

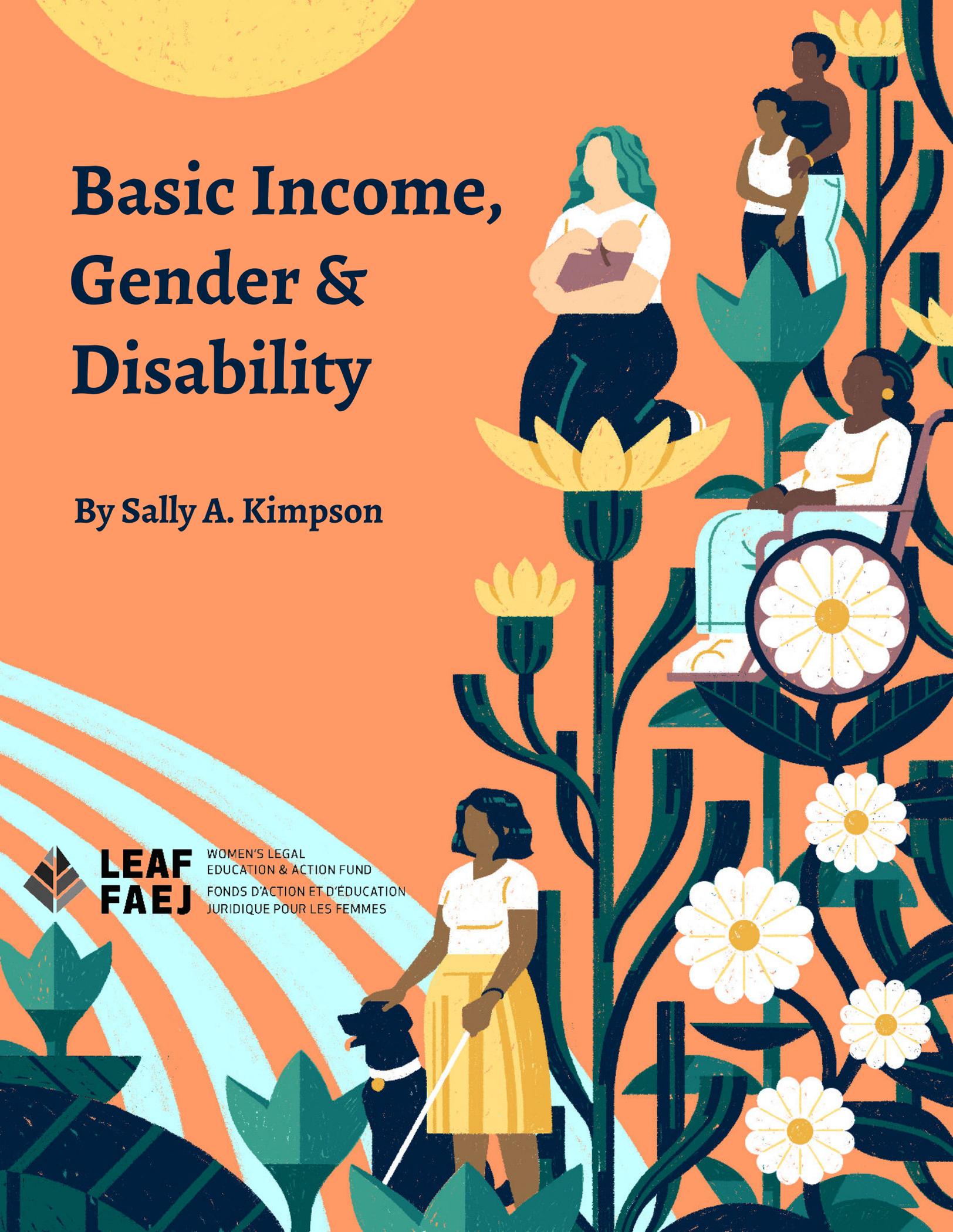
Basic Income, Gender & Disability

By Sally A. Kimpson



LEAF
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WOMEN'S LEGAL
EDUCATION & ACTION FUND
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JURIDIQUE POUR LES FEMMES



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LEAF is a national, charitable, non-profit organization, founded in 1985. LEAF works to advance the substantive equality rights of women and girls in Canada through litigation, law reform and public education using the *Canadian Charter of Rights and Freedoms*.

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This report was written and researched by **Sally A. Kimpson**, a disabled woman, activist, disability research consultant, and Critical Disability Studies scholar. Sally holds degrees from the University of Victoria in Nursing (BSN), Counselling Psychology (MA), and Interdisciplinary Studies (Ph.D). Her primary area of expertise is disability income support programs. Sally's 2015 doctoral dissertation entitled, *"Uncertain subjects: Disabled women on BC disability benefits"* researched the effects of institutional exercises of power in the lives of disabled women living on British Columbia provincial disability benefits. Previously, with Dr. Tanis Doe, she secured funding from Status of Women Canada to research disabled women living on CPP-D. Sally's postdoctoral research at Simon Fraser University under the auspices of the Centre for Research on Work Disability Policy compared different disability benefit programs in BC and Alberta. Sally also maintains a consulting practice assisting those with disabilities to navigate complex health care, benefit, and support systems.

The report was overseen and coordinated by **Cee Strauss**, Staff Lawyer at LEAF; **Pam Hrick**, Executive Director and General Counsel at LEAF; **Brea Hutchinson**, Director of Operations at LEAF; and **Megan Stephens**, former Executive Director and General Counsel at LEAF. Thank you to **Megan Cameron**, Fund Development Manager at LEAF, who martialed the resources to support this project.

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Executive Summary

The purpose of this report is to inform current thinking about the potential of a basic income program to contribute to the full and effective participation and inclusion in society of disabled women and gender-diverse disabled people. It is a companion report to Basic Income & The Care Economy, and is designed to contribute to LEAF's larger Basic Income Project. The Basic Income Project evaluated the ability of a basic income program to address gender inequalities, including gender and racial socioeconomic inequality, using an intersectional feminist framework. In order to make recommendations, the researcher for Basic Income, Gender & Disability examined and reviewed scholarly and grey literature in carrying out research that brings together and summarizes existing knowledge.

For this project, disability is defined using rights-based approaches enshrined in both national and international legal frameworks. These approaches acknowledge disability as resulting from interactions between, on the one hand, persons with physical, mental, cognitive, intellectual, sensory and developmental impairments, and on the other, attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. Disability intersects in complex ways with other markers of identity, such as race, immigrant status, age, sexuality, gender, gender expression, and class to produce distinct experiences of disability and forms of ableism.

The research for this report focused on four topics:

- the substantive inequality of disabled women and gender-diverse disabled people, and how poverty contributes to that inequality in multiple domains of everyday life;
- current disability income support programs in Canada, including particular effects in disabled women and gender-diverse disabled people's lives;

- basic income and its potential to reduce or eradicate the effects of poverty and the negative effects of existing income support programs;
- a Canada Disability Benefit program, described ideally, and comparing it with a basic income program.

Substantive inequality and poverty

The poverty that disabled women and gender-diverse disabled people live in is structural, producing substantive inequality; they do not have equality of access or equality of opportunity. The provision of services and benefits designed in part to support their substantive equality is carried out in ways that fail to meet their unique cultural, social, and economic needs. Living in conditions of material and social deprivation limits participation in a wide range of cultural, economic, educational, political and other social activities, and exposes disabled women and gender-diverse people to violence.

Intersecting identities render disabled women and gender-diverse disabled people more vulnerable to poverty. Disabled women who are single, single-parenting, Indigenous, working class, racialized, visible minorities and/or newcomers live in the deepest poverty.

Disabled women are three times more likely to rely on government programs, primarily provincially-administered disability benefits, than both non-disabled women and disabled men. All provincially-administered disability benefit amounts are set substantially below the Market Basket Measure for their regions.

Disabled women and gender-diverse disabled people often face extraordinary disability-related costs for products, services, and supports that they need to engage in activities of daily living, to participate in community, and to be socially included. Some of these costs are subsidized by provincial disability benefit programs, but many are not (or are partially subsidized) and have to be purchased out of pocket. Securing subsidized benefits

often requires intimate self-disclosure to establish eligibility, challenging a disabled woman's or gender-diverse person's dignity.

Current disability income support programs in Canada

Available to working age adults, a range of disability income support programs or plans is provided at provincial and federal levels, creating a fragmented and uncoordinated patchwork of supports. Programs differ in terms of definitions of disability, eligibility criteria, and amount and type of benefits. Federal programs include: Canada Pension Plan-Disability (CPP-D) benefits and Québec Pension Plan-Disability (QPP-D); Employment Insurance (EI) Sickness Benefits; Canada Revenue Agency tax measures (Disability Tax Credit and the Registered Disability Savings Plan); and Veterans Affairs disability benefits. Provincially, disability benefit programs include: disability benefits administered through social assistance (welfare) budgets; workers' compensation schemes; and the regulation of disability insurance plans administered by the private insurance industry (Long Term Disability or LTD benefits).

Program policies and procedures are often confusing to individuals, and potentially result in failure to access programs to which they may be entitled.

Basic income

A guaranteed basic income ensures that everyone has an income sufficient to meet basic needs and to live with dignity, regardless of employment status. The policy goals of basic income include income security and poverty elimination, income stability, and the advancement of substantive equality (including but not limited to income equality). The basic income design discussed in this report is an income-tested program providing a livable level of economic security that increases annually to reflect the cost of living and decreases gradually as income from other sources increases.

A basic income program could reduce some of the need for bureaucratic oversight, reducing disabled women's fear of losing benefits and the perceived risk of having their eligibility questioned. A generous basic income could enable disabled women and gender-diverse disabled people to be more self-determining, and could provide them with expanded opportunities for social participation and inclusion. With a basic income, they may have the option to leave a violent or abusive relationship without being exposed to poverty.

Canada Disability Benefit

A targeted, income-tested Canada Disability Benefit (CDB) should ideally include most of the elements of a basic income. A CDB should be designed for *all* disabled people residing in Canada who meet the *Accessible Canada Act* definition of disability, including those with episodic conditions. Eligibility should not require an employment test, and repeated review of disability status should be minimal or omitted. CDB income should either entirely cover the cost of both specific and general extraordinary disability-related supports and services, or be generous enough to enable disabled people to purchase these on their own.

Basic Income and Canada Disability Benefit Compared

Both a basic income and a CDB would substantially foster economic independence and provide access to opportunities for disabled women and gender-diverse disabled people to choose how they want to live. Both programs contain similar elements that would significantly reduce poverty in disabled women and gender-diverse disabled people's lives, and could reduce many of the onerous effects of existing disability benefit programs. Set at an adequate, or ideally a generous amount well in excess of the Market Basket Measure, both basic income and CDB programs would reduce poverty and its effects in disabled women and gender-diverse people's lives.

Considerations with respect to eligibility and coverage for extraordinary costs are key. Both benefit programs would require applicants to meet income tests. With basic income, disabled applicants would not need to establish disability status for the basic benefit, but would be required to do so in order to receive subsidy for specific disability-related supports and services, should these continue to be provincially administered. If provincially-subsidized specific disability-related costs are retained, those receiving a basic income would continue to be exposed to existing intrusive medical eligibility determinations and continued annual monitoring of eligibility for many of these supports, assistive devices, and services. Importantly, if specific disability-related costs remain tied to provincial disability benefit programs, coverage of those costs would not be portable between provinces.

With the CDB, applicants would have to establish their disability status (along with meeting the income test), but ideally the benefit would be structured so that there would be no additional scrutiny needed in order to meet specific extraordinary disability-related costs. The CDB would be fully portable across Canada.

Given the targeted, less stigmatizing, somewhat less-complicated eligibility process and portable nature of the Canada Disability Benefit as imagined here, the CDB is considered by this researcher to be more favourable for disabled women and gender-diverse disabled people than a basic income program as described in this report.

Recommendations

It is LEAF's position that any basic income program for disabled women and gender-diverse disabled people must:

1. Be provided to all disabled people who meet the *Accessible Canada Act* definition of disability;

2. Either ensure that the cost of both specific and general extraordinary disability-related supports and services are covered, or be generous enough to enable disabled people to purchase these on their own;
3. Be portable across provinces and territories; and,
4. Set allowable earnings exemptions at a generous level, with minimal clawbacks of earned income above maximum allowable earnings.

Further, neither a CDB nor a basic income should be subject to any offset or clawback of Canada Pension Plan-Disability benefits, and the Disability Tax Credit should be made fully refundable.

As between a Canada Disability Benefit or a basic income program, LEAF advocates for whichever program meets the above criteria. Without these elements in place, LEAF does not support implementation of either program.

Defining key terms

A. A note about language: People first or disability first?

Along with those who live with disabilities, people immersed in disability activism, politics, and scholarship choose to refer to themselves and the collectivity in two typical ways—disabled people or people with disabilities. How disabled people refer to themselves signals their location in disability politics.¹ It also suggests an ongoing debate about how to discuss disability. The expression “people with disabilities” replaced “the handicapped” to signal that we are people first, and disability is an incidental individual characteristic, not a primary one that wholly defines a person. More recently, the expression “disabled people” has become more commonly used in disability studies and disability activism. With this phrasing, disability is no longer a secondary characteristic relegated to the periphery, but is considered “a primary [and ...] a valued aspect of identity (and also of social perception) [...], a differently legitimate form of personhood that can be fully incorporated into a valued self.”²

In this report, disabled people, and more specifically disabled women and gender-diverse disabled people,³ will be used throughout to indicate the preference of the

¹ See Simi Linton, *Claiming Disability: Knowledge and Identity* (New York: New York University Press, 1998) at 12.

² Kathryn Church et al, “Doing Disability at the Bank: Discovering the Work of Learning/Teaching Done By Disabled Bank Employees” (October 2007) at 2, online (pdf): *Ryerson RBC Foundation Institute for Disability Studies* <http://www.rbc.com/diversity/pdf/Ryerson_Report_Oct-07.pdf>.

³ LEAF’s basic income reports use varying language to describe those who face gender-based discrimination. They alternate between formulations such as “women and gender-diverse people”, “trans women, cis women, non-binary people, and Two-Spirit people”, “women and non-binary people”, or “women”. When using the term “women”, the reports are referring to both cisgender and transgender women. When using broader language, the reports are still using it as a shorthand, this time to refer to women and to those who identify within the trans umbrella, who are Two-Spirit, who are non-binary, and who otherwise identify as gender non-conforming (for more information, see “The 519’s Glossary of Terms” (February 2020), online: *The 519* <<https://www.the519.org/education-training/glossary>>). This language is not perfect, but is intended to signal a shift away from focusing only on cisgender women, or even only on cis- and trans women, in gender equality advocacy. Substantive gender equality is a goal to be reached for all those who are discriminated against based on gender.

researcher, who is a disabled woman, to foreground the valued identity of disability. When they appear in this report, those who do not live with disabilities will be referred to as non-disabled people.

B. Defining disability

As a social phenomenon, disability is complex. Many definitions and ways to describe disability exist, depending on how disability is viewed and taken up. Predominant views in contemporary Canadian society by and large subscribe to what is known as the ‘medical model’ of disability. On this view, disability is considered a “personal tragedy” that befalls some people; a medical problem of biological deficiency, individual incapacity, and/or psychic trauma.⁴ The reductionistic medical model governs much of what society considers to be its responsibility to disabled people, that is, measures to prevent and cure medical conditions that result in disabling impairments, and rehabilitation to restore function as close to normal as possible.

The medical model also predominates in official definitions of disability that “government bureaucracies and social service agencies” utilize to “determine [...] legal and practical entitlement to many forms of assistance.”⁵ Eligibility criteria for disability benefits, programs, and services rely almost exclusively on disability definitions drawn from the medical model of disability, which often fail to account for the complexity of disability. For

That said, there are very few statistics that distinguish adequately between genders. While LEAF’s basic income reports intend to advocate for gender equality for all, they often rely on data that has only accounted for cisgender women’s experiences. Where this is the case, we use the language “women” to signal that the information refers only to women, though even using this language is incorrect, because the data likely does not include trans women.

⁴ Michael J Prince, *Absent Citizens: Disability Politics and Policy in Canada* (Toronto: University of Toronto Press, 2009) at xii; Dan Goodley, “Dis/entangling Critical Disability Studies” (2013) 28:5 *Disability & Society* 631 at 634.

⁵ Susan Wendell, *The Rejected Body: Feminist Philosophical Reflections on Disability* (New York: Routledge, 1996) at 11.

example, women living with episodic conditions,⁶ including impairments in mental and emotional function, are often excluded from disability income support programs due to narrowly-defined eligibility criteria.

Along with significant differences among those with physical disabilities, there are those who live with developmental disabilities, as well as those who have cognitive or intellectual impairments, mental health disabilities, and behavioural conditions (and some who experience all of these together). These disabled people tend to have high needs, including continuous supervision, requiring multiple and deep resources, especially if they are unable to make decisions for themselves. The Canadian government acknowledges the challenge of defining disability for policy purposes, and has expressed an intention to include more of the complexity of disability in developing policy and programs.⁷

⁶ People with disabilities do not uniformly live with unchanging and persistent impairments. Rather they often live with episodic conditions, which reflect a different disability dynamics. Women are more likely than men to experience episodic conditions (16% to 10%); 61% of those living with disability in Canada experience episodic conditions. See Stuart Morris et al, “The Dynamics of Disability: Progressive, Recurrent or Fluctuating Limitations” (3 December 2019), online: *Statistics Canada* <<https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2019002-eng.htm>>. Episodic disabilities are health conditions that are lifelong. They result in periods or episodes of relatively good health, then the reappearance of impairment, varying in severity and duration, and are often characterized by unpredictability. Some conditions result in progressive degeneration: see “About the Episodic Disabilities Network” (2014), online: *Episodic Disabilities Network* <<http://www.episodicdisabilities.ca/home.php>>. Examples include: Amyotrophic Lateral Sclerosis (ALS), Asthma & Chronic Bronchitis, Cancer, Myalgic Encephalomyelitis (Fibromyalgia), Hepatitis B & C, Rheumatoid Arthritis, Systemic Lupus, HIV/AIDS, Major Depression, Mood Disorders, Schizophrenia, Severe Migraines, MS, and Diabetes.

⁷ See Mary Ann McColl, “Definitions of Disability in Canadian Disability Policy” (24 September 2020) at 1, online (pdf): *Canadian Disability Policy Alliance* <<http://www.disabilitypolicyalliance.ca/wp-content/uploads/2020/09/Definitions-of-disability-09.24.20-1.pdf>>; Human Resources and Skills Development Canada, “Federal Disability Reference Guide” (2013) at 2, online (pdf): *Government of Canada* <https://www.canada.ca/content/dam/esdc-edsc/migration/documents/eng/disability/arc/reference_guide.pdf>; Office for Disability Issues, “Defining Disability: A Complex Issue” (2003), online (pdf): *Human Resources Development Canada, Government of Canada* <<https://publications.gc.ca/collections/Collection/RH37-4-3-2003E.pdf>>.

The definition of disability developed for the purposes of this report relies on rights-based approaches enshrined in national and international legal frameworks, which themselves are informed by perspectives of disabled people and advocates.

i. *The Accessible Canada Act*

Nationally, the 2019 *Accessible Canada Act (ACA)* builds on the *Canadian Human Rights Act (CHRA)*; with respect to disability the *CHRA* focuses on prohibiting disability-based discrimination.⁸ The *ACA* defines disability as follows:

Disability means any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment—or a functional limitation—whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person’s full and equal participation in society.⁹

The *ACA* also names “barriers” for official purposes as follows:

A barrier means anything—including anything physical, architectural, technological or attitudinal, or based on information or communications, or anything that is the result of a policy or a practice—that hinders the full and equal participation in society of persons with an impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment or a functional limitation.¹⁰

ii. *United Nations Convention on the Rights of Persons with Disabilities*¹¹

⁸ *Accessible Canada Act*, SC 2019, c 10; *Canadian Human Rights Act*, RSC 1985, c H-6.

