UNDERSTANDING THE GENDER PENSION GAP IN CANADA.

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PAY EQUITY OFFICE
BUREAU DE L'ÉQUITÉ SALARIALE

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This report was prepared by Dr. Elizabeth Shilton. The views expressed in this report are those of the principal researcher and do not necessarily reflect the views of the Pay Equity Office.

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Executive Summary

The gender pension gap in Canada measures the gender difference in combined income from Canada's 3-pillar system of retirement income instruments: Old Age Security/Guaranteed Income Supplement, Canada Pension Plan/ Quebec Pension Plan and private pensions (including RRSP/RRIF income). In 1976 - the first year for which we have meaningful statistics – that gap stood at 15%, and it has stubbornly refused to close despite substantial increases in overall retirement income and massive advances in women's labour market engagement and earnings since that date. It currently stands at about 17%, which means that for every dollar of retirement income men receive, women get only 83 cents. This report examines the roots of the gender pension gap, providing a detailed look at how Canada's retirement income instruments operate to convert gender wage gaps and gendered hours of paid work into lower pensions for women. The report identifies two primary obstacles to closing the gap: Canada's increasing reliance on private pensions, the most gender-unequal pillar in the 3-pillar system, and women's unequal share of unpaid family care work, which impedes their capacity to increase their share of paid work.

Parts 2-4 focus on the design of Canada's retirement income system. Part 2 discusses the two foundational choices made in the 1960s which continue to sustain the gender pension gap: to make public pensions primarily dependent on labour market earnings; and to keep public pensions small so private pensions, also dependent on labour market earnings, would have room to grow. It deconstructs data showing that private pensions contribute the largest share of overall pension income but at the same time make the largest contribution to the overall gender pension gap. Part 3 focuses on Canada's public pensions (OAS/GIS and CPP/QPP), noting important structural features that buffer the impact on women of labour market factors and mitigate the gender pension gap. Part 4 examines the mechanics of private pensions, showing how their growing role in Canada's overall retirement income system functions to sustain a very substantial gender pension gap despite positive changes over time to women's labour force participation and earnings.

THE GENDER PENSION GAP IN CANADA CURRENTLY STANDS AT ABOUT 17%, WHICH MEANS THAT FOR EVERY DOLLAR OF RETIREMENT INCOME MEN RECEIVE, WOMEN GET ONLY 83 CENTS.

Parts 5 and 6 address the gender differences in labour force metrics which account for most of the gender pension gap within Canada's current system design. Part 5 deals with earnings and identifies the gender difference in paid working time as the system's most substantial contributor to pension inequality. Part 6 locates the root of that difference in the gendered distribution of unpaid family care work. Part 7 brings an intersectional lens to bear on some of the distributive issues embedded in the gender pension gap, explaining how the system leverages systemic disadvantage in the labour market, privileges traditional heterosexual marriage and penalizes single mothers. Part 8 explores the potential impact of the COVID-19 pandemic on the gender pension gap, concluding that the pandemic's disproportionate impact on women affected both their labour market engagement and their role in family care, and may well continue to do so absent policy intervention.

Finally, Part 9 draws on the report's findings to identify reforms to both pension systems and labour market/family policies that would produce more equal pensions. The report notes the potential of recent enhancements to the CPP/QPP and reforms to the cost of child care to improve women's pensions, but recommends further reforms, noting that private pensions may well expand the gender pension gap if allowed to increase their market share of overall pension income. The report calls for comprehensive gender-based analysis and on-going monitoring of Canada's retirement income system to ensure that it lives up to its constitutional obligation to provide equal protection and equal benefit of the law to both women and men.

INTRODUCTION TO THE GENDER PENSION GAP.

