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REVIEW OF THE EMPLOYMENT INSURANCE PROGRAM

April 9, 2021

Standing Committee on Human Resources, Skills
and Social Development and the Status of Persons
with Disabilities (HUMA)



Durham Community Legal Clinic
& Access to Justice Hub

REVIEW OF THE EMPLOYMENT INSURANCE PROGRAM

About

The **Durham Community Legal Clinic (DCLC)** is a Community Legal Clinic that provides legal services, information, education, and representation for historically marginalized and low-income residents of Durham Region. DCLC also engages in advocacy and law reform activities, in particular to ensure that our laws properly consider the perspectives of historically marginalized and low-income Ontarians. The main areas of services DCLC provides to the community includes employment law and related services, housing and tenancy issues, and social benefits.

The **Durham Access to Justice Hub**[®] (the “Hub”) was established by the clinic in 2019 with the assistance of Legal Aid Ontario (LAO). This inter-agency and inter-disciplinary initiative is intended to provide legal services beyond the income thresholds and subject matter of LAO, in also providing other social, financial, and psychological services. These cooperative relationships seek to foster better client-centered services, reduce administrative barriers and silos, and improve efficiency of services that are funded or subsidized by taxpayer dollars. Some techniques used to achieve these goals include recruitment of volunteers to contribute towards improving access to justice, and by embedding students into workflows and innovative projects through experiential education. Through the Hub, DCLC provides even broader services to focus on the root causes of poverty and engages in deeper forms of poverty alleviation.

Omar Ha-Redeye is a lawyer and the Executive Director of DCLC. He holds a JD from Western University, and an LLM from Osgoode Hall. He has received numerous awards for his efforts in law reform and advocacy on behalf of historically marginalized and low-income populations, including the Queen Elizabeth II Diamond Jubilee Medal, and the OBA Foundation Award.

Aravinth Jegatheesan is a staff lawyer at the DCLC. He holds a JD from Osgoode Hall Law School and has been an advocate for low-income and marginalized populations throughout his entire legal career. He has a particular interest in employment, human rights, and labour law issues.

Reid Jackson is a Community Legal Worker and Paralegal with the DCLC. He focuses primarily on human rights law, employment law, and workers’ compensation law at the clinic. He was previously a Human Resources Specialist within the construction industry, with a focus in labour relations and workers’ compensation.

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The Durham Community Legal clinic is largely supportive of the submission made on behalf of the Inter-provincial EI Working Group on this matter in April 2021. We also applaud the passage of Bill C-24, which extends the availability of certain Employment Insurance (“EI”) benefits and Canada Recovery benefits, as follows:

- under the Canada Recovery Benefit and the Canada Recovery Caregiving Benefit, by 12 weeks, extending the maximum duration of these benefits from 26 weeks to up to 38 weeks;
- under the Canada Recovery Sickness Benefit, from the current 2 weeks to 4 weeks; and
- EI regular benefits, available to a maximum of 50 weeks (formerly 42 weeks), for claims that are made between September 27, 2020 and September 25, 2021.

We believe that the substance of the 15 points raised by the Inter-provincial EI Working Group in their submission are crucial to ensure the continued success of the Employment insurance program and would merely like to clarify our support for some of these proposals and why they are important for Canadians. In particular, marginalized and low-income individuals who are generally the most reliant on income support programs such as EI.

There are clear parallels between the challenges of the Great Depression, the Second World War, and the global pandemic Canadians are currently confronting. In fact, it was in response to the Great Depression that the Employment Insurance program was first established. During this most recent crisis we have seen the unemployment rate in Canada rise from 5.2 percentage points to 13% in April 2020¹. This is the highest it has been since the Great Depression, an event which lasted for 10 years and was not resolved until the outbreak of the Second World War jolted Canada’s economy into action². Without significant reforms to our income support systems, it may take several years to recover from this crisis and stabilize the currently unsustainable unemployment rate.

Income support mechanisms such as Employment Insurance also act as an essential barometer of the health of our society as a whole. While the Employment Insurance program was created in 1941 as a response to both the Great Depression and the Second World War, similar social programs have existed for thousands of years and have acted as a reliable social barometer measuring the health and

¹ Statistics Canada, “Labour Force Survey, April 2020,” May 8, 2020. Available at: <https://www150.statcan.gc.ca/n1/daily-quotidien/200508/dq200508a-eng.htm>.

² Statistics Canada, “The Great Depression,” March 31, 2008. Available at: https://www65.statcan.gc.ca/acyb01/acyb01_0005-eng.htm.

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needs of a society, in the same way that the *Cura Annonae*³ can be used as a measurement of the decline of the Roman Empire. This rich history is also proof that despite the success of a society, there is significant need for robust social programs. With this in mind, our current rates of unemployment are alarming, and a signal that it is time for further reform.

