



Every Child Counts

**Making sure the Canada Child Benefit
is a benefit for all children**

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Introduction

All children deserve the best possible start in life and every chance to succeed. Young children experience the most rapid period of growth and change during the human lifespan.¹ Deprivations associated with poverty in early life can have serious effects on a child's physical and mental health, readiness to learn, rate of injury, functional abilities, and a number of other outcomes.² Gaps that start in childhood translate into a greater likelihood of low earnings and poorer health as adults.³ Families must be given the supports they need to give all children the best opportunity for healthy development and a fulfilling future.

The Canada Child Benefit (CCB) is an important federal program that provides essential income supports to families. This benefit was introduced by the federal government in 2016 to help low- and middle-income families with the cost of raising children.⁴ As Prime Minister Trudeau has said, the CCB is not only an important driver of economic growth,⁵ it also has an important role to play in reducing child poverty in Canada.⁶ The federal government has calculated that the CCB will help to lift tens of thousands of children in Canada out of poverty.⁷

The CCB is a powerful tool to help close gaps that undermine the health and well-being of low-income children in Canada. But because it only benefits some children, it widens the gaps for others.

One of the eligibility criteria for the CCB is the immigration status of the child's parents. The *Income Tax Act* limits eligibility for the CCB to citizens, permanent residents, protected persons (e.g. refugees), temporary residents who have lived in Canada for 18 months and "Indians" registered under the *Indian Act*. This means that there are many children in Canada, whose parents do not have regularized immigration status, who are unfairly and arbitrarily excluded.

In Canada, non-permanent residents have a poverty rate of 42.9%, compared with 14.2% for the general population.⁸ As such, the children of non-permanent residents are among those who are most in need of financial support. But many of their families do not get the CCB, despite living in Canada and having the same legal obligations as all other residents to file and pay income tax. They are caught in an unfair system that requires them to contribute to the tax system but excludes them from benefiting from tax-delivered supports.



Being ineligible for the CCB based on immigration status has other negative consequences for children and their families, including forcing women to stay in abusive relationships with partners who have status, or to give up custody of their children. It also sends the message that some children in Canada are less worthy of protection from poverty than others. It perpetuates the discrimination and racism faced by families without permanent or long-term temporary status. And it is glaringly inconsistent with Canada's international human rights obligations under the United Nations *Convention on the Rights of the Child*, which requires that all children have an equal opportunity to benefit from available services without discrimination on the basis of their parent's status.⁹

No child or family should face negative and potentially lifelong consequences based simply on the immigration status of their parents. Canada must move now to ensure all children in Canada benefit from the CCB.

The Canada Child Benefit: Amounts and eligibility

The Canada Child Benefit is a tax-free, monthly payment made to eligible families to help with the cost of raising children.¹⁰ The CCB currently pays up to \$533.33 per month for children under the age of six and \$450 per month for children 6-17. It is paid to the parent who lives with the child and is primarily responsible for the care and upbringing of the child.

In cases of shared custody, the benefit can be split between the two caregiving parents.¹¹

These amounts are significant. At \$6,400 per year per child under six and \$5,400 per year per child 6-17, the CCB is an enormous boost to low-income families. A single parent with one child under 6, for example, whose family net income is at the level of the Low Income Measure (after tax) would see a 24.5% increase in their incomes as a result of receiving the CCB.¹²

Xiao Shan Wu's Story:^{*}

Xiao Shan Wu and her husband fled their country of origin with their three young children to escape persecution. They made refugee claims in Canada. Their fourth child was born in Canada while they pursued their claim.

Both parents have been working full time, but their pay is very low and they struggle to get by. Even though they are in Canada legally and pay their taxes just like other Canadian workers, they are not entitled to the Canada Child Benefit for any of their children.

Xiao Shan explains that, "I cannot even meet the basic needs like buying nutritious food and warm clothes for my children ... let alone sending them to extracurricular activities to develop their interests."

