barrier than the 600 insurable hours requirement that non-self-employed parents must accumulate in order to qualify for benefits. Higher eligibility requirements are ultimately unfair to the affected children. Reducing this one-year qualification for self-employed parents or providing flexible options (registration period or insurable hours) is another means of resolving the inequities for children in Canada's current parental leave policy.

Flexibility to access EI maternity benefits earlier for workplace health and safety reasons

UNICEF Canada recommends that the Government of Canada protect women and children with a benefit for pregnant women who face workplace health and safety concerns. As for any public policy, it should equitably benefit different groups of women and children and prioritize the best interests of the child.

Canada's *Employment Insurance Act* currently provides 15 weeks of benefits for pregnancy (commonly referred to as maternity benefits) and 35 weeks of benefits for the care of newborn or newly adopted children (commonly known as parental benefits).[32] Each province and territory has further discretion to apply employment standards legislation in its jurisdiction, including leave from work provisions. As a result, the date at which a mother may begin to

make use of her maternity benefits in tandem with leave from work provisions is not consistent across the country. This can result in a problematic and discriminatory gap when work conditions pose a risk to pregnant women. Without the availability of benefits to take leave when alternative working conditions cannot be provided, a mother may feel obliged to remain in her current employ even if it poses a health risk to her unborn child. Pregnant workers should have the option to access leave benefits in these circumstances, and this should not detract substantially from the parental leave available following the birth of a child, since this would impair the benefits for which the leave is intended.

There is substantial international research documenting the health and well-being benefits to children and to parents of at least a year of post-birth leave benefits. Canada's current maternity assistance policy recognizes this, and it is in effect a minimum standard since many high-income countries exceed it.[33] Ensuring that an expectant mother has a safe workplace and, where necessary, the ability to leave her work early for health reasons, is an important provision to ensure the well-being of a child. However, the period of time that a mother spends with her newborn should not be significantly reduced. As discussed above, attachment is an important foundation from which newborns grow and develop. According to the Canadian Pediatric Society, attachment is essential to a child's long-term emotional health, as it helps activate essential emotional functions such as trust, care and self-control.[34] It also supports breastfeeding and other positive outcomes that can last a lifetime. The availability and cost of child care for infants under one year old can be an added burden for parents who must return to work before a child's first birthday, and breastfeeding – already at a comparatively low rate in Canada – will be more difficult to sustain. Curtailing the availability of maternity and parental leave benefits following birth is not in the best interests of the child. Canada must base maternity assistance policy on children's rights and child-focused evidence as opposed to other subordinate considerations.

Domestic and International Models

Quebec's benefits system takes a different approach and is based upon an occupational health and safety model, funded through workmen's compensation, which places an obligation on the employer to compensate the expectant mother if alternate non-hazardous work cannot be found. This is in contradistinction to a model based on an unemployment insurance scheme that places the onus on the expectant mother, and provides less protection for her child overall by compromising the length of time allowed for post-birth bonding and parenting to occur.

Quebec offers three methods of accommodating women whose pregnancy is put at risk by their employment conditions. First, women are given the choice to begin maternity leave 16 weeks before the expected date of delivery.[35] In fact, employers may even require a medical certificate stating that the employee is fit to work from the sixth week before delivery, so it is widely accepted that pregnancy may affect a woman's ability to complete a certain job.[36] Second, women have the right to protective re-assignment, to have their work responsibilities changed to accommodate their pregnancy or to accommodate breast-feeding, without suffering a concomitant pay cut.[37] Third, women can use 'special maternity leave' - a type of preventive withdrawal whereby a woman may stop working entirely because her health or that of her unborn child may be at risk from her work.[38]

This policy is not without precedent. In the European Union, the European Agency for Safety and Health at Work issued the Pregnant Worker's Directive in 1992.[39] It provides for two types of measures for health and safety and protection against unfavourable treatment.[40] It provides for specific forms of leave for pregnant workers and women who have recently given birth.[41] Individual European countries have since amended their national laws to ensure they are

aligned with this directive, but various approaches have been taken. The following is only a sampling of some of the diverse policies adopted by different countries, many of which suggest better options for Canada:

