



PEI Advisory Council on the Status of Women

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March 20, 2008

Child Protection Act Review
c/o HRA
1 Harbourside
Charlottetown PE CIA 8R4

Dear Ms. MacLean and Advisory Committee members:

Thank you for the opportunity to participate in consultations to review Prince Edward Island's Child Protection Act. We hope to be able to offer insight on Child Protection from the experience of our appointed Advisory Council members, past and present, and from the women and other Islanders who call us or write to us to tell their stories, share their concerns, or appeal for help in crisis situations.

At recent public meetings on the Child Protection Act, your panel emphasized that all Islanders share a civic responsibility to protect children. The current Act requires mandatory reporting of abuse of any child, and this is an important expression of the community's responsibility to protect children. There is such value in mandatory reporting of abuse, we look forward to a day when our Island community takes similar responsibility to reporting abuse of seniors, women, and other vulnerable adults and to protecting them.

The PEIACSW Mandate

The Prince Edward Island Advisory Council on the Status of Women (PEIACSW) is a provincial government advisory body dedicated to supporting women's full and equal participation in social, legal, cultural, economic, and political spheres of life.

The Council regularly works in collaboration with government and community groups, undertakes research on issues of concern to women, offers analysis and recommendations to policy-makers, responds to media, and creates public education resources.

The Advisory Council has a legislated mandate to recommend legislation, policies, and practices to improve the status of women on Prince Edward Island.

Policy in Context: Women’s Equality and Child Protection

Parents are the first protectors of their children, but they take on this responsibility within a wider community context. One aspect of this context is the Child Protection Act, but other aspects include other supports and programs for struggling families. The Advisory Council on the Status of Women sees laws and other public policy (including policies and procedures, programs, and funding decisions) as among the most important expressions of our commitment as a community, as a society, to the goal of protecting children. It is important to get policy *right*, and to consider, especially, what leads to positive outcomes for vulnerable citizens, including women as well as children.

Policy needs to be considered in its context, and our Council recognizes that part of our context is a world where women, as a group, are not treated equally with men. In families, we know that women experience the greatest effects of violence and fear of violence, that women continue to have the largest burden of caregiving, and that women’s unique role in giving birth to and nurturing children creates challenges as often as opportunities and rewards. In society, we know that women’s salaries are on average substantially less than those of men and that access to family law legal aid or other legal system services are out of reach for too many women. These equality issues all affect issues of child protection.

Even the best Child Protection Act relies on human agents to carry out the will of the Act. The women and men who use the Act — the service providers and decision makers — are subject to patriarchal biases that exist in our culture and society. These affect how we interpret sex roles and traditional parenting roles. What we envision as a “good mother” or a “bad mother” is especially fraught. It is important to question our received ideas about “mothering,” given that this is the primary role assigned to females and has often been used as an element of social control. Ongoing training of professionals, analysis of decisions, and challenge to assumptions are required to ensure that decisions about child protection are made using appropriate frameworks that take a gendered, critical perspective on what “parenting” and “mothering” mean.

What We Have Heard

Here are some issues we’ve heard about the Child Protection Act and related services from women in the community:

- Some women are afraid to get the help they need — whether addiction treatment, transition house and/or outreach services for family violence, mental health assistance, and even social assistance — because they are afraid their children will be taken away if they identify problems such as addiction, violence, mental illness, or poverty. Many of these women want desperately to protect their children themselves. They especially fear that once their children are “in the system,” they will never get them back, or that if they do get them back, the stigma of “the

- system” will stick.
- Some women, on the other hand, want their children to be able to access stability and supports they can get in care, but they feel they have to do something drastic — such as threatening or even hurting a child — to get their children into the system. They do not see adequate supports for families outside “the system.” They do not see doors open to them to voluntarily ask for services and supports; the only door they see is for mandated services.
 - Some abusive parents use accusations of child abuse against their abused (former) partners as an avenue to continue to harass them. The investigations required to ensure children are safe are very stressful and intrusive for a falsely accused custodial parent. Also, Custody and Access orders sometimes put abused partners into contact with abusers in ways that set them up for danger to themselves; or for accusations they “failed to protect” their frightened children.
 - Many women and girls identify a significant gap in protection for and services to young adults, ages 16 to 18. Young adults who are harming themselves, who are using substances, who are homeless, who are leaving abusive relationships do not have the supports they need to protect them or to help them. Some young women report that the only way they can get a roof over their head is to get pregnant. Even then, it feels to them that their unborn child is more worthy of protection and support than they are.
 - Children aged three to six are at a high risk of being abused but their experience of abuse is sometimes missed because they have less interaction with public health nursing or schools or other community institutions.
 - Some women who have sought to build their families through adoption have told us they felt discrimination based on age if they were over forty or based on marital status if they were single in home studies and other adoption processes.
 - Social assistance rates are inadequate to meet the basic needs of families for food, shelter, and clothing. Other policy that is meant to protect vulnerable people from poverty is woefully inadequate. Sometimes the line between “children in need” and “children in need of protection” gets very, very thin.