* All names have been changed to protect confidentiality

The CCB benefit amount and income eligibility levels have recently been indexed to inflation annually, which will ensure that the value of the CCB is not eroded over time. Starting in July 2018, the maximum CCB amounts will increase to \$541 per month per child under six and \$457 per month per child 6-17.



The CCB replaces the previous federal child benefit regime, which was made up of the Canada Child Tax Benefit, National Child Benefit Supplement, and Universal Child Care Benefit. The amount of CCB received depends on the number of eligible children and their ages and the adjusted family net income for the previous tax year. The Canada Revenue Agency uses information from income tax returns to calculate the amount of a family's CCB entitlement.

Because the CCB is administered by the Canada Revenue Agency through the income tax system, it is only available to those who are resident in Canada for tax purposes and have filed an income tax return. However, residency for tax purposes does not require “legal” residency in the sense of having a permanent residence. Instead, establishing residency can simply mean having “significant residential ties” to Canada, such as a home, a spouse or common-law partner and dependants in Canada.¹³ A resident is deemed to be a taxpayer if they are present in Canada for a total of 183 days or more in any calendar year.¹⁴ As a result, many of those living in Canada, even with precarious immigration status, are required to pay taxes just like their peers with permanent status.

Many parents with precarious immigration status meet necessary eligibility requirements: they live with and primarily care for their child and pay Canadian taxes just like permanent residents and citizens. Yet, the *Income Tax Act* denies them the tax-delivered benefits of the CCB simply because of their immigration status. The *Income Tax Act* requires each parent, or their spouse or common-law partner, to be:

- a Canadian citizen
- a permanent resident
- a protected person (e.g. someone who has received refugee status in Canada)
- a temporary resident who has lived in Canada for the previous 18 months and has a valid permit in the 19th month
- an Indian within the meaning of the *Indian Act*¹⁵

These rules exclude many families who are striving to make Canada their home permanently, such as refugee claimants awaiting a determination of their claim. It excludes children who cannot leave Canada for reasons beyond their control, such as those whose parents are from countries where Canada has issued a moratorium on

Ping Ping Li's Story: Caught in the refugee claim backlog

Ping Ping was pregnant when she came to Canada with her two sons, where she asked for asylum. Her husband was not able to come with her. Because of his precarious situation, he is not able to provide financial support to the family.

Their third child was born here while she waited for her refugee claim to be heard. Because of a very large backlog at the Immigration and Refugee Board, she is still waiting for her hearing many years later.

Ping Ping is attending English classes to improve her language skills and to help her and her children settle in Canada. Her oldest child just started primary school, and the second child is in kindergarten. The children are well adjusted to life in Canada and Canada is the only home they remember. The third child is a Canadian citizen.

She does not qualify for the CCB because of her immigration status. She says, "The Canada Child Benefit is for children under 18 years old in Canada. I think my youngest son should absolutely be eligible because he was born here."

She explains that life is very difficult as she is struggling financially. If she had the income support of the CCB, she would be able to ensure that all of her children grow up healthy and can make positive contributions to Canadian society in the future.

removal because of dangerous conditions. It also excludes children who are Canadian citizens, but whose parents do not fall within the limited immigration eligibility categories.

Many of these families will be in Canada for extended periods and/or will eventually be granted the right to remain in Canada permanently. But poverty will have already begun to have pernicious effects on these children.

Poverty among those with precarious immigration status

It is well-documented that recent immigrants face significantly higher rates of poverty than the average (20.3% as compared to 8.8%).¹⁶

While information is known about the incomes and poverty rates of recent immigrants, these statistics are not always broken down by immigration status and, where they are, often focus on those with permanent residence. Statistics about poverty among people who are in Canada without regularized immigration status can be difficult to obtain.

The 2016 Census provides a glimpse. The census data shows that the prevalence of low-income in the general population is 12.5%. For immigrants with permanent residence (including longer term and new permanent residents), the low-income rate jumps to 17.9%. For immigrants without permanent resident status, the poverty rate is an astronomical 42.9%.¹⁷ These non-permanent residents include the families most likely to be ineligible for the CCB.

