

# **A NATIONAL SURVEY OF THE CIVIL JUSTICE PROBLEMS OF LOW AND MODERATE INCOME CANADIANS: INCIDENCE AND PATTERNS**

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The views expressed in this paper are those of the author and do not represent those of the Department of Justice

## **Introduction**

This is a study of problems having legal aspects experienced by low and moderate income Canadians. The main objectives of the study are to determine the incidence of law-related problems among this segment of the population and the social and demographic groups that are most vulnerable to problems. The paper attempts to shed some light on that very elusive subject, unmet need for assistance with law-related problems.

It is axiomatic that the law is pervasive in the lives of all people in contemporary bureaucratic societies. Civil law encompasses a very broad and varied spectrum of the circumstances of everyday life. A great many aspects of life, and thus a great many of the problems experienced by people in all modern bureaucratic societies, have a legal dimension. Employment, consumer relations, debt and credit, family relations, and many other areas of commercial and other social activity are subject to regulation by civil laws. The legal aspects underlying these domains of everyday life may become practically significant only when problems arise. It is when problems arise that the law can become a protection against adverse consequences or disadvantage or, where competing interests are involved, can become an instrument that creates or compounds disadvantage and vulnerability.

If law is pervasive in the lives of people in modern societies, problems seem to be ubiquitous. Previous research has

shown that about 34 percent<sup>1</sup> to 37 percent<sup>2</sup> of the population of England and Wales has experienced one or more problems having legal implications that were difficult to resolve. A similar study carried out in Scotland estimates that about 24 percent of the population of that part of the U.K. had experienced one or more justiciable problems.<sup>3</sup> It is not clear why the Scots experience, or at least report experiencing, fewer problems than their English and Welsh neighbours. A study carried out in the U.S. estimates that 47 percent of low income Americans and 52 percent of moderate income Americans experienced at least one law-related problem over a three-year period.<sup>4</sup> A more recent national study carried out in the Netherlands found that 67 percent of the sample experienced one or more justiciable problems.<sup>5</sup> Research on legal

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<sup>1</sup> Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law*, Hart Publishing, 1999.

<sup>2</sup> Pascoe Pleasence and Alexy Buck, Nigel Balmer, Aoife O'Grady, Hazel Genn, Marisol Smith, *Causes of Action: Civil Law and Social Justice*, Legal Services Commission, 2004

<sup>3</sup> Hazel Genn and Alan Paterson, *Paths to Justice Scotland: What People in Scotland Do and Think About Going to Law*, Hart Publishing, 2001

<sup>4</sup> *Legal Needs and Civil Justice: A Survey of Americans*, American Bar Association, 1994.

<sup>5</sup> Ben C.J. van Velthoven and Marijke ter Voert, *Paths to Justice in the Netherlands*, paper presented at the 5<sup>th</sup> International

needs carried out in New Zealand in 1999 estimates that 51 % of the population experienced one or more problems within a three-year period.<sup>6</sup> The New Zealand study included a problem category “suspected or charged with a criminal offence”, reported by 3 % of the sample. If the crime problems category were removed the percentage of respondents reporting one or more civil law problems would be reduced slightly, although the size of the reduction is impossible to guess because of multiple problems. A study conducted in the Province of Ontario in 1987 found that about 34 % of the sample had experienced serious problems over a three-year period.<sup>7</sup>

In a consumer society in which the economy functions largely in terms of money and cash transactions low income means vulnerability to the vicissitudes of life. Recent estimates place the proportion of low income Canadians between 13.1 and 14.7 per cent depending on the method used.<sup>8</sup> Subgroups of the population may experience much lower average levels of low income. For example, according to the market basket measure of low income 39.5 per cent of female lone parent families fall within the low-income category.<sup>9</sup>

Previous research has shown that there are other groups within the population that are especially vulnerable to the occurrence of serious problems that may be difficult to resolve, and that may exacerbate or compound their

disadvantage.<sup>10</sup> Low income is a proxy for poverty, but it is too simple to say that all people below a certain income level are poor, at least in the same way. For heuristic purposes, however, it can be fairly said that people with “slender means” are vulnerable in ways that the more affluent are not. Certain subgroups among the low-income population may be vulnerable to experiencing certain problems, although specific subgroups may be more vulnerable to particular problems than to others. Experiencing problems that people describe as difficult to resolve may be more than merely a consequence of poverty. Experiencing multiple problems may partly define the dynamics that create and perpetuate poverty. Social exclusion has been defined as what happens when multiple problems occur at the same time, creating interlocking patterns of marginalization.<sup>11</sup>

Finally, while the law may be pervasive in Canadian society, access to the law or more broadly to justice for those experiencing law-related problems seems to be limited. Even though many problems experienced by people have a legal aspect, few of them will be resolved by going to court. This is not necessarily because they are minor or trivial problems. Laura Nader has pointed out that the civil justice system has largely ignored the problems of the poor. Lawyers and courts tend to deal with only the most serious problems, and the problems of those who have the resources to access the legal system.<sup>12</sup> The problems of the poor and lower income groups are what Professor Nader has called the “little injustices” that feature prominently in the lives of the vulnerable citizens of our society. Although these problems may not be considered important enough to come to the attention of the courts or other authorities, the problems experienced by

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LRSC Conference, Cambridge, March 2004.

<sup>6</sup> Gabrielle M. Maxwell, Catherine Smith, Paula J. Shepherd and Alison Morris, Meeting Legal Service Needs, New Zealand Legal Services Board, 1999.

<sup>7</sup> W.A. Bogart and Neil Vidmar, Problems and Experience With the Ontario Civil Justice System, in Alan Hutchinson, (ed.), Access to Civil Justice, Carswell, Toronto, 1990.

<sup>8</sup> Understanding the 2000 Low Income Statistics based on the Market Basket Measure, Human Resources Development Canada, 2003, p. 11.

<sup>9</sup> Ibid., Table 11.

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<sup>10</sup> Pascoe Pleasence, et. al.

<sup>11</sup> Preventing Social Exclusion, Social Exclusion Unit, Cabinet Office, UK, March, 2001.

<sup>12</sup> Laura Nader, No Access to Law: Alternatives to the American Judicial System, Academic Press, 1986.

the poor are important to them. The ubiquitous quality of problems and the lack of access to justice to deal with them join forces to shape the lives of many less affluent citizens, and the experience may form the basis of negative perceptions about the fairness and legitimacy of the justice system. Lack of access to justice represents the vulnerability and disadvantage that characterize the poor and that may define the dynamics that create and perpetuate social inequality and marginalization.

### **Methodology**

The Justice Canada survey of civil justice problems was a national sample of 4501 respondents. Respondents were interviewed by telephone. Interviews were conducted during March 2004. The margin of error for a sample of this size is +/- 1.5 per cent 19 times out of 20. The survey was limited to low- to moderate-income Canadians. Respondents were included in the survey if they were 18 years of age or older and had incomes at or below \$35,000 for individuals and below \$50,000 for families.<sup>13</sup>

The problem identification part of the questionnaire contained 15 problem categories: consumer, employment, money and debt, income assistance, disability pensions, housing, immigration, discrimination, treatment by the police, threat of legal action, family problems related to divorce or separation and children, other family-related problems, wills and powers of attorney, personal injury and hospitalization. Data were collected on 76 specific problems representing sub-groups of the 15 problem categories.<sup>14</sup>

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<sup>13</sup> Details about the interview completion results are provided in Appendix I.

<sup>14</sup> After having been asked about the 76 specific types of problems, respondents were asked if there were any other types of problems that had been missed. A small number of respondents responded in the affirmative. However, none of the other problems identified were different from the 76 explicit problem types. It is assumed on the basis of this result that the problems

Respondents were asked to indicate if within the past three years they had experienced specific problems from a list read by the interviewers. Respondents were asked to include only those problems they considered difficult to resolve. Following the problem identification questions, respondents were asked questions about seeking assistance with problems. For this part, in order to reduce the interview time to an acceptable level, up to three problems were chosen at random for each respondent. The problems were randomly selected from different problem categories.