⁹ Employment and Social Development Canada, “Summary of the Accessible Canada Act” (last modified 20 November 2020), online: *Government of Canada* <<https://www.canada.ca/en/employment-social-development/programs/accessible-people-disabilities/act-summary.html>>.

¹⁰ *Ibid.*

¹¹ Canada ratified the *United Nations Convention on the Rights of Persons with Disabilities (CRPD)* in March 2010. In 2018, Canada signed the Optional Protocol enabling Canadians to make complaints to the UN Committee on the Rights of Persons with Disabilities, after engaging in “relevant complaint procedures in Canada” such as human rights complaints: see “Factsheet—*The Convention on the Rights of Persons with Disabilities (CRPD)* and

The *United Nations Convention on the Rights of Persons with Disabilities (CRPD)*¹² is an international agreement that seeks to protect and promote the human rights of persons with disabilities. The protections in the *CRPD* include access to justice, as well as provisions on health, education, work and employment, and respect of privacy. It is “a hybrid convention that combines civil, political, economic, social, and cultural rights.”¹³

The *CRPD* defines disability by drawing from the social model of disability in its recognition “that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.”¹⁴ Furthermore, the *CRPD*’s purpose “is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”¹⁵ Article 1 provides a more specific definition of disability: “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”¹⁶ This definition

the Optional Protocol” (21 November 2019), online: *ARCH Disability Law Centre* <<https://archdisabilitylaw.ca/resource/factsheet-the-crpd-and-the-optional-protocol/>>. Recently, ARCH Disability Law Centre in Toronto conducted a review and analysis of court and human rights tribunal decisions that referenced the *CRPD*, stating that the *CRPD* has “limited impact on Canadian jurisprudence”: see “Discussion Paper on Proposed Federal Accessibility Legislation and the *Convention on the Rights of Persons with Disabilities*” (8 February 2017) at 8, online (pdf): *ARCH Disability Law Centre* <https://archdisabilitylaw.ca/wp-content/uploads/2017/02/ARCH_Discussion-Paper_Federal-Accessibility-Legislation-CRPD_Feb-2017-A.pdf>.

¹² *United Nations Convention on the Rights of Persons with Disabilities*, GA Res 61/106 UNGAOR, 61st Sess, Supp No 49, UN Doc Annex: Convention on the Rights of Persons with Disabilities A/Res61/106 (2007) 2.

¹³ Joëlle Pastora Sala, “How the *UN Convention on the Rights of Persons with Disabilities (CRPD)* Might Be Used in Canadian Litigation” (2012), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/legal-protections/crpd-in-canadian-litigation>>.

¹⁴ *United Nations Convention on the Rights of Persons with Disabilities*, GA Res 61/106 UNGAOR, 61st Sess, Supp No 49, UN Doc Annex: Convention on the Rights of Persons with Disabilities A/Res61/106 (2007) 2 at Preamble (e).

¹⁵ *Ibid* at Art 1.

¹⁶ *Ibid*.

invokes both the medical model of disability in naming impairments, and the social model in naming barriers and their disabling effects.

The *CRPD* also recognizes the diversity of disabled people,¹⁷ and the risks disabled women and girls experience “of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.”¹⁸ Similarly, the *CRPD* states that disabled people are “subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status.”¹⁹

iii. Definition of Disability

For this report, disability refers to a range of physical, mental, sensory, cognitive, intellectual and developmental impairments that interact with social practices to produce barriers that prevent disabled women and gender-diverse disabled people from being included and fully participating in society. Thus, disability does not reside wholly within an individual or group but is understood to be a socially-constructed category. Most importantly, we acknowledge and respect that the impairments disabled people live with are a “valued form of human variation that [exists] within and is deeply affected by social contexts.”²⁰ Further, following the *CRPD*, and underpinning a commitment to social justice, LEAF recognizes the rights of disabled people, and in particular disabled women and gender-

¹⁷ See *ibid* at Preamble (i).

¹⁸ *Ibid* at Preamble (q).

¹⁹ *Ibid* at Preamble (p).

²⁰ Allison Carey, “Citizenship” in Rachel Adams, Benjamin Reiss & David Serlin, eds, *Keywords for Disability Studies* (New York: New York University Press, 2015) 37 at 37.

diverse disabled people, to be “treated equally, make their own decisions, have their rights respected, and participate in society.”²¹

C. Intersectionality

Intersectionality reminds those concerned with the lives of disabled women and gender-diverse disabled people that their lives cannot be reduced to single (or “common”) characteristics, and that their experiences cannot be properly understood by prioritizing any one single factor. In addition, all identity categories and locations are socially constructed and dynamic, and shaped by power. In Canada, the axes of diversity that constitute intersectionality are: race, skin colour, gender, gender expression, ethnicity, language, income, socio-economic class, occupation, education, age, ability, sexual orientation, immigration or refugee status, Indigeneity, family status, religion, and geographic location.²² When considering these markers of difference, it is important not to take them up cumulatively, or in an additive fashion.²³ Doing so privileges a central category (like woman, or race), with others merely added on, rather than considering how each category intersects with each of the others in unique ways to produce unique experiences of disadvantage or discrimination.

In this project, the diversity of disabled women and gender-diverse disabled people’s circumstances and conditions are central to understanding how “systemic barriers [...] limit

²¹ “Factsheet— *The Convention on the Rights of Persons with Disabilities (CRPD)* and the Optional Protocol” (21 November 2019), online: *ARCH Disability Law Centre* <<https://archdisabilitylaw.ca/resource/factsheet-the-crpd-and-the-optional-protocol/>>.

²² See Marika Morris & Bénita Bunjun, *Using Intersectional Feminist Frameworks in Research: A Resource for Embracing the Complexities of Women’s Lives in Research* 1st ed (Ottawa: Canadian Research Institute for the Advancement of Women, 2007) at 7.

²³ See Parin Aziz Dossa, “Racialized Bodies, Disabling Worlds ‘They [Service Providers] Always Saw Me as a Client, Not as a Worker’” (2005) 60:11 *Social Science & Medicine* 2527 at 2534; Olena Hankivsky & Linda Mussell, “Gender-Based Analysis Plus in Canada: Problems and Possibilities of Integrating Intersectionality” (2018) 44:4 *Canadian Public Policy* 303 at 308.

opportunity, resiliency, and social inclusion and place them at greater risk of poverty.”²⁴ The delivery of income support programs can produce the kinds of barriers these authors refer to. Wherever possible and relevant in this report, specific social categories and/or social locations will be named to illustrate the particular experiences of disabled women and gender-diverse disabled people as these sites of power intersect with each other.

D. Autonomy and independence (from a Critical Disability Studies perspective)

Autonomy and independence are highly valued in contemporary Western societies, underpinning the belief that the more self-reliant, self-sufficient, self-contained, and the less dependent a person is, the better their quality of life. When referring to disability, these terms are often used uncritically and interchangeably. Goodley argues that “cultural ideals of autonomy [...] are both precarious and false,”²⁵ and based on normalized (and normalizing) versions of individualism. Following this, “individuals who depend on – or require connections with – others to live are not [considered] individuals at all. They are burdens.”²⁶

The “ideology of independence” for disabled people,²⁷ subscribed to by professionals and focused on the ability to perform activities of daily living without assistance, does not align with disabled people’s understanding of independence. Disability studies scholars and activists subscribe to “a counter narrative [that] people with impairments were *made*

²⁴ Anna Cameron & Lindsay M Tedds, “Gender-Based Analysis Plus (GBA+) and Intersectionality: Overview, an Enhanced Framework, and BC Case Study” (December 2020) at 14, online (pdf): *Expert Panel on Basic Income, British Columbia* <https://mpr.ub.uni-muenchen.de/105936/1/MPRA_paper_105936.pdf>.

²⁵ Dan Goodley, *Disability Studies: An Interdisciplinary Introduction* (London: SAGE Publications, 2011) at xiii.

²⁶ *Ibid* at 79.

²⁷ Solveig Magnus Reindal, “Independence, Dependence, Interdependence: Some Reflections on the Subject and Personal Autonomy” (1999) 14:3 *Disability & Society* 353 at 353.

dependent,”²⁸ in part through marginalizing social practices. This shifts the “understanding of independence as self-*sufficiency* to one of independence as self-*determination*.”²⁹

Those needing care and supports to live ‘independently’ prompt “a reconciliation between autonomy and independence.”³⁰ This includes recognizing that by considering disability (and disabled people) as “rare individual problems rather than conditions of everyday existence for all people,”³¹ society “individualize[s] and biologize[s] dependence and ‘need’” as innate and unique to disabled individuals. Disabled people reject this and “redefine our notions of independence to include the vast networks of assistance and provision that make modern life [with disability] possible.”³² In the lives of disabled people, diverse capabilities and shared vulnerabilities reframe “independence as ‘partnership’”,³³ or *interdependence*. It is these partnerships, along with the response of governments to their obligations to provide appropriate support and assistance to disabled people, that potentially enable disabled people to exercise rights articulated in the *CRPD*.

E. Participation and social inclusion

Participation, or full and effective participation, is a common term used to describe disabled people’s relationship to social contexts, yet is not succinctly defined in the disability studies literature. The WHO (2001) International Classification of Functioning, Disability and

²⁸ Eva Feder Kittay, “Dependency” in Rachel Adams, Benjamin Reiss & David Serlin, eds, *Keywords for Disability Studies* (New York: New York University Press, 2015) 54 at 56 (emphasis in original).

²⁹ *Ibid.*

³⁰ Richard F Devlin & Dianne Pothier, “Introduction: Toward a Critical Theory of Dis-Citizenship” in Richard F Devlin & Dianne Pothier, eds, *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* (Vancouver: University of British Columbia Press, 2006) 1 at 17.

³¹ Allison Carey, “Citizenship” in Rachel Adams, Benjamin Reiss & David Serlin, eds, *Keywords for Disability Studies* (New York: New York University Press, 2015) 37 at 39.

³² Lennard Davis, “Dependency and Justice” (2007) 1:2 *Journal of Literary Disability* 1 at 4.

³³ Eva Feder Kittay, “Dependency” in Rachel Adams, Benjamin Reiss & David Serlin, eds, *Keywords for Disability Studies* (New York: New York University Press, 2015) 54 at 55; Solveig Magnus Reindal, “Independence, Dependence, Interdependence: Some Reflections on the Subject and Personal Autonomy” (1999) 14:3 *Disability & Society* 353 at 364.

Health (ICF) defines “participation restrictions” as “problems an individual may have in the manner or extent of involvement in life situations.”³⁴ Participation for disabled people is often described in the negative, that is, how it is limited by external factors such as socially-constructed barriers. From the WHO definition, one can derive a positive definition of “participation” as being “involvement in life situations”.

For disabled people, participation requires more than just having the physical, intellectual, sensory or mental capacity to do so. Participation in employment, education, volunteering, community, social, cultural and civic life relies on having the economic and other means to participate fully and equitably. Other means include (but are not limited to): accessible transportation, appropriate accommodation, social and other supports such as advocacy, and knowing how and being able to access these. Participation also relies on the presence or absence of attitudinal barriers.

Social inclusion for disabled women in Canadian society embraces opportunities to participate in “all aspects of social, economic, political and cultural life that impact [how disabled people] are valued;”³⁵ it includes “the recognition of rights,”³⁶ and “broad equality of access to opportunities to develop individual talents, capacities and capabilities.”³⁷ Here social inclusion for disabled women is linked to their *abilities*, their personal aspirations, and being valued by their communities and the broader society. When it is linked with disabled people’s abilities, along with human rights and equality of opportunities, it more closely resembles the kind of inclusion disabled people are seeking. Nonetheless, how inclusion is

³⁴ Jerome Edmund Bickenbach, “The *ICF* and Its Relationship to Disability Studies,” in Nick Watson & Simo Vehmas, eds, *Routledge Handbook of Disability Studies* (London: Routledge, 2019) 55 at 60.

³⁵ Harry Beatty, “Advancing the Inclusion of Persons with Disabilities: A Critical Analysis and Recommendations” (15 June 2003), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/access-inclusion/advancing>>.

³⁶ *Ibid.*

³⁷ Gail Fawcett, *Bringing Down the Barriers: The Labour Market and Women with Disabilities in Ontario* (Ottawa: Canadian Council on Social Development, 2000) at 5.

normatively understood is often problematic for disabled people. It is not that disabled people are completely excluded, but that they are inequitably and invidiously included (and rarely on their own terms).³⁸ The disability version of inclusion is the dictum, “Nothing about us without us.”³⁹

For the LEAF Basic Income Project, the connection between participation and social inclusion links disabled women’s need for the means to participate fully and actively, with the desire to be socially included. Key to this connection is valuing their abilities and providing access to opportunities and supports needed to develop their capacities in all of life’s domains.

F. Basic income

A guaranteed basic income ensures that everyone has an income sufficient to meet basic needs, and to live with dignity, regardless of employment status. The policy goals of basic income include income security and poverty elimination, income stability, and the advancement of substantive equality (including but not limited to income equality).

The design of a basic income program should include key principles that LEAF subscribes to. These are: universality, non-conditionality, security, portability, autonomy, dignity, stability, adequacy, eliminating work disincentives, valuing care, and advancing economic and gender equality. According to the Basic Income Canada Network, some important design issues include: establishing adequate (or ideally, generous) benefit levels; “how payment is made” as well as “how frequently it’s paid;” and “how other income is

³⁸ See Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015) at 332.

³⁹ James I Charlton, *Nothing About Us Without Us: Disability Oppression and Empowerment* (Berkeley: University of California Press, 1998) at 3.

treated.”⁴⁰ We recognize concerns that other cash and in-kind benefits may be threatened or reduced due to a basic income; these concerns should be addressed in a basic income program design in ways that ensure reduction of other benefits does not occur.

For the purposes of this report, we assume an income-tested basic income that is permanent; that replaces social assistance gradually; is accessible to all individuals who need it regardless of immigration status; and is adequate; non-taxable, and indexed annually to the cost of living. Any basic income program or targeted disability benefit must meaningfully include in its development, design, implementation, and evaluation the most marginalized. In particular, this should include women and non-binary people who are disabled, Black, Indigenous, people of colour, those on social assistance or disability benefits, lone parents, and those who have precarious immigration status. For a more comprehensive discussion of basic income principles and design, see LEAF’s companion report on Basic Income & the Care Economy.⁴¹

The substantive inequality of disabled women and gender-diverse disabled people

The experience of substantive inequality is related to what it is not—substantive equality—and the set of conditions that produce it. Substantive equality

refers to the achievement of true equality in outcomes. It is achieved through equal access, equal opportunity and, most importantly, the provision of services and benefits in a manner and according to standards that meet any unique needs and circumstances, such as cultural, social, economic and historical disadvantage.⁴²

⁴⁰ “The Basic Income We Want” (April 2021), online (pdf): *Basic Income Canada Network* <<https://basicincomecanada.org/wp-content/uploads/2021/04/The-Basic-Income-We-Want-BICN-Statement-of-Principals.pdf>>.

⁴¹ Cee Strauss, “Basic Income & The Care Economy” (2021) at 39-56, online (pdf): *Women’s Legal Education and Action Fund* <<https://www.leaf.ca/wp-content/uploads/2021/09/Basic-Income-The-Care-Economy-Full-Report-Final.pdf>>.

⁴² Indigenous Services Canada, “Jordan’s Principle: Substantive Equality Principles” (last modified 21 November 2019), online: *Government of Canada* <<https://www.sac-isc.gc.ca/eng/1583698429175/1583698455266>>.

In the next sections, we briefly describe disabled women in Canada and the poverty in which they live, followed by how poverty contributes to their substantive inequality, and the effects of poverty on their participation and social inclusion. The social conditions of disabled women and gender-diverse disabled people's lives affect their health and well-being. These conditions are known as the social determinants of health,⁴³ and when compromised they contribute to substantive gender inequality for disabled women and gender-diverse disabled people. A partial list includes: gender, income and income distribution, unemployment, job security and working conditions, social security, social exclusion, food insecurity, housing, race, Indigenous ancestry, education level, and immigration status. Disability itself is considered a social determinant of health.

Our descriptions of disabled women and poverty rely on statistical data drawn from two primary sources: the Council of Canadians with Disabilities' (CCD) distillation of the post-census 2006 Statistics Canada Participation and Activity Limitation Survey (PALS);⁴⁴ and, Amanda Burlock's summary of the 2012 Canadian Survey on Disability (CSD) focused on disabled women's lives.⁴⁵ Statistics on gender-diverse and trans disabled people, persons with precarious or uncertain immigrations status, and migrant workers are notably absent from both of these surveys (and most research into disabled people's lives). Also, the CSD excluded Indigenous people living on First Nations' reserves, in provincial First Nations'

⁴³ See Dennis Raphael, ed, *Social Determinants of Health: Canadian Perspectives*, 3rd ed (Toronto: Canadian Scholars' Press, 2016) at 3.

⁴⁴ "As a Matter of Fact: Poverty and Disability in Canada," online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/demographic-profile/poverty-disability-canada>>; Statistics Canada, "Participation and Activity Limitation Survey 2006: Analytical Report" (3 December 2007), online: *Government of Canada* <<https://www150.statcan.gc.ca/n1/en/catalogue/89-628-X2007002>>.

⁴⁵ Amanda Burlock, "Women with Disabilities" (2017), online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHcGw>>.

settlements, and in certain territorial First Nations' communities, so this survey's data only includes those Indigenous disabled people living off reserve.⁴⁶

A. Disabled women, gender-diverse disabled people, and poverty

Disabled people are among the poorest living in Canada. Among working age disabled Canadians (ages 18-64), 53.2% are women.⁴⁷ Disabled women are significantly poorer than disabled men,⁴⁸ and are twice as likely to be living alone than non-disabled women. Disabled women who are single, single-parenting, Indigenous, working class, racialized visible minorities, and/or newcomers, live in the deepest poverty.⁴⁹

Living alone or single parenting predisposes women to poverty. In 2019, Canadians (disabled and non-disabled) who were unattached or living in lone-parent families were “more likely” to be living below the Market Basket Measure (MBM)—Canada’s official measure of poverty—“than persons in other family types.”⁵⁰ Eight in ten lone parenting disabled parents are women, indicating the high risk of poverty that disproportionately affects this group.⁵¹ Intersecting identities render disabled women and gender-diverse disabled people

⁴⁶ The use of First Nations here refers to particular settlements/communities/reserves, and the term Indigenous refers globally to all First Nations, Inuit and Métis people.

⁴⁷ See “Gender, Disability and Low Income” (2011), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/demographic-profile/gender-disability-low-income>>.

⁴⁸ See “Factsheet: Women with Disabilities and Poverty” (2014) at 1, online (pdf): *DisAbled Women’s Network of Canada* <<https://www.dawncanada.net/main/wp-content/uploads/2014/03/English-Poverty-January-2014.pdf>>.

⁴⁹ See Sally A Kimpson, “Living Poorly: Disabled Women on Income Support” in Diane Driedger, ed, *Still Living the Edges: A Disabled Women’s Reader*, 2nd ed (Toronto: Inanna Press, forthcoming); Statistics Canada, “Canadian Income Survey, 2019” (March 2021), online: *Government of Canada* <<https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=5200>>; Dennis Raphael, *Poverty and Policy in Canada: Implications for Health and Quality of Life* (Toronto: Canadian Scholars’ Press, 2007) at 136-37.