Women and Retirement Income in Canada

Over the last half century, average retirement incomes in Canada have increased by over 60 percent in inflation-adjusted dollars.[1] Canada's war on elder poverty has been called "the major success story of Canadian social policy in the twentieth century."[2] An evaluation of the Canada Pension Plan conducted in 2014 found that "Canada's retirement income system is recognized internationally as among the strongest in the world".[3] Canada currently earns a solid B in the Mercer CFA Institute 2023 Global Pension Index, ranking 12th out of 47 countries around the world on an index rating systems for adequacy, sustainability and integrity (with a C+, the US ranks 22nd).[4] A recent Canadian government publication observed with some complacency that "there is general consensus that the retirement income system is a policy success story".[5]

But all Canadians do not benefit equally from this system. While retirement incomes have increased substantially for all Canadians, men have consistently done much better than women. Masked by the good-news data is a substantial and persistent gender pension gap. Figure 1.1 tracks Canada's gender pension gap over the 45-year period from 1976 to 2021. It graphically illustrates the unpalatable fact that while that gap has fluctuated over the years, there has been no meaningful shrinkage. In fact, for most of that period, the gender pension gap was significantly higher than in 1976. Women retiring today face a gender pension gap discouragingly similar to the gap faced by the women who were retiring when they were just embarking on their careers.[6]

CANADA HAS ONE OF THE BEST RETIREMENT INCOME SYSTEMS IN THE WORLD. BUT ALL CANADIANS DO NOT BENEFIT EQUALLY FROM THE SYSTEM.

1 In 1976, average retirement income for Canadians was $24,800 in 2021 dollars. In 2021, the average was $40,200. Statistics Canada. Table 11-10-0239-01 *Income of individuals by age group, sex and income source, Canada, provinces and selected census metropolitan areas.*

2 Lars Osberg, "Poverty Among Senior Citizens: A Canadian Success Story":170. See also J-C Ménard and A. Billig, A., *Intergenerational Balance of the Canadian Retirement Income System*, which credits the Canada Pension Plan/Quebec Pension Plan with bringing the poverty rate among seniors down from 37 percent in 1971 to 6 percent in 2008. This report notes that "Canada enjoys one of the lowest old-age low-income rates compared to other OECD countries" (7).

3 Canada, ESCD, *Summative Evaluation of the Canada Pension Plan Retirement Pension and Survivor Benefits, 1992-2012.*

4 Mercer CFA Institute 2023 Global Pension Index.

5 Canada. Library of Parliament. *Canada's Retirement Income System*: i.

6 While there is no official definition of a "full career" in Canada, it takes 39-40 years of average earnings to qualify for a full pension under the Canada Pension Plan: see Part 3.

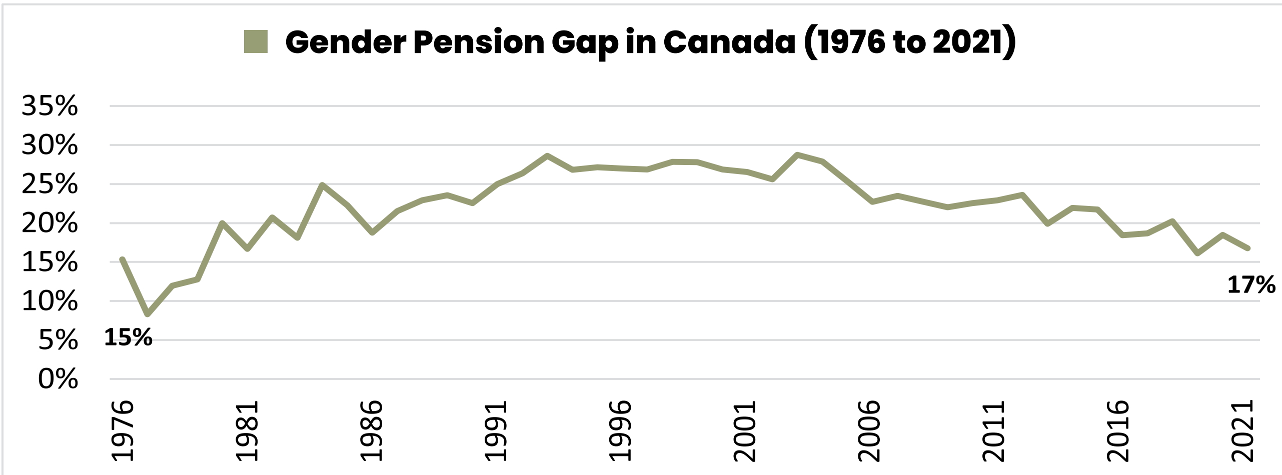


Figure 1.1. Source: Ontario Pay Equity Office, based on Statistics Canada. Table: 11-10-0239-01, *Income of individuals by age group, sex and income source, Canada, provinces and selected census metropolitan areas.* Age 65 and over +, *in Constant 2020 dollars.*