The questions asked of respondents did not ask them to identify "legal" problems. This was because it cannot be assumed that people will recognize in all cases that their problems have a legal aspect and a legal solution. In a statement that has now become the orthodoxy of the legal needs literature, Philip Lewis observed that saying a person has a *legal* problem is more a statement of one option for resolving the problem than about the nature of that problem. "A tenant with a leaking roof may be regarded as having a legal problem. However, he may choose to get a ladder and not a lawyer".<sup>15</sup> Rather, respondents were asked if they had experienced problems that were difficult to resolve, from a pre-selected list of problems that have legal aspects and possible legal solutions. The pre-selected list of problems assured the existence of legal content. Respondents were neither asked to make judgements about the legal nature of their problems nor about any possible solution.

The study could not gather enough information about the particular problems identified by respondents to know what sort of assistance would be appropriate. This could range from public legal information about the nature

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covered are a comprehensive profile of civil law problems affecting Canadians.

<sup>15</sup> Philip Lewis, Unmet Legal Needs in Pauline Morris, Richard White and Philip Lewis, *Social Needs and Legal Action*, Martin Robertson, London, 1973. p. 79

of the problem to legal representation. Limited information was obtained about whether respondents sought advice, whether problems were resolved or not and whether matters had improved or become worse.

Interviews were carried out by Environics Research Group, Ltd. using a DASH/CATI system. The average length of time required to complete interviews was 15.2 minutes. Up to eight "call backs" were allowed for each respondent, and calls were made at different times of the day and days of the week to maximize the chance of contacting the respondent. All interviews were conducted in the official language of the respondent's choice. See Appendix One for sample completion results.

### **Description of the Sample**

The survey was carried out in ten provinces. About 8.2 per cent of the sample was drawn from the four Atlantic provinces - Newfoundland, Prince Edward Island, Nova Scotia and New Brunswick; 26.9 per cent from Quebec; 35.2 per cent from Ontario; 17.2 per cent from the three prairie provinces - Manitoba, Saskatchewan and Alberta; and 12.6 per cent from British Columbia.

About 55.9 per cent of respondents reside in cities with more than 100,000 people, of which 29.6 live in the three largest metropolitan areas of Vancouver, Toronto and Montreal. Respondents residing in cities of 25,000 to 99,000 inhabitants make up 11.9 per cent of the sample, followed by 5.7 per cent from cities and towns of from 10,000 to 24,999, 3.9 per cent from towns of 5000 to 9,999 and 22.6 per cent from towns and rural areas with populations of less than 5000.

Female respondents make up 51.2 per cent of the respondents. Males comprise 48.8 per cent of the sample.

The official language profile is about the same as for the Canadian population as a whole. French-speaking Canadians make up 25.8 per cent of all

respondents, while English-speakers make up 74.2 per cent.

Both native- and foreign-born respondents are represented in the sample. Foreign-born respondents make up 20.2 per cent and native-born-respondents make up 79.8 per cent. Among the foreign-born, 18.1 per cent have lived in Canada for less than five years. The remaining 81.9 per cent reported five years or longer residence in the country. As well, 23.5 per cent of the sample reported themselves to be members of a visible minority group. Respondents self-identifying as Aboriginal people make up 7.1 per cent of the sample.

The sample was designed to include only low and moderate income Canadians. With respect to income level, 23.9 per cent of the sample reported annual incomes of less than \$15,000, 27.7 per cent between \$15,000 and \$24,999, 31.3 per cent between \$25,000 and \$34,999 and 17.7 per cent from \$35,000 to \$50,000.

Older Canadians are over-represented in the sample. About 18.7 per cent are between 18 and 29 years of age, 25.6 per cent between 30 and 44, 26.2 between 45 and 59 and 29.4 per cent are over the age of 60.

Respondents who are married or living with a partner make up 48.7 per cent of the sample. Unattached individuals, including single, separated, divorced and widowed persons, make up 51.2 percent of all respondents.

Nearly half of all respondents, 45.1 per cent, excluding students, are working full- or part-time. Full-time workers make up 74.8 per cent of all employed respondents and part-time workers make up 25.2 per cent. About 9.6 per cent of the sample was unemployed. The remainder of the sample was comprised of people staying at home, 8.3 per cent; students, 9.3 per cent; retired 25.0 per cent and people on disability pensions, 2.3 per cent.

About 20.0 per cent of all respondents reported having less than a high school education, 43.1 per cent are high school graduates, 21.5 per cent have completed some non-university post-secondary education, 9.6 per cent have a completed undergraduate degree, and 5.6 percent have a graduate degree.

Respondents were asked if they were on social assistance at any time during the reference period of the survey. Just over twenty-five percent (25.6) reported that they were on social assistance at the same time some problems occurred.

Finally, 10.3 per cent of the sample reported some form of disability. Following the definition of disability in the Government of Canada PALS measure of disability, this could include having difficulty “hearing, seeing, communicating, walking, climbing stairs, learning or doing similar activities”.

#### The Incidence of Law-Related Problems

Almost 48 per cent (47.7 %) of the low to moderate income Canadian population experienced one or more law-related problems during the three-year reference period.<sup>16</sup> This is higher than the 34 to 37 per cent reported in the surveys in England and Wales. It is about the same as the results of the American research carried out about ten years ago, and it is lower than the results of the research in the Netherlands.

Problems do not occur uniformly throughout the study population. A significant number of people experience multiple problems. Table I below shows

<sup>16</sup> The research carried out in the UK employing in-person interviews appears to produce lower results than studies using telephone interviews as in the Canadian and US research or the internet-based methodology used in the Dutch study. This raises the possibility that the methodology influences the results, perhaps because the people who are willing to respond to telephone surveys are more likely to have problems and be willing to talk about them.

the number of respondents reporting varying numbers of problems.

**Table I: The Incidence of Problems**

Number of Problems	Frequency	Percent
None	2352	52.3
One	954	21.2
Two	561	12.5
Three	295	6.6
Four	141	3.1
Five	87	1.9
Six	60	1.3
Seven or More	51	1.1

About half of respondents reported they had no difficult problems during the study period. Among those reporting problems, most experienced only one problem. The percentages of respondents experiencing larger numbers of problems diminishes with the number of problems reported.

Certain sub-groups within the sample showed a fairly strong tendency to experience at least some problems they considered difficult to resolve. This section summarizes the groups within the sample that were most likely to report experiencing no problems compared with one or more problems. Odds ratios are used to indicate the likelihood that respondents in certain groups are more likely to experience problems than others.

- In terms of age, respondents aged 60 and older were only 0.3 times as likely to report problems as other age groups (P = .0001). Respondents in the 29 to 45 age group were 2.0 times more likely than all others to report problems (P = .0001).
- Generally speaking, the lower the educational level the less likely respondents were to report problems. People with less than high school education were 0.5 times, or half, as likely as all other educational groups to report experiencing one or more problems (P = .0001). This compares with respondents with

some post-secondary education who were 1.5 times more likely to report problems ( $P = .0001$ ) and respondents with a university degree who were 1.4 times more likely than others to report problems. The lesser tendency for the lowest educational group may be less a reflection of fewer problems than less of a tendency to report them.

- Single parents were 2.3 times more likely than all others to report problems ( $P = .0001$ ) compared with singles who were only 0.8 times ( $P = .0001$ ) and couples who were 0.6 times ( $P = .0001$ ) as likely to report experiencing problems.
- The unemployed were 2.4 times more likely than others to report at least one problem ( $P = .0001$ ).
- Respondents whose major source of income was a disability pension were 2.8 times more likely than all others to report experiencing problems ( $P = .0001$ ).
- Respondents receiving social assistance payments were 2.1 times more likely to report one or more problems ( $P = .0001$ ).
- Aboriginal people and members of visible minority groups were only slightly more likely to report at least one problem. Respondents self-reporting as visible minorities were 1.6 times more likely than others to report at least one problem ( $P = .0001$ ) and Aboriginal people were 1.4 times more likely ( $P = .0001$ ).

A logistic regression procedure was used to examine which variables have the strongest predictive value for experiencing problems (Table II).<sup>17</sup> Being young, a single parent, self-reporting a member of a visible minority group and receiving social assistance are the four best predictors of the likelihood of experiencing one or more, as opposed to no problems.