⁵⁰ Statistics Canada, “Canadian Income Survey, 2019” (March 2021), online: *Government of Canada* <<https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=5200>>.

⁵¹ See See Stuart Morris et al, “The Dynamics of Disability: Progressive, Recurrent or Fluctuating Limitations” (3 December 2019), online: *Statistics Canada* <<https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2019002-eng.htm>>; Amanda Burlock, “Women with Disabilities” (2017) at 9-10, 28, 30, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHcGw>>.

more vulnerable to poverty. Research by the Canadian Centre for Policy Alternatives (CCPA) reveals that there is “a much higher prevalence of poverty among racialized communities in Canada,” with “20.8% of racialized Canadians with incomes below low-income measures.”⁵² Presumably, because women make up the largest group of racialized Canadians living below low income measures,⁵³ it can be inferred that disabled women are among this group.

Indigenous women (living off reserve) are 1.5 times more likely to report disabilities than non-Indigenous women, and in 2012, 22% of Indigenous women versus 14.6% of Indigenous men reported living with disabling conditions.⁵⁴ Poverty in Indigenous peoples’ lives is directly related to low annual incomes (less than half that earned by non-Indigenous people), compromised access to quality health care, intact housing, affordable and nutritious food, potable water, education, and gainful employment. Substantially more (84%) Indigenous than non-Indigenous families are headed by a single parent.⁵⁵ Given that 8 of 10 lone parents in Canada are women,⁵⁶ the majority of lone Indigenous parents are likely also women. With the increased incidence of disability compared to non-Indigenous women and Indigenous men, combined with lone parent status, disabled Indigenous women are assumed to be more likely to experience poverty and the disadvantages that inhere. Mental health

⁵² Sheila Block, Grace-Edward Galabuzi & Ricardo Tranjan, “Canada’s Colour-Coded Income Inequality” (2019) at 20, online (pdf): *Canadian Centre for Policy Alternatives* <<https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/12/Canada%27s%20Colour%20Coded%20Income%20Inequality.pdf>>.

⁵³ See *ibid* at 20.

⁵⁴ See Amanda Burlock, “Women with Disabilities” (2017) at 6-7, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHCgw>>. Note that the language in the cited source uses the term “Aboriginal”, which has been replaced here with “Indigenous” to maintain consistency with the rest of this report.

⁵⁵ See Gayle Broad & Jessica Nadjiwon-Smith, “B.I.G and First Nations: Cautions for Implementation” (May 2017) at 2, online (pdf): *Northern Policy Institute* <https://www.northernpolicy.ca/upload/documents/publications/reports-new/broad-nadjiwon-smith_big-andfn-en.pdf>. Note that the language in the cited source uses the term “Aboriginal”, which has been replaced here with “Indigenous” to maintain consistency with the rest of this report.

⁵⁶ See “Portrait of Families and Living Arrangements in Canada: Families, Households and Marital Status, 2011 Census of Population” (2012) at 14, online (pdf): *Statistics Canada* <<https://www12.statcan.gc.ca/census-recensement/2011/as-sa/98-312-x/98-312-x2011001-eng.pdf>>.

disabilities can be exacerbated by the kind of poverty and deprivation that lone parenting Indigenous women live with.

A 2012 study showed that of over 400 Trans+⁵⁷ people surveyed, “34% were living below the official low-income cut-off for Ontario [at the time], and 49% reported an income in 2009-2010 of below \$15,000.”⁵⁸ For context, “a larger US survey conducted in 2015 reported that 29% of 27,715 Trans+ people were living in poverty, twice the national average.”⁵⁹ These studies do not identify Trans+ disabled people, but given poverty levels in Trans+ populations as cited, and disability rates in Canada, we can assume that a significant proportion of disabled Trans+ people are living in poverty.

B. How does poverty contribute to the substantive inequality in disabled women and gender-diverse disabled people’s lives?

In Canada, a wealthy industrialized nation, “living under conditions of material and social deprivation”—that is, conditions of poverty—“limits participation in a wide range of cultural, economic, educational, political, and other social activities usually expected of individuals, families and communities.”⁶⁰ As noted above, systems of oppression such as

⁵⁷ “Trans+ includes anyone whose current gender identity is not the same as what they were assigned at birth. For example, this might include people who identify as transgender, transsexual, nonbinary, genderqueer, Two-Spirit, agender, and many other diverse gender identities”: see Aaron Devor Knowledge Services, “Poverty Reduction in Trans, Non-Binary, and Two-Spirit Communities: A Summary Report for the British Columbia Ministry of Social Development and Poverty Reduction” (2020) at 3, online (pdf): *British Columbia, Ministry of Social Development and Poverty Reduction*, <<https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/initiatives-plans-strategies/poverty-reduction-strategy/2020-trans-plus-report.pdf>>.

⁵⁸ *Ibid*, citing Greta R Bauer et al, “High Heterogeneity of HIV-Related Sexual Risk among Transgender People in Ontario, Canada: A Province-Wide Respondent-Driven Sampling Survey” (2012) 12 BMC Public Health 292 at 5.

⁵⁹ Aaron Devor Knowledge Services, “Poverty Reduction in Trans, Non-Binary, and Two-Spirit Communities: A Summary Report for the British Columbia Ministry of Social Development and Poverty Reduction” (2020) at 3, online (pdf): *British Columbia, Ministry of Social Development and Poverty Reduction*, <<https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/initiatives-plans-strategies/poverty-reduction-strategy/2020-trans-plus-report.pdf>>.

⁶⁰ Dennis Raphael, *Poverty and Policy in Canada: Implications for Health and Quality of Life* (Toronto: Canadian Scholars’ Press, 2007) at 6.

racism and misogyny result in particular people being more susceptible to living in poverty. The poverty disabled women and gender-diverse disabled people live in is also shaped by a broad range of public policies (themselves built within the same systems of oppression discussed above), in particular the allocation and distribution of economic and social resources by governments. For example, governments establish the amount of taxation and revenue available for programs, wage levels, employment security and benefits, and housing policies. Thus, poverty is not an individual failure, a typical viewpoint in contemporary Canadian society.⁶¹

As Raphael states, “[t]he experience of poverty is the experience of deprivation [... an] inability to meet basic needs and participate in a range of everyday activities [that] is a source of constant stress and worry,”⁶² and contributes to the substantive inequality of disabled women and gender-diverse disabled people. They have unequal access to resources and opportunities, like education and employment, and they have unmet needs through the limited provision of services and benefits, including income support. Vulnerability to different kinds of violence is linked to poverty in disabled women’s lives, and contributes to their substantive inequality. Poverty also limits disabled women and gender-diverse disabled people’s participation and social inclusion. Further, their social well-being is substantially compromised, affecting their health, and thwarting their ability to achieve the equality of outcomes substantive equality promises. Each of these will be discussed in turn.

i. Poverty and education

Even though education is usually considered a pathway to employment and inclusion, a significant proportion (38.6%) of working-age disabled women living in low income

⁶¹ See *ibid* at 27.

⁶² *Ibid* at 165.

households have not obtained a high school graduation certificate.⁶³ Disabled women obtain undergraduate degrees at half the rate of non-disabled women, in part due to complicated and adversarial academic accommodation systems,⁶⁴ insufficient academic accommodation, inaccessible housing, and poverty that limits their ability to pay tuition and other educational expenses. In addition, despite recently-developed Equity, Diversity and Inclusion (EDI) policies, educational institutions do not consistently recognize the diversity of disabled students, who are the targets of disabling attitudes and ableism, in particular the normative view that accommodations represent special treatment for disabled students, or they are somehow “jumping the queue”.⁶⁵

Disabled women usually register in fewer courses and take considerably longer to complete their educational programs, influencing future employment prospects, including delay entering the workforce, and reduced job prospects. Employment is not accompanied by a guarantee of a sustainable income. Even disabled women who have completed their education face challenges securing and maintaining long-term, well-paying, consistent and stable jobs, similar to many in Canada currently. However, disabled women who require appropriate accommodation are at a disadvantage compared to their non-disabled counterparts, and are exposed to disabling attitudes by employers.

ii. Poverty and income support

⁶³ See “Gender, Disability and Low Income” (2011), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/demographic-profile/gender-disability-low-income>>.

⁶⁴ See Terri Hibbs & Dianne Pothier, “Post-Secondary Education and Disabled Students: Mining a Level Playing Field or Playing in a Minefield?” in Dianne Pothier and Richard Devlin, eds, *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* (Vancouver: University of British Columbia Press, 2006) 195 at 197.

⁶⁵ Jay Dolmage, *Academic Ableism: Disability and Higher Education* (Ann Arbor: University of Michigan Press, 2017) at 81, citing Brenda Jo Brueggemann et al, “Becoming Visible: Lessons in Disability” (2001) 52:3 *College Composition & Communication* 368 at 378.

The single largest source of income (75.5%) for working-age disabled women in Canada is from transfers, primarily provincial or territorial disability benefits. This is followed by Canada Pension Plan-Disability (CPP-D) benefits and Québec Pension Plan-Disability (QPP-D), and only after that, wages and self-employment income. Disabled women who are single parenting “have the highest share of income from government transfers (83%),” and their wages comprise a lower share of their income than other disabled women (9.5%).⁶⁶ Disabled women living alone report the lowest household income on average. Disabled women are “three times more likely to rely on government programs than women without disabilities and more likely than men with disabilities.”⁶⁷ Even when employed, the annual income of disabled women with severe impairments⁶⁸ reflects gender gaps existing in the non-disabled population, though the gap is narrower. Disabled women earn on average about 90% of disabled men’s incomes (\$17,520 versus \$20,230) (note the low average annual income for both). In comparison, non-disabled women working full-time earn on average 75% of non-disabled men’s wages, with the gap wider for those who are Indigenous, racialized or newcomers.⁶⁹

For those disabled women without employment earnings; who are under- or precariously-employed; who are ineligible for contributory disability insurance programs

⁶⁶ Cameron Crawford, “Looking into Poverty: Income Sources of Poor People with Disabilities in Canada” (2013) at iii, online (pdf): *Institute for Research and Development on Inclusion and Society* <<http://www.ccdonline.ca/media/socialpolicy/Income%20Sources%20Report%20IRIS%20CCD.pdf>>.

⁶⁷ “Factsheet: Women with Disabilities and Poverty” (2014) at 2, online (pdf): *DisAbled Women’s Network of Canada* <<https://www.dawncanada.net/main/wp-content/uploads/2014/03/English-Poverty-January-2014.pdf>>.

⁶⁸ The Canadian Survey on Disability (CSD) considers severity to be a ranking based on the presence and severity of 10 different types of impairments. The degree of severity “increases with the level of difficulty and the frequency of the limitation. [...] The more types of disability a person has, the higher his or her global score will be.” See Elisabeth Cloutier, Chantal Grondin & Amélie Lévesque, “Canadian Survey on Disability, 2017: Concepts and Methods Guide” (28 November 2018) at 12, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-654-x/89-654-x2018001-eng.pdf?st=wMnTxc1P>>.

⁶⁹ See “Fact Sheet: The Gender Wage Gap in Canada” (August 2018), online (pdf): *Canadian Women’s Foundation* <https://canadianwomen.org/wp-content/uploads/2018/08/Gender-Wage-Gap-Fact-Sheet_AUGUST-2018_FINAL1.pdf>.

(CPP-D/QPP-D, LTD and Workers' Compensation) because of compromised labour force participation; or who are unable to rely on social networks such as family and friends for income support, the only recourse is to apply for provincial/territorial social assistance programs, or 'last resort' benefits.⁷⁰

Women receiving provincially-administered disability benefits are among the most impoverished and disadvantaged in Canadian society, although newcomers with precarious or uncertain immigration status are sometimes ineligible for even these benefits, depending on provincial residency requirements.⁷¹ Benefit rates vary from province-to-province (and territorially), but *all* 'last resort' benefits leave disabled women with incomes substantially below the Market Basket Measure (MBM) for their regions.⁷² Many disabled women living on provincial disability benefits are insecurely housed and are especially at risk of experiencing "hidden homelessness." "living temporarily with others, but without guarantee of continued

⁷⁰ Sally A Kimpson, "Living Poorly: Disabled Women on Income Support" in Diane Driedger, ed, *Still Living the Edges: A Disabled Women's Reader*, 2nd ed (Toronto: Inanna Press, forthcoming). The term 'last resort benefits' is both a colloquial and a social policy term for provincially-administered disability benefits, which are the benefits of last resort to people who are ineligible for or unable to access other programs, like Workers' Compensation, Long Term Disability, or CPP-D. Provincial disability benefits were originally meant to be temporary programs, but over time they became entrenched and permanent. The term 'last-resort benefits' is in widespread usage, and is used here to indicate the status of these benefits among those available to disabled people requiring income assistance.

⁷¹ Residency requirements for provincially-administered disability benefits differ across the country. For example, in Alberta, applicants for Aid in Support of the Handicapped (AISH) need to live in Alberta and be either a Canadian citizen or a permanent resident; in Ontario, for the Ontario Disability Support Program (ODSP), applicants need to be Ontario residents; in BC, applicants for Persons with Disabilities (PWD) benefits have no stated residency requirements, although an address is required on the application form (and providing a Social Insurance Number is optional); in Nova Scotia, applicants must be Nova Scotia residents; in Quebec, applicants for Social Solidarity benefits must live in Quebec, be either a Canadian citizen, an Indigenous person, a permanent resident, a refugee, or a refugee claimant. In general, the eligibility of immigrants, migrants, and/or undocumented people for the programs discussed in this report varies depending on the program and the province or territory. Explanations of program eligibility requirements in this report do not always specify the immigration status required to be eligible. These rules are complex and are not the central focus of this report. LEAF is in solidarity with demands for full and permanent immigration status for all, without exclusions: see "Together for Full and Permanent Immigration Status for All" (last visited 27 August 2021), online: *Migrant Rights Network* <<https://migrantrights.ca/status-for-all/>>.

⁷² See Anne Tweddle & Hannah Aldridge, "Welfare in Canada, 2018" (November 2019) at 67, online (pdf): *Maytree* <https://maytree.com/wp-content/uploads/Welfare_in_Canada_2018.pdf>.

residency or immediate prospects for accessing permanent housing.”⁷³ In addition, mothers who must leave employment to care for disabled children may find themselves living on social assistance (welfare) and in deep poverty, in part due to lack of or difficulty accessing disability supports for their children.⁷⁴

iii. Extraordinary costs of living with disability

Another factor contributing to disabled women and gender-diverse disabled people’s poverty, and consequent substantive inequality, is the extraordinary disability-related costs that they often face. Some of these costs are either partially or wholly subsidized by provincial benefit programs, but many go unrecognized or uncompensated. Extraordinary disability-related costs are for products, services, and supports needed to assist disabled women and gender-diverse disabled people to perform activities of daily living and to participate in their communities.

Most women with physical disabilities require the use of some kind of assistive device, including mobility aids.⁷⁵ Those with mental health disabilities, cognitive or intellectual impairments may need assistance with personal care, managing finances, or other activities of daily living. Disabled women are also more likely than their male counterparts to report using prescription medications at least once weekly; most of these are covered by provincial disability benefit programs, but are potentially subject to delisting from provincial subsidy, leaving the cost to be borne by individuals.

Lucie Dumais, Alexandra Prohet and Marie-Noëlle Ducharme describe extraordinary costs as occupying two overlapping categories: *specific* additional costs which are “extra

⁷³ S Gaetz et al, *Canadian Definition of Homelessness* (Toronto: Canadian Observatory on Homelessness Press, 2012) at 3.

⁷⁴ Email from Devorah Kobluk (5 May 2021).

⁷⁵ See Amanda Burlock, “Women with Disabilities” (2017) at 14, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHcGw>>.

expenses incurred to offset inadequate allocation or delivery of services within existing disability benefit programs;” and, *general* [or hidden] costs, which are additional costs not covered by disability programs or services.⁷⁶ In this report we refer to specific costs as those both wholly subsidized by provincial disability benefit programs, and also those that are partially subsidized, or inadequately allocated or delivered, requiring beneficiaries to assume responsibility for the extra expense.

General costs are harder to quantify, in part because they are not broadly understood and/or are difficult to account for. These general costs are typically wholly borne by disabled people. According to Dumais, Prohet and Ducharme, disabled people identify housing, health care, transportation, and personal care as areas of their lives that present both specific and general additional costs.⁷⁷

A non-exhaustive list of *specific* costs for those with physical disabilities—some, but not all of which are subsidized or wholly covered by disability benefit or other supportive programs—are: mobility devices, such as wheelchairs, scooters, walkers; prosthetic devices, such as adapted tools, bathroom aids, splints, orthotics; medical supplies, such as medications (some very expensive like biologics for immune-mediated conditions), hearing aids, ostomy supplies, oxygen tanks, and special diets. Also included are specific expenses for a certified guide or service dog, needed by both those who live with physical impairments (e.g., diabetes, visual impairment), and those with mental health or neurological impairments (e.g., epilepsy, PTSD, neurodiversity). Additionally, the cost of insurance for some assistive devices may not be fully covered by benefit programs.

⁷⁶ Lucie Dumais, Alexandra Prohet & Marie-Noëlle Ducharme, “Review of Extra Costs Linked to Disability” (March 2015), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/income-security-reform/extra-costs-linked-to-disability>>.

⁷⁷ *Ibid.*

Examples of additional general (and often hidden) costs incurred are: hiring personal attendants or housekeepers due to insufficient or inappropriate home support services delivered through provincial social programs (including for those with mental health impairments who might need help with tasks like meal preparation, personal hygiene, and housekeeping); needing an apartment with an elevator and having to pay extra rent in order to live in an accessible building; inadequately subsidized home adaptation programs to increase accessibility (ramps, grab bars); transportation, like using accessible taxis for regular appointments (to mental health services as well as services needed for physical impairments); medical or rehabilitation services not covered by provincial disability benefit programs, such as prescription medications (and dispensing fees) not covered, and professional health care treatments whose coverage is limited (massage, physio/OT, audiology, speech and language pathologists, chiropractic, nutritionist).

Dumais, Prohet and Ducharme calculated a median value of general additional costs at approximately \$750 annually for a family, with some incurring annual costs as high as \$7,000.⁷⁸ Those who cannot afford these costs, or who cannot afford co-payments on subsidized supports and services, make difficult decisions about what to do without in order to have their needs for additional services and supports met. Typically, choices are made between filling prescriptions and buying nutritious food, or using precious energy to take public transit to local food banks.⁷⁹ Interestingly, Dumais, Prohet and Ducharme suggest that “the poorer a [disabled] person is, the less he or she incurs additional costs;” this observation indicates that “the concept of additional costs de facto implies some financial leverage that is not available to people living in poverty.”⁸⁰ This finding underscores the privation with which

⁷⁸ *Ibid.*

⁷⁹ See Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015) at 2-3, 182, 325.

⁸⁰ Lucie Dumais, Alexandra Prohet & Marie-Noëlle Ducharme, “Review of Extra Costs Linked to Disability” (March 2015), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/income-security-reform/extra-costs-linked-to-disability>>.

disabled women in poverty live, and how insufficient income prevents them from affording the additional costs for necessary goods and services related to disability.

Disabled people living in poverty struggle to address both specific and hidden costs. Additional costs of disability contribute to lower incomes and exacerbate poverty. In addition, when there is insufficient income, disabled women's everyday needs, like good nutrition, are often neglected in favour of addressing other costs of living with disability. Disabled people experience accessing programs that are designed to help with the additional costs of disability as "a full-time job",⁸¹ reflected in missed opportunities for more rewarding social participation and inclusion. The scrutiny required to access needed supports and services is often experienced as intrusive, demeaning, and stigmatizing.

iv. Poverty and violence

The International Network of Women with Disabilities writes that "[v]iolence against women and girls with disabilities is not just a subset of gender-based violence: it is an intersectional category dealing with gender-based and disability-based violence."⁸² "The confluence of these two factors," the Network writes, "results in an extremely high risk of violence against women with disabilities,"⁸³ including intimate partner psychological, sexual, and physical abuse. Stigma associated with disability, combined with lack of respect for disabled people's personhood, are contributing factors to this increased risk. Disabled people are often considered by society to be objects of charity or pity, fuelling the perception that they can be abused without remorse or conscience, rather than treated as persons deserving of equal rights.

