Farnaz and Niloo have been best friends most of their lives. In university Farnaz was in a car accident in which she suffered a spinal cord injury, as a result of which she became paralyzed from the waist down. The women were room-mates throughout university and continue to live in close proximity. It is an arrangement that makes it easier for Niloo to support her friend, which has become especially important now that the women are in their mid-forties and Farnaz is experiencing many secondary health problems associated with her spinal cord injury. Both women have attended school or worked for much of their adult lives, and Farnaz's ability to maintain employment has often been possible as a result of Niloo's willingness to reduce her own hours of work to assist her friend. As Farnaz's functional abilities have become more and more restricted, Niloo is increasingly reducing her time at work. She is realizing that her commitment to caring for her friend not only has a significant impact on her standard of living, but will also have huge implications for her retirement income, and as a single women, she now risks poverty in her old age.

CHAPTER 7 – Pension Reform to Address the Long-Term Financial Consequences of Family Caregiving

Reduced participation in paid employment has significant consequences for the family caregiver's pension security. Lower income earnings undermine the caregiver's ability to save for retirement and reduce accumulated pension credits.

This chapter describes the existing BC pensions system, considers its impact on family caregivers, and summarizes how other countries have responded to the pension security needs of family caregivers. The focus of this chapter is the Canada Pension Plan system (CPP), because it covers the largest number of employees and is the aspect of the public pensions system that recognizes work. However, our overview includes a broader outline of the pension regime, largely to situate CPP within the broader pensions framework.

As is the case in other areas of law, our research reveals that the pension regime currently provides little or no recognition to the unpaid family caregiving of adults. The CPP regime addresses low-income earning years through various drop-out provisions, none of which target adult caregiving labour. Private pensions do not directly recognize any kind of caregiving labour. Our international review highlights three possible approaches to take in pension reform: expansion of the drop-out provision approach; government-subsidized pension credits for caregivers that treat care labour akin to paid labour; and pension income entitlements for caregivers in respect of previous or ongoing caregiving.

I. An Overview of the Pensions System in BC

Canada's retirement system is generally considered to have three-pillars: Old Age Security (OAS), the Canada Pension Plan (CPP), and Private Pensions and Savings (PPS). The federal government is responsible for the administration of OAS and CPP, while PPS plans, although regulated by provincial and federal legislation, are administered privately.

Although, for discussion purposes, tax policy and pensions benefits are addressed in separate chapters of this report, from a public expenditures perspectives there is a great deal of overlap. The OAS pension system is financed by the Government of Canada, through general tax revenues. Moreover, private pension plan savings are heavily subsidized by the income tax system, by virtue of tax incentives that allow individuals to invest earned income for retirement and delay paying income tax on this income until retirement years, when they are likely taxed at lower rates. Forgone tax revenue with respect to RRSP contributions will exceed $12 billion in 2010.[329] Further, forgone revenue with respect to employer contributions to occupational pensions plans and the exemption from taxation of investment income of pension plans will exceed $16 billion in 2010.[330] Neither CPP, nor the parallel pension plan in Quebec, is funded by the government; however, taxfilers do receive a credit with respect to CPP/QPP contributions.[331]

A. Old Age Security (OAS)

OAS benefits are governed by the *Old Age Security Act*[332] and essentially provide a minimal monthly pension once a person has reached 65. OAS is designed to provide individuals who are not otherwise entitled to a pension with an annual income during standard retirement years. In BC it provides an income only slightly above income assistance rates.

In order to qualify for OAS a person must be:

1. Over 65 years of age and,
2. A Canadian citizen or legal resident; or
3. If no longer living in Canada, must have been a Canadian citizen on the day preceding the day he or she stopped living in Canada; and
4. Have been a resident in Canada for 10 years after reaching 18.

Although, subject to the above-noted requirements, there is universal entitlement to OAS, payments are taxable benefits. Higher-income earners essentially lose the benefit through a "clawback": individuals with a net income over $66,335 in 2009 will find they are entitled to

---

329 Department of Finance, Canada, *Tax Expenditures and Evaluations*, 2008 at 19.
330 *Ibid.*
331 Monica Townson, *Reducing Poverty among Older Women: The Potential of Retirement Income Policies* (Ottawa: Status of Women Canada, 2003) at 7 [Townson, *Reducing Poverty*].
332 *Old Age Security Act* R.S., 1985, c. O-9, online: <http://laws.justice.gc.ca/en/showtdm/cs/O-9>.

only part of the benefit; the amount clawed back increases with income such that individuals earning over $107, 692 in net income will not benefit from the OAS.[333]

The amount of pension that a person is entitled to is determined by how long that person has lived in Canada.