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<sup>17</sup> R-squared = .18, Likelihood Ratio 535.9, Pr. Chi-Sq = .0001

**Table II: Characteristics Predicting One or More Problems**

Best Predictor Variables	Wald ChiSq	Pr ChiSq	Odds Ratio
Age 18-29	30.125	.0001	2.3
Single Parent	17.322	.0001	1.6
Visible Minority	15.968	.0001	1.4
Receiving Social Assistance	47.031	.0001	1.8

The percentage of respondents experiencing one or more problems indicates that law-related problems are as ubiquitous in Canadian society as elsewhere. The overall percentage of 47.7 per cent encompasses a variety of

very different types of problems. It is informative to examine the incidence of the 15 problem types separately. Table III shows the number of respondents reporting at least one problem in the fifteen problem categories.

**Table III: Respondents Reporting At Least One Problem in Problem Categories**

Problem Category	Number	Percent Reporting a Problem in the Category
Money and Debt	1231	27.4
Consumer	864	19.2
Employment	784	17.4
Housing	241	5.4
Family: Relationship Break-Up	235	5.2
Personal Injury	213	4.7
Wills and Incapacity	180	4.0
Threat of Legal Action	167	3.7
Social Assistance	158	3.5
Discrimination	157	3.5
Police Relations	139	3.1
Disability Pensions	115	2.6
Other Family	108	2.4
Hospitalization	98	2.2
Immigration and Refugee	34	0.8

Overall, economic problems are predominant in this sample of low and moderate-income people. Three categories of economic problems stand out in terms of frequency of occurrence. More than one quarter of respondents report money and debt problems, just under twenty per cent report having had a consumer problem and slightly fewer, 17.4 per cent, report having experienced

at least one employment-related problem. The fourth most frequently reported problem type, housing occurs

three to five times less frequently than any of these categories. The sections below discuss the incidence of particular problem categories.

**Most Frequently Occurring Problems**

The recent major surveys of justiciable problems have used somewhat different problem categories. Nevertheless, the most frequently occurring types of problems are quite similar to the most frequently reported problems in this survey, although the incidence levels

may vary. Torts, consumer and debt problems were the most frequently occurring in the previous Canadian study by Bogart and Vidmar.<sup>18</sup> Employment, housing, consumer and money problems were the most prominent in the Dutch study by van Velthoven and ter Voert.<sup>19</sup> Money, consumer, housing and employment occurred most frequently in the Scottish study carried out by Genn and Paterson.<sup>20</sup> The earlier study by Genn reported that consumer and money problems were the most frequently occurring types.<sup>21</sup> Finally, the research by Pleasence, et. al. reports that the most frequently occurring problem types were consumer, money/debt and employment.<sup>22</sup> In this study money/debt, consumer, employment and housing were the most frequently reported problems.

#### **Frequency of Family Law Problems and Service Delivery in Canada**

The results with respect to most frequent problems stand in contrast with the general pattern of service delivery in Canada. In this study family law: relationship breakdown problems ranked 5<sup>th</sup> and were experienced by 5.2 per cent of the sample. The category of other family law problems ranked 13<sup>th</sup> and was reported by 2.4 per cent of respondents. All family problems were experienced by 7.6 per cent of respondents. This is similar to the results of other studies. In the study by Genn, relationship and family matters problems ranked 7<sup>th</sup> of 15 problem types and were reported by 5 per cent of the sample. In Genn and Paterson relationship and other family matters ranked 6 of 15 problems types, experienced by 4 per cent of respondents, and divorce ranked 8<sup>th</sup> out of 15 and was reported by 3 per cent of the sample. In the study by Pleasence,

et. al., relationship breakdown problems ranked 9<sup>th</sup> of 18 problem types and were experienced by 2.2 per cent of the sample while divorce was 10<sup>th</sup> out of 18 problem types and was reported by 2.2 per cent of respondents. In the study by van Velthoven and ter Voert, relationship and other family matters problems ranked 7<sup>th</sup> out of 13 problem types and was reported by 10.4 per cent of the sample. Finally, in the Bogart and Vidmar study, divorce/separation was 8<sup>th</sup> out of 9 problem categories and was reported by 2.4 per cent of the sample.

The “crisis in legal aid” asserted by the Canadian Bar Association at the beginning of the millennium<sup>23</sup> has for most observers focussed mainly on the availability of legal aid for family law matters.<sup>24</sup> This mirrors the reality of service provision in legal aid in Canada. The majority of civil legal aid service provided in Canada is in the area of family legal aid. In 2003-2004 about 60 per cent of all approved applications for service were in the family law area.<sup>25</sup> In addition, in the same year,

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<sup>23</sup> Melina Buckley, *The Legal Aid Crisis: A Time For Action*, Canadian Bar Association, 2000.

<sup>24</sup> Vicki Trerise, *Where the Axe Falls: The Real Cost of Government Cutbacks to Legal Aid*, The Law Society of British Columbia, 2000; Penny Bain, Shelly Chrest, and Marina Morrow, *Access to Justice Denied: Women and Legal Aid in B.C.*, Women’s Access to Legal Aid Coalition, 200; Lenore Woodward, Penny Piper, Courtney Kipp and Anna Maria Tosso, *Women’s Rights to Public Legal Representation: Canada and Manitoba*, Manitoba Association of Women and the Law, 2002, Melissa Doucette, *Family Legal Aid: A Comparative Study*, Women’s Network of Prince Edward Island, 2001; Lisa Addario, *Getting a Foot in the Door: Women, Civil Legal Aid and Access to Justice*, Status of Women Canada, 1998; Alison Brewin and Lindsay Stephens, *Legal Aid Denied: Women and the Cuts to Legal Services in B.C.*, Canadian Centre for Policy Alternatives, 2004.

<sup>25</sup> *Legal Aid in Canada: Resource and Caseload Statistics 2003/04*, Statistics Canada, Catalogue no. 85F0015XIE. An approved application is a written application for service. Table 12, p. 46.

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<sup>18</sup> Borart and Vidmar, Table 3.1, p. 9.

<sup>19</sup> Ben C.J. van Velthoven and Marijke ter Voert, p. 5

<sup>20</sup> Hazel Genn and Alan Paterson, Table 2.1, p. 38.

<sup>21</sup> Hazel Genn, Table 2.5, p. 37.

<sup>22</sup> Pascoe Pleasence, et. al., Table 2.1 p.



approximately 262,000 duty counsel services were provided in civil legal aid, the vast majority of which were in the area of family law.<sup>26</sup>

Family law problems are characterized by high levels of emotional distress related to the breakdown of intimate relationships and fears for the material and emotional well-being of children. There are significant long term consequences for the children and adults caught in family break-up. These are some of the reasons why family law problems are important although the number of family law problems may be small relative to other problem types. In view of the emphasis on family legal aid in Canada, this preliminary analysis will highlight family law problems.

#### Family Law Problems: Relationship Breakdown

This survey examined two categories of family law problems. One involved problems involving relationship breakdown; separation and divorce and the matters relating to children that are often ancillary to divorce or separation. The second included four other types of problems involving children.

Turning first to family law problems that occur as a result of relationship breakdown, 5.4 % of respondents reported at least one problem of this type. Table III shows the specific problems within the relationship breakdown & children category. The most common problem is separation. The second and third problems in terms of frequency are closely related to separation; custody and access issues.

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<sup>26</sup> Ibid., Table 21, p. 66.

**Table IV: Specific Types of Family Law: Relationship Breakdown Problems**

<b>Specific Types of Relationship Breakdown Problems</b>	<b>Number of Individuals Reporting the Problem</b>	<b>Percent of Individuals<sup>27</sup></b>
Separation	122	2.7
Child Custody	103	2.3
Obtaining a Restraining Order	14	2.1
Division of Money or Property	77	1.7
Divorce	75	1.7
Enforcement of Child Support Order	70	1.6
Applying for Child Support	66	1.5
Changes to Child Support Payments	58	1.3
Access Arrangements	94	2.1
Enforcing a Restraining Order	17	0.4

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<sup>27</sup> The sum of the percentages do not equal 5.2 % from Table II. The percentage in table II represents respondents reporting *at least* one family law problem. Some respondents had more than one problem within the category.