Despite the lack of more specific data on the incomes of “non-permanent residents”, it is clear that many of the issues and barriers facing recent immigrants are also experienced by people without regularized status, although the precarity of their status will often exacerbate these problems. Recent immigrants with children are 13 times more likely to live in chronic low income than individuals born in Canada.¹⁸ Recent immigrants experience higher unemployment (10% for recent immigrants, as compared to 7% among Canadian-born workers).¹⁹ The 2016 Census documents that the average wage of a recent immigrant is \$33,913, as compared to \$47,792 for non-immigrants.²⁰ Immigrant women are amongst the groups most affected by the gender wage gap. In Ontario, for example, immigrant women earn 39% less on average than non-immigrant men. That gap rises to 43% for recent immigrants.

Very young children in mother-led families are even more likely to be disadvantaged because the earnings of new mothers (not new fathers) tend to drop in the year of childbirth and for several years after.²¹

Almost 13% of households maintained by recent immigrants are in “severe housing need”, meaning that they spend at least 50% of their before-tax income on housing. The rate is only 5% for all Canadian households.²²

All of these statistics tell us that some of the families that are most in need of financial support are amongst those most likely to be excluded from the Canada Child Benefit. The lifelong consequences for the children in these families can be very serious.

The impacts of poverty in childhood

The effects of poverty are insidious, reaching into every aspect of life. Poverty means sub-standard housing, lack of access to nutritious food, chronic health conditions,

Patsy Clarke’s Story: Canadian-born children denied the CCB

Patsy is a mother of two Canadian children who came to Canada as a young person over twenty years ago. Her country of origin is considered a “moratorium” country. That means that it is so unsafe that Canada does not deport anyone to it. As a result, Patsy is in Canada without any regularized status, but she does not have to leave either.

Even though Patsy has been here for over two decades and has no prospects of leaving soon, she is not eligible for the Canada Child Benefit to help with the support of her two Canadian-born children. Her finances are very difficult and the family lives in deep poverty.

greater risk of violence, and insecurity. Low-income people fare worse on most any measure of well-being, from infant mortality to life expectancy.²³



While harmful to all, poverty has particular impacts on children. Poverty impairs infant and child development.²⁴ Children quickly fall behind in terms of early learning and physical and mental well-being.²⁵ These gaps are apparent by the time they start school, where low-income children are

more likely to fall behind.²⁶ Rising income inequality contributes to poorer mental and physical health symptoms and mortality.²⁷ These hardships translate into a greater likelihood of low earnings, poor health and lower skills as adults.²⁸

Almost 1 in 5 children in Canada live in poverty.²⁹ That means that 1.2 million children are exposed to all the dangers and hardships of poverty.³⁰

But, as discussed above, child poverty is not experienced equally. Children in families that are racialized, Indigenous, recent immigrants, affected by disability or led by lone-female parents are significantly over-represented in poverty as a consequence of factors such as systemic exclusion and discrimination.³¹ For those children who face multiple and overlapping sources of disadvantage, the barriers for escaping poverty are even steeper. Underinvestment in children in their early years reinforces existing deprivation, inequalities and intergenerational poverty.³²

This is why the Canada Child Benefit is so important. The CCB holds the potential to alleviate the effects not only of poverty but also of the systemic discrimination that leads some children to have fewer advantages than others. Yet, the children who are disqualified from the CCB program on this basis are precisely those who are most likely to experience the harmful impacts of sexism, racism, and xenophobia and are most in need of the financial assistance the CCB provides.