The Act was amended in 1967 to include a Guaranteed Income Supplement (GIS). This is an additional monthly sum paid on top of the OAS to residents of Canada who have little or no other income.

B. Canada Pension Plan (CPP)

The *Canada Pension Plan*[334] forms the second tier of public retirement income and provides a retirement pension for those who have contributed to the plan through paid employment. In addition to a monthly pension, the plan also provides disability benefits and survivor benefits. The latter can include a lump sum death benefit, a survivor pension for a spouse or common law partner, and certain benefits for dependent children under the age of 25.

Subject to a few exceptions, every person in Canada over the age of 18 who earns a wage must pay into the CPP. The amount payable is determined by salary subject to a set minimum and maximum level (25% of the average wage), with half of the contributions being paid by the employer. In contrast with Employment Insurance, CPP is accessible to self-employed workers, who may pay both the employer and the employee contributions in order to acquire pension entitlement.

The CPP retirement pension normally begins the month after a person's 65th birthday; however, a person can apply for a reduced pension as early as age 60.

C. Private Pensions and Savings

The third tier of the Canadian pension system is private savings. Broadly speaking, there are two types of private pensions: (1) individual retirement savings plans and (2) employer-sponsored occupational pensions.

Privately funded retirement savings plans may accumulate funds as a result of the contributions by workers, employers or others. Funds are essentially invested in a financial instrument, which increases in value until retirement, at which time the funds begin to be withdrawn. Although ostensibly a privately-funded aspect of the Canadian pension regime, Registered Retirement Savings Plans (RRSPs) and employer-sponsored plans are subsidized by the government in a number of respects through the income tax system: income invested into plans is excluded from taxable income; investments increase in value without tax implications; and taxation of the income invested in RRSPs is deferred until the retirement

---

333 Monica Townson, "A Stronger Foundation: Pension Reform and Old Age Security", Policy Brief (Toronto: Canadian Centre for Policy Alternatives, 2009), online: <http://www.policyalternatives.ca/reports/2009/11/article2354/?pa=BB736455>.

334 *Canada Pension Plan* S.C., 1985, c. C-8, online: <http://laws.justice.gc.ca/en/showtdm/cs/C-8> [CPP].

years when the worker's income is likely lower and subject to lower rates of taxation.[335] The payment of income tax is both deferred and reduced.

Occupational plans, also known as employer-sponsored or workplace pensions, include both defined-contribution and defined-benefit plans. Under defined-contribution plans, the employer makes weekly or monthly contributions toward the employee's pension, and these contributions are invested on the employee's behalf.[336] Some plans also permit employees to make contributions. The total proceeds – contributions and investment income – are drawn upon to provide the employee with a pension upon retirement.[337] In contrast, defined-benefit plans guarantee the employee a specific amount of pension, and, for the most part, the employer must contribute any shortfall on pension funds invested.[338] Like RRSPs, employer-sponsored plans are private pension sources and funds are invested to create pension savings; however, occupational plans differ in that in addition to government regulation regarding features such as the sufficiency of the employer's investment,[339] occupational plans "operate through collective pooling of contributions and assets over a long period".[340]

II. The Canada Pension Plan Drop-out Provision: A Model for Reform

A. CPP - Child Rearing Provision

As the value of the pension and other benefits paid to a CPP member is based on how long and how much they have contributed to the plan, a contributor who "drops out" of the labour force for a period of time will end up with a smaller monthly pension. Parents who leave the paid workforce for a period of time to care for one or more children might fit into this class of individuals. To reduce this disadvantage to parents of young children, s.48(2) of the CPP includes a child rearing provision ("CRP"), which allows a parent to exclude time spent out of the paid workforce caring for children (under seven years of age) from the time used to determine pension entitlement. The result is that the CPP will not count the years when a person is raising children under the age of seven when calculating the amount of benefit.

In terms of eligibility, the CRP can only be used for months when:

- A contributor or their spouse/common law partner received Family Allowance payments or were eligible for the Canada Child Tax Benefit, and

335 Freya Kodar, "Pension (In)Securities: Unpaid Work, Precarious Employment and the Canadian Pension System" (2004) 28.2 Atlantis (Special Issue, *Never Done: The Challenge of Unpaid Work*) 93 at 97 [Kodar].
336 Expert Committee on Pensions, *A Fine Balance: Safe Pensions, Affordable Plans, Fair Rules* (Toronto, 2008) at 16.
337 *Ibid.*
338 *Ibid.*
339 Edward Tamagno, *The Management and Regulation of Occupational Pension Plans in Canada* (Ottawa: Caledon Institute of Social Policy, 2006) at 5.
340 *Ibid.* at 33.