What exactly is the gender pension gap, and why should it concern us? Figure 1.1 is generated using the definition provided by the Organization for Economic Cooperation and Development (OECD): a gender pension gap is "[a] gap in retirement income"[7] calculated as "the difference between the average retirement income of men and women in the latest year available. It is expressed as a percentage of men's average pension and is calculated over the population of pension beneficiaries aged 65+ for comparability purposes across countries."[8] The OECD's focus is on income generated by national retirement systems.

In Canada, this means the combined income from three sources: Old Age Security and Guaranteed Income Supplement, Canadian Pension Plan/Quebec Pension Plan, and private pensions. The gender pension gap is by no means the only measure of the welfare of older women in Canada. Since it is based on averages, it does not reflect important distributive issues; we will look more closely at this in Part 7 through an intersectional lens. It does not include income from registered instruments designed with more general savings objectives in mind, such as Tax-Free Savings Accounts (TFSAs).[9] It does not reflect income from investments held outside registered accounts or employment after age 65 which is becoming increasingly common. It does not reflect the housing wealth that sustains some retirees, particularly in major urban centres.

7 Somewhat confusingly, Statistics Canada applies the label "retirement income" only to income from private pensions. In most international analyses and in this report, the term "retirement income" includes all income from national retirement income systems, including both public and private pensions.

8 OECD, *Towards Improved Retirement Savings Outcomes for Women*: 1.1. Like the OECD and StatCan, this report uses a common proxy for retirement: age 65+. This does not capture all retirement income, but it reflects most of the income generated by the retirement income system and provides a consistent basis for international comparisons.

9 Some analysts do consider TFSAs as part of the retirement income system: see, for example, Canada. Library of Parliament Canada's Retirement Income System.

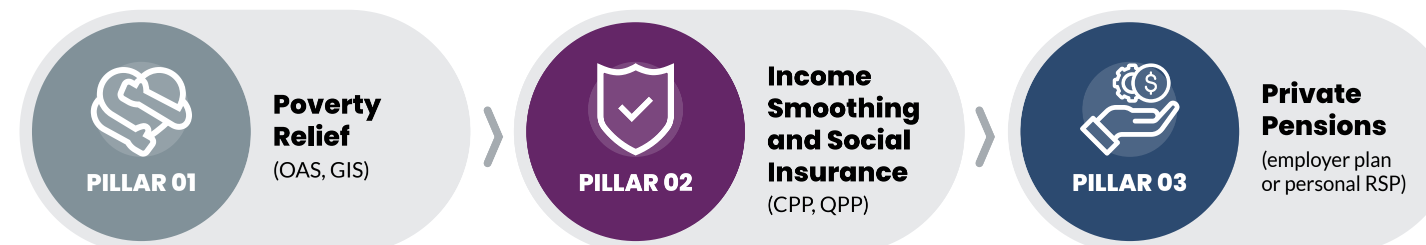
Despite its limitation, however, the gender pension gap provides important insights into the role of gender within the overall retirement income system.

In a country constitutionally committed to gender equality, tracking the gender pension gap tells us whether our retirement income system is delivering "equal benefit of the law" on the basis of sex. In Canada, it is clearly not doing its job. The gender pension gap means that for every dollar men receive in retirement income women get 83 cents, a reality that helps fuel a substantial gender poverty gap among older Canadians. In 2020 some 200,000 more women than men aged 65+ lived below Canada's low-income cut-off. Twenty-one percent of women aged 75+ had incomes below that cut-off, a shocking 51 percent higher than the still-alarming 13.9 percent of men of similar age.[10]

The persistence of the gender pension gap is a fundamental flaw in Canada's retirement income system. To fix it, we need to identify the factors and mechanisms within Canada's retirement income system that account for the gender-unequal results we see in Figure 1.1. Once we understand why we have a gender pension gap, we can look for effective remedies. This research report is a contribution towards that goal.