What We Advise

Changes Needed in the Legislation

As we have noted above and will outline below, many concerns about child protection relate to policies and programs and resources that surround the Act. However, we note several issues that need to be addressed in the current Child Protection Act itself.

Most importantly, we note the sometimes unbridgeable gap between protecting a child from witnessing violence against a parent and including among the child’s “best interests” the “love, affection and ties between the child and persons who have had custody of the child” or “continuity of care for the child.” When the best interests of the child are

interpreted to mean custody and/or access of both parents, regardless of a history of abuse, this can be a problem. It is hard to see how the best interests of the child are served when an abused parent must constantly come in contact with an abuser in order to fulfill custody and access obligations. We must ensure the Child Protection Act and other laws do not make parents who have experienced abuse into criminals for either a) ignoring an access order or b) failing to protect their children.

In Ontario, new legislation, Bill 27, contains a provision to require that violence and abuse be considered when determining the best interests of the child in custody and access cases. The Children's Law Reform Act now says that the assessment of a person's ability to act as a parent include a determination of whether that person has ever engaged in an act of violence or abuse toward his spouse, a parent of the child, a member of the household, or a child. Ontario's bill puts responsibility more squarely on the primary aggressor. Perhaps elements of this legislation could be adopted in Prince Edward Island.

Our laws and the policies that support them must not put the onus on women to remove a child from a situation of abuse. There are too many reasons that leaving an abusive relationship is not easy (including beaten-down self-esteem from abuse and the increased risks to physical safety and to financial insecurity when people leave abusive situations). There must be measures to challenge abusers to face their issues and to take responsibility for their actions and their consequences.

In the Child Protection Act, it is important to ensure that the legislation holds parents to account for issues that arise in families; too often, children feel the consequences of family conflict, rather than families being offered solutions that make parents responsible and give them the help they need to parent well.

Some issues we have identified but do not have answers for. We ask for research, with a gender and diversity lens, to assess the following:

- What are the risks and benefits to including young adults, ages 16 to 18, under Child Protection legislation or under separate, age-specific and developmentally appropriate legislation? What are the best practices for youth in other jurisdictions?
- Are there aspects of the Child Protection Act as it currently exists that need to change in light of same-sex marriage? Will these be dealt with sufficiently under incoming omnibus legislation, or are specific changes required to ensure same-sex couples face no discrimination?
- What would be the advantages and disadvantages of more formally recognizing extended family bonds in the Child Protection Act? (Most particularly, we think of grandparents. Relationships with grandparents have now been given special status in Ontario's Children's Law Reform Act, for instance.)
- What would be the advantages and disadvantages for women, children, and diversity groups of more formally recognizing bonds of language and culture in all

families, in addition to Aboriginal families?

- Are changes or updates of international and domestic adoption policies required to meet current issues? Do we have sufficient concrete regulations and policies regarding all aspects of international adoption — related to country programs available to Island families, to age of child, to sibling groups, to single adoption, to family eligibility guidelines, to concurrent adoptions, and to transparency and appeals? Do policies for domestic adoption use an informed gender perspective when assessing adoptive parents' — especially mothers' — suitability? What steps are in place to avoid gender discrimination stemming from age, sexual orientation, marital status, or financial circumstances?

These and other issues may be addressed with specific changes in legislation, but we suspect that, on the whole, the best solutions will be found in policy, programs, and social supports. We support evidence-based policy changes, and if we can provide a helpful perspective as the Department of Social Services and Seniors conducts its research, we are happy to be a resource on gender analysis and on women's reported experience here and in other Canadian jurisdictions.