Not all groups within the sample are equally likely to report relationship breakdown problems. To explore these relationships, binary variables representing a number of demographic and social variables were run against a dichotomous variable representing all family law: relationship breakdown problems combined. Chi-square values and associated probabilities were generated to test for statistical reliability and odds ratios were calculated to estimate the likelihood that individuals with a particular socio-demographic characteristic would experience a problem of that type.

- Women were 1.4 times more likely than men to report at least one relationship breakdown problem ( $P = .01$ ). This is not a great difference considering that family law issues are generally considered to be gender issues.
- With respect to age, family breakdown problems were most common among the 30 – 44 age group. Respondents within this age group were 2.5 times more likely to report problems ( $P = .0001$ ).
- Respondents at the lowest income level, less than \$15,000 per year, were slightly (1.3 times) more likely to report family breakdown problems ( $P = .0001$ ).
- In terms of employment status and source of income, people who were unemployed were 1.6 times more likely to experience a problem of this type ( $P = .02$ ). Respondents reporting that their principal source of income was a disability pension were 2.3 times more likely to report family breakdown problems ( $P = .0001$ ).
- Respondents self-reporting as Aboriginal were 1.6 times more likely than non-Aboriginal people to report a relationship breakdown problem ( $P = .02$ ).
- Respondents receiving social assistance payments were twice as likely as others in the sample (2.0 times) to report relationship

breakdown problems ( $P = .0001$ ).

- Comparing people living in communities of different sizes, those in communities ranging between 10,000 and 100,000 were most likely (1.6 times) to report some type of relationship breakdown problem ( $P = .05$ ).
- The lower the level of education the less likely respondents were to report family law problems. This may represent a tendency for people with lower educational levels to *report* less rather than experience fewer problems.
- Respondents with less than a high school education were only .44 as likely compared with all others to report a family law problem ( $P = .0001$ ). This compares with .93 for respondents with a high school education (ns), 1.24 times as likely for respondents with some post secondary education (ns), and 1.35 times as likely for those with a university degree ( $P = .02$ ).
- Family status was the strongest predictor of reporting a family law problem. Respondents who are single parents with children were 8.9 times more likely than others to report having experienced a family law problem ( $P = .0001$ ).

#### Other Family Law Problems

A second category of family law problems not specifically related to relationship breakdown included four specific problems relating to children. These were becoming a child's guardian, apprehension of a child by the state, obtaining independent legal representation for a child and child abduction or fear of abduction. Overall, 2.4 per cent of respondents experienced at least one problem in the other family law category. Table V shows the percentages of respondents indicated that they experienced these specific problems.

**Table V: Specific Types of Other Family Law Problems**

<b>Specific Types of Other Problems</b>	<b>Number of Individuals Reporting the Problem</b>	<b>Percent of Individuals<sup>28</sup></b>
Legal Representation for a Child	43	1.0
Child Apprehension	37	0.8
Guardianship	37	0.8
Child Abduction	13	0.3

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<sup>28</sup> The sum of the percentages do not equal 5.2 % from Table III. The percentage in Table III represents respondents reporting *at least* one family law problem. Some respondents had more than one problem within the category.

Table III shows that 5.2 per cent of the sample experienced at least one relationship breakdown problem and 2.4 per cent experienced at least one family law problem from the other category. Accounting for overlaps in respondents reporting problems in both categories of family law problems, 6.4 per cent of respondents reported at least one family law problem overall. However, summing the specific problems, 15.6 per cent of the sample experienced relationship breakdown problems and 2.9 per cent experienced the other types of family law problems. Thus, 18.5 per cent of respondents experienced individual family law problems. This figure allows for multiple problems.

Several subgroups within the sample showed an increased likelihood of experiencing family law problems in the other category.

- Respondents aged 30 to 45 were 2.0 times more likely than people in other ages to experience these types of problems ( $P = .0003$ ).
- As one might expect, people with children were more likely to experience these problems since they all relate to children. Couples with children were 2.7 times more likely to experience family law problems in the other category ( $P = .0001$ ). However, single parents were 5.9 times more likely to experience family law problems of this type.
- People receiving social assistance were 2.5 times more likely to report family law problems in the other category ( $P = .0001$ ).
- Members of minority groups were also more likely to experience problems of this type. Respondents self-reporting as visible minorities were 1.9 times more likely to experience these problems ( $p = .002$ ). Aboriginal people were 3.7 times more likely than other respondents to report difficult problems in these four family law areas ( $P = .0001$ ).

### **Unmet Need and the Outcomes of Problems**

One of the objectives of the research was to explore the extent of unmet need. The existence of problems in itself does not necessarily indicate unmet need. In some instances people resolve their problems on their own without resorting to formal sources of advice or assistance. The extent to which problems remain unresolved, the extent to which the situation becomes worse if problems go unresolved or, even if problems are resolved, whether the resolution is perceived to be unfair may be considered as further indicators of unmet need.

### **Unresolved Problems**

Respondents reported that most of the problems they experienced within the three-year period had been resolved. This research could not determine whether respondents who reported that problems had been resolved could have benefited significantly from advice or assistance. The extent to which respondents sought assistance will be discussed in an analysis reported in a subsequent paper. However, some insights into unmet need can be gained from examining the extent to which problems were resolved.

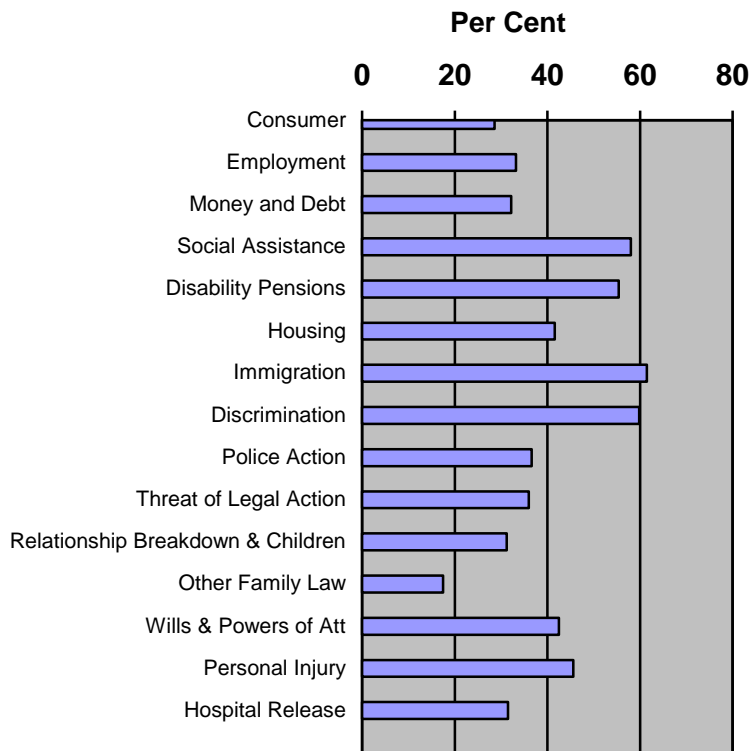
Just over one third, 33.9 per cent, of all problems were reported by respondents to have remained unresolved during the study period (see Figure 1).<sup>29</sup> Generally, the economic problems that occurred with the greatest frequency, consumer, money and debt and employment, tended to have the lowest proportions unresolved. These were 28.6 per cent, 32.2 per cent and 33.2 per cent, respectively.

Three other problem categories that represent elements of a secure life in terms of livelihood, health, safety, shelter, sustenance and family also had high proportions of problems unresolved. These were social assistance, 58.0 per cent, disability pensions, 55.4 per cent and housing, 41.4 per cent unresolved.

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<sup>29</sup> The extent to which problems are resolved is largely a function of time since first occurrence.

**Figure I: Proportion of Problems Not Resolved For Problem Categories**



**Vulnerable Groups and Unresolved Problems**

A number of factors are related to having unresolved problems.