The gender pension gap has its roots in the foundational architecture of Canada's retirement income system, an issue we will look at more closely in Part 2. Like most member countries of the OECD, Canada's retirement income system conforms to an international template that has come to be called the three-pillar (or three-tier) system.[11] This template addresses a variety of policy objectives, typically achieved by assigning differing roles to each pillar. **Pillar 1** focuses on poverty relief; its defining characteristics are that it is public, universal, and provides a uniform basic benefit to all who qualify. **Pillar 2** addresses the twin objectives of individual

The Foundational Architecture of Canada's Retirement Income System



10 Statistics Canada. Table 98-10-0102-01 *Low-income status by age, gender and year: Canada, provinces and territories, census metropolitan areas and census agglomerations with parts.* This data reflects after-tax incomes (LIM-AT), representing the median after-tax income of private households, adjusted for household size.

11 The term "three-pillar system" gained currency in the 1990s from the World Bank's influential 1994 publication *Averting the Old Age Crisis: Policies to Protect the Old and Promote Growth.*: 10. In its biennial publication *Pensions at a Glance*, the OECD uses the term "tiers" rather than "pillars". The relationship of Canada's system to the international multi-pillar template is discussed in Canada, Library of Parliament, *Canada's Retirement Income System*, and Office of the Superintendent of Financial Institutions Canada (OSFI), *Multi-Pillar Pension Systems.* Neither Canadian publication addresses the gender pension gap within such systems.

"income smoothing" (distributing income evenly across the life course), and social insurance (collective protection against financial risks to retirement wellbeing, such as longevity risk and investment risk). Pillar 2 is mandatory and typically (although not always) public. In sharp contrast to Pillar 1 pensions, however, Pillar 2 pensions are contributory and firmly tethered to labour force participation, with contributions linked to earnings from paid work, and benefits linked to contributions. Many countries stop there, providing what they view as adequate retirement income within a mandatory public system. Some countries, including Canada, go on to provide public support for a third pillar, which allows additional scope for income smoothing. Similar to Pillar 2, its foundational principle is labour market engagement; **Pillar 3** rewards strong labour force participation and higher earnings with higher income on retirement. Unlike Pillar 2, however, Pillar 3 instruments are voluntary and private (i.e. market-based) rather than state-sponsored, although they are "incentivized" in various ways through the income tax system.

Canada's retirement income system fits very comfortably within this three-pillar template. Pillar 1 is Old Age Security and the Guaranteed Income Supplements (OAS/GIS). Pillar 2 is the Canada Pension Plan (CPP) for residents of most of Canada and the Quebec Pension Plan (QPP) for Quebec residents. Together, Pillars 1 and 2 constitute Canada's public pension plans; in Part 3 of this report, we'll look at how these public pillars operate. Pillar 3 includes income from two types of voluntary private pensions: workplace pension plans (also called registered pension plans or occupational pension plans) and "personal pensions" generated by Registered Retirement Savings Plans and their companion Registered Retirement Income Funds (RRSP/RRIFs). We'll look in detail at private pensions in Part 4.

All OECD countries have gender pension gaps, although these gaps vary greatly in size. The OECD average is 26 percent, while individual gaps range from 3 percent in Estonia to 47 percent in Japan.[12] By OECD standards of measurement, Canada's gender pension gap clocks in modestly below average at 23 percent.[13] The wide range highlights the important point that while the common template provides the defining features of each pillar, that template plays no part in answering such critical questions as how prominent a role each pillar has in achieving overall retirement income targets, or whether mitigation measures are in place within the system to buffer the impact of labour market inequalities on women. These are national design choices, reflecting national values and policy objectives. Different nations make different choices, with important consequences for national gender pension gaps.