In Belgium, a 'protection of maternity' leave is provided if an employee must be withdrawn from her usual tasks, and where the employer has no alternate activities to assign her.[42]

In Finland, the same rules apply to women who are on leave due to a pregnancy-related sickness as to employees on standard sick leave.[43]

In Germany, the *Maternity Protection Act* does not allow employees to perform work that is dangerous to themselves while pregnant or to their unborn child.[44] Pregnant women have the right to a fully paid leave six weeks before childbirth in these circumstances, and to special protection while breastfeeding.[45]

In Hungary, women are entitled to twenty-four weeks of maternity leave, and they can decide on the starting date of this leave themselves.[46] Should a woman not wish to take this leave early, but holds a position in which she is unable to work while pregnant, she must be offered a job appropriate for her state of health.[47] If that cannot be managed, then she is given leave from work, but will still be paid her original wages.[48]

In Iceland, employers are obliged to make necessary arrangements to ensure a pregnant woman's safety, which can include changing her working conditions, hours or tasks, or granting a leave of absence, without reducing her wages or undermining her other job-related rights.[49]

In Norway, pregnant women have the right to up to 12 weeks of pregnancy leave while they are pregnant.[50] Additional weeks off before the birth can be taken using sick leave, paid through the national insurance system.[51]

In Sweden, pregnant women have been allowed to use sickness benefits, as opposed to using their limited parental leave benefits, for when they are prevented from working due to pregnancy-related problems.[52] This became part of case law in 2009 when an appeal court found that four pregnant women had been directly discriminated against in an earlier ruling denying them sickness benefits.[53]

There is clearly significant variance in how pregnant women who must adjust their work schedule due to pregnancy-related health concerns are compensated during this time. Some models use employment insurance benefits and see this as an issue that can be addressed by using regular sickness benefits, pregnancy/maternity benefits, parental EI benefits or some combination of these. Yet others classify this as an occupational health and safety measure, with remuneration provided through workers' compensation. Regardless of which compensation model is selected, the implications for mothers and children justify an approach that does not deduct post-birth bonding time for women who are compelled by risky working conditions to leave earlier.

We conclude that there is significant recognition both in Quebec and across Europe that pregnant women and their unborn children may face risks in particular workplaces, and that child-focused measures to accommodate them in these instances are an important and valid component of a benefits plan. UNICEF Canada therefore recommends that the Government of Canada advance a policy allowing pregnant women to adjust their current employment, as needed and without repercussion, without costing their child bonding time after birth.

CONCLUSION

A recently published multinational study on parenting and happiness confirmed a predominant link between parental happiness and family policy supports. In countries offering the strongest family policies (including parental leave, paid sick and vacation leave, and work flexibility) a net positive effect on the happiness of parents was observed relative to non-parents.[54] The researchers theorized that this can be attributed to the positive effects these social policies had on decreasing the stress and cost of child rearing.[55] This has important implications for child well-being, as improving parental well-being is a strategy to improve child well-being.[56] The study also examined the impact of monthly child income benefits; surprisingly, these were found to have less effect on parental happiness than policies that facilitated a better work-life balance.[57] Furthermore, family policies were not achieved at the expense of non-parents.[58] In fact, the stronger a country's comprehensive family policy package, the happier the general population was.[59]

Children are themselves rights-holders, as defined by the Convention on the Rights of the Child. Yet early child policy is often debated as a matter of parental or workers' rights, losing sight of the impacts on children. Canada has an opportunity to boost children's health, development, protection and equality by improving parental leave benefits. There is a strong economic case to support the recognition of children's best interests. Investments in the early years are comparatively low for an affluent nation, and the impacts of poor early years policy show up early. They result in higher remedial costs down the road, in health, education, child welfare and other areas. On the other hand, Canada's GDP has been steadily increasing. It is time to invest some of the dividends in child well-being, where outcomes have been stagnant and inequitable for many years. Taking our recommended actions to strengthen Canada's parental benefits policy will benefit Canada's parents and Canadian society broadly - but most importantly, it will assuredly benefit Canada's children.

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