Gender-based violence and the CCB

Any effort to reduce or eradicate poverty must take into account the connection between poverty, immigration status and violence against women. While gender-based violence is a universal phenomenon that cuts across all communities, the impacts are disproportionately faced by newcomer, racialized women due to the many barriers they face.³³ These include language barriers, lack of knowledge of the justice system, lack of employment, discrimination, and racism.³⁴ Women without status and with precarious immigration status are often forced to choose between remaining in an abusive relationship, deportation, and living without access to social services or the ability to work. Women with Canadian-born children are also often prevented from taking their children out of the country to return home with them.³⁵

Esther Okafor's Story: Exacerbating Gender-Based Violence*

Esther came to Canada as a visitor, where she met a Canadian citizen and fell in love. They married and had three children together. Her husband repeatedly promised to sponsor her so that she could stay in Canada but that promise was never fulfilled and he became more and more abusive.

Eventually Esther made the decision, for her safety and the well-being of her children, to leave the marriage. Because her husband was a citizen, she was entitled to receive the Canada Child Benefit so long as they stayed together. But after she left the abusive situation with her children, she was no longer eligible.

While she may now be safe from violence, Esther and her children are exposed to the harms of extreme poverty without the supports of the Canada Child Benefit. This kind of policy makes it very difficult for women to leave dangerous situations and can compel them to stay with their abusers.

* This story is compilation based on cases seen by the legal clinics.

Even if women are able to overcome these barriers and leave abusive situations, they must bear the burden of poverty that arises for so many women following family breakdown.³⁶

Women living in situations of violence need to have income supports that make it possible to leave abuse. Excluding women with precarious immigration status from the CCB undermines that public policy goal, because it makes it harder for women without permanent status to leave abusive partners if that means losing access to the CCB.

Absent the means to support their children, some women will be compelled to give up custody of their children.

Witnessing abuse in childhood can negatively impact physical, emotional and social development and lead to mental health challenges that can last a lifetime.³⁷ Giving up custody can have long term consequences on the health, well-being, and future legal rights of women and their children.



Denying the CCB based on immigration status perpetuates and deepens the unequal impacts of poverty.

Canada's International Obligations

Recognition of the inherent vulnerability of children has consistent and deep roots in Canada's social and legal fabric.³⁸ Canada made a solemn commitment on the world stage to protect the best interests of children within its borders when it ratified the United Nations *Convention on the Rights of the Child*.³⁹ Article 3 of that Convention, which "expresses one of the fundamental values of the Convention,"⁴⁰ requires Canada to make the best interests of children the primary consideration in all actions.

There are several Articles in the convention that are directly relevant to the CCB:

- Article 2 commits Canada to protecting children from discrimination on the basis of the status of their parents. This means that Canada must take proactive measures to ensure positive outcomes for all children, which may require special measures and additional funding for children at particular risk.⁴¹ All children must have an equal opportunity to benefit from available services.⁴²
- Article 6 provides that every child has an inherent right to life and requires Canada to ensure implementing measures to achieve the optimal development for all children.⁴³ This right can only be implemented in a holistic manner, including ensuring access to social security, an adequate standard of living, a healthy and safe environment and the provision of assistance and quality services to parents.⁴⁴

- Article 26 commits Canada to recognizing the right of every child to the benefit of social security and to ensuring that social benefits take into account the resources and the circumstances of the child and their parents.
- Article 27 recognizes the right of every child to an adequate standard of living, including Canada's obligation to assist parents through support programs, including with regard to nutrition, clothing and housing.

Comprehensive financial supports for families are an effective way to ensure that children are supported, encouraged and thrive. Canada is required, under this Convention, to make every effort to allocate and spend budget resources to fulfil the economic rights of all children.⁴⁵

Denying the CCB based on the immigration status of their parents is incompatible with these important human rights obligations.

Children do not have a say in who their parents are, where they are born or where they live. But no matter where they live, they have a fundamental human right to have their best interests protected. They should not be disadvantaged on the basis of their parents' decision-making about migration.

The Wang's Story: A debt instead of the CCB

The Wangs came to Canada separately as refugee claimants in 2012. They met in Canada, fell in love and got married in 2014. Their son was born the next year. They have been pursuing their refugee claims and have also submitted applications to stay in Canada permanently on humanitarian and compassionate grounds. No final decision has been made about these applications.