Canada's first ever national poverty reduction strategy, introduced in 2018, provided an opportunity for our nation to create changes to allow low-income people to live in dignity, have better opportunities and inclusion in society, and enhanced resilience and security.⁴ This strategy sought to reduce poverty relative to 2015 levels by 20% in 2020, and 50% by 2030.⁵ Improvements to EI included strategic investments for EI Working While on Claim, Reduced waiting times for EI benefits, and increased access to EI benefits. Despite this strategy, the changes to EI over the past 30 years have minimized its role in promoting social security, largely due to a disproportionate emphasis on premiums and contributions.⁷ The consequences of these changes are that EI no longer provides protections and benefits to workers whose work status and income are precarious in our society.⁸

The encouraging commitments in Canada's Poverty Reduction strategy suggest that this government may be open to a return to prior and more comprehensive Employment Insurance frameworks which would treat the program as both an insurance and social security program. The *Unemployment Insurance Act* of 1971 recognised that strong benefits can strengthen labour force attachment and participation, by helping workers integrate into the workforce, which will ultimately alleviate burdens on social assistance programs. Perhaps most crucially the 1971 Act originally contemplated EI as a social program, with a focus on poverty alleviation. These changes also had the effect making Employment Insurance into a program which benefited women and youth who were

³ Henry Hazlitt, "Poor Relief in Ancient Rome," Foundation for Economic Education, April 1, 1971. Available at: <https://fee.org/articles/poor-relief-in-ancient-rome/>.

⁴ Government of Canada, "Opportunity for All – Canada's First Poverty Reduction Strategy," Oct. 15, 2018. Available at: <https://www.canada.ca/en/employment-social-development/programs/poverty-reduction/reports/strategy.html>. See also, Government of Canada, "Canada's Poverty Reduction Strategy – An Update," Aug. 21, 2019. Available at: <https://www.canada.ca/en/employment-social-development/programs/results/poverty-reduction.html>

⁵ Government of Canada, "Canadian Poverty Reduction Strategy," April 16, 2020. Available at: <https://www.canada.ca/en/employment-social-development/programs/poverty-reduction.html>.

⁷ Government of Canada, "Employment Insurance Monitoring and Assessment Report for the fiscal year beginning April 1, 2018 and ending March 31, 2019," July 9, 2020. Available at: <https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/reports/monitoring2019.html>.

⁸ Ricardo Tranjan, "A step toward the Employment Insurance program Canada once had," Policy Options, Sept. 29, 2020. Available at: <https://policyoptions.irpp.org/magazines/september-2020/a-step-toward-the-employment-insurance-program-canada-once-had/>.

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historically overrepresented in precarious and low-income work at the time.¹⁰ It is our hope that a similar shift can be achieved with our current system, in order to transform it into one which protects the most vulnerable workers of today.

The continued provincial lockdowns and emergence of the recent COVID-19 variants have demonstrated that despite our best efforts the pandemic will be an ongoing challenge for all Canadians. The brunt of this challenge is felt by the most vulnerable in our society, and there is an obligation to ensure that they are protected in order to facilitate effective and timely recovery from the negative economic impacts of COVID-19. With this in mind, we would encourage that the Canada Recovery Benefit and the Canada Recovery Caregiving Benefit be extended by an additional **26 weeks**, for a total of **52 weeks**. This extension would provide a more realistic assessment of our current circumstances and ensures the continued protection of our most vulnerable workers.

We are in support of the extension of Employment Insurance regular benefits, however, we believe the temporal restriction should be removed. We encourage the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities to consider making regular Employment Insurance benefits available for **52 weeks**, on a permanent ongoing basis. This better reflects the reality we are facing as a nation, and contemplates that even when the restrictions are lifted, life as we once knew it will not return immediately to normal. The economy has been and will remain changed by the pandemic. Many Canadians who have confronted the struggles of the pandemic directly will require more comprehensive support as we transition out of the state of emergency and into our new economic reality.

We suggest that the pandemic has demonstrated that one of the most essential functions of the Employment Insurance program is getting money to Canadians quickly when they need it most. In order to ensure that the program continues to meet these needs in future we propose that steps be taken to mitigate the difficulties faced by Canadian's living in poverty when they access the Employment Insurance regime. Many Canadians struggle to access the Internet and its use is lowest among seniors, those living in poverty, and persons with a high school education or lower¹¹. In order to mitigate these disparities, we recommend a significant investment in telephone and counter supports to serve these populations and ensure that poverty does not create additional barriers for these persons. This could be

¹⁰ *Ibid.*

¹¹ Statistics Canada, "Canadian Internet Use Survey Data Visualization Tool," Oct. 29, 2019. Available at: <https://www150.statcan.gc.ca/n1/pub/71-607-x/71-607-x2019017-eng.htm>.

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coupled with simplified reporting mechanisms which ensure that persons living in poverty are not inadvertently denied access to the benefits they need.

The COVID-19 pandemic has brought the importance of social programs to the forefront of our national consciousness and demonstrated that significant and permanent reforms are crucial to economic recovery during difficult times. Beyond simply providing workers with income support during challenging times, Employment Insurance provides a measure of relief to otherwise vulnerable workers. By providing workers with a modicum of security we are also able to ensure that they are not entirely dependent upon their employers for survival. While our society has recently recognised the importance of our essential workers, many of whom live in poverty but continue to work in difficult conditions for the betterment of all Canadians, the reality is that we do not do enough to address the needs of the most vulnerable Canadians. While the passing of Bill C-24 is a positive sign, and will help restore the social security function that EI had in the 1970s, we must do more to protect the most vulnerable and essential members of our society, beginning with those living and working in poverty. The 2017 Report of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities already contains many viable suggestions which would move our country towards the goal of poverty alleviation, and are worth exploring further.¹²

¹² Bryan May, "Breaking the Cycle: A Study on Poverty Reduction," House of Commons, May 2017. Available at: <https://www.ourcommons.ca/Content/Committee/421/HUMA/Reports/RP8982185/humarp07/humarp07-e.pdf>.