⁸¹ *Ibid.*

⁸² "Violence Against Women with Disabilities" (4 October 2010) at 2, online: *International Network of Women with Disabilities* <<https://inwwd.files.wordpress.com/2010/11/violence-against-women-with-disabilities-international-network-of-women-with-disabilities.doc>>.

⁸³ *Ibid.*

Women with disabilities experience a wider range and more subtle types of acts of violence than non-disabled women. Disabled women are exposed to violence accomplished by overt acts of “physical force, legal compulsion, economic coercion, intimidation, psychological manipulation, deception, and misinformation, and in which absence of free and informed consent is a key analytical component. Violence may also include omissions, like deliberate neglect or lack of respect.”⁸⁴ Social stereotypes that infantilize, dehumanize, and isolate disabled women expose them to high risk of experiencing various forms of violence, including personal victimization (neglect or withdrawal of supports) at the hands of caregivers, personal attendants and health care providers, and micro-aggressions from strangers and family members. Those living with mental or behavioural impairments are four times more likely to experience personal victimization than those with non-mental conditions.⁸⁵

For those who are economically dependent on family members or intimate partners, leaving an abusive or violent situation may be financially impossible, leaving disabled women physically and emotionally vulnerable and trapped. Barriers to reporting or escaping abuse include: “difficulty in making contact with shelters or other intervention services, lack of access to information about available services, difficulties in accessing transportation [to a shelter or another safe location], [women’s] fear of losing their financial security, their housing or their welfare benefits and fear of being institutionalized.”⁸⁶ In addition, disabled women are less likely to report being victims of violence to legal or other authorities than disabled men, given fears they may not be believed or perceived as credible. Often violence perpetrated by family members or personal assistants “is considered to be a problem that

⁸⁴ *Ibid* at 7.

⁸⁵ See “Factsheet: Women with Disabilities and Violence” (2014) at 1, online (pdf): *DisAbleD Women’s Network of Canada* <<https://www.dawncanada.net/main/wp-content/uploads/2014/03/English-Violence-January-2014.pdf>>.

⁸⁶ *Ibid* at 2-3.

should be addressed by the social service system,” not one to be taken up by the criminal justice system, undermining disabled women’s autonomy and legal rights.⁸⁷

C. What are the effects of poverty on disabled women and gender-diverse disabled people’s participation and social inclusion?

i. Poverty and unmet needs for assistance

A significant barrier to social participation and economic security for disabled women is not receiving the help they need. Disabled women living in poverty are more likely to have unmet needs for assistance due to their inability to hire others to assist with disability-related needs. 43.7% of disabled women living in low income households report having “one or more unmet needs for disability-related help.”⁸⁸ This includes needing “help getting to appointments, with housework, and with heavy household chores;” as well as help preparing meals, personal care, and moving around in their domestic space.⁸⁹ Disabled women are also more likely than disabled men to assume more responsibility for childrearing, elder care, and household chores, and, even when living with others, are more likely than disabled men to perform household chores without assistance.⁹⁰

ii. Poverty and labour force participation

Income sources available to disabled women vary and, for some, include earnings from paid employment. However, the inadequacy of paid employment and low labour force

⁸⁷ *Ibid* at 2.

⁸⁸ “Gender, Disability and Low Income” (2011), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/demographic-profile/gender-disability-low-income>>.

⁸⁹ Amanda Burlock, “Women with Disabilities” (2017) at 15, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHcGw>>.

⁹⁰ See *ibid*; Gail Fawcett, *Living with Disability in Canada: An Economic Portrait* (Ottawa: Human Resources Development Canada, 1996).

participation rates contribute to poverty in disabled women’s lives. Disabled women are more precariously employed and likely to be engaged in work that is part-time or contracted, traditionally gendered, and semi-skilled or unskilled. They are also more likely to participate in the “informal [or underground] economy.”⁹¹ The labour force participation rate of low-income disabled women is 24%,⁹² compared to 59.6% for non-disabled women of all incomes in Canada.⁹³ Disabled women also face considerable challenges, such as inadequate or no workplace accommodation, ableist attitudes, and discriminatory treatment when working. Employment decreases with severity of impairments.

Discrimination against disabled women is a significant factor affecting their participation in employment. For example, employers allot more working hours to non-disabled employees; as a result, disabled women work fewer hours (11 to 13 weeks less) than non-disabled women.⁹⁴ Labour force discrimination most frequently identified by disabled women relates to “feeling disadvantaged in employment due to their [disabling] condition [...] or feeling that their employer or potential employer considers them disadvantaged due to their condition.”⁹⁵

iii. Poverty, participation, and health/well-being

⁹¹ “Factsheet: Women with Disabilities and Poverty” (2014) at 1, online (pdf): *DisAbleD Women’s Network of Canada* <<https://www.dawncanada.net/main/wp-content/uploads/2014/03/English-Poverty-January-2014.pdf>>.

⁹² See Amanda Burlock, “Women with Disabilities” (2017) at 20-21, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHcGw>>.

⁹³ See Statistics Canada, “Unemployment Rate, Participation Rate and Employment Rate by Sex, Annual” Table No 14-10-0327-02 (last modified 29 September 2021), online: *Government of Canada* <<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410032702>>.

⁹⁴ See Jonathan Pittman, “Employment Discrimination for Canadians with Disabilities” (last visited 22 September 2021), online: *Students Exploring Inequality in Canada* <<https://inequalitygaps.org/first-takes/first-takesclass/employment-discrimination-for-canadians-with-disabilities/>>.

⁹⁵ See Amanda Burlock, “Women with Disabilities” (2017) at 22, online (pdf): *Statistics Canada* <<https://www150.statcan.gc.ca/n1/en/pub/89-503-x/2015001/article/14695-eng.pdf?st=f9lBHcGw>>.

Structural poverty and substantive inequality shape disabled women's and gender-diverse disabled people's quality of life, including "community belonging and isolation, social inclusion and exclusion, social cohesion and integration, [...] crime and safety,"⁹⁶ and having (and being able to access) opportunities to pursue aspirations and achieve their full potential. Differences in access to resources significantly influence a person's quality of life, including "the rights and opportunities they exercise and the rewards or privileges they enjoy."⁹⁷ One of the outcomes of social inequality is social exclusion, or "being denied the opportunity to participate in commonly accepted activities of societal membership."⁹⁸

If health, like poverty, is understood to be "constituted through the social, political, economic and cultural forces that shape disabled women [and gender-diverse disabled people's] everyday lives,"⁹⁹ then it is best imagined as well-being. Although poverty is named as "one of the strongest determinants of health,"¹⁰⁰ well-being is a more robust way of understanding the quality of disabled women's and gender-diverse disabled people's lives, one that takes into account aspects of living with "the unwieldy humanness" of disabled bodies beyond normatively-constructed biomedical versions of health (and disability).¹⁰¹ The version of well-being used here goes beyond ideas about health to include not just elements like the identification and pursuit of an individual's aspirations, but those social, political, and economic conditions that enable disabled women and gender-diverse disabled people to

⁹⁶ Dennis Raphael, *Poverty and Policy in Canada: Implications for Health and Quality of Life* (Toronto: Canadian Scholars' Press, 2007) at 269.

⁹⁷ *Ibid* at 86.

⁹⁸ *Ibid*.

⁹⁹ Sally A Kimpson, "Uncertain Subjects: Disabled Women on BC Income Support" (PhD Dissertation, University of Victoria, Victoria, 2015) at 316, citing Marcia C Inhorn, "Defining Women's Health: A Dozen Messages from More than 150 Ethnographies" (2006) 20:3 *Medical Anthropology Quarterly* 345.

¹⁰⁰ Dennis Raphael, *Poverty and Policy in Canada: Implications for Health and Quality of Life* (Toronto: Canadian Scholars' Press, 2007) at 5.

¹⁰¹ Catherine Frazee, Joan Gilmour & Roxanne Mykitiuk, "Now You See Her, Now You Don't: How Law Shapes Disabled Women's Experience of Exposure, Surveillance, and Assessment in the Clinical Encounter" in Richard F Devlin & Dianne Pothier, eds, *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* (Vancouver: University of British Columbia Press, 2006) 223 at 224.

enact well-being. Living in poverty means that aspects of well-being like having basic needs met, experiencing personal and economic security, participation and inclusion in social life, and exercising citizenship rights are compromised.¹⁰²

Well-being and equality can be paired such that a desired outcome for disabled women and gender-diverse disabled people is “equality of well-being”,¹⁰³ which recognizes that individual embodied differences mean that different people have different needs in order to participate in society equally. For example, a newcomer or immigrant woman who is Deaf and does not understand American Sign Language (ASL) would require sign language interpretation in her mother tongue, translated into English to access services. Also contributing to well-being are those aspects of citizenship (social rights) that govern entitlements such as economic security, enabling disabled women to live “according to prevailing standards of living.”¹⁰⁴ As part of substantive equality, self-determination as a concept is recognized in both Canadian human rights law¹⁰⁵ and international disability rights law.¹⁰⁶ The ability of disabled women and gender-diverse disabled people living in poverty to make freely-chosen plans for their lives in line with their capacities and desires—to be self-

¹⁰² See Marcia Rioux, Michael Bach & L Muszynski, “Well-Being, Society and Institutional Development: A Literature Review” in David I Hay, *Well-Being: A Conceptual Framework and Three Literature Reviews* (Vancouver: SPARC of British Columbia, 1993); David I Hay, *Well-Being: A Conceptual Framework and Three Literature Reviews* (Vancouver: SPARC of British Columbia, 1993); Marcia H Rioux, “Towards a Concept of Equality of Well-Being: Overcoming the Social and Legal Construction of Inequality” (1994) 7:1 *Canadian Journal of Law and Jurisprudence* 127 at 143.

¹⁰³ *Ibid* at 127.

¹⁰⁴ David I Hay, *Well-Being: A Conceptual Framework and Three Literature Reviews* (Vancouver: SPARC of BC, 1993) at 23.

¹⁰⁵ Section 2 of the *Canadian Human Rights Act*, RSC 1985, c H-6 (“the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, [and] disability).”

¹⁰⁶ The *United Nations Convention on the Rights of Persons with Disabilities*, GA Res 61/106 UNGAOR, 61st Sess, Supp No 49, UN Doc Annex: Convention on the Rights of Persons with Disabilities A/Res61/106 (2007) 2 at Article 3(a) (“Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons.”)

determining above and beyond just strategizing to survive—is both substantially thwarted and truncated.

Surviving primarily means just getting through any given day, expending valuable energy just to access the basic necessities of life, and engaging in critical and difficult decisions about whether to purchase either expensive medication or food, or forfeit secure housing in order to purchase health treatments, all the while caring for and living in bodies that make everyday activities with limited or no assistance challenging (and sometimes impossible). A secure, reliable, adequate source of income such that basic needs are met, along with compensation for the additional expenses germane to living with disability, would contribute greatly to the kind of personal security from which disabled women and gender-diverse disabled people could more fully participate in society and imagine and plan a desired future. The kinds of fears, uncertainty, and insecurity about losing their benefits, and their worry about how to meet basic needs, contributes to disabled women’s and gender-diverse people’s social and personal vulnerability, eroding their well-being,¹⁰⁷ and contributing to their substantive inequality.¹⁰⁸

Current disability income support programs in Canada

Disabled people, disability activists, and disability policy scholars keenly recognize the fragmented and uncoordinated nature of Canadian disability income support programs, their lack of portability across life transitions or place, and the need “to encourage the

¹⁰⁷ Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015) at 321.

¹⁰⁸ Tanis Doe & Sally Kimpson, “Enabling Income: CPP Disability Benefits and Women with Disabilities” (1999) at 45, online (pdf): *Status of Women Canada* <<https://publications.gc.ca/collections/Collection/SW21-38-1999E.pdf>>.

development and enhancement of the current [national] patchwork of disability-related supports.”¹⁰⁹

There are seven primary disability income support programs or plans at provincial and federal levels, available to working age adults between ages 18-64. These differ in terms of definitions of disability, eligibility criteria, and amount and type of benefits. The different policies and procedures “can be confusing to individuals, creating knowledge gaps that result in failure to access programs to which they may be entitled”¹¹⁰ as well as barriers to successful system navigation. Little, if any support is available from providers to assist applicants during the application process. For disabled people in Canada, some, but not all disability benefit programs can potentially achieve what has been called “the social goal of disability income security programs”: that is, “reduc[ing] the impact of economic insecurity arising from disability that prevents participation in the work force” as a result of impairments.¹¹¹ However, benefit amounts in *all* provincial disability benefit programs are below the MBM, exposing disabled recipients to significant poverty, as described below.

¹⁰⁹ Michael J Prince, *Absent Citizens: Disability Politics and Policy in Canada* (Toronto: University of Toronto Press, 2009) at 220. See also “Comprehensive Disability Income Security Reform” (March 1992) at 11-12, online (pdf): *The Roeher Institute* <<https://www.crwdp.ca/sites/default/files/Research%20and%20Publications/Enviornmental%20Scan/1.%20Roeher%20Institute/Comprehensive%20Disability%20Income%20Security%20Reform.pdf>>; John Stapleton & Stephanie Procyk, “A Patchwork Quilt: Income Security for Canadians with Disabilities” (2010) at 1, online (pdf): *Institute for Work & Health* <<https://www.iwh.on.ca/summaries/issue-briefing/patchwork-quilt-income-security-for-canadians-with-disabilities>>; Sally A Kimpson, “Mapping the Canadian Work Disability Policy System (Alberta and BC)” (2019) at 6-7, online: *Centre for Research on Work Disability Policy* <https://www.crwdp.ca/sites/default/files/documentuploader/mapping_reportbc_ab.docx>; Sherri Torjman, “Poverty Reduction and Disability Income” (February 2017) at 1, online (pdf): *Caledon Institute of Social Policy* <<https://maytree.com/wp-content/uploads/1110ENG.pdf>>.

¹¹⁰ Sally A Kimpson, “Mapping the Canadian Work Disability Policy System (Alberta and BC)” (2019) at 7, online: *Centre for Research on Work Disability Policy* <https://www.crwdp.ca/sites/default/files/documentuploader/mapping_reportbc_ab.docx>.

¹¹¹ John Stapleton & Stephanie Procyk, “A Patchwork Quilt: Income Security for Canadians with Disabilities” (2010) at 1, online (pdf): *Institute for Work & Health* <<https://www.iwh.on.ca/summaries/issue-briefing/patchwork-quilt-income-security-for-canadians-with-disabilities>>.

Federally, disability income support programs include: CPP-D and QPP-D; Employment Insurance Sickness Benefits; Canada Revenue Agency tax measures (non-refundable Disability Tax Credit and Registered Disability Savings Plan); and Veterans Affairs disability benefits. Provincially, disability benefit programs include: disability benefits administered through social assistance (welfare) budgets; workers' compensation schemes; and the regulation of disability insurance plans administered by the private insurance industry (Long Term Disability or LTD benefits). Also included provincially, but not discussed here, are motor vehicle accident insurance programs designed to provide wage loss and other benefits for those who sustain disabling injuries in motor vehicle accidents that prevent them from working.

A. Federally-administered programs

i. Canada Pension Plan Disability (CPP-D) and Quebec Pension Plan Disability (QPP-D)

The Canada Pension Plan (CPP) is a contributory scheme designed to benefit all working Canadians; it provides partial replacement income upon retirement, disablement, or death.¹¹² Both employees and employers contribute equally to the CPP based on employees' salary levels. Three kinds of benefits are provided: disability benefits, including benefits for dependent children; retirement pensions; and survivor benefits. To qualify for disability benefits, workers must be between ages 18-64, have a minimum number of contributory years (4 of the previous 6 years), and earn at least 10% of the previous year's Maximum Pensionable Earnings (increased from \$58,500 in 2020 to \$61,600 in 2021). The average CPP-D monthly benefit is \$1,038.95,¹¹³ which is indexed yearly to the cost of living. Applicants must

¹¹² See *ibid* at 2.

¹¹³ Government of Canada, "Canada Pension Plan: Pensions and benefits monthly amounts" (last modified 30 June 2021), online: <<https://www.canada.ca/en/services/benefits/publicpensions/cpp/payment-amounts.html>>.

also meet the definition of disability, that is, “they must demonstrate that their physical or mental disability prevents them from working regularly at any job that is substantially gainful, and that it is long-term and of indefinite duration or is likely to result in death.”¹¹⁴ This “severe and prolonged” definition is considered the most stringent of any disability benefit program in Canada.¹¹⁵ In some jurisdictions (British Columbia, Ontario), meeting CPP-D eligibility criteria waives having to undergo routine application for provincial benefits. Many employment-based disability benefit plans require applicants to also apply for CPP-D, and if applicants are successful, the amount of the basic CPP-D monthly benefit is clawed back (or offset) from the other benefit (the first payer). This reduces beneficiaries’ total income from assistance. While each province and territory treats ‘unearned income’ (such as CPP-D benefits) differently, clawback of CPP-D benefits happens with most provincial disability benefit programs.

The QPP-D program is similar to the CPP-D, designed to support residents of Québec employed either in Québec or elsewhere in Canada who have made contributions during employment. Contributory periods for the purpose of eligibility are more generous than CPP-D, and the definition of disability is based on having a “severe and permanent disability recognized by [QPP-D] health care professionals.”¹¹⁶ Severe means “it prevents [a person]

¹¹⁴ Employment and Social Development Canada, “About the Canada Pension Plan Disability Benefits” (last modified 25 September 2020), online: *Government of Canada* <<https://www.canada.ca/en/employment-social-development/programs/pension-plan-disability-benefits.html>>.

¹¹⁵ See Tanis Doe & Sally Kimpson, “Enabling Income: CPP Disability Benefits and Women with Disabilities” (1999) at 3, online (pdf): *Status of Women Canada* <<https://publications.gc.ca/collections/Collection/SW21-38-1999E.pdf>>.

¹¹⁶ Retraite Québec, “Eligibility for a Disability Pension” (2021), online: *Gouvernement du Québec* <https://www.rrq.gouv.qc.ca/en/invalidite/vivre_invalidite/regime_rentes/rente_invalidite/Pages/admissibilite_rente_invalidite.aspx>.

from doing any type of work on a full-time basis.”¹¹⁷ Permanent in this case means “of indefinite duration with no possibility of improvement.”¹¹⁸

ii. Employment Insurance Sickness Benefits

Administered by the federal government, this benefit provides replacement income benefits for up to 15 weeks for workers who have developed a temporary medical condition that decreases their regular income by 40% (for at least one week) due to disability. Recently, the federal Budget 2021 stated that Employment Insurance (EI) Sickness Benefits would be extended to 26 weeks. To qualify, workers must have accumulated at least 600 hours of work in the previous year before the start of the claim or since the last claim, if applicable.¹¹⁹ Claimants receive 55% of insurable earnings up to a maximum of \$595 weekly. Some employers offer a discretionary top-up. If a claimant’s annual family income is \$25,921 or less, they may be eligible for a family supplement added automatically to weekly benefit payments. Claimants must also remain available for work and must submit reports to Service Canada every two weeks to demonstrate ongoing eligibility while receiving benefits.¹²⁰

iii. Canada Revenue Agency Tax Measures

There are currently two federal tax measures administered by Canada Revenue Agency (CRA) related to disability—the Disability Tax Credit (DTC) and the Registered

¹¹⁷ Retraite Québec, “Application for Disability Benefits under the Québec Pension Plan” (last modified March 2021) at 1, online (pdf): *Gouvernement du Québec* <https://www.rrq.gouv.qc.ca/SiteCollectionDocuments/www.rrq.gouv.qc/Anglais/formulaires/regime_rentes/invalidite/B071_en.pdf>.