Mr. Wang has been working consistently and lawfully with a work permit and the family pays their income taxes. Mrs. Wang stays at home with their son. They applied for the Canada Child Benefit and were granted the benefit shortly after their son's birth. They had truthfully reported their immigration status when they applied. They were happy for the extra financial support and what it meant for their baby's well-being.

A year later, the Canada Revenue Agency stopped paying the CCB and told the Wang's that all the money they had received had been paid in error. Now they have to get by without the benefit and also have a large debt that they have to repay to the Canadian government, even though it was Canada's mistake in paying the money.

Conclusion: Ensuring that no child is left behind

There is a simple solution to the unfairness that now characterizes the Canada Child Benefit program, which would not cost very much. Rough estimates based on available data suggest that there are around 3,000 families of “non-permanent residents” in Canada who are excluded based on their immigration status.⁴⁶ Expanding access to these families would only cost about \$30 million per year, in a program that pays out over \$20 billion annually.⁴⁷

The *Income Tax Act* should be reformed to eliminate the current exclusions based on immigration status. Instead, every parent in Canada who is considered a resident for income tax purposes should be eligible for the CCB.

Denying a child-poverty fighting benefit like the CCB to parents based on their immigration status is arbitrary and discriminatory. Indeed, the lines drawn by the *Income Tax Act* between those migrants who qualify and those who do not are inconsistent and irrational. It allows some parents with only a temporary link to the country to collect the benefit⁴⁸ while excluding other long-term residents who are also working but pursuing the ability to remain in Canada forever.

Canada treats some children as expendable based on the status of their parents. Although the CCB is a benefit distributed through the tax system, it draws lines between children for reasons that are completely unconnected to the tax system. Given that the CCB is meant to alleviate child poverty, this unequal treatment is especially concerning.

If Canada is truly committed to fighting child poverty, it must reverse this discriminatory approach and take steps to ensure that all children in Canada can thrive and succeed.



Endnotes

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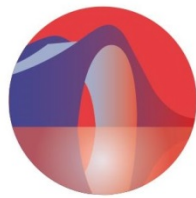
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- ⁴⁰ United Nations Committee on the Rights of the Child (2013), “General Comment No. 14 on the right of the child to have his or her best interests take as a primary consideration” (accessed May 1, 2018 at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f14&Lang=en).
- ⁴¹ United Nations Committee on the Rights of the Child (2016), “General Comment No. 19 on public budgeting for the realization of children’s rights (art. 4) at paras. 41-44 (accessed May 1, 2018 at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f19&Lang=en).
- ⁴² Committee on the Rights of the Child (2005), “General Comment No. 7: Implementing child rights in early childhood” at para. 12 (accessed May 1, 2018 at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f7%2fRev.1&Lang=en).
- ⁴³ United Nations Committee on the Rights of the Child (2003), “General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6) at para. 12 (accessed May 1, 2018 at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2003%2f5&Lang=en).
- ⁴⁴ Committee on the Rights of the Child (2005), “General Comment No. 7: Implementing child rights in early childhood” at para. 10 (accessed May 1, 2018 at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f7%2fRev.1&Lang=en).

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- ⁴⁵ United Nations Committee on the Rights of the Child (2016), “General Comment No. 19 on public budgeting for the realization of children’s rights (art. 4) at paras. 28-34. (accessed May 1, 2018 at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f19&Lang=en).
- ⁴⁶ Estimate provided by David McDonald of the Canadian Centre for Policy Alternatives, based on 2011 National Household Survey data. Note that this estimate is preliminary and is intended to provide a sense of the scale.
- ⁴⁷ The cost of CCB benefits paid by Canada is based on data obtained by the Chinese and Southeast Asian Legal Clinic through an Access to Information request and reflects spending in the fiscal year 2016/2017.
- ⁴⁸ For example, those working temporarily in Canada with a work permit of 18 months or more.

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