Woman Abuse Protocols

Prince Edward Island has a range of excellent Woman Abuse Protocols, developed collaboratively with service providers, government, and community. Existing Protocols are an underused resource. There is need for provincial training on all Woman Abuse Protocols on a biannual basis to begin to move towards consistent delivery.

In light of concerns we have heard, we strongly recommend that specific Woman Abuse Protocols be developed for the Child Protection Act — again, supported by biannual training sessions and monitored for consistent delivery.

Immediate Needs

Several actions are urgently needed in order for our Province to fulfill its part of our civic responsibility to protect our children. First, direct payments to social services recipients *must* increase enough to bring them up to a standard of living in which all basic needs are met. Other poverty elimination strategies must be implemented — and coordinated — across all government departments to bring the most economic vulnerable Islanders out of poverty, insecurity, or desperation.

Second, the Province must invest in front-line child protection workers and in clinicians who help families. Right now, child protection work too often relies on less experienced social workers, since there are few incentives for them to continue in child protection as they continue to gain experience. Some workers stay in child protection work because of their personal commitment to the work; as a society we can't afford to burn out these

dedicated people. We need to support and reward skilled child welfare workers to continue their important work. Many social workers and mental health professionals in the child protection system are undervalued and overworked. If protecting children and helping their families is indeed a public priority, it must be a priority for public investment of energy and funds.

Protecting our children and helping their families require that we break down “silos” that isolate agencies and departments from each other. Effective systems for communication and cooperation are essential to delivering services to families. We can no longer afford to look at individual pieces of societal problems while ignore the larger puzzle. We urge you to look at cross-departmental initiatives and solutions.

Part of the bigger picture requires specific attention to social equity and gender/diversity equity in all aspects of public policy and planning. Attention to equity issues and equity goals will reveal the same needs again and again in context after context — such as the need for livable income for both “working” and “non-working” families, the need for adequate affordable child care, the need for plain language accessible information, the need for public transit and transportation options, the need for family law legal aid, the need for violence prevention initiatives. These are the wraparound services that help individuals and families to survive and to thrive. Their absence or inadequacy is yet another stressor that leaves children at risk.

A Suite of Services for Struggling Families

We can imagine better ways to protect children and help their families, with a suite of services for struggling families. We imagine the Family Law Centre in Charlottetown, or similar access points in other communities, as points of access for families who need assistance. Family members could make contact with a worker who could make initial assessments, make referrals, report abuse, and help navigate a path for them to receive the help they need, whether they need a pamphlet, a mediator, a social worker, a mental health professional, or other supports. We can imagine this family referral service leading, when appropriate, to conflict resolution programs and supports.

We can imagine parenting support programs that build on the successes of programs in Family Centres and programs such as Positive Parenting from Two Homes to help parents take responsibility for their issues and learn to be better protectors of their children.

We can imagine a system of microcredit for individuals or families that need just enough financial support to make a change from vulnerability to stability — from violence to safety, from homelessness to shelter, from isolation to mobility.

We can imagine a system where each child in need of protection would have a Child Advocate, perhaps modelled on a Victim Services worker, who would give them

continuity and support through the confusion and insecurity of becoming a child in care.

We know that there are many possible imaginative solutions to the challenges children and families face. Some can be addressed in legislation such as the Child Protection Act, others cannot. However, many *are* in the purview of the provincial government, and in our view, they are part of the Province's responsibility to children as an expression of citizens' interest in healthy and safe families and communities.

Conclusion

As members of the Advisory Council on the Status of Women, we take very seriously our civic responsibility to protect the children in our community, and it is for this reason that we want to see an Act that works well, and to see that Act nested within a suite of services to struggling families. The Child Protection Act is vital. When it works well, it saves lives, and we know that the Act in its current form has successfully protected some of the most vulnerable children in our community. We look forward to your consultation panel's recommendations for improvements to the Child Protection Act, and we will be happy to participate in the Province's future discussions of this important legislation.

Sincerely,

Isabelle Christian
Chairperson

CC: Rona Brown, Acting Director, Child and Family Services
Hon. Valerie Docherty, Minister Responsible for the Status of Women
Michelle Harris-Genge, Interministerial Women's Secretariat
Members of the PEI Advisory Council on the Status of Women