¹¹⁸ *Ibid.*

¹¹⁹ The onset of the COVID-19 pandemic and increasing unemployment prompted the federal government to relax the 600 paid employment hours criterion somewhat. Currently, if an applicant has “generally” accumulated at least 600 hours they qualify for benefits. The federal government does not specify how “generally” is to be interpreted.

¹²⁰ Employment and Social Development Canada, “EI Sickness Benefits: After You Apply” (last modified 26 September 2021), online: *Government of Canada* <<https://www.canada.ca/en/services/benefits/ei/ei-sickness/after-applying.html>>.

Disability Savings Plan (RDSP). The DTC was designed “to promote ‘horizontal equity’” between able-bodied and disabled Canadians,¹²¹ by recognizing the extraordinary costs of living with disability. It is designated for those with severe and prolonged physical or mental impairments that markedly restrict activities of daily living and lasting or expecting to last at least a year; those with visual impairments; and those on life-sustaining therapy.

The DTC is a non-refundable tax credit designed to reduce federal income tax owed. The maximum disability tax credit for 2019 was \$8,416, and the maximum supplement to the DTC for those with children under 18 is \$4,909. As a non-refundable tax credit, the DTC is applied to annual income as a credit that reduces taxable income by the DTC amount; people who receive the DTC do not receive a cash transfer in the amount of the DTC. Those disabled people with taxable income below the current basic deductible amount (applicable to all tax filers)—\$13,229 for the 2020 tax year—do not benefit from this tax credit, nor do they pay any income tax. Some provinces and territories also offer a DTC with eligibility tied to the federal credit. The value of these credits varies widely from province to province.

Disability activists and disability policy scholars have been lobbying to have the federal government convert the DTC to be fully refundable. Making the tax credit refundable would provide much-needed income for extraordinary expenses incurred as part of living with disability, especially for disabled people participating in the labour force who often require additional supports in order to sustain employment. The DTC has also become the gateway for establishing eligibility for other federal disability benefits and programs.¹²² If a

¹²¹ Michael Mendelson, “Options for a Refundable Disability Tax Credit for ‘Working Age’ Persons” (June 2015) at 2, online (pdf): *Caledon Institute of Social Policy*

<[https://sencanada.ca/content/sen/committee/421/SOCI/Briefs/Maytree_Foundation\(M.Mendelson\)_e.pdf](https://sencanada.ca/content/sen/committee/421/SOCI/Briefs/Maytree_Foundation(M.Mendelson)_e.pdf)>.

¹²² Programs that use DTC eligibility include: DTC Child Supplement, Child Disability Benefit, Canada Caregiver Credit, Canada Workers Benefit/Disability Supplement, Home Accessibility Credit, Home Buyers’ Plan, Home Buyers’ Amount, Registered Disability Savings Plan, Qualified Disability Trust, Disability-related Employment Benefits, and the COVID-19 one-time payment. See Canada Revenue Agency, “2020 Second Annual Report of the Disability Advisory Committee” (2020) at 99, online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/cra-arc/corp-info/aboutcra/dac/dac-report-2020-en.pdf>>.

person's income does not qualify them for the DTC and/or they do not meet the medical eligibility requirements, then they are ineligible for most of the programs requiring DTC eligibility.

Eligibility for the DTC is considered almost as stringent as that for CPP-D, making it a challenge to access, in particular for people with mental health impairments and other episodic conditions. In Budget 2021, the federal government proposed expanding eligibility criteria based on mental impairments beyond “memory; problem solving, goal-setting, and judgement (taken together); and adaptive functioning” to include “attention; concentration; [...] perception of reality; [...] regulation of behaviour and emotions; [and] verbal and non-verbal comprehension.”¹²³ The expanded list is “to ensure that the eligibility criteria for the DTC better articulate the range of mental functions necessary for everyday life.”¹²⁴ Also, for those individuals with precarious or uncertain immigration status, whose status precludes filing taxes or are without a social insurance number, the DTC is inaccessible due to being administered through the taxation system.

In their 2020 Annual Report, the federal Disability Advisory Committee reported that Indigenous people living with disability experience particular barriers to accessing the DTC, arising from the effects of “racism, colonialism, marginalization, indifference, and general mistrust of/alienation from systems designed to make life better, combined with systemic poverty” that produce exclusion.¹²⁵ The key barriers experienced by Indigenous people include: lack of access to health care providers needed to complete the application form; health care providers' lack of knowledge about the applicant's medical condition or history;

¹²³ Department of Finance Canada, “A Recovery Plan for Jobs, Growth, and Resilience: Budget 2021” (19 April 2021) at 588-89, online (pdf): *Government of Canada* <<https://www.budget.gc.ca/2021/pdf/budget-2021-en.pdf>>.

¹²⁴ *Ibid* at 588.

¹²⁵ Canada Revenue Agency, “2020 Second Annual Report of the Disability Advisory Committee” (2020) at 76-77, online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/cra-arc/corp-info/aboutcra/dac/dac-report-2020-en.pdf>>.

inadequate assessment of disabilities as younger people in school systems; lack of funding for adult assessments when they transition to adult programs or care; “assessors [who] lack the social and cultural understanding of the applicant, [falsely] attributing disabilities and their impact to social and community issues;” exorbitant application fees charged by medical practitioners (up to \$250); limited access to transportation to see health professionals qualified to complete application forms or assess disability; and racism and systemic discrimination, leaving people feeling “unworthy of the support, or ill equipped and reluctant to interact with the health care system.”¹²⁶ The Disability Advisory Committee has made a number of recommendations to CRA to collaborate with Indigenous governments to coordinate DTC outreach to Indigenous communities.

With respect to racialized populations and access to the DTC, very little data exists. It can be assumed that some of the barriers experienced by Indigenous disabled people also apply to those with precarious immigration status, for example, access to health care providers, limited access to transportation, and uniquely, language and communication barriers. These circumstances apply to accessing any government benefits. CRA distributed a DTC Client Experience Survey to all those who had applied for the DTC in the first two quarters of 2020; it included the race of the respondents. Although 129,000 determinations were sent out to applicants during the same period, the survey sample size was small (276 respondents). The eligibility rate of respondents was 86%. 47% of respondents were female and 50% male, with 1% gender-diverse. With respect to ethnicity, 78% of respondents were white, 4% of respondents were South Asian. 4% of respondents were Indigenous, 11% of respondents were Other (Black, Arab, Chinese Filipino, Southeast Asian), and 4% of respondents preferred not to say.¹²⁷

¹²⁶ *Ibid* at 77-78.

¹²⁷ See *ibid* at 121.

Even with the small numbers participating in the survey, which is unexplained, this minimal data provides some insight into the client experience, in particular the percentage of those who responded who actually applied successfully for the DTC, and the preponderance of white ethnicity in the respondent group. Respondents reported difficulty with medical practitioners either due to availability or timeliness, unfamiliarity with the process, or the practitioners not agreeing that the applicant was eligible. Some respondents from rural locations cited mobility issues. Others “experienced financial hardship due to fees paid to complete the form.”¹²⁸

In 2008, the Canadian government created the RDSP for those disabled Canadians eligible for the DTC under age 60. The RDSP is offered by Canadian banking institutions, and the lifetime tax-free contribution limit is \$200,000. Withdrawal of contributions is tax-free, but investment income accumulated is subject to tax “when paid out of the RDSP. “ As John Stapleton, Anne Tweddle and Katie Gibson explain, “[t]he Federal government pays a matching Canada Disability Savings Grant of up to \$3,500 a year on contributions made into the RDSP and a Canada Disability Savings Bond of up to \$1,000 a year into the RSDP of low-income and modest-income Canadians, up to specified maximums.”¹²⁹ In comparison, the Tax Free Savings Account (TFSA) annual contribution limit for 2020 is \$6,000, and if a person’s annual contribution limit is not met, the balance can be rolled over into the next year’s limit. The RDSP is primarily designed to enable those with disabled children to generate savings for future care needs and other supports, and to invest in their long-term financial security. This plan arguably benefits those who are able to afford to save money, not those living in poverty with little or no cash flow.

¹²⁸ *Ibid* at 113.

¹²⁹ John Stapleton, Anne Tweddle & Katie Gibson, “What Is Happening to Disability Income Systems in Canada? Insights and Proposals for Further Research” (February 2013), online: *Council of Canadians with Disabilities* <<http://www.ccdonline.ca/en/socialpolicy/poverty-citizenship/income-security-reform/disability-income-systems>>.

iv. Veterans Affairs Disability Benefits

Veterans and members of the Canadian Armed forces are eligible for disability benefits through Veterans Affairs. Eligibility for Veterans Affairs Disability Benefits is linked to service, that is, the disability has to be attributed to exposures during service. The benefit is also subject to clawback if the member receives benefits from another employment-based disability insurance plan, like CPP-D. In 2006, disabled veterans also became eligible for “pain and suffering compensation” paid either as a lump sum or lifetime monthly benefit, or a disability pension structured as a lifetime monthly benefit. The benefit is tax-free and amounts are based on the degree to which the impairment is related to service (entitlement) and the severity of the illness or injury, including assessed impact on quality of life.

B. Provincial disability benefit programs

i. Disability benefits administered through provincial social assistance portfolios

All Canadian provinces and territories except Nunavut¹³⁰ administer disability benefits, usually as part of social assistance (welfare) portfolios, funded through provincial/territorial tax revenue. Provincial disability benefits provide somewhat more generous monthly income than social assistance (welfare), which is designed for non-disabled people without means or employment income. Provincial disability benefits provide income support for disabled people who are without employment earnings, are ineligible for employment-based contributory disability income support programs (including workers’ compensation), and who are unable to rely on social networks for financial support. In some provinces, those with workers’ compensation benefits may also apply for provincial disability benefits if their workers’ compensation income places them below the provincial disability benefit means-

¹³⁰ Nunavut administers social assistance, rather than a specific disability benefit program.

test. Determining eligibility is different for each province. For example, in its definition of disability for official purposes, Alberta includes criteria related to limitations in ability to earn a livelihood, while British Columbia (BC) bases the definition of disability on an individual's ability to perform a range of activities of daily living, and whether they require assistance to do so.¹³¹

The process for qualifying for disability status includes a medical assessment by a health care practitioner, usually a doctor, but can also include (for example in BC) other specified qualified health care professionals, like nurse-practitioners or occupational therapists. Typically means-tested,¹³² and usually not subject to income tax, provincial benefits provide financial assistance, as well as some extended health benefits, dental, hearing, and vision services. A range of separate medical and other supports—for example, financial support for medically-authorized dietary supplements, for which beneficiaries must meet separate eligibility criteria to qualify—are also available. Most provinces allow beneficiaries to engage in employment and to retain employment income (earnings exemptions or allowable earned income). Some provinces use an annualized limit (e.g., BC, Saskatchewan) for determining allowable earned income, while others use a monthly limit (e.g., Alberta, Ontario); however, an applicant typically cannot be working at the time they apply for benefits. Provinces also differ in terms of whether they calculate allowable income as net or gross income, and differ in terms of how income above the exemption is treated.¹³³

¹³¹ See Sally A Kimpson, "Mapping the Canadian Work Disability Policy System (Alberta and BC)" (2019) at 16, online: *Centre for Research on Work Disability Policy* <https://www.crwdp.ca/sites/default/files/documentuploader/mapping_reportbc_ab.docx>.

¹³² Means-tested refers to a determination by a provincial disability benefit provider as to whether an individual or family is eligible for government assistance, based on whether the individual or family possesses the means to do without that assistance. Typically, a maximum level of liquid assets and income from other sources is set, and is reviewed along with basic living expenses to determine eligibility. Means-testing is an intrusive process that impairs a disabled person's dignity.

¹³³ Earnings exemptions and clawback rates differ from province to province. For example, Saskatchewan Assured Income for the disabled (SAID) allows \$6,000 (annually) for single persons, with a dollar-for-dollar clawback rate; Alberta Income for the Severely handicapped (AISH) allows the first \$1,072 of net employment income, which is fully exempt. Any amount above \$1,072, up to \$2,009, is 50% exempt for a maximum exemption

Earnings exemptions enable beneficiaries to earn some income without jeopardizing their benefits, and crucially, their access to extended health benefits and disability supports while working.

Some provinces include a separate housing allowance for all those with fixed addresses; this allowance is significantly lower than median rents charged (particularly in urban centres) with the effect that beneficiaries have to make up the difference from their meagre monthly disability benefits. Every province's disability benefits program's monthly amount falls well below the MBM, leaving all provincial beneficiaries living in deep poverty.¹³⁴ Access to provincial benefits is not uniform, and the circumstances of Indigenous disabled people (as described in the DTC section) create barriers to access for this group, in particular. As an example, in Ontario there is underrepresentation of Indigenous disabled people in the Ontario Disability Support Program (ODSP), and overrepresentation of Indigenous people on Ontario Works (welfare).

ii. Workers' Compensation Benefits

Workers' compensation is a no-fault insurance program which provides wage-loss replacement and medical benefits to workers who are unable to work in their pre-injury job due to occupational injury or illness. Benefits are usually non-taxable and indexed to the cost of living. Eligibility for benefits hinges on a person being a worker employed by an employer

of \$1,541 per month; BC allows \$15,000 annually for single persons, with a dollar-for-dollar clawback of assistance payments when earned income is over the annual exemption limit; Manitoba Employment and Income Assistance for Persons With Disabilities (EIA) allows \$200 net monthly employment earnings, and beneficiaries can keep 30% of earned income over the allowable amount before reduction; Ontario Disability Support Program (ODSP) allows \$200 monthly earnings exemption applied to net income. Above \$200, half of the net monthly earnings are exempt. Additionally, beneficiaries are given a \$100 monthly Work-Related Benefit. Across all provinces, earnings exemptions rates account for family status; they are typically larger for disabled couples and families with disabled members.

¹³⁴ See Sally A Kimpson, "Mapping the Canadian Work Disability Policy System (Alberta and BC)" (2019) at 16, online: *Centre for Research on Work Disability Policy* <https://www.crwdp.ca/sites/default/files/documentuploader/mapping_reportbc_ab.docx>.

covered by the relevant provincial legislation, who has paid some or all benefit premiums on behalf of the worker. Workers who are self-employed, working on contract, or are home-based are typically not covered. In some provinces, certain categories of employers are not required to offer coverage. In the case of injuries, compensation is limited to personal injuries arising out of and in the course of employment. There are two general categories of injury: personal injury (including psychological impairment), and occupational disease (e.g., cancer, respiratory conditions, infectious diseases). Determining eligibility is complicated, and hinges on what consequences of any injury are compensable.¹³⁵

Wage loss benefits are payable when injury or disease causes temporary disability from work, disability that may be total or partial. These benefits vary from province-to-province and are generally payable when workers are unable to return to work or when they lose income because of injury. Workers' compensation benefits can continue until the worker recovers, or is considered able to return to work, and sometimes continue until age 65.

iii. Long Term Disability (LTD) insurance plans

Administered by private insurance companies on behalf of employers, including employers in the public sector, these private benefit plans are employment-based. They are programs that primarily benefit those who are generally more financially secure than those who must rely on provincially-administered disability assistance. These contributory insurance programs are frequently structured as both Short Term Disability (STD) and Long Term Disability (LTD) benefit plans. Typically six months in duration, STD benefits are applied for initially, often concurrently with EI Sickness Benefits, as a way of offsetting income losses due to inability to work in the short term. If recovery does not occur within the STD period, disabled employees then apply for LTD benefits. The initial definition of disability (and subsequent coverage) relies on the employee's inability to perform their pre-disability 'own

¹³⁵ See *ibid* at 25.

occupation' for two years. At two years, the definition relies on the employee's inability to perform *any* occupation for which they have education and experience. Benefit amounts are calculated at 50-75% of pre-disability income, are not always indexed to the cost of living, and are subject to dollar-for-dollar clawback (or offset) for any CPP-D, QPP-D, or workers' compensation benefits received.

Disabled employees on LTD are still considered employees, and usually receive ongoing extended health care and dental benefits, with premiums often paid by the disabled employee. Typically, life insurance premiums are paid by the employer, and years of pensionable service accrue. LTD benefits terminate at age 65 or retirement, whichever comes first. Along with their medical practitioner, beneficiaries are required to complete annual review forms detailing their health condition and daily activities. The cost of these is borne by the disabled employee, and depending on the generosity of the physician, can be prohibitive. Some benefit plans also include Early Return to Work (RTW) programs. According to a Canadian study, "personal and occupational factors influencing [return to work] differ by gender,"¹³⁶ with the combined effect of paid employment and domestic responsibilities (known as the 'double burden') leading to longer disability for women. Some private insurers reduce support for people with pre-existing disabilities, who are often excluded from or have extended benefits reduced, forcing them to turn to provincial disability benefits for this coverage, such as it is.¹³⁷

¹³⁶ Valérie Lederer, Michèle Rivard & Samia Djemaa Mechakra-Tahiri, "Gender Differences in Personal and Work-Related Determinants of Return-to-Work Following Long-Term Disability: A 5-Year Cohort Study" (2012) 22:4 *Journal of Occupational Rehabilitation* 522 at 522.

¹³⁷ Email from Devorah Kobluk (5 May 2021).

C. Effects of existing benefit programs on disabled women’s and gender-diverse people’s lives

Drawing from research focused on women’s experiences of disability income support systems, the primary effects of existing benefit programs can be organized into several different categories. Beyond the profound effects of poverty discussed above, the most persistent effects are centred around the following experiences: knowledge gaps and navigating bureaucracies, both constituting the ‘work’ of being disabled; unrelenting fear of losing benefits; and the production of dependency and the ‘welfare wall.’ Disabled women and gender-diverse disabled people expend substantial physical and emotional energy struggling to familiarize themselves with systems and to navigate those same systems, all the while living in fear that their actions may jeopardize their eligibility for benefits, which they require in order to survive. This utilization of energy in response to income support system rules and regulations impairs their participation in community, and contributes to their social exclusion and exposure to systemic ableism. The effects described in this section are primarily drawn from narrative research into the effects of the BC provincial disability benefit programs in disabled women’s lives,¹³⁸ and qualitative interview research focused on various income support systems in BC and Alberta.¹³⁹

It is important to note that, depending on a woman’s employment situation, she may be eligible for more substantial disability benefits and more generous extended health benefits that keep her out of poverty. Nonetheless, those applying to any of the programs described above report experiencing some or all of the below-described effects, with

¹³⁸ See Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015).

¹³⁹ See Sally A Kimpson, “Mapping the Canadian Work Disability Policy System (Alberta and BC)” (2019), online: *Centre for Research on Work Disability Policy* <https://www.crdp.ca/sites/default/files/documentuploader/mapping_reportbc_ab.docx>.

structural poverty primarily produced by living on provincial disability benefits (or CPP-D alone) exacerbating the challenges/effects described below.

i. The ‘work’ of being disabled

A substantial element of survival for disabled women and gender-diverse disabled people is the inordinate amount of time, effort, and energy spent securing supports or otherwise responding to program requirements. Disability activists and scholars are deeply familiar with this dynamic of expending already-depleted energy to secure benefits and supports, which constitutes a kind of (unpaid) “work without choice”.¹⁴⁰ The unpaid work of living with disability, such as completing exhausting and sometimes humiliating documentation, is necessary to navigate social programs and to receive support from various systems (including from health care and medical services and from non-profit, community-based agencies). Women receiving benefit income that leaves them below the MBM (typically CPP-D alone, or provincial disability benefits) are particularly saddled with the unpaid ‘work’ of being disabled. Disabled people and activists are suspicious that the work of being disabled is an instance of ‘denial by design’, that is, the work involved in navigating systems is designed by the system to thwart or deny claims.