12 OECD, *Towards Improved Retirement Savings Outcomes for Women*. The comparison among countries is not precise, since the OECD table uses the latest data available, which in some cases came from earlier years. In most cases including Canada, the report uses 2015 data. The OECD gives a special nod to Canada for a fifteen percent decline in its gender pension gap since the early 2000s (1.2). Unfortunately, as we see on Figure 1.1, this decline was preceded by an equally large increase in the two decades leading up to the early 2000s. In fact, Figure 1.1 shows that Canada's gender pension gap has shown no material improvement since 1976.

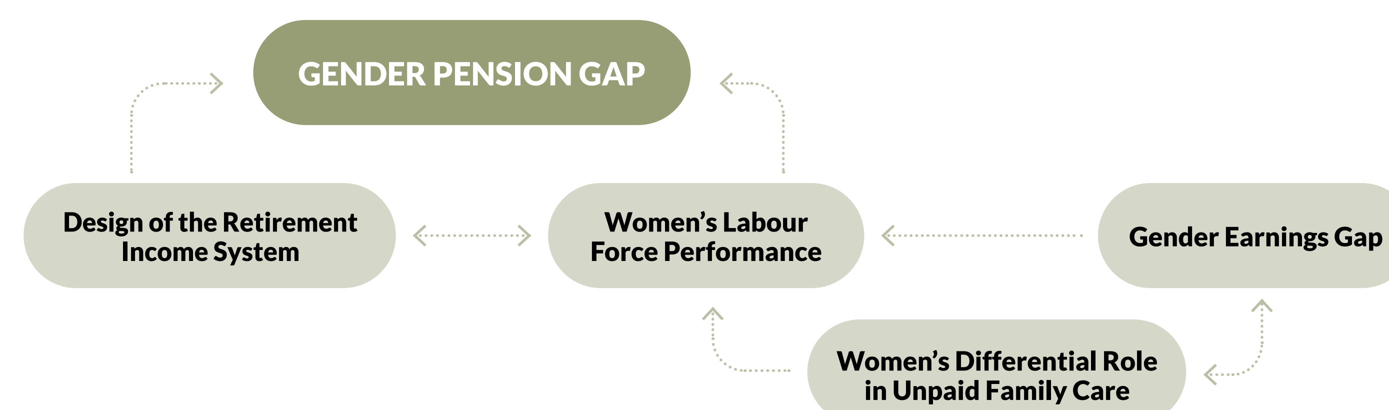
13 The OECD's table comparing gender pension gaps uses median income figures rather than the averages used in Figure 1.1, yielding a gap for 2015 very slightly larger than Figure 1.1.

What Drives the Gender Pension Gap in Canada?

Why does Canada have a significant gender pension gap? Canada's foundational dependence on labour market-driven pensions is an important part of the answer to this question. In the 1960s when fundamental decisions were being made about the design of Canada's retirement income system, two out of three pillars of the system – Pillars 2 and 3 – were explicitly calibrated to reward the amount of time spent in the labour force, and earnings from paid work. Pillars 2 and 3 have always made an outsize contribution to overall retirement income in Canada, and that contribution has grown over time. In 1976, the combined share of Pillars 2 and 3 was about 64 percent. By 2021, that share had increased to over 78 percent.[14]

In the 1960s, both the gender labour force participation gap and the gender earnings gap[15] were well over 50 percent. It was inevitable that a system dependent on these labour force metrics would generate better pensions for men than for women. At the time, this was not regarded as a problem, since (as we shall see in Part 2), the pension policy objective for women was grounded in a set of social and economic arrangements in which men's participation in the labour force supported women's unpaid work caring for the family. Times have changed since then. Women have entered the paid labour force in very large numbers, and their earnings have risen exponentially. But women still bear the primary burden of unpaid family care, and they still earn less than men. Gender gaps in labour force participation and earnings continue to reflect women's systemic reality, and as we shall see in Parts 5 and 6, there is little evidence that those gaps will close any time soon.