- The youngest age group, aged 18 – 29 years, was 1.5 times more likely as all other age groups to report having unresolved problems (P = .0001). On the other hand, the oldest age group, 60 years of age and older, was only .91 times as likely compared with all other age groups to report that problems remained unresolved (P = .0001).
- The likelihood of reporting unresolved problems diminished with increasing income. The lowest income group, with incomes of less than \$15,000 per year were 1.34 times more likely to report unresolved problems (P = .0001). Respondents reporting incomes of \$14, 000 to \$24,999 were

1.03 times more likely to report unresolved problems (P = .0001). Respondents in the two highest income groups, \$25, 000 to \$34,999 and \$35, 000 to \$50,000 were both less likely to report unresolved problems; .84 as likely (P = .02) and .84 as likely (P = .04), respectively. Respondents whose main source of income was a disability pension were twice (2.0) as likely (P = .0001) to report unresolved problems compared with other employment and income source categories.

- Respondents self-reporting as visible minorities were 1.3 times more likely than all others to report unresolved problems (P = .0001).
- The foreign-born were 1.5 times more likely to report unresolved problems (P = .0001).

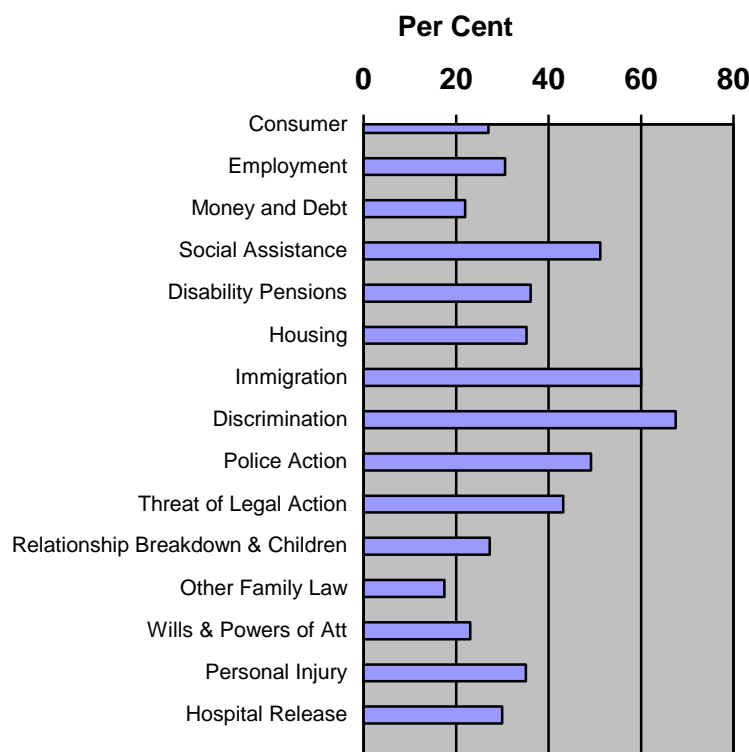
- Respondents self-identifying as Aboriginal people were slightly more likely, 1.4 times, than all others to report unresolved problems (.0009).
- Respondents who were receiving social assistance when the problem was experienced were 1.2 times more likely than other respondents to report unresolved problems (P = .02).

Resolved But Not Fair

Although a majority of problems were reported to have been resolved, the resolutions were not always perceived to have been fair. The perception that an outcome was not fair is another general indication of the level of unmet need. Overall, in 29.5 per cent of problems that

were resolved, the resolutions were perceived to have been unfair. Figure III shows that the level of perceived unfairness was lowest in the three problem types that were most frequently reported. These were money and debt, 22.0 per cent, consumer, 27.0 per cent and employment at 30.6 per cent. Immigration and discrimination cases, with 60.0 per cent and 67.5 per cent, respectively, had the highest levels of perceived unfairness. The two categories of family law problems, relationship breakdown & children and other family law problems also had relatively low levels of perceived unfairness for problems that had been resolved; 27.3 per cent and 17.7 per cent, respectively.

**Figure II: Proportions of Problems in Which Resolutions Were Perceived to be Unfair**



Unfair Outcomes and Vulnerable Groups

Only three subgroups were slightly more likely than others to perceive outcomes of problems that had been resolved as

unfair; the unemployed, visible minorities and the foreign-born.

- Visible minorities were 1.4 times more likely than all other

- respondents to perceive outcomes as unfair (P = .004).
- Similarly, the foreign-born were also 1.4 times more likely to perceive that the outcome of a resolved problem was unfair (P = .03).
  - Respondents who were unemployed were 1.5 times more likely to report unfair outcomes (P = .001).

Breton, et. al. state that fairness is an important component of social cohesion.

The sense of being treated fairly, of being given a fair chance, does much to determine the degree of attachment to the institutions, the communities, and the society in which people live their lives. Fair treatment nourishes loyalty to the society and makes people more willing to contribute to its functioning. In contrast, unfairness is socially destructive.<sup>30</sup>

When asked about fairness in more general terms a national sample of Canadians indicated that 18 per cent felt that Canadian society was unfair, and 15 per cent reported personal feelings of unfairness.<sup>31</sup> The percentages reporting a sense that the outcomes of their law-related problems were unfair are all higher than that, in some cases considerably higher. The figures reported in the present survey more nearly reflect the general and widespread sense of unfairness in the justice system reported in public opinion research. A survey conducted in 1992 by the Angus Reid Group found that 64 per cent of Canadians disagreed or disagreed strongly with the statement that "everyone, no matter who they are, is treated the same by the justice system

in Canada".<sup>32</sup> This directs our attention to the linkages between the provision of legal services to the poor, to respect for the rule of law and confidence in the justice system by the public, and broader public policy issues relating to fairness, trust and the maintenance of civil society.

#### The Problems That Became Worse

The old adage that "if you leave a problem alone it will often solve itself" frequently does not hold true. It is evident from these results that many problem situations often do not improve if left unresolved. Respondents reported that for problems that had not been resolved, the situation had become worse in 46.1 per cent of problems. Respondents reported that the situation had improved in 31.9 per cent of problems. The remaining respondents indicated that they were uncertain or "it depends" in 22.1 per cent of problems. Thus, combining two negative response categories, "became worse" and "not certain/depends", as opposed to the situation having improved, 68.2 per cent of the time unresolved problems had not improved within the reference period of the study.

For purposes of this discussion, the "situation became worse" response category is analysed separately. The highest proportions of unresolved problems becoming worse are in the social assistance, disability pensions and housing problem categories (Figure III). In these three categories 63.8 per cent, 74.4 per cent and 51.5 per cent of unresolved problems, respectively, the situation had become worse. These are three problems areas that represent two important aspects of access to justice. First, they represent elements of basic security and sustenance of individuals and their families. Second, the social assistance and disability pensions problems, and possibly the

<sup>30</sup> Raymond Breton, Norbert J. Hartmann, Jos L. Lennards and Paul Reed, *A Fragile Social Fabric?*

<sup>31</sup> *Ibid.*, p. 35 and 36.

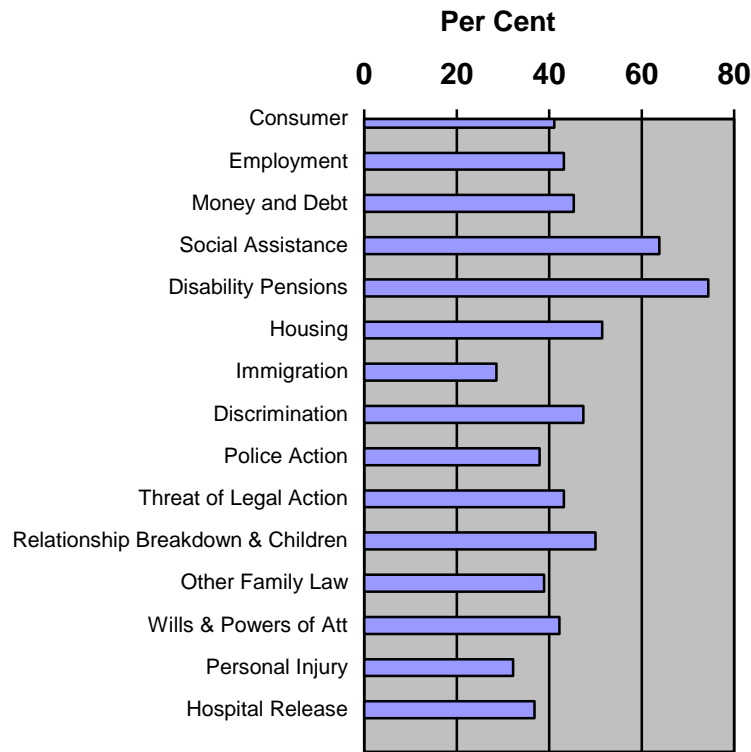
<sup>32</sup> Angus Reid Group, *Canada and the World: An International Perspective on Canada and Canadians*, Winnipeg, 1992. p. 125.



housing area, represent problems in which disputes are usually between a state authority and the individual. This takes on the character of the power of the state versus the individual that

provides the underlying rationale for publicly funded legal assistance in criminal matters.

