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What's in a Family?

At the end of October 2002, Statistics Canada released the results of the 2001 Census on Families. It presented a portrait of the diversity of personal relationships in Canada: unmarried couples, gay and lesbian couples, and older children returning to live with their parents. This statistical picture is no surprise to people working in social policy. Indeed, these trends have been identified by researchers for a while.

Demographic changes do impact on social and legal policy. The Law Commission of Canada released earlier this year a report to Parliament, *Beyond Conjugalities: Recognizing and supporting close personal adult relationships*, which identifies the challenges that societal changes have on our law.

The report stems from a recognition that many social and legal policies have used “marriage,” or more recently *conjugalities*, to define the appropriate focus for social policy purposes. Many statutes continue to be organized around the idea that economic and psychological interdependency is a fundamental

characteristic of marriage and conjugalities. They fail to look, however, at other relationships that may share similar characteristics of pooled income, shared residence, or personal and psychological support. This is a mistake: focusing our social policies on marriage and conjugalities prevents us from adequately supporting other relationships. It also assumes that all marriages and conjugal relationships are the same. The reality is very different, as our Census now clearly demonstrates.

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A wide variety of Canadian laws give benefits to or impose responsibilities and obligations on people because they live in relationships. Tax, immigration, and criminal statutes are just some of the laws where adult relationships come into play. For example, the *Evidence Act* prevents a married spouse from testifying in certain circumstances at the trial of his or her

wife or husband. The provision focuses only on the presumed loyalty or psychological interdependency between “married” spouses. What about other relationships? What about the unmarried couple or the adult child living with his or her parents? Why are they not treated the same way? Is this provision still necessary?

More than 1,800 sections in federal statutes, apart from the *Income Tax Act*, use terms like spouse, husband, and so on, to describe close personal relationships between adults. Many of these laws are based on assumptions about how people organize their personal lives, with whom they live, and whom they trust, care for, and depend on to meet their life needs. Some of these assumptions are out of date or inaccurate. As a result, some of these laws apply to more people than perhaps they should, whereas others might exclude people who should be included.

Beyond Conjugalities suggests that governments ought to pursue a more comprehensive approach to the legal

recognition and support of the full range of close relationships among adults. It proposes a methodology to better reflect the diversity of relationships that ought to be supported because of their interdependency, irrespective of legal status. The Law Commission found that a number of laws, such as the *Immigration Act*, the *Canada Labour Code*, the *Employment Insurance Act*, the *Income Tax Act*, and the *Canada Evidence Act*, could be amended to better respond to the variety of relationships in our society.

The Commission also examined the very important role governments play in creating frameworks for citizens to organize their lives. Currently, marriage is the only voluntary vehicle in many provinces by which people can seek to ensure a certain stability in their relationships. This is no longer a sufficient model, given the variety of relationships that exist in Canada today. The Commission suggests that registration mechanisms for both conjugal and non-conjugal relationships be developed so that people who wish for certainty and stability can choose from a variety of models.

The diversity of relationships in Canadian society is a reality. We cannot afford to continue to develop policies that are based solely on visions of families that exclude a large majority of citizens. It is time to go beyond conjugality and to look at the reality of interdependencies that exist in other relationships, as well.

The report *Beyond Conjugality: Recognizing and supporting close personal adult relationships* was tabled in Parliament in January 2002; a response from the government is pending. ▲

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