This work becomes the primary means by which disabled women participate in social life, and is a thread that weaves through the other effects described below. In this way, survival structures the quality of participation and social inclusion that disabled women experience. Although disabled women who struggle for survival may experience being part of a community (of need), it is primarily as supplicants.¹⁴¹

¹⁴⁰ Kari Krogh & Jon Johnson, “A Life without Living: Challenging Medical and Economic Reductionism in Home Support Policy for People with Disabilities” in Richard F Devlin & Dianne Pothier, eds, *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* (Vancouver: University of British Columbia Press, 2006) 151 at 170.

¹⁴¹ Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015) at 328.

ii. Knowledge gaps and “informational troubles”

Disabled women report “informational troubles”.¹⁴² This term refers to how confusing everything is, particularly at the beginning with regard to programs and application processes, especially when a woman is dealing with unfamiliar and distressing health conditions. Informational troubles are related to “[...] uncertainty about information important to one’s security [that may] adversely affect the person’s health.”¹⁴³ Some of this uncertainty is produced by the kind of information that bureaucracies decide to share about programs and application processes, leaving clients to figure out what is needed to be successful, and what is available as part of disability benefit programs. When a woman or gender-diverse person lives with a disability that prevents them from working, they must familiarize themselves with the benefit systems for which they are eligible. This is challenging because each program has its own detailed and specific eligibility criteria, as well as application processes that significantly challenge those unfamiliar with them.

Most disability benefit programs provide detailed information on their websites about eligibility criteria, procedures for accessing benefits, and coverage. Some disabled women are unaware of this, have no access to a reliable computer or connection, or do not consult the relevant site for other reasons. Women who are new arrivals to Canada and whose first language is not English are particularly disadvantaged when it comes to learning about programs and applying for disability benefits, should they need them, nor are culturally-appropriate service providers consistently available. Women report being confused and exhausted as they try to determine what is needed to apply for disability benefits while they are unwell and dealing with injury or emerging (and unfamiliar) illness that isolates them. Most of the confusion relates to not knowing (and not receiving clear information, direction

¹⁴² *Ibid* at 222; Peter ES Freund, *The Civilized Body: Social Domination, Control, and Health* (Philadelphia: Temple University Press, 1982) at 54.

¹⁴³ *Ibid* at 118.

or assistance from providers) about application processes and provider programs, and/or relates to receiving mixed messages about benefits.

Many benefit application forms are daunting in length and include requests to disclose intimate personal details of applicants' bodies and lives. Moreover, applications are often inappropriate or "highly problematic" for applicants with complex and/or episodic, fluctuating and invisible conditions, given that fixed categorization and institutional definitions for determining eligibility "often conflict with the unique ways disability is embodied."¹⁴⁴ This is particularly true for those living with episodic conditions that fluctuate unpredictably, and for those whose conditions—like chronic pain—create fatigue, both invisible and not accounted for in rigid or fixed definitions of disability used by benefit programs.

In Canada, "women have a higher rate of episodic illness than men."¹⁴⁵ Ernie Lightman et al. liken people living with episodic conditions to those with "mixed gender and sexual identities", who also "exist in disarticulated ways outside of mainstream culture and [in] their own distinct subcultures."¹⁴⁶ For those who are gender-diverse and live with episodic conditions, the problem of meeting eligibility criteria is compounded by narrow definitions of disability and gender for official purposes, meaning they are at higher risk of being judged as ineligible for any disability benefits, including those administered provincially. When this

¹⁴⁴ Ernie Lightman et al, "Not Disabled Enough': Episodic Disabilities and the Ontario Disability Support Program" (2009) 29:3 Disability Studies Quarterly.

¹⁴⁵ "Episodic Disability Toolkit of Resources" (January 2015) at 5, online (pdf): *Episodic Disabilities Network* <http://www.realizecanada.org/wp-content/uploads/Episodic_Disability_Toolkit_of_Resources_Final.pdf>; DisAble Women's Network of Canada, "More Than A Footnote: A Research Report on Women and Girls with Disabilities in Canada" (February 2019) at 176, online (pdf): <[https://www.dawncanada.net/media/uploads/page_data/page-64/beyond_crpd_final_eng_\(2\).pdf](https://www.dawncanada.net/media/uploads/page_data/page-64/beyond_crpd_final_eng_(2).pdf)>.

¹⁴⁶ Ernie Lightman et al, "Not Disabled Enough': Episodic Disabilities and the Ontario Disability Support Program" (2009) 29:3 Disability Studies Quarterly, citing Carrie Sandahl, "Queering the Crip or Crippling the Queer? Intersections of Queer and Crip Identities in Solo Autobiographical Performance" (2003) 9:1-2 GLQ: Journal of Gay and Lesbian Studies 25; Mandy Wilson, "I Am the Prince of Pain, for I Am a Princess in the Brain" (2002) 5:4 Sexualities 425.

happens, they are relegated to provincial social assistance (welfare) for non-disabled people and the increased economic vulnerability it produces even beyond provincial disability benefits, due to substantially lower benefit rates.

Given the informational troubles described here, disabled women do their best to seek help however and wherever they can, especially during the application process. Assistance comes in various forms, for example, from family and friends, church members, community health workers, nurse-advocates, community non-profit workers and volunteers at disability resource centres, lawyers, and union stewards. Without a simpler or more straightforward process, or an understanding and knowledgeable guide/advocate during the application process, disabled women run the risk of being denied benefits at a time when they are feeling isolated. Again, disabled women's participation in social life is significantly narrowed to seeking and receiving help from others in order to secure a measure of economic security.

Most private and provincial benefit programs require applicants to also apply for federal CPP-D benefits. Typically, those also applying for CPP-D are not provided with any information or assistance to do so by their primary disability benefit provider, despite the fact there is strong financial impetus for the primary provider to have beneficiaries apply. Once a beneficiary applies successfully to CPP-D, their primary benefit is offset (reduced) by the CPP-D basic monthly amount. This represents a substantial cost savings for the primary provider who no longer has to pay the full monthly benefit, because it is reduced by the CPP-D basic amount.¹⁴⁷ As a financial restriction, CPP-D offsets can mean the difference between being able (or not, in this case) to afford extraordinary medical expenses not provided or only

¹⁴⁷ See Sally A Kimpson, "Mapping the Canadian Work Disability Policy System (Alberta and BC)" (2019) at 53, online: *Centre for Research on Work Disability Policy* <https://www.crwdp.ca/sites/default/files/documentuploader/mapping_reportbc_ab.docx>.

partially subsidized by the primary provider. This is especially true for those receiving provincial disability benefits.¹⁴⁸

Few disability benefit programs acknowledge that the content and structure of their application forms and processes require a negative way of looking at self and limitations, potentially exacerbating depression, shame and humiliation; this is especially challenging for those living with mental health impairments. The process of completing forms forces applicants to confront what life looks like (not great) when they are trying to focus on treatment, during a confusing and uncertain time health-wise. Beyond the stress, uncertainty, and ‘work’ of knowing which benefits to apply for and how to do it, disabled women who are successful then face the challenge of discovering what is allowed (and/or provided) by their particular programs. Not knowing means women spend considerable time and energy attempting to locate this information.

For all of the reasons described above, the effect of income support programs is *disabling*—the work needed to secure supplemental supports exacerbates the social deprivation linked to being a disabled person that these programs intend to remediate or compensate for.¹⁴⁹

iii. Navigating complex bureaucracies

Navigating complex bureaucracies is closely connected to informational troubles, but reveals a somewhat different set of experiences. Despite the fact that application processes and eligibility criteria are depicted on provider websites as straightforward, disabled women typically experience encounters with disability income support providers and required processes as complicated, inaccessible, and stressful. Some of this difficulty arises because

¹⁴⁸ See *ibid.*

¹⁴⁹ See Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015) at 212.

of bureaucratic mazes in which beneficiaries get caught because of how programs are administered, but it also arises due to being ill-informed about programs and processes. Many encounter income support bureaucracies as markedly complicated, paternalistic, invasive, adversarial, stigmatizing, and demoralizing, engendering feelings of unworthiness. Mistrust also arises given disabled women's perception that program providers are primarily concerned with money. Given how they are treated, women end up feeling like they are not to be trusted, as if they are somehow scamming the system, leaving them feeling powerless and not in control of their lives or income.

Women also know that their eligibility status is at risk in any given encounter with officials during which they are vulnerable to exposure, some of it coerced. When women are forced to expose themselves during these encounters, they live with the uncertainty that the personal information they provide might produce unpredictable, problematic consequences either in the present, during the next encounter with officials, or sometime further into the future (or in between). In response, women learn (some more effectively than others) to act strategically by managing their personal information as best they can, only answering questions asked and not volunteering any further information.¹⁵⁰ Here the effects are evident: this form of self-regulation, which arguably keeps them from asking for services that might be costly to providers, has deeply limiting effects, creating narrowness in their lives in terms of participation and social inclusion, and compromising their well-being.¹⁵¹ Also, those who learn to advocate for themselves to get their needs met may find themselves labelled by workers as 'difficult' or 'challenging' or 'troublemakers', which potentially compromises their self-advocacy efforts.

Access to and continuation of most benefits is overly-medicalized, requiring a certified medical professional, usually a licensed physician, to assess and verify applicants'

¹⁵⁰ *Ibid* at 215.

¹⁵¹ *Ibid* at 216.

impairments. Given well-documented gender inequality in health care,¹⁵² and continued discrimination faced by disabled women and gender-diverse disabled people in health care settings, it follows that disabled women and gender-diverse disabled people often experience doctors as frustrating and challenging, and encounters with doctors as stressful, as doctors minimize their symptoms and even limit treatment options.¹⁵³ Some disabled women and gender-diverse disabled people feel anxious placing their financial security in the hands of doctors. This is especially the case when they question whether doctors understand the severity of their conditions, in particular the impact on their daily lives, and when they do not know what information doctors will include or exclude on forms.

Indigenous disabled people are challenged daily when attempting to navigate complex benefit and service systems, “creating a marginalized group inside an already marginalized population.”¹⁵⁴ They experience barriers related to such conditions as: limited community resources; lack of information about external resources; complexities arising from eligibility based on their Indigenous status; remoteness; limited connectivity; high turnover of Indigenous social development and health employees; and systemic discrimination.¹⁵⁵

iv. Fear of losing benefits

¹⁵² See Pirooska Östlin, Asha George & Gita Sen, “Gender, Health, and Equity: The Intersections” in Richard Hofrichter, ed, *Health and Social Justice: Politics, Ideology, and Inequity in the Distribution of Disease* (San Francisco: Jossey-Bass, 2003) 132 at 141-42; Colleen Reid, *The Wounds of Exclusion: Poverty, Women’s Health, and Social Justice* (Edmonton: Qual Institute Press, 2004) at 139-142; Marcia C Inhorn, “Defining Women’s Health: A Dozen Messages from More than 150 Ethnographies” (2006) 20:3 *Medical Anthropology Quarterly* 345.

¹⁵³ See DisAbleD Women’s Network of Canada, “More Than A Footnote: A Research Report on Women and Girls with Disabilities in Canada” (February 2019) at 168-169, online (pdf): <[https://www.dawncanada.net/media/uploads/page_data/page-64/beyond_crpd_final_eng_\(2\).pdf](https://www.dawncanada.net/media/uploads/page_data/page-64/beyond_crpd_final_eng_(2).pdf)>.

¹⁵⁴ Canada Revenue Agency, “2020 Second Annual Report of the Disability Advisory Committee” (2020) at 75, online (pdf): *Government of Canada* <<https://www.canada.ca/content/dam/cra-arc/corp-info/aboutcra/dac/dac-report-2020-en.pdf>>.

¹⁵⁵ See *ibid.*

Regardless of which benefit program a disabled woman or gender-diverse disabled person successfully applies to, the experience of increased anxiety caused by the fear of losing benefits is ubiquitous, and structures disabled women's lives in unsettling ways. Anxiety is related to surveillance, intrusiveness, and heightened scrutiny by provider organizations. Disabled women pay very close attention to what their benefit programs do or allow, or conversely do not do or do not allow; anxiety produces vigilance, which is a primary activity in their daily lives in order to strategize in the most effective ways they can to ensure continuation of their benefits.¹⁵⁶

The threat of losing benefits is a tool of coercion exercised by program administrators with complex embodied effects for disabled women, including heightened stress-related symptoms that exacerbate their disabilities (e.g., insomnia, increased blood pressure, fatigue). Pervasive fear and mistrust have the potential to immobilize the women (emotionally and physically), and the fear of losing supports reinforces their economic dependency. Living in unreliable bodies and unstable health means they are unable to depend on their bodies for economic stability or security, and they thus become ever more dependent on income support. This is a particularly pervasive and insidious kind of dependence, affecting disabled women's ability to care for themselves and to exercise autonomy.¹⁵⁷

v. The production of dependency and the “welfare wall”

Fear of losing benefits discourages many disabled women from re-entering the paid workforce (along with the poor quality of available work; available work is often very part-time in nature, as well as low-skilled and low-paid—it can be lower than monthly benefit

¹⁵⁶ See Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015) at 220.

¹⁵⁷ See *ibid* at 217.

amounts). The benefits of working, when one is appropriately accommodated and compensated, are well-documented, including the ability to purchase additional disability-related goods and services. Most disability benefit programs include clauses that set out the conditions for employment. Earnings from employment (or allowable earnings) are subject to reporting and clawback. Allowable earnings levels vary considerably among benefit programs Canada-wide, with provincial disability benefit programs typically being the least generous, and most restrictive.

In recent years, provincial governments and disability benefit program administrators have recognized that increasing allowable earnings and/or annualizing them is actually ‘disability positive’ policy, as it enables beneficiaries who can work to use their annual earnings exemption anytime during the year. For example, a woman may work frequently in some months and less so (or none) in others. This expansion of allowable earnings is designed to enable disabled people who are able to work to more successfully participate in employment while retaining their benefits, earned income, and subsidized extended health benefits (the latter being essential supports for employment). Many disabled women have the desire and aspiration to improve their situations through employment, but appropriate caution about losing benefits undermines that aspiration when they deem the prospect too risky.

Persistent distrust of how employment policies are administered by benefit programs makes earning the maximum allowable income a risky venture for many disabled women. Strategically, some disabled women will actually limit their participation in employment to reduce surveillance and possible review (and denial) of eligibility for benefits. This is how work disincentives play out in disabled women’s lives and is a stark example of how economic dependency is produced, one of the effects of the “welfare wall”.

Sherri Torjman describes the “welfare wall” as “a cluster of factors that together act to trap people on social assistance (commonly known as ‘welfare’) and make it difficult for them

to move off that program of income support.”¹⁵⁸ This expression has become “shorthand” for how beneficiaries often actually do not benefit financially as intended if they engage in paid employment.¹⁵⁹ Those disabled women and gender-diverse disabled people who engage in paid employment and earn over the maximum allowable amount will have their disability benefits reduced based on earned income.¹⁶⁰ Also, disposable income potentially declines due to having to pay income and payroll taxes, along with being subject to reductions in refundable tax credits (for example the GST credit and the federal Canada Child Benefit, which are tied to net income).¹⁶¹

Working potentially becomes a costly endeavour; disabled women and gender-diverse disabled people engaged in employment also face expenses related to working, including disability-related equipment, child care, transportation, and clothing. Even with the ability to retain allowable income, “the archaic apparatus of welfare remains – with limitations on assets, frequent reviews of income, personal investigations and perpetual stigma.”¹⁶²

vi. Summary

For disabled women living on disability benefits, the ability to make freely-chosen plans for their lives in line with their capacities and desires—to be self-determining—is deeply compromised.¹⁶³ Surviving in the ways they do primarily means just getting through any given day. It means expending valuable energy just to access the basic necessities of life, and it

¹⁵⁸ Sherri Torjman, “Dismantling the Welfare Wall for Persons with Disabilities” (May 2017) at 2, online (pdf): *Caledon Institute of Social Policy* <<https://maytree.com/wp-content/uploads/1112ENG.pdf>>.

¹⁵⁹ *Ibid* at 12.

¹⁶⁰ As described in footnote 133, above.

¹⁶¹ See Sherri Torjman, “Dismantling the Welfare Wall for Persons with Disabilities” (May 2017) at 11, online (pdf): *Caledon Institute of Social Policy* <<https://maytree.com/wp-content/uploads/1112ENG.pdf>>.

¹⁶² *Ibid* at 12.

¹⁶³ See Sally A Kimpson, “Uncertain Subjects: Disabled Women on BC Income Support” (PhD Dissertation, University of Victoria, Victoria, 2015) at 319.

means engaging in critical and difficult decisions about whether to purchase either expensive medication or food, or forfeit secure housing in order to purchase these, all the while caring for and living in bodies that make everyday activities challenging (and sometimes impossible without assistance). Having personal plans for the future, even the near future, could be seen as magical thinking given what disabled women face on a daily basis. The kinds of fears, uncertainty, and insecurity about losing their benefits, and worries about how to meet basic needs, contribute to disabled women's social and personal vulnerability. This erodes their well-being and undermines their ability to participate fully in their communities and access opportunities for social inclusion.

Basic income for women and gender-diverse disabled people

The first call for a basic income program for disabled people in Canada was as early as 1981,¹⁶⁴ when the *Obstacles* report “made sweeping recommendations calling for a new regime of comprehensive income security for Canadians with disabilities.”¹⁶⁵ Recently, in June 2021, the federal government tabled legislation to create a disability benefit.¹⁶⁶ The details of the benefit have not yet been released. Prior to tabling legislation, the government had stated that the benefit would be “modelled after the Guaranteed Income Supplement”

¹⁶⁴ Mincome (Manitoba Basic Annual Income Experiment), tested in the mid-1970s, included disabled people but did not target them for additional benefits.

¹⁶⁵ Michael Mendelson et al, “A Basic Income Plan for Canadians with Severe Disabilities” (November 2010) at 37, online (pdf): *Caledon Institute of Social Policy, commissioned by Council of Canadians with Disabilities and the Canadian Association for Community Living* <<https://maytree.com/wpcontent/uploads/906ENG-1.pdf>>.

¹⁶⁶ Bill C-35, *An Act to reduce poverty and to support the financial security of persons with disabilities by establishing the Canada disability benefit and making a consequential amendment to the Income Tax Act*, 2nd Sess, 43rd Parl, 2021 (first reading 22 June 2021).

(GIS)¹⁶⁷ and will be based on three years of consultations.¹⁶⁸ The GIS is a cash transfer available to individuals 65 years or older (with exceptions depending on immigration status) who fall below a certain income level,¹⁶⁹ and is widely considered to be a targeted basic income.¹⁷⁰ Therefore, it appears that the federal government intends to develop a targeted basic income for disabled people, called a Canada Disability Benefit (CDB).