TO GET AT THE REAL DRIVERS OF THE GENDER PENSION GAP IN CANADA, IT IS NECESSARY TO GET AT THE COMPLEX LINKS



14 Author's calculations based on Statistics Canada. Table: 11-10-0239-01.

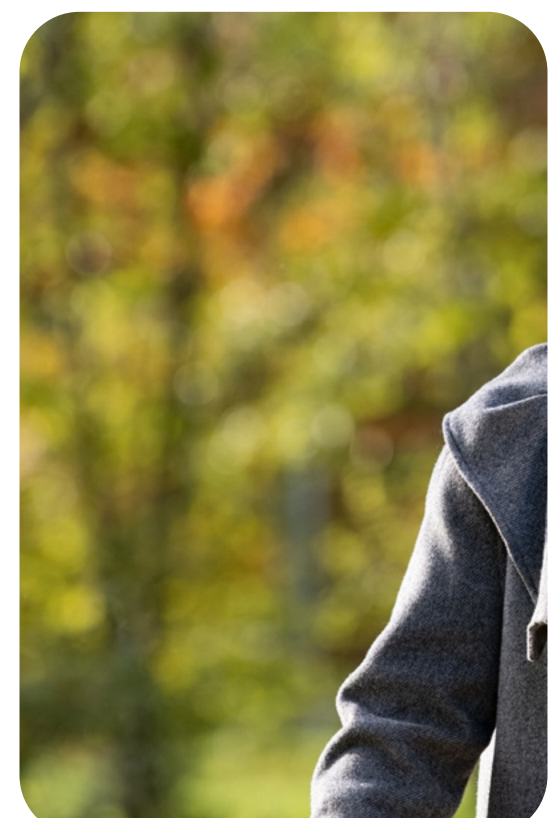
15 For an explanation of this term, see definitions box in Part 5.

Because retirement income systems like Canada's are so dependent on labour market metrics, gendered work patterns and the gender earnings gap are often called the "drivers" of the gender pension gap.[16] But this is misleading. When we focus on labour market factors alone, we miss the crucial role played by system design. Labour market factors do not influence retirement income in a vacuum. They influence outcomes only because the system is designed that way. To put it bluntly, there is a gender pension gap because Canada designed a retirement income system that yields poorer results for people who lead lives characterized by lower pay and fewer hours spent in paid work – lives typically lived by women. To get at the real drivers of the gender pension gap in Canada, it is necessary to get at the complex links between two poles of analysis: first, the design of Canada's retirement income system, and second, women's labour force performance and the key factors that shape that performance – the gender earnings gap, and women's differential role in unpaid family care.

WHAT DRIVES THE GENDER PENSION GAP IN CANADA? WHEN WE FOCUS ON LABOUR MARKET FACTORS ALONE, WE MISS THE CRUCIAL ROLE PLAYED BY SYSTEM DESIGN.

A Road Map for this Report

Parts 2-4 of this report focus on the first of these poles: the design of the retirement income system. Part 2 explores the construction of Canada's three pillars against a backdrop of gendered social and economic arrangements that depressed women's earning levels and hampered their labour market participation. It highlights Canada's increasing reliance on Pillar 3 to generate retirement income, and the outsize contribution of Pillar 3 pensions to the overall gender pension gap. Part 3 focuses on Canada's public pensions (Pillars 1 and 2), with particular emphasis on the structural features that mitigate the gender pension gap. Part 4 examines the mechanics of private (Pillar 3) pensions, exploring how their growing role in Canada's overall retirement income system functions to maintain the gender pension gap despite positive changes to women's labour force participation and earnings. Parts 5 and 6 shift to the second pole: women's labour force performance. Part 5 examines the gender earnings gap, exploring both hourly and annual gaps and their impact on the gender pension gap. Part 6 grapples with the gender gaps in both labour market participation and hours worked, with a focus on the widely acknowledged root of those gaps: the gendered distribution of unpaid family care work. Part 7 brings an intersectional lens to some of the distributive issues embedded in the gender pension gap, seeking to identify what groups of women have been particularly marginalized by the current system, and which groups have benefited. Part 8 reviews existing Canadian research on the impact of the pandemic on the labour force drivers of the gender pension gap. While this part is necessarily somewhat speculative, it is nevertheless an important detour in a report that attempts to path towards more equal retirement income for a generation of women and men whose careers and family lives have been blown off course by the pandemic in important ways. Finally, Part 9 explores measures that might mitigate the impact of Canada's increasing reliance on voluntary private pensions, address current challenges in achieving a less gendered distribution of family care, and lead to fairer, more equal pensions for women.