- The contributor's earnings were lower because she stopped working or worked fewer hours to be the primary caregiver of a dependant child under the age of seven who was born after December 31, 1958.[341]

It is open to either spouse or common law partner to apply for the CRP, but it cannot be used by both individuals to cover the same time period.

B. CPP – Low earnings drop-out provisions

In addition to the CRP, there are several other dropout provisions within the CPP. The most relevant to family caregiving is likely the 15% dropout for low earning years, which applies to everyone who has contributed to the CPP for at least 10 years.[342] After the number of months in a person's contributory period is determined, 15% of the person's lowest earning years can be deducted (or "dropped out" of) from the contributory period for the purposes of the benefit calculation. The benefit received is therefore calculated on the earnings and contributions recorded in the remaining 85% of the contributory period.

Deductions allowed for low-income months after the age of 65 may also be of interest to family caregivers.[343] Individuals with higher earnings after age 65 can use those earnings to replace months of low earnings earlier in their contributory period.[344]

The CPP also includes a disability drop-out provision. The months in which a person receives CPP disability benefits are excluded from his or her contributory period when benefits are calculated.

III. Problems with the Drop-out Provision Approach

One option for reform is to expand the existing Child Rearing Provision into a general caregiving provision such that years of caregiving labour could be excluded from the calculation of pension entitlement. A similar option is to create a parallel drop-out provision focussed on adult caregiving.

Currently no existing drop-out provisions explicitly recognize the impact of unpaid *adult* family care on pension income. Drop out provisions in relation to care are limited to the first seven years of caregiving in a child's life; "there are no provisions for care of older children, other family dependants, or for volunteer care work."[345] Such caregivers may be able to make use of low-income drop-out provisions; however, these provisions were originally developed in recognition of the lower income earnings of younger adults; applying

---

341 Service Canada, "Do you have children born after December 31, 1958? The CPP Child Rearing Provision", online: <http://www.servicecanada.gc.ca/eng/isp/pub/factsheets/chidropout.shtml>.
342 CPP, *supra* note 334 at s. 48(4). See also Service Canada, *Guide to Canada Pension Plan Disability Benefits*, online: <http://www.hrsdc.gc.ca/eng/isp/pub/cpp/disability/guide/sectionb.shtml> [Service Canada].
343 CPP, *ibid.* at s.48 (3). Online: <http://laws.justice.gc.ca/fr/ShowDoc/cs/C-8/bo-ga:l_I::bo-ga:l_II/20090825/fr?page=3&isPrinting=false#codese:48-ss:_2_>.
344 Service Canada, *supra* note 342.
345 Kodar, *supra* note 335 at 95-96.

these provisions to caregiving years effectively deprives caregivers of a benefit available to all other Canadians, replacing one inequity with another.

As a result of these deficiencies, a number of sources recommend that the CRP be expanded to include eldercare and other forms of adult caregiving or that a parallel adult care drop-out provision be created.[346] This is a reform that will be helpful to some caregivers. It will not, however, address the pension security of all family caregivers.

While the CPP dropout provisions may provide some financial recognition of caregiving labour, they do little to assist caregivers who, as a result of caregiving duties, live on very low-incomes or become unemployed for lengthy periods of time. This is because the drop-out provision approach relies on the existence of a significant number of years of "adequate" income during which pension entitlement is accumulated. The drop-out provision approach works well for those caregivers who can concentrate their caregiving within a limited number of years and otherwise earn a decent income. This model does not work well, for example, for the caregiver who spends most of her working years engaged in part-time employment in order to balance caregiving and work. An individual who is a caregiver for most or all of her life cannot benefit from a drop-out provision, will be reliant on OAS in her old age, and will be consigned to poverty.

In May 2009, the Canadian Department of Finance released an information paper proposing changes to the CPP, including a proposed increase to the general drop-out provision from 15% to 16% in 2012 and to 17% in 2014.[347] The intention of the proposed changes is to "increase the average retirement benefit of virtually all contributors," but in particular, "those whose careers suffer more work interruptions. For instance…those who reduce their participation in the labour force to provide care to a family member…"[348] Like other recent reforms examined in this paper, this change is largely of symbolic value. It does little to increase the income security of caregivers. For example, for an individual who works for 20 years and then experiences a reduced income for 25 years as a result of caregiving, adding 2% of the lowest earning years to the drop-out means less than one additional year is removed from the equation. Again, this reform would not assist the long-term unemployed caregiver at all.