In this section, we present some advantages and key considerations of basic income for disabled women and gender-diverse disabled people, followed by a discussion of the CDB, and its ideal elements. Note that each of these is taken up here as a separate program that would include overlapping or similar elements. Our intention is not to construct a false dichotomy between basic income and a CDB; all of the basic income principles articulated earlier should also apply to a CDB. We recognize that a basic income program would apply to all those non-disabled people who meet the income-tested eligibility criteria, including those currently receiving provincial social assistance (welfare) benefits. If basic income is to include disabled people it would need to contain elements that specifically meet the unique needs of this population, by including all of the elements that would ideally be contained within the CDB, a basic income program targeted specifically at disabled people. In terms of

¹⁶⁷ See Governor General, “A stronger and more resilient Canada: Speech from the Throne to open the Second Session of the Forty-Third Parliament of Canada” (23 September 2020), online (pdf): *Privy Council Office* <https://www.canada.ca/content/dam/pco-bcp/documents/pm/SFT_2020_EN_WEB.pdf>.

¹⁶⁸ See Department of Finance Canada, “A Recovery Plan for Jobs, Growth, and Resilience: Budget 2021” (19 April 2021) at 233-34, online (pdf): *Government of Canada* <<https://www.budget.gc.ca/2021/pdf/budget-2021-en.pdf>>.

¹⁶⁹ See “Guaranteed Income Supplement: Do you qualify” (last modified 11 August 2021), online: *Government of Canada* <<https://www.canada.ca/en/services/benefits/publicpensions/cpp/old-age-security/guaranteed-income-supplement/eligibility.html>>.

¹⁷⁰ See e.g. John Stapleton, “How can we improve income security in a post-CERB world?” (27 August 2020), online: *First Policy Response* <<https://policyresponse.ca/how-can-we-improve-income-security-in-a-post-cerb-world/>>; Office of Kim Pate, “Why a Guaranteed Livable Income? Our Perspective” (25 February 2020) at 3-4, online (pdf): <https://senCanada.ca/media/366455/senpate_glibi-perspective-document_08-15-2020_e.pdf>; David Macdonald, “A Policymaker’s Guide to Basic Income” (October 2016) at 12, 14, online (pdf): *Canadian Centre for Policy Alternatives* <https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2016/10/Policy_makers_Guide_to_Basic_Income.pdf>.

intersectionality, the development of both benefits should consider how access to benefits is structured given that those disabled women who are located at the margins of the groups to which they belong have different experiences in trying to access benefits, and risk being excluded. In particular, consideration should be included of the difficulties experienced by Indigenous disabled women (as described above regarding access to the DTC), and by those with uncertain immigrant status, who may experience language and other barriers.

As described above, disabled women and gender-diverse people with disabilities currently experience privation, poverty, and challenges responding to existing income support systems. Given all this, basic income is worth seriously considering as a possible program for easing barriers to this population's economic equality, social inclusion, and participation in education and training, culture, recreation, and the political life of their communities. It is important to note that although a basic income program would reduce poverty (and some of its effects) for disabled women and gender-diverse disabled people, it will not eradicate ableism, or sexism for that matter. Nonetheless, it does have advantages, along with some key considerations concerning disabled women and gender-diverse disabled people. Basic income will be discussed in terms of its potential to modify, and ideally eradicate, many of the deleterious effects of current disability income support programs, including poverty. Also discussed are key issues to consider that complicate creating a basic income that would include disabled women and gender-diverse disabled people, and similarly, consideration of key issues if a targeted Canada-wide basic income program for disabled people is instituted.

A. How might a basic income program modify or eradicate the previously described effects of current disability benefit programs?

Disabled women, disability activists, and Critical Disability Studies scholars keenly recognize the kinds of bureaucratic imperatives that disabled people receiving disability benefits have to respond to, and their effects. These are usually summed up as: intrusion into

personal lives via investigations and frequent review of income (surveillance); forced intimate self-disclosure; relentless stigma; strict and limiting offsets (or clawbacks) of earnings and other benefits; and having to re-qualify annually for continued support for additional disability-related supports and services, or for the benefit itself after leaving employment. Along with the well-documented effects of living in poverty, these particular effects substantially constrain disabled women and gender-diverse disabled people's lives in terms of their ability to participate more fully in community, and in terms of their social inclusion.

An income-tested basic income program, providing a guaranteed, adequate, secure, annual, and non-taxable income, indexed to the cost of living, would enable disabled women and gender-diverse disabled people to make freely-chosen plans for their lives in line with their capacities and desires—to be self-determining above and beyond just strategizing to survive. It would substantially foster their economic independence, and provide access to opportunities for disabled women and gender-diverse disabled people to choose how they want to live their lives. Ideally, it would be portable between provinces and territories, enabling disabled women and gender-diverse disabled people to choose where they wish to live depending on their circumstances. This is key because provincial and territorial disability benefit programs vary “from one jurisdiction to another in terms of eligibility for assistance, the amount of basic assistance, types and amounts of special assistance, enforcement policies and provisions governing [appeal processes].”¹⁷¹ A basic income would also be non-conditional in terms of employment, and it would be universally accessible; it would be “administered with no strings attached” and would be available to all who need it.¹⁷² The

¹⁷¹ Michael Mendelson et al, “A Basic Income Plan for Canadians with Severe Disabilities” (November 2010) at 7, online (pdf): *Caledon Institute of Social Policy, commissioned by Council of Canadians with Disabilities and the Canadian Association for Community Living* <<https://maytree.com/wpcontent/uploads/906ENG-1.pdf>>.

¹⁷² Tracy Smith-Carrier & Chloe Halpenny, “Basic Income: Making the Case Women & Gender Equity” (October 2020) at 4, online (pdf): *Case for Basic Income for Women* <https://d3n8a8pro7vhmx.cloudfront.net/obin/pages/143/attachments/original/1604721893/BASIC_INCOME_-_Status_of_Women_FINAL.pdf?1604721893>.

potential advantages of a basic income for disabled women and gender-diverse disabled people are discussed below.

B. Advantages of a basic income for disabled women and gender-diverse disabled people

i. Establishing eligibility

Beyond the reduction in poverty, one of the most significant effects of an income-tested basic income program would be the removal of the requirement to establish eligibility (and continuing eligibility) for monthly disability benefits. Income-testing would be the sole factor in eligibility criteria for basic income, not disability or means-testing. Eligibility for an income-tested basic income program would be based solely on a person's annual income, likely determined by the previous year's Canada Revenue Agency (CRA) tax assessment. Alternate means of determining eligibility would have to be developed for those who do not file taxes and/or have precarious or uncertain immigration status.¹⁷³

Currently, for provincially-administered disability benefits, eligibility assessment is an onerous, stressful, time-consuming process requiring ample resources. These resources include: good basic knowledge of benefit systems and eligibility requirements, the ability (and language skills) to comprehend and complete application forms, familiarity with program regulations, a supportive and trusting relationship with a physician who is familiar with and knows how to complete forms, and energy and stamina to endure intrusive investigation of every aspect of one's life. Evelyn Forget asserts that "often, the outcome depends as much on the skill of the clinician at completing forms as on any objective assessment of disability."¹⁷⁴ Eligibility assessment also requires intimate self-disclosure,

¹⁷³ For a discussion of basic income and the tax system, see Cee Strauss, "Basic Income & The Care Economy" (2021) at 54-55, online (pdf): *Women's Legal Education and Action Fund* <<https://www.leaf.ca/wp-content/uploads/2021/09/Basic-Income-The-Care-Economy-Full-Report-Final.pdf>>.

¹⁷⁴ Evelyn L Forget, *Basic Income for Canadians: The Key to a Healthier, Happier, More Secure Life for All* (Toronto: Lorimer, 2018) at 122.

exposing disabled women and gender-diverse disabled people to personal vulnerability. Encounters with physicians would also become unnecessary for those who are disabled to establish eligibility for the basic income benefit, an especially important change for those who experience these as stressful, and sometimes unhelpful.

For those with fluctuating episodic and/or invisible impairments, a basic income program would eliminate significant stress and worry associated with the uncertainty experienced establishing eligibility for disability benefits, and would eliminate the stress of needing to seek help and assistance with the application process. The experience of participating narrowly in community as supplicants in order to secure economic stability would be reduced or eliminated.

In the case of means-tested provincial disability benefit programs, “stringent accounting of applicants’ fixed and liquid assets” is currently required (and assets over prescribed amounts liquidated).¹⁷⁵ Because a basic income program would be income-tested rather than means-tested, this too would be unnecessary as part of qualifying for basic income. This would undo some of the stigma inherent in financial review processes and asset tests.

ii. Ongoing surveillance

A basic income program could eradicate the need for surveillance to ensure that beneficiaries are complying with complicated and confusing bureaucratic rules and regulations. It could eliminate stigmatizing and disrespectful encounters with caseworkers or benefit program administrative staff, who have discretionary power to limit benefits. Given

¹⁷⁵ Michael Mendelson et al, “A Basic Income Plan for Canadians with Severe Disabilities” (November 2010) at 8, online (pdf): *Caledon Institute of Social Policy, commissioned by Council of Canadians with Disabilities and the Canadian Association for Community Living* <<https://maytree.com/wpcontent/uploads/906ENG-1.pdf>>.

that engaging in these potentially demeaning activities is a substantial part of disabled women's struggle to survive, a basic income program could be an effective mechanism for freeing up much-needed energy and time, enabling disabled women and gender-diverse disabled people to decide how they want to spend their time beyond just surviving. It could reduce (or eliminate) this aspect of the exhausting, unpaid work of being disabled, and it could provide opportunities for disabled women and gender-diverse disabled people to choose how they want to participate in their communities and be socially included.

iii. Fears related to bureaucratic powers

As discussed, fear of losing benefits is a constant in the lives of disabled women receiving disability income support. The fear of having contact with administrators, the insecurity of having limited knowledge of rules and policies that compounds disabled women's fear of losing benefits, and the perceived risk of having their eligibility questioned might all be reduced with a basic income program. The income test component may result in some experiencing fear, but eligibility would be established by the federal government internally using CRA data, eliminating the need for (repeated) contact with provincial benefit program providers to establish eligibility.

A basic income program that provides secure, reliable income would go a long way to reducing or eliminating fear of contact with program providers, some (but not all) of whom enact policy in punitive and restrictive ways. It is this fear that often prevents disabled women and gender-diverse disabled people from participating, however minimally, in employment for those who choose to and can (along with insufficient allowable earnings exemptions and high clawback rates that constitute disincentives to employment, and thus entrench poverty). Their fears combined with complicated (and punitive) allowable earnings exemptions and re-application processes also prevent disabled women and gender-diverse

disabled people from deciding when and how to participate in paid labour, and can make it challenging for them to return to their benefit programs, when necessary.¹⁷⁶

A basic income program, with generous allowable employment earnings without penalty, would substantially eliminate these risks, and would enable disabled women and gender-diverse disabled people to take advantage of various opportunities for social inclusion. For example, disabled women and gender-diverse disabled people would have “more flexibility in [both] determining and negotiating their hours of work”¹⁷⁷ and in choosing work that appropriately accommodates their disabilities and provides a living wage.

While the above advantages appear promising, the issue of eligibility criteria is not a simple one when it comes to disability supports. Currently, provincially-administered disability benefits include a range of partially or wholly subsidized supports that vary from province to province (e.g., medications, mobility aids, nutritional supplements, and limited visits to allied health professionals). Any basic income program that includes disabled people must provide subsidy for these supports, and determining which to include and the level of subsidy would be challenging. Moreover, in order to receive any coverage for additional costs of disability included in a basic income plan, disability status would have to be established (and re-established annually). This would require applicants to once again undergo medical scrutiny in order to ‘prove’ their disability-related need. It would entail potential exposure to unhelpful bureaucrats and it would require navigating the maze—all things a basic income should ideally eliminate. This will be discussed further below.

¹⁷⁶ Most provinces include a ‘rapid reinstatement’ process for those who need to return to disability benefit programs they have previously qualified for after having been off them for a period of time, and if there has not been any significant improvement in their disability status. Each province differs in terms of how this process unfolds, with some being more complicated than others.

¹⁷⁷ Tracy Smith-Carrier & Chloe Halpenny, “Basic Income: Making the Case Women & Gender Equity” (October 2020) at 5, online (pdf): *Case for Basic Income for Women* <https://d3n8a8pro7vhmx.cloudfront.net/obin/pages/143/attachments/original/1604721893/BASIC_INCOME_-_Status_of_Women_FINAL.pdf?1604721893>.

C. How might a basic income program modify or eradicate the previously described effects of poverty associated with current disability benefit programs?

As described, disabled women are among the poorest people in Canada. This is especially true for those who are receiving provincially-administered disability benefits and who are Indigenous, single, single-parenting, working class, racialized, visible minorities, and/or newcomers. The ideal of a basic income program is that it provides a secure, reliable, adequate source of income such that basic needs are met, thus contributing greatly to the kind of personal security from which disabled women and gender-diverse disabled people could more fully participate in society and imagine and plan a desired future, and live a modest but dignified life.¹⁷⁸ Ideally, some of the constraints with which they live due to structural poverty would be reduced, enabling them to live their lives without the precarity and privation poverty produces. They would be less likely to make difficult decisions between purchasing medication or food, for example, constraints which potentially compromise their well-being and result in poorer physical and mental health.

Having a secure, adequate income, not tied to means-testing or disability status, would create more choice in disabled women's lives in terms of how they care for themselves, what they choose to spend their money on, and what activities they might engage in. Given that provincial disability benefit programs are means-tested, some disabled women are ineligible because their spouse or partner's income (and thus family income) or assets are above the eligibility threshold. For some, having to share living quarters with others might not continue to be a necessity, enabling a disabled woman or gender-diverse disabled person the opportunity to live on their own, and make decisions without having to negotiate with others. The risk of becoming homeless and exposed to unsafe housing could be reduced or

¹⁷⁸ Evelyn L Forget, "What Can We Learn from Basic Income?" (12 November 2020), online: *YouTube* <https://www.youtube.com/watch?v=w7u2xZnszEs&list=PL23-QGDt0yFqMOmNFo4861f3w0d_p5V1r>.

eliminated. A basic income could provide disabled women and gender-diverse disabled people expanded “access to adequate housing options.”¹⁷⁹ It could “equip them with the financial means [to choose] housing that better meets their family’s [...] space requirements, broaden choice in neighbourhood selection (including those perceived to be safer), and [it could allow them to] secure accommodation in closer proximity to important amenities.”¹⁸⁰ Nonetheless, the lack of affordable and adequate housing would persist in many markets, reducing the potential for basic income to rectify the problem of unaffordable housing.

Simply put, a generous basic income could enable disabled women and gender-diverse disabled people to be more self-determining, and could provide them with expanded opportunities for social participation and inclusion. For example, disabled women and gender-diverse disabled people might decide to engage in some part-time employment without worrying about losing their benefits (as they currently do on provincial benefits), or further their education without being governed by restrictive provincial income support rules around attending post-secondary education. They might volunteer with a community group without the threat of being judged ‘not disabled enough’ to receive benefits. Also, for those disabled women who are able to work, however minimally, having a basic income would enable them the flexibility to leave unsuitable employment or discriminatory workplaces without worrying about living in poverty. A basic income could also top up low wages due to underemployment. Finally, when impairments are exacerbated requiring a disabled woman or gender-diverse disabled person to leave employment, they would not have to undergo the onerous task of re-establishing eligibility or re-qualifying for disability benefits.

¹⁷⁹ Tracy Smith-Carrier & Chloe Halpenny, “Basic Income: Making the Case Women & Gender Equity” (October 2020) at 5, online (pdf): *Case for Basic Income for Women* <https://d3n8a8pro7vhmx.cloudfront.net/obin/pages/143/attachments/original/1604721893/BASIC_INCOME_-_Status_of_Women_FINAL.pdf?1604721893>.

¹⁸⁰ *Ibid.*

Living in poverty, disabled women and gender-diverse disabled people are more exposed and vulnerable to violence in their home environment at the hands of intimate partners.¹⁸¹ With a basic income, they may have the option to leave a violent or abusive relationship without being exposed to poverty. It may also reduce the likelihood that a disabled woman or gender-diverse disabled person might engage in an unhealthy relationship to escape poverty.¹⁸²

D. What key considerations are necessary for a basic income program to meet the needs of disabled women and gender-diverse disabled people?

Ideally, a number of complex considerations as part of a basic income need to be addressed in order for it to ‘work’ in disabled women’s lives in terms of reducing poverty and enabling opportunities for more full participation and social inclusion. Some of these would also need to be included in a targeted Canada Disability Benefit, discussed further below.

i. Extraordinary costs of living with disability

The first consideration has to do with the extraordinary costs associated with living with disability. *Specific* basic costs such as prescription medications, supplementary health care services, dental and vision care, and assistive devices are currently covered (or

¹⁸¹ “Violence Against Women with Disabilities” (4 October 2010) at 5, online: *International Network of Women with Disabilities* <<https://inwwd.files.wordpress.com/2010/11/violence-against-women-with-disabilities-international-network-of-women-with-disabilities.doc>>.

¹⁸² For a more detailed discussion of the potential of basic income to assist women and gender-diverse people exiting abusive environments, see Cee Strauss, “Basic Income & The Care Economy” (2021) at 82-84, online (pdf): *Women’s Legal Education and Action Fund* <<https://www.leaf.ca/wp-content/uploads/2021/09/Basic-Income-The-Care-Economy-Full-Report-Final.pdf>>. See also Anna Cameron & Lindsay Tedds, “Gender-Based Violence, Economic Security, and the Potential of Basic Income: A Discussion Paper” (30 April 2021), online (pdf): <<https://papers.lindsaytedds.ca/Gender-Based%20Violence,%20Economic%20Security,%20and%20the%20Potential%20of%20Basic%20Income%20Tedds%20Cameron%20April%2030.pdf>> (concluding that a basic income would not be the best method to reduce the risk and prevalence of gender-based violence).

subsidized) by most provincially-administered disability benefit programs. A basic income is just that, an income adequate enough to manage day-to-day expenses. Unfortunately, basic income set at or just above the Market Basket Measure (MBM) would be inadequate for disabled women and gender-diverse disabled people who have disability-related extraordinary costs, which can be very high depending on severity of impairment and needs. A basic income program should ensure access to and coverage for specific additional supports. These are essential to ensure that disabled women and gender-diverse disabled people are not extraordinarily disadvantaged because of costs of supports needed to manage their daily lives. They are also essential to ensure that disabled women and gender-diverse disabled people are able to participate in community, employment, or education. It is important to recognize that those beneficiaries currently receiving provincial disability benefits that have many of their specific disability-related costs covered or partially subsidized find it impossible to leave benefit programs for employment for fear of losing their essential disability-related supports; these absolutely need to be retained (or wholly subsidized) as part of a basic income program.

Additionally, in some provinces, disabled beneficiaries who are engaged in employment are allowed to retain specific subsidized supports, for example, extended health benefits and access to assistive devices. These supports are essential to daily life with disability, but also to ensure disabled people have the additional supports they need to participate in the labour force. Retaining support for specific extraordinary disability-related costs should be a necessary feature of a basic income, and raises questions about how a basic income program might interact with provincial disability benefit programs to ensure continuity of, access to, and coverage for additional supports.

General or non-specific costs constitute a range of out-of-pocket disability-related expenses not covered by provincial disability benefit programs, and vary significantly in type and expense from person to person. Ideally, a basic income program minimum benefit

amount should be set at a level that accounts for the general (or non-specific) extraordinary costs associated with disability, or should include modification of two existing federal programs for disabled Canadians, CPP-D and the non-refundable Disability Tax Credit (DTC). A basic income program that is designed to meet the needs of disabled women and gender-diverse disabled people would eliminate CPP-D offsets (clawback), such as those required by provincial disability benefit programs, allowing CPP-D beneficiaries to retain all of their CPP-D benefit while also receiving basic income. It would also make the DTC fully refundable. For those eligible for one or both of these federal programs, eliminating CPP-D offsets (clawback) such as those required by provincial disability benefit programs, and/or making the DTC fully refundable might be substantial enough to enable disabled women and gender-diverse disabled people to afford their general extraordinary disability-related costs. It is important to remember that not all disabled women and gender-diverse disabled people are eligible for these federal benefits, either as a result of insecure attachment to employment (CPP-D) or stringent eligibility criteria (both programs). Those who might receive a basic income who are not eligible for CPP-D or the DTC would continue to need assistance with general extraordinary costs.