**Figure III: Proportions of Unresolved Problems in Which the Situation Became Worse**



The next highest category of problems was relationship breakdown and children in which 50.0 percent of unresolved problems were reported to have become worse. In the other family problems category, the situation became worse in 38.9 per cent of unresolved problems.

- Respondents with less than high school education were 1.5 times more likely than others to report that unresolved problems had become worse or they were not certain. (P = .02)

Problems That Became Worse and Vulnerable Groups

Income and education were the only two demographic variables having a statistically significant relationship with reports of unresolved problems becoming worse.

- Respondents at the lowest income level of less that \$15,000 per year were 1.3 times more likely that all others to report that unresolved problems had not improved (P = .05).

Persistent Problems

Inevitably, some problems will remain unresolved for years. The persistence of problems is another indication of unmet need, possibly for particular segments of the population. For purposes of this analysis a persistent problem is one that has remained unresolved for more than three years since its first occurrence. Table VI below shows the percentage of unresolved problems that began more than three years prior to March 2004 for separate problem types.

Overall, just over one fifth, 22.3 per cent of all unresolved problems could be considered persistent by this definition. On average, almost half of unresolved problems, 48.8 percent, first occurred less than one year ago, 21.1 per cent

occurred between one and two years prior to the survey and 12.9 per cent occurred between two and three years prior.

**Table VI. Persistent Problems by Problem Type**

Problem Category	Percent of Unresolved Problems Occurring More than Three Years Prior to the Survey
Wills and Powers of Attorney	41.3
Disability Pension	34.2
Family: Relationship Breakdown	32.8
Discrimination	32.1
Immigration and Refugee	27.3
Other Family Problems	26.3
Personal Injury	24.6
Employment	21.7
Social Assistance	21.2
Police Action	20.6
Money and Debt	19.1
Housing	18.2
Hospital Release	18.1
Consumer	17.2
Threat of Legal Action	5.6

The observation that more than one fifth of all unresolved problems remain unresolved for over three years seems remarkably high. Legal action appears to bring issues to a relatively quick resolution. On the other hand, most problem types have high proportions that remain unresolved long enough (more than three years) to be considered persistent problems. The problems that relate to the security of the person or one's family, disability pensions, employment, social assistance and housing, all have fairly high proportions of long term unresolved problems. Consumer and money/debt problems rank relatively low, but still have 18 and 19 percent, respectively, of long term unresolved problems. Problems involving relationship breakdown rank third with regard to

persistence and other family law problems rank sixth.

**Demographic Factors and Persistent Problems**

Several demographic factors are related to persistent problems.

- It was shown above that overall younger people are more likely to experience problems. However, a much smaller percentage of long term unresolved problems occur to people under 30 years of age compared with other ages. It is more likely that long term unresolved problems will be experienced by 45 to 59 year olds (P = 0003) and to people

- sixty years old and over ( $P = .04$ ).
- Also long term unresolved problems are more likely to occur to people who are retired compared with all others ( $P = .0001$ ). It is also more likely that persistent problems will occur for people whose main source of income is a disability pension ( $P = .003$ ).
- In terms of income, long term unresolved problems are more likely to occur to the lowest income group, less than \$15,000, compared with the highest group with incomes of \$35,000 to \$50,000 ( $P = .005$ ).
- Finally, persistent problems are more likely to occur to people receiving social assistance ( $P = .001$ ).

Regarding relationship breakdown problems, only one demographic factor was related to persistent problems. Long term and unresolved relationship breakdown problems were significantly more likely to occur for people who are unemployed, compared with all other employment status groups ( $P = .01$ ).

#### Multiple Problems

Only a relatively small portion of the sample experienced multiple problems (Table VII). For this part of the analysis experiencing multiple problems is defined as having problems in three problem categories or more. About 14 per cent of the sample experienced problems in at least three problem categories.

**Table VII. The Experience of Multiple Problems**

Number of Problem Categories	Percent
One or More	47.7
Two or More	26.5
Three or More	14.0
Four or More	7.4
Five or More	4.3
Six or More	2.4

A number of factors are related to experiencing multiple problems, although none very strongly.

- Respondents on social assistance were most likely to experience three or more problems ( $\Phi = .19$ ,  $P = .0001$ ). In percentage terms, 56.8 per cent of respondents not on social assistance reported experiencing no problems compared with 11.0 per cent reporting three or more. On the other hand, among respondents receiving social assistance payments 38.8 per cent reported having no problems, while 23.5 per cent reported problems in three or more areas. People on social assistance were 18.0 per

cent less likely to have no problems (56.8 – 38.8) but were 12.5 per cent more likely to report having problems in at least three categories (23.5 – 11.0).

- Among all of the marital status categories, being a single parent was most strongly associated with experiencing multiple problems ( $\Phi = .16$ ,  $P = .0001$ ). In terms of the pattern of percentage differences, single parents were 20 per cent less likely to report having no problems, but were 16.1 per cent more likely than all other marital status groups to report having three or more problems.

- Respondents whose principle income was a disability pension were 24.1 per cent less likely to report having no problems and were 20 per cent more likely to report having problems in three categories.
- The unemployed were also likely to report multiple problems compared with other employment categories (Phi = .13, P. = .0001). Respondents who were unemployed during the period when problems were reported were 24.1 per cent less likely to report no problems while, on the other hand, were 9.4 per cent more likely to report multiple problems.
- People with the highest levels of education, a university degree, were most likely to report multiple problems.
- Respondents in the younger-middle age group, 30 to 54 years, were more likely compared with other ages to report multiple problems.
- Respondents self-reporting as being visible minorities showed a slight tendency to report multiple problems (Phi = .12, P. = .0001). Visible minorities were 11.4 per cent less likely to report no problems, but were 8.4 per cent more likely to report multiple problems.
- Aboriginal people were 8.7 per cent less likely to report no problems and 10.7 more likely than non-Aboriginals to report multiple problems.

Multiple regressions were run to determine the variables that best predict experiencing multiple problems.<sup>33</sup> In each of the models the three variables that were strongest predictors of one or more problems were also strong predictors of multiple problems (three or more). Young people, single parents, receiving social assistance and respondents self-reporting as a member of a visible minority group. In model three being unemployed appeared as a predictor of multiple problems. In model two being unemployed, receiving a disability pension, being long-term disabled were also statistically significant predictors of experiencing multiple problems.

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<sup>33</sup> All predictor variables were transformed into a set of dichotomous independent variables. The dependent variable had three categories (no problems, one or two problems and three or more problems) Model 1 was a cumulative logit model. Model 2 was a normal regression with all binary variables included. Model three was a normal regression with several binary variables removed to reduce multicollinearity.