IV. International Innovations in Pension Security for Family Caregivers

Given the scope and diversity of family caregiving relationships, a number of pension reforms may be required to address the long-term financial consequences of caregiving for the family caregiver. An international comparison reveals two approaches to pension

---

[346] See, for example, Townson, *Reducing Poverty*, *supra* note 331 at 62; WE*ACT, *Pension Reform: Policy Reform Because Women Matter* (Vancouver, 2004); Rajnovich and Keefe, "To Pay or Not to Pay: Examining Underlying Principles in the Debate on Financial Support of Family Caregivers" (2007) Canadian Journal on Aging 26 [Rajnovich and Keefe]; Janet Fast, Jacquie Eales and Norah Keating, *Economic Impact of Health, Income Security and Labour Policies on Informal Caregivers of Frail Seniors* (Ottawa: Status of Women Canada, 2001); Duxbury, Higgins & Shroeder, *supra* note 19.
[347] Department of Finance Canada, *Information Paper: Proposed Changes To The Canada Pension Plan* (May 25, 2009), online: <http://www.fin.gc.ca/n08/data/09-051_1-eng.asp>.
[348] *Ibid.*

security for family caregivers. Some countries provide "retired" caregivers with pension income during the years for which they earn an inadequate pension and are involved in caregiving. This payment operates like an income assistance supplement. In other countries the state makes pension contributions on behalf of caregivers in respect of the years during which they are part or full-time caregivers. Caregiving labour is thus treated like paid employment for the purpose of pension entitlement. In some of these countries this is part of a larger approach, discussed in the previous chapter, in which family caregivers are paid by the state. Most countries discussed in the section adopt the latter approach.

A. Carer Pensions

(i) Australia

Up until 1997, Australia provided a "Carer Pension" as an income and asset-tested income support payment (under the *Social Security Act 1991* to individuals who were unable to support themselves through paid employment due to substantial, full-time care responsibilities. [349] As of July 1997, the Carer Pension was renamed the Carer Payment in an effort to recognize caregiving as work.[350]

The caregiver must meet the income and asset test for a retirement pension (Age Pension) and cannot be receiving another income support payment such as an Age Pension. However, the caregiver may still be entitled to additional payments if the care recipient is assessed as having a physical, intellectual or psychiatric disability under the Adult Disability Assessment Tool, is in receipt of an income support payment or a service pension, and meets income and asset tests.[351]

Once a caregiver who receives the Carer Payment reaches the Age Pension eligibility age, she may choose to transfer to the Age Pension or remain on the Carer Payment, depending on which is more advantageous.[352] In this sense this innovation is not strictly speaking a pensions measure but actually addresses ongoing income security for young and aged caregivers. Adult family caregivers receive the same government subside, regardless of their age.

(ii) Norway

Former unmarried family caregivers whose ability to support themselves is impaired by long-term caregiving for parents or other close relatives are eligible for state pension benefits.[353] This measure addresses the circumstances of individuals released from their caregiving responsibilities by the death or institutionalization of a care recipient.

---

349 Australian Government, Attorney-General's Department, ComLaw, *Social Security Act 1991,* No. 46, 1991 at s. 197 (Volume 1), online: <http://www.comlaw.gov.au/comlaw/Legislation/ActCompilation1.nsf/0/D4FCFC450AB7DB74CA25760B0001DDB9?OpenDocument>.

350 Carer Payment", *supra* note 309.

351 *Ibid.*

352 Centrelink, "Carer Payment or Age Pension", online: <http://www.centrelink.gov.au/internet/internet.nsf/publications/cd002.htm>.

353 ICCFC, *supra* note 318.

B. Pension Plan Contributions for Family Caregivers

(i) France

In France, eligible caregivers receive contributions to their old age insurance during the period of caregiving.[354] The caregiver must live with the person for whom they are providing care and the care recipient must be assessed to have a minimum of 80% permanent disability. In addition, the caregiver's income must be below a threshold that varies based on a number of factors, such as the number of income earners and children in the household.

(ii) Germany

Germany's Long Term Care Insurance (LCTI) scheme, introduced in 1994,[355] entitles registered caregivers to statutory pension contributions paid from the LCTI. To be eligible, the caregiver must provide a minimum of 14 hours of unpaid care in the home of the care recipient and can only be otherwise employed for less than 30 hours a week.[356] Contribution amounts are linked to the number of hours of care provided by the caregiver and the level of dependence of the care recipient.