If provincially-administered specific disability-related supports are included as part of a basic income for disabled women and gender-diverse disabled people, the issue of qualifying for these needs to be addressed. It is here that the establishment of eligibility for these supports, with its potential for intrusiveness and surveillance, again comes into play. Given the need for specific disability-related supports, if provincial subsidy of disability related benefits is to be retained, it would require applying and meeting provincial eligibility criteria for these “separate” benefits. It would also likely require some form of regular surveillance to ensure disabled women and gender-diverse disabled people continue to qualify. This demeaning aspect of bureaucratic oversight experienced with current provincial disability benefit programs would therefore not be eradicated with a basic income.

In addition, current definitions of disability for official purposes are primarily medicalized and fail to reflect the various ways disability is socially constructed. More stringent definitions, such as those governing the CPP-D and the DTC, would exclude many disabled women and gender-diverse disabled people, especially those living with episodic, fluctuating, and/or invisible impairments, as well as those who are Indigenous and whose immigration status is precarious or uncertain.

ii. Basic income and employment

A basic income should have a generous earned income allowance or earnings exemption, enabling disabled women and gender-diverse disabled people to retain both their basic income benefits and their earned income up to a generous maximum income threshold. Along with this, any reduction in benefits above the allowable amount should be clawed back at a much smaller rate (ideally 50%) than some current programs do, or reduced over time to a minimal amount (10%). This would enable disabled women and gender-diverse disabled people who are employed to retain more of their earned income, afford extra costs, and reduce their vulnerability to poverty.

One of the critiques of a basic income program is that it acts as a disincentive to employment, based on the theory that those who receive basic income would reduce their participation in the labour force. In their review of research into the benefits of a basic income program, Tracy Smith-Carrier and Chloe Halpenny found that there is no evidence to support this argument. In fact, “modest decreases” in labour force participation “are largely related to people either taking time off work to improve their education and training or to better care for their families.”¹⁸³ Concern has also been raised, in particular by unions, that employers

¹⁸³ Tracy Smith-Carrier & Chloe Halpenny, “Basic Income: Making the Case Women & Gender Equity” (October 2020) at 7, online (pdf): *Case for Basic Income for Women* <https://d3n8a8pro7vhmx.cloudfront.net/obin/pages/143/attachments/original/1604721893/BASIC_INCOME_-_Status_of_Women_FINAL.pdf?1604721893>.

who support a basic income do so in part because the onus of lifting workers out of poverty is relegated to the public sphere, leaving little incentive for businesses to create full-time work, raise wages, and improve working conditions.¹⁸⁴

Not expected as part of basic income, several other programs reflecting more comprehensive social policy and programming would significantly reduce poverty in the lives of disabled women and gender-diverse disabled people in tandem with a basic income program (or a Canada Disability Benefit). They are: universally accessible and affordable child care; fully-subsidized, appropriate, individualized home support services; a national Pharmacare program, modelled after the one currently available in BC; improved labour market conditions, such as a livable minimum wage; and, a national housing strategy that guarantees safe, adequate, affordable and accessible housing. Affordable child care would enable those disabled women and gender-diverse disabled people who want to participate in employment to do so without concerns about affordability. Likewise, a fully-funded home support system, providing adequate, individualized, in-home supports for disabled women and gender-diverse disabled people would reduce energy spent on activities of daily living and ensure basic needs are met, enabling their participation in community. Providing a reliable, secure income for disabled women and gender-diverse disabled people is only one piece of a social security plan that would enable them to participate more fully, but is limited without the kind of support offered by affordable and accessible child care and subsidized home support.

E. Canada Disability Benefit

The federal government's commitment to a Canada Disability Benefit (CDB) has taken hold of the disability community, activists, and scholars, who are all eager to work towards

¹⁸⁴ Navjeet Sidhu, "A Universal Basic Income: Too Good to be True?" (5 October 2020), online: *UNIFOR* <<https://www.unifor.org/news/all-news/universal-basic-income-too-good-be-true>>.

ensuring it is dignity-enhancing, recognizes individual needs, reduces poverty, encourages employment in a positive way, and provides an adequate income.¹⁸⁵ Many of the advantages of a basic income, described above, should ideally also be realized with a CDB. However, some key considerations, especially with respect to the issue of extraordinary disability-related costs, discussed below, might be administratively more appropriately dealt with through a CDB.

Ideally, this benefit for working age (18-64) disabled people would be income-tested (not means-tested), eliminating the need for intrusive review of a disabled woman's financial status and records, or requirements to use up savings or sell assets in order to qualify. As with a basic income program, the thorny issue of relying on income tax information to establish financial eligibility for a CDB needs to be addressed, because this approach generally excludes those whose immigration and citizenship status is uncertain, and threatens to deepen inequality at the intersection of gender, disability, race, and immigrant status.¹⁸⁶ Indigenous people who do not file income tax returns because they receive non-taxable income would also be excluded. Ideally, eligibility would not be tied to labour force attachment or require an employment test, enabling those disabled women and gender-diverse disabled people who have been unemployed or underemployed to be eligible for the benefit, without fear their employment status might jeopardize their eligibility.

¹⁸⁵ See Michael Prince, "Canada Disability Benefit Part 1 – Webinar 2 – What We Want and Need" (12 November 2020), online: *YouTube* <https://www.youtube.com/watch?v=DP0vWZes4Y4&list=PL23-QGDt0yFqMOMNFo4861f3w0d_p5V1r&index=6>. It is noteworthy that Disability Without Poverty, a consortium of disabled people, disability activists, scholars, and a broad coalition of community-based non-profit organizations across Canada have recently mobilized in order to eliminate poverty in disabled people's lives; secure the support of Canadians for this goal; work with policy experts and economists to develop key aspects of the CDB; and ensure that disabled people are involved in all stages, including design, legislation and implementation of the benefit. See: "our movement" (last visited 4 September 2021), online: *Disability Without Poverty* <<https://www.disabilitywithoutpoverty.ca/our-movement/>>.

¹⁸⁶ Email from Maryth Yachnin (5 May 2021).

Those who want to apply for the CDB would also have to establish eligibility based on their disability status, requiring medical assessment by a qualified health care practitioner. At this writing, given the federal government's pending three-year consultation, no eligibility criteria for a CDB has been determined. Michael Prince recommends that the CDB use the definition of disability articulated in the *Accessible Canada Act* (see "Defining disability" section above), including its descriptions of barriers.¹⁸⁷

This definition clearly articulates the social construction of disability as it is understood to be produced by interactions of impairments with barriers, and constitutes a much more expansive understanding and treatment of disabled people. It would mean disabled women and gender-diverse disabled people who live with episodic or invisible conditions would be more likely to qualify for benefits, from which they are often excluded. Others, in particular Michael Mendelson et al. in their 2010 report detailing a basic income plan for disabled people *with severe disabilities*, recommend using more stringent definitions of disability associated with the CPP-D and Disability Tax Credit.¹⁸⁸ Mendelson et al.'s noteworthy report specifically focused on those disabled people in Canada whose impairments are *severe enough to preclude employment*, and who would not be expected to work. However, eligibility criteria focused on severe impairments would exclude those disabled people who live with mild to moderate impairments, including those who are employed or can participate in employment. Many people in these latter categories are currently experiencing poverty because of low income, precarious employment, and/or the financial burden of general (or hidden) extraordinary disability-related costs.

¹⁸⁷ Michael Prince, "Canada Disability Benefit Part 1 – Webinar 2 – What We Want and Need" (12 November 2020), online: *YouTube* <https://www.youtube.com/watch?v=DP0vWZes4Y4&list=PL23-QGDt0yFqMOMNFo4861f3w0d_p5V1r&index=6>.

¹⁸⁸ Michael Mendelson et al, "A Basic Income Plan for Canadians with Severe Disabilities" (November 2010) at 20, online (pdf): *Caledon Institute of Social Policy, commissioned by Council of Canadians with Disabilities and the Canadian Association for Community Living* <<https://maytree.com/wpcontent/uploads/906ENG-1.pdf>>.

A proposed CDB should be designed for *all* disabled people who meet the *Accessible Canada Act* definition of disability and the income test for the benefit, regardless of severity of impairments. Once a person successfully meets CDB eligibility criteria, this should enable them to access whatever benefits, supports, and services the program provides without having to further establish eligibility (as is currently the case with many provincially-administered supports and services). Similarly, to reduce bureaucratic oversight and scrutiny (and the negative effects in disabled people’s lives), repeated review of disability status should be minimal or omitted.¹⁸⁹

Ideally, a CDB would (over time) replace provincial disability benefits, would be available to all regardless of immigration status,¹⁹⁰ and would be portable between provinces and territories. Portability between provinces and territories would enable disabled women or gender-diverse disabled people to move to other provinces should they desire or need to, without fear of losing their benefits and having to undergo applying and qualifying for benefits in another province or territory.

Given the previous discussion of extraordinary disability-related costs, Prince recommends that the CDB be “generous”; he provides rationale for the benefit to be non-

¹⁸⁹ This would likely be different with a basic income program that includes disabled people and relies on coverage of extraordinary costs through provincial social assistance portfolios, as done currently. Unless a basic income program adopts full coverage of disability-related expenses, people needing disability-related supports and services would have to prove need/eligibility for coverage of those costs with whatever province they reside in, and review on a yearly basis.

¹⁹⁰ Any provision of a new disability benefit should not deepen the divide between those with and without immigration and citizenship status. While permanent residency for all is not a precondition to a basic income or disability benefit, it would make it administratively less complicated. In the absence of a full regularization program, and despite the administrative complexity that would come with providing a basic income or disability benefit to people who are living in Canada but are not legally residents of Canada, LEAF’s support for basic income and/or a disability benefit is contingent on its being available to all regardless of immigration status. We acknowledge, however, that it will be functionally impossible to include undocumented people. In order to design a system that will successfully include people with precarious status, there should be consultation with migrant justice advocates and unions.

taxable, indexed to inflation (quarterly adjusted to maintain the purchasing power of the benefit), and to be provided in the amount of \$2,200 monthly. This is \$200 monthly above the Canada Emergency Response Benefit (CERB) monthly benefit provided to individuals residing in Canada who were unemployed because of COVID-19 restrictions. Prince assumes, perhaps incorrectly or naïvely, that the ‘extra’ amount would likely be substantial enough yearly to cover many specific and even some general extraordinary disability-related costs, without having to rely on specific costs being subsidized by provincial disability benefit programs, and concomitant eligibility reviews. He also recommends that the benefit be tied to an individual, so that if two people in a household are eligible for the benefit they both receive the full benefit, rather than a blended one as is currently provided by provincial disability benefit programs, or one based on total family income.¹⁹¹

It is likely that some who qualify for the CDB will also be receiving CPP-D benefits. Unlike with current provincially-administered disability benefit programs, CPP-D offset or clawback should not happen. It is administratively challenging and robs disabled people of the benefit they contributed to while working, and expect to receive upon disablement. The same principle should apply to both a basic income program that includes disabled people and to a CDB: the CPP-D benefit should be paid wholly to eligible beneficiaries, not used to reduce their monthly benefit amount. Serious consideration needs to be given to making the DTC fully refundable, as a way of providing more income for disabled people to afford extraordinary disability-related expenses.

With respect to allowable employment earnings before clawback while receiving the CDB, Prince also recommends that these be generous (at least \$12,000 annualized, and

¹⁹¹ Michael Prince, “Canada Disability Benefit Part 1 – Webinar 2 – What We Want and Need” (12 November 2020), online: *You Tube* <https://www.youtube.com/watch?v=DP0vWZes4Y4&list=PL23-QGDt0yFqMOMNFo4861f3w0d_p5V1r&index=6>.

indexed to inflation).¹⁹² Given that BC currently sets this rate at \$15,000, those designing the CDB should consider this larger annualized earnings exemption. Although Prince recommends that clawback of benefits tied to allowable earnings exemptions while employed should be set at a rate lower than dollar-for-dollar (ideally 50-70%) over the allowable amount, others recommend a phased clawback that begins at 50%, and is then reduced to 25%, followed by 10% until earned income is high enough that a person no longer qualifies for the basic benefit. These employment earnings amounts would reduce or eliminate the work disincentives based on restrictive allowable employment earnings built into current programs. Also, being able to enter and exit employment as needed, due to disability or other circumstances, would be enabled without having to reapply and re-qualify for benefits, eliminating time and energy spent on exhausting re-application processes.

F. Basic income and CDB compared

Both basic income and the CDB, whose *ideal* features are described above, would substantially foster economic independence and provide access to opportunities for disabled women and gender-diverse disabled people to choose how they want to live. Both programs contain similar elements that would significantly reduce poverty in disabled women and gender-diverse disabled people's lives, and would reduce many of the onerous effects of existing disability benefit programs. This is particularly the case for those currently receiving provincially-administered disability benefits. By establishing benefit eligibility criteria reliant on income-testing, both programs would reduce the need for intrusive means-tested reviews of a person's financial situation, thus eliminating demeaning and potentially risky contact with program providers.

Federally, both the CPP-D and the DTC should remain in place, despite their stringent eligibility criteria, which should be substantially expanded in the case of the DTC to include

¹⁹² *Ibid.*

mental health and episodic conditions. CPP-D is a contributory program benefit tied to employment designed to provide some income replacement upon disablement. The DTC was designed to assist with the general extraordinary costs of living with disability, but only benefits those whose income is above the CRA annual deductible amount.

With respect to both basic income and CDB programs, the issue of specific and general extraordinary disability-related costs complicates their structure. A basic income program that retains provincially-subsidized *specific* disability-related extraordinary costs is important to meet these needs; a basic income program that does not subsidize *general* disability-related costs would potentially financially disadvantage disabled women and gender-diverse disabled people, who would have to purchase supports and services using their basic income benefit, creating inequity between disabled and non-disabled basic income recipients.

Importantly, women and gender-diverse people with severe impairments have higher general costs which may not be offset by a basic income benefit amount, especially if CPP-D clawback remains in place and the DTC remains non-refundable. Arguably, the proposed changes to CPP-D and the DTC, if also applied to a basic income program (along with provincial subsidy of specific disability-related costs, such as access to medication and other supports) would enable disabled women and gender-diverse disabled people to be more likely to afford any general extraordinary costs.

Nonetheless, if provincially-subsidized specific disability-related costs are retained, those receiving a basic income would be exposed to intrusive medical eligibility determinations and continued annual monitoring of eligibility for many of these supports, assistive devices, and services. Importantly, if specific disability-related costs remain tied to provincial disability benefit programs, that portion of people's benefits would not be portable between provinces.

A more generous, portable CDB, similar to that proposed by Prince,¹⁹³ would ideally cover both specific and general disability-related costs, especially if the CPP-D offset is eliminated and the DTC becomes fully refundable. This would also eliminate the need to qualify for specific disability-related benefits, and exposure to the negative effects of bureaucratic oversight that it entails. Of course, if the CDB is generous enough to cover the extraordinary costs of disability, on the assumption that provinces will eventually not be subsidizing costs, then it might not be necessary to make the DTC fully refundable.

G. Basic income or Canada Disability Benefit?

Given the many caveats to both programs in terms of their advantages in disabled women and gender-diverse disabled people's lives, it is challenging to recommend one or the other. Because most basic income programs (and their varied structures) currently being discussed are designed to include all those residing in Canada living below low-income thresholds,¹⁹⁴ particular consideration of the unique circumstances of disabled women and gender-diverse disabled people needs to be built into a basic income program in ways that do not disadvantage this group, or inadvertently contribute to their marginalization.

Key considerations with respect to establishing eligibility for basic benefits and coverage for extraordinary costs come into play. Both benefits would require applicants to

¹⁹³ *Ibid.*

¹⁹⁴ See e.g. Michael Mendelson et al, "A Basic Income Plan for Canadians with Severe Disabilities" (November 2010), online (pdf): *Caledon Institute of Social Policy, commissioned by Council of Canadians with Disabilities and the Canadian Association for Community Living* <<https://maytree.com/wpcontent/uploads/906ENG-1.pdf>>; Evelyn L Forget, *Basic Income for Canadians: The Key to a Healthier, Happier, More Secure Life for All* (Toronto: Lorimer, 2018); Chandra Pasma & Sheila Regehr, "Basic Income: Some Policy Options for Canada" (2019), online (pdf): *Basic Income Canada Network* <https://basicincomecanada.org/wpcontent/uploads/2021/04/Basic_Income_-_Some_Policy_Options_for_Canada.pdf>; David A Green, Jonathan Rhys Kesselman & Lindsay M Tedds, "Covering All the Basics: Reforms for a More Just Society, Final Report of the British Columbia Expert Panel on Basic Income" (28 December 2020), online (pdf): <https://bcbasicincomepanel.ca/wpcontent/uploads/2021/01/Final_Report_BC_Basic_Income_Panel.pdf>.

meet income tests. With a basic income, disabled applicants would not need to establish disability status for the basic benefit, but would be required to do so in order to receive subsidy for specific disability-related supports and services should these continue to be administered by the provinces. The benefit would have to be generous enough for disabled recipients to cover general extraordinary (out of pocket, hidden) costs. With the CDB, applicants would have to establish their disability status (along with meeting the income test), but ideally the benefit would be structured so that there would be no additional scrutiny needed in order to meet specific extraordinary disability-related costs;¹⁹⁵ the benefit would also have to be generous enough to cover both specific and general disability-related costs. The CDB would be fully portable across Canada, whereas provincially-administered coverage of specific extraordinary disability related costs would not be portable.

To further benefit disabled people, federal disability programs (CPP-D and DTC) would need to be retained but substantially modified (eliminate CPP-D offsets and make the DTC fully refundable). If this were to be realized it would reduce the complexity in the fragmented disability income support system in Canada. Eliminating provincial disability benefit programs and transferring their subsidy of specific costs to the CDB would also reduce the complexity of disability income support. A targeted basic income is key to establishing a minimum income guarantee for working age disabled people in Canada, who comprise a large share of the poorest Canadians.

Given the targeted, less stigmatizing, somewhat less-complicated eligibility process and portable nature of the Canada Disability Benefit as imagined here, the CDB is considered

¹⁹⁵ This claim assumes that by qualifying for the CDB a person's disability status will have already been administratively established, and that beyond requesting subsidy for assistive devices or needed supports, no further intrusive, detailed review of impairments or medical authorization would be necessary. For example, a CDB recipient needing a wheelchair would make a request for a chair and other than being measured for the chair, they would not have to "make a case" for having a chair, get a doctor's approval, submit the request to the authorities, and wait for a decision.

by this researcher to be more favourable for disabled women and gender-diverse disabled people than a basic income program as described in this report.

Recommendations

Considering all of the above, it is LEAF's position that any basic income program for disabled women and gender-diverse disabled people must:

1. Be provided to all disabled people who meet the *Accessible Canada Act* definition of disability;
2. Either ensure that the cost of both specific and general extraordinary disability-related supports and services are covered, or be generous enough to enable disabled people to purchase these on their own;
3. Be portable across provinces and territories; and,
4. Set allowable earnings exemptions at a generous level, with minimal clawbacks of earned income above maximum allowable earnings.

Further, neither a CDB nor a basic income should be subject to any offset or clawback of Canada Pension Plan-Disability benefits, and the Disability Tax Credit should be made fully refundable.

As between a Canada Disability Benefit or a basic income program, LEAF advocates for whichever program meets the above criteria. Without these elements in place, LEAF does not support implementation of either program.