**Table VIII. Best Predictors of Multiple Problems**

Model One: Cumulative Logit, Score for Proposed Odds Assumption Chi Sq = 42.5, Pr = .04; Likelihood ratio = 620.5, Pr = .0001	Model Two: Multiple Regression, R Sq = .15; F = 22.8, Pr = .0001	Model Three: Multiple Regression with correction for multicollinearity, R Sq = .15, F = 22.8, Pr = .0001
<u>Age 18 – 29</u> Odds Ratio (OR) = 2.2 Pr ChiSq = .0001 <u>Single Parent</u> Odds Ratio = 1.9 Pr ChiSq = .0001 <u>Social Assistance</u> Odds Ratio = 1.8 Pr ChiSq = .0001 <u>Visible Minority</u> Odds Ratio = 1.5 Pr ChiSq = .0001	<u>Disability Pension</u> Parameter Estimate=.36, Pr (t) = .005 <u>Single Parent</u> Parameter Estimate=.24 Pr(t) = .0001 <u>Social Assistance</u> Parameter Estimate=.21 Pr(t) = .0001 <u>Unemployed</u> Parameter Estimate=.20 Pr(t) = .0001 <u>Visible Minority</u> Parameter Estimate=.14 Pr(t) = .0001 <u>Age 18 to29</u> Parameter Estimate=.11 Pr(t) = .0001	<u>Disability Pension</u> Parameter Estimate=.36, Pr (t) = .003 <u>Single Parent</u> Parameter Estimate=.24 Pr(t) = .0001 <u>Social Assistance</u> Parameter Estimate=.21 Pr(t) = .0001 <u>Visible Minority</u> Parameter Estimate=.14 Pr(t) = .0001 <u>Age 18 to29</u> Parameter Estimate=.11 Pr(t) = .003

Problem Clusters

In the section above the extent to which people experience multiple problems was examined. This raises the question whether there are patterns of multiple problems, that is, whether problems tend to occur in well-defined clusters. The existence of regularly occurring clusters of problems may suggest common sets of causes or underlying circumstances that might be important for developing appropriate forms of assistance. A statistical procedure called cluster analysis<sup>34</sup> was carried out on a sub-sample of respondents reporting three or more problems to determine the extent of clustering in this sample.

The results of a cluster analysis can be represented using a tree diagram or dendrogram. A dendrogram depicts the distance in Euclidean or geometric space between a set of objects, in this case, problem categories, according to a

set of attributes, whether respondents reported experiencing a problem of that type. In the dendrogram below (Figure IV) the scale represents the relative distance between or among problem types or the degree of clustering. The horizontal lines correspond to the problem types. The degree of clustering of problems is represented by the vertical lines connecting them. The extent in relative terms to which clustering occurs is represented by the point on the relative distance scale opposite the connecting lines. The closer the connecting lines are to 0.0, the greater the clustering of the problem types joined by the vertical lines.

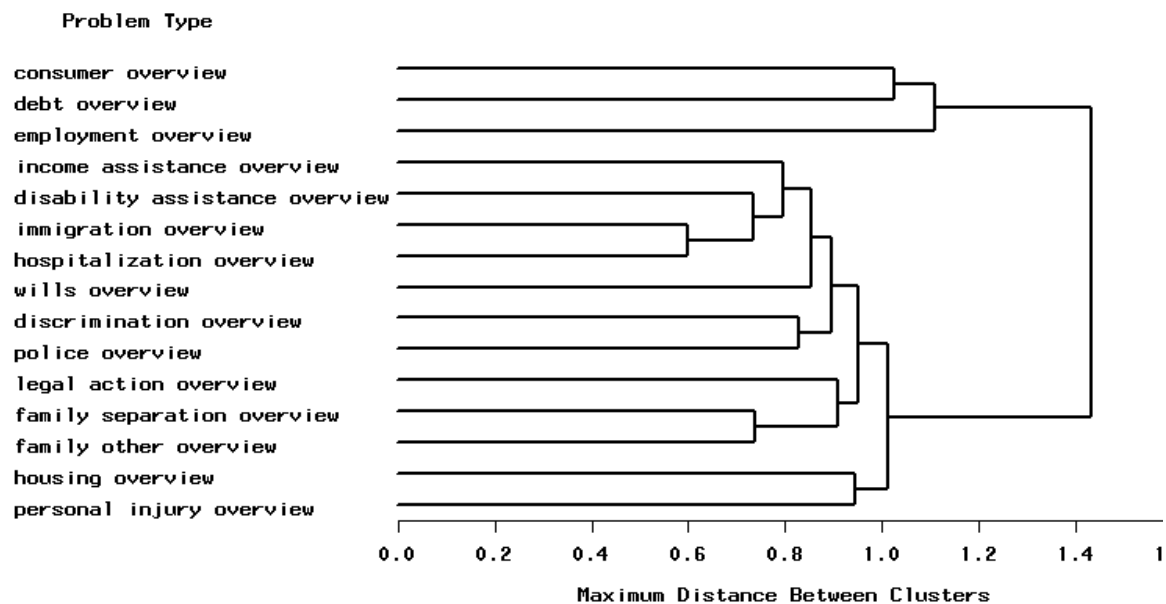
The greatest degree of “pairing” represented by the lowest point of connection in the relative distance scale is between immigration and problems related to discharge from a hospital or aftercare. These two problem types “cluster” to a lesser degree with disability assistance problems. To a slightly lesser extent, these problems cluster with

<sup>34</sup> Charles H. Romesburg, Cluster Analysis for Researchers, Wadsworth, 1984.

income assistance problems. Family: relationship breakdown problems pair relatively strongly with other family law problems. These two problem groups cluster with threat of legal action. Discrimination and police action form a closely related pair, clustering with a set of problems including disability payments and social assistance. At a greater relative distance between 0.8

and 1.0 on the diagram, clustering occurs among other problem types. Consumer and debt problem form a pair, but not as closely as police action and discrimination problems. The consumer and debt pair cluster with employment problems.

**Figure IV: Dendrogram Showing Relative Distance Between Problem Groups**



The degree of clustering in this study is similar to that found in other research, allowing for differences in categories and in the distance scales. However, the patterns of clustering vary from the research by Pleasence, et. al.<sup>35</sup> and by Genn.<sup>36</sup>

Early Stage Problems

Even though the degree of clustering is relatively weak, the data show that a significant number of people experience multiple problems. About 14 per cent of respondents with problems experienced three or more problems. An important

feature of multiple problems is the extent to which certain problems might occur early in problem groupings. No causal inferences can be drawn between problems that occur early in problem sequences and those that occur later. The ordering of problems is based only on time ordering and does not necessarily imply causal linkages. However, it is possible that the problems that have a high probability of occurring early in problem grouping are “trigger” problems that are in some way related to occurrence of subsequent problems.

In order to explore the occurrence of early stage problems in problem sequences the place in the sequence (e.g. 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup>) was determined for problem types. This was done using the date and month of first occurrence of the problems. The sequence place for each

<sup>35</sup> Pleasence, et. al., p. 38

<sup>36</sup> The data from the study by Genn was analysed using a cluster technique in Pleasence, et. al., p. 41.

problem type was dichotomized. Whether the problem occurred before or after the median split was determined. Then the likelihood of a problem occurring before or after the median was calculated. Table XI shows the per cent of the time that problems occurred

before and after the median position in a problem sequence and the likelihood of the problem type occurring before the mean position expressed as an odds ratio.

**Table IX: Problems Occurring Early in Problem Sequences**

Problem Type	Number	Per Cent of Times the Problem Occurred Before the Mean in a Problem Sequence	Odds Ratio
Family – Relationship Breakdown	195	60.5	1.99*
Discrimination	132	58.3	1.79*
Wills	139	51.1	1.36
Consumer	599	47.9	1.19
Employment	570	47.9	1.18
Housing	199	47.4	1.15
Personal Injury	176	45.5	1.05
Immigration	28	42.9	0.94
Disability Pensions	98	38.8	0.79
Police Action	125	38.4	0.77
Hospitalization	81	38.2	0.77
Social Assistance	141	37.6	0.75
Money and Debt	805	37.5	0.69*
Threat of Legal Action	153	34.6	0.65**
Other Family	95	32.6	0.60**

\* Pr = .001; \*\* Pr = .01

Only two problems have a statistically significant likelihood of occurring early in problem sequences, relationship breakdown problems and discrimination problems. Some forms of discrimination are likely to be experienced early in life. Thus discrimination is very likely to occur early in problem sequences for reasons that may be unrelated to the subsequent problems.

The type of problem that is most likely to occur early in problem sequences is relationship breakdown. Family – relationship breakdown problems occurred earlier in 60.5 per cent of problem sequences in which family problems were in the sequence. This problem type was almost 2 times as likely as all other problems to occur early in problem sequences.

On the other hand, problems such as money and debt, threat of legal action

and other family problems were unlikely to occur early in problem sequences. For example, money and debt problems occurred before the mean in only 37.5 per cent of problem sequences and were only 0.69 times as likely to occur after relationship breakdown.