(iii) Norway

In Norway, caregivers earn three pension credits per year.[357] This is comparable to the pension benefits accrued by an individual earning an average annual income. Caregivers who receive the Care Wage (a payment, based on care needs, that is available to caregivers providing extraordinarily burdensome care to severely, disabled persons) automatically receive the three annual pension credits. Other caregivers must make an annual application and provide 22 hrs/week of care for at least six months of the year.

(iv) Sweden

In Sweden, caregivers who receive either a Carer's Allowance or Care Leave, as discussed in previous chapters, are entitled to pension credits.[358]

(v) United Kingdom (U.K.)

As of 2002, low and moderate-income earners and certain caregivers and people with long-term illness or disability in the U.K. can build up additional State Pension through the State

---

354 France, Code de la sécurité sociale, *Article L351-1,* Légifrance, online: <http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006742622&idSectionTA=LEGISCTA000006156096&cidTexte=LEGITEXT000006073189&dateTexte=20090911> [*Article L351-1*].

355 OECD, *supra* note 22 at 70.

356 See Janice Keefe, Pamela Fancey & Sheri White, *Consultation on Financial Compensation Initiatives for Family Caregivers of Dependent Adults* (Halifax: Maritime Centre for Aging Research & Policy Analysis, 2005) at 6 [Keefe, Fancey & White].

357 Government of Norway, "Chapter 1 Government White Paper No.5 (2006-2007)" at 19, online: <http://www.regjeringen.no/upload/AID/temadokumenter/pensjon/2007/Chapter1_Governmental_White_Paper_No_2006-2007.pdf>.

358 Douglas A. Wolf & Sonali Ballal, *Family Support for Older People in an Era of Demographic Change and Policy Constraints* (2006) 26 *Aging & Society* 693 at 701.

Second Pension under the *Social Security Contributions & Benefits Act*.[359] The State Second Pension supplements the basic State Pension. The amount received is dependent on income and the amount of National Insurance contributions that have been paid by the pension recipient. Caregivers can accrue State Second Pension if they:

- Have been a caregiver throughout the tax year

- Are not working at all or earning less than a set amount (£4,940 in 2009-2010)[360] and they are:
    - caring for a child aged six or less, and are the person who claims and receives the Child Benefit;
    - caring for someone who is ill or disabled and receiving Home Responsibilities Protection; or
    - entitled to the Carer's Allowance, even if they are not receiving it.

As of April 2010 entitlement will be expanded to include individuals who care for children (up to the age of 12), foster carers and people who spend at least 20 hours a week caring for one or more disabled people.[361]

V. Conclusion

The current Canadian pension regime does not accord value to the unpaid caregiving of family members. As a result of this, many lower income caregivers face significant consequences for their pension security when they make changes in their employment circumstances in order to balance work and care. This international review highlights three options for reform in order to render the public pensions system more responsive to the challenges facing family caregivers:

1. "Drop-out" the caregiving years – develop a family caregiving drop-out provision modelled on the Child Rearing Provision, or expand this provision to include the care of adult family members;

2. Government CPP contributions in respect of unpaid family caregiving – amend the *Canada Pension Plan Act* such that unpaid caregiving labour attracts value comparable to paid work in the form of the government making pensions contributions on behalf of caregivers;

3. Caregiver pension – create a caregiver-specific pension.

---

359 *Social Security Contributions & Benefits Act 1992 (U.K.), c. 4* online: <http://www.opsi.gov.uk/acts/acts1992/Ukpga_19920004_en_1>. See U.K., Directgov, "Understanding the additional State Pension", online: <http://www.direct.gov.uk/en/Pensionsandretirementplanning/StatePension/AdditionalStatePension/DG_4017827>; U.K. Department of Work and Pensions, Pension Servie, "State Pensions: Your Guide", online: <http://www.thepensionservice.gov.uk/pdf/pm/pm2jan09.pdf>.

360 This is equivalent to about 6 months rent for a family of three in London.

361 U.K. Department for Work and Pensions, The Pension Service, *Pension Act 2007*, online: <http://www.thepensionservice.gov.uk/pensions-reform/act.asp#carers>.

The diversity of caregiving relationships and employment circumstances is such that a number of reforms may be required to respond to pension security issues in a comprehensive manner.

This review considers public pensions. Occupational pensions may require additional regulation in order to address the circumstances of employees who are caregivers. As private pension plans become a more significant aspect of pension savings it will become more crucial to consider amendments to the federal Pensions Benefits Standards legislation and provincial and territorial equivalents to mirror CPP provisions that respond to the circumstances of family caregivers.