Relationship Breakdown and Problem Sequences

An extension of the analysis of problems that occur early in problem sequences is to identify problems that seem to systematically follow the occurrence of others. Certain types of problems, notably problems related to relationship breakdown, have a tendency to occur early in problem sequences. Table X shows the problems that are likely to follow the occurrence of family law: relationship breakdown problems.

**Table X. Problem Types Likely to Occur After Relationship Breakdown**

Problem Type	Percent of Sequences in Which Problem Occurred After Relationship Breakdown	Statistical Significance
Other Family Law	90.4	.0001
Money and Debt	72.7	.0001
Consumer	71.4	.0001
Employment	70.4	.0002
Social Assistance	70.4	.03

The problems most likely to follow relationship breakdown problems are other family problems. The specific problems included in this category are becoming the guardian of a child, child apprehension by a family services agency, obtaining legal representation for a child and abduction or perception of potential abduction.

Four types of financial problems are likely to occur after the occurrence of a relationship breakdown problem. Money and debt, consumer, employment and social assistance problems tend to occur systematically in the problem sequences experienced by people after the occurrence of a relationship breakdown problem. However, as already mentioned, time ordering is not necessarily causal ordering. The problems that systematically occur early in problem sequences cannot automatically be called “trigger problems” with respect to the subsequent problems because no causal relationship can be established. Clusters and sequences of problems do tend to arise out of common sets of life circumstances.<sup>37</sup> This would be expected with respect to the economic problems themselves. However, relationship breakdown problems are not inherently economic in nature. One could reason that relationship breakdown could come as a consequence of the pressures of economic problems on family relationships. The fact that these problems tend to occur after a relationship breakdown problem suggests that there may be some

systemic connection. It is therefore possible that legal assistance provided early after the occurrence of these kinds of family law problems may prevent the occurrence of the other problem types.

#### Conclusion and Discussion

This research shows that justiciable problems that are difficult to resolve are a common feature of the lives of low and moderate income Canadians. Almost half of all Canadians surveyed experienced at least one such problem over the three-year reference period. Experiencing multiple problems is relatively common. Fourteen per cent of all respondents experienced three or more types of problems. Thus we know that problems with legal aspects are ubiquitous.

Many of the problems experienced by respondents were the types that could threaten the security and well being of individuals and their families.

In particular, problems in three categories show a very high incidence relative to other types; money and debt, consumer and employment problems. This is consistent with accounts of the problems experienced by the poor<sup>38</sup> and appears to reflect the manner in which financial troubles are a defining feature of the lives of lower income people. These problems are not necessarily those that an attorney in private practise would expect to bring to the law office.

<sup>37</sup> Pleasence, et. al., p. 37

<sup>38</sup> David Caplovitz, *The Poor Pay More*, The Free Press, 1963 and Laura Nader, *No Access to Law*.



They are more likely, to use Laura Nader's term, the *little injustices* that loom large in the lives of the lower income people. While they may not be justiciable problems in the sense that people are likely to go to the law, they may be those for which at least information about rights and obligations and forms of summary advice would be useful.

Respondents reported that they resolved about two thirds of problems. Among problems that were resolved, almost 30 per cent of respondents indicated that they felt the outcome was unfair. It is not known whether the outcomes of problems that had been resolved were by some external or objective standard fair or just. However, the perception by nearly one third of respondents that the outcome was unfair provides an indication that assistance with problems is required.

About one third of problems were unresolved. For about 46 per cent of the unresolved problems, respondents indicated that the situation had become worse. In a further 22 per cent of problems, respondents were unsure about whether the situation had become worse or not. This is a stronger indication to suggest that large numbers of people require assistance.

The extent to which people experience multiple problems is an indication of the extent of unmet need for assistance. The patterns of multiple problems point to particular areas in which assistance could be targeted to meet needs. A standard cluster analysis did not produce well-defined problem clusters. However, because relationship breakdown problems in the area of family law are important for policy reasons, these types of problems are the focus of more detailed study in this preliminary analysis. Family law problems are almost twice as likely as other problems to occur near the beginning of problem sequences. Family law problems are likely to be followed in

problem sequences by other types of problems. Other family law problems are strongly likely to follow relationship breakdown problems in problem sequences. In addition, a number of financial problems are likely to follow relationship breakdown problems. These are problems in the money and debt, consumer, employment and social assistance categories. This finding suggests another perspective on meeting needs. Early intervention in relationship breakdown problems may forestall the emergence of other family law problems and certain financial problems that occur in the wake of relationship breakdown.

Certain groups in the population appear to be more vulnerable to experience a number of conditions that suggest unmet need. These were the incidence of more than one problem, a greater likelihood of failing to resolve problems, to feel that outcomes were unfair for the problems that have been resolved, to indicate that unresolved problems became worse, to experience multiple problems and to experience long term persistent problems. There were statistically significant but weak relationships between membership in many demographic or vulnerable groups and the conditions reflecting heightened need. However, only a few of the relationships could be considered strong. In only a few cases did the odds ratio exceed approach or exceed 2.0 indicating that people in the group were twice as likely to experience the particular condition. This diffuse and generally weak quality of the relationships suggests that some generic factor other than those measured in the study may be important. One possibility is that an individual's sense of personal efficacy may be the underlying factor. A strong sense of personal efficacy may be crucial to the motivation and initiative associated with resolving one's problems. If this personal efficacy trait is widely distributed among the demographic and vulnerable groups, this

might explain the generally weak statistical relationships.<sup>39</sup>

There is some evidence that in general terms vulnerability may be increasing in Canadian society. Economic research on income patterns over more than four decades has shown an increasing disparity in incomes between the lowest and highest income earners.<sup>40</sup> More recent research shows that the growing income disparity may reflect important structural changes in the Canadian economy. A growing segment of the labour force is in unstable forms of non-standard employment, such as part-time work and marginal self-employment. These workers have lower and frequently interrupted incomes, limited access to benefits such as medical care, dental care and no pension benefits other than the minimal public pension system.<sup>41</sup> This long-term structural change in the economy may signal the need for increased legal assistance.

Family law problems relating to relationship breakdown were singled out for more detailed analysis. Although these problems were not the most frequently occurring, they are important because of the emotional and material consequences for both the separating partners and, especially, for children. The analysis suggests that relationship breakdown may be a trigger for other

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<sup>39</sup> Dr. Susan McDonald, a colleague at the Department of Justice, suggested this on the basis of her experience working on the legal problems of the poor from South America.

<sup>40</sup> Rene Morrisette, John Myles, and Garnet Picot, "Earning Polarization in Canada, 1961 to 1991" in Keith G. Banting and Charles M. Beach (eds.), *Labour Market Polarization and Social Policy Reform*, School of Policy Studies, Queen's University, Kingston, Ontario, 1995 and Clarence Lockhead and Vivian Shalla, "Delivering the Goods: Income Distribution and the Canadian Middle Class, Perceptions Vol. 20, Canadian Council on Social Development, 1996.

<sup>41</sup> Richard P. Chaykowski, *Non-standard Work and Economic Vulnerability*, Canadian Policy Research Networks, Ottawa, March 2005.

problems that threaten the financial security of the family. This is one good argument for providing assistance as early as possible for family law problems. It is also an argument for taking a holistic approach to the provision of legal services to deal with problems that may be systemically related.

### **Appendix One: Sample Completion Results**

The total dialled sample was 98,769. 25 per cent (or 24, 268) of the dialled sample was removed. This included 22 %, or 21,447, of the sample representing telephone numbers not in service, non-residential numbers, changed numbers and duplicate listings. 3 per cent of the sample, or 2821, were removed due to the presence of a language barrier.

This left a new base dialled sample of 74,501 (98,769 – 24,268).

Of the new base sample, 95 per cent, or 70,000, of the calls were incomplete for the following reasons.

- In 13 per cent, or 9144 calls, the respondent did not meet the income cut-offs.
- In 43 per cent, or 29,960 calls, there were no answers, answering machines or busy signals.
- In 7 per cent, or 4735 calls, the respondent was not available.
- In 37 per cent, or 26,161 calls, respondents refused or terminated the interview before completion.

Therefore, net completions totalled 4501 (74,501 – 70,000).

The sample size was 4501. The margin of error for the total sample was +/- 1.5 per cent 19 times out of 20. Margins of error are greater for sub-samples.