16 See, for example, Lis and Bonthuis. Drivers of the Gender Gap in Pensions; OECD, Towards Improved Retirement Savings Outcomes for Women: 1.1.

GENDER AND THE CONSTRUCTION OF CANADA'S RETIREMENT INCOME SYSTEM.

Women, Work and Pension Design

Pensions for the male-breadwinner family

This part focuses on how gender was accounted for in the key design decisions that shaped Canada's retirement income system. We look first at how the system's initial architects understood women's social and economic lives, and how that understanding was reflected in the design of the system. We then examine how social and economic changes influenced subsequent pension reform efforts. Finally, we consider the consequences for the gender pension gap of these design decisions, on a pillar-by-pillar basis.

THE NEW [RETIREMENT] BENEFIT, WHICH SUBSEQUENTLY BECAME PILLAR 1 OF THE SYSTEM, WAS A UNIVERSAL FLAT BENEFIT THAT MADE NO DISTINCTION IN QUALIFYING CONDITIONS ON THE BASIS OF SEX.

PILLAR 01

GENDER NEUTRAL
Poverty Relief
(OAS, GIS)

Precursors of the pension plans that ultimately coalesced into Canada's retirement income can be found as far back as the 19th century, when workplace pension plans first began to emerge in large enterprises like the railways. The first experiment with federal old age pensions, the Old Age Pension Act of 1927, offered a subsistence benefit to indigent Canadians who could navigate the bureaucracy and survive the punitive means test. However, it was not until the mid-20th century that Canadian lawmakers began to take seriously the state's role in retirement income provision, and to think about pension provision as a system. The basic framework of the system as we know it began to take shape in the 1950s and 60s, the era of global welfare state construction following the Second World War.[17] With an initial policy focus on poverty relief, the federal government replaced the 1927 Old Age Pensions Act with the Old Age Security Act in 1952. The new benefit which subsequently became Pillar 1 of the system, was a universal flat benefit, that made no distinction in qualifying conditions on the basis of sex.[18] When it came time to design more pillars, however, the gender issue was more complex.

By the 1960s, there was significant pressure in Canada for the state to play a larger role than simply poverty relief in helping Canadians to meet their retirement income needs. The result of that pressure was a federal-provincial agreement to

17 See Shilton, Empty Promises: 70-77, 17-18. 63-67.

18 Many European countries did build explicit sex distinctions into their systems, in particular by establishing earlier qualifying ages for women to receive public pensions. Up until 2020, the retirement age in the UK was 60 for women, and 65 for men: OECD Pensions at a Glance 2005:183.

create a second pillar public pension plan, the CPP/QPP. The “gender-neutral” version of the story of how Canada’s three-pillar retirement income system was constructed has been well and thoroughly told elsewhere, and need not be reviewed here.[19] However, a brief dip into that history is necessary to explain the design decision critical to the evolution of the gender pension gap: the decision to allocate much of the work of generating retirement income to Pillar 3 and private pensions.

The public debate about the introduction of a public second pillar pension plan confronted Canadian policy makers with a need to decide where to draw the line between Pillar 2 and a private pension system that already existed and was determined to expand. Against serious push back from the business community, in particular the financial services industry which saw a public plan as competition against its private pension products, the government persevered with the decision to create a mandatory public pension plan. However, a compromise compatible with Canada’s general liberal preference for market solutions to welfare issues kept the new public pension plan small, leaving plenty of room for the growth of voluntary private pensions.[20]

> **THE LAWMAKERS OF THE DAY WERE WELL AWARE OF THE EXCLUSIONARY IMPACT THAT LABOUR MARKET-BASED PENSIONS WOULD HAVE ON WOMEN... LAWMAKERS REASONED THAT... WOMEN WHO HAD BEEN SUPPORTED BY THEIR HUSBANDS’ WAGES WOULD CONTINUE TO BE SUPPORTED BY THEIR HUSBANDS’ PENSIONS.**

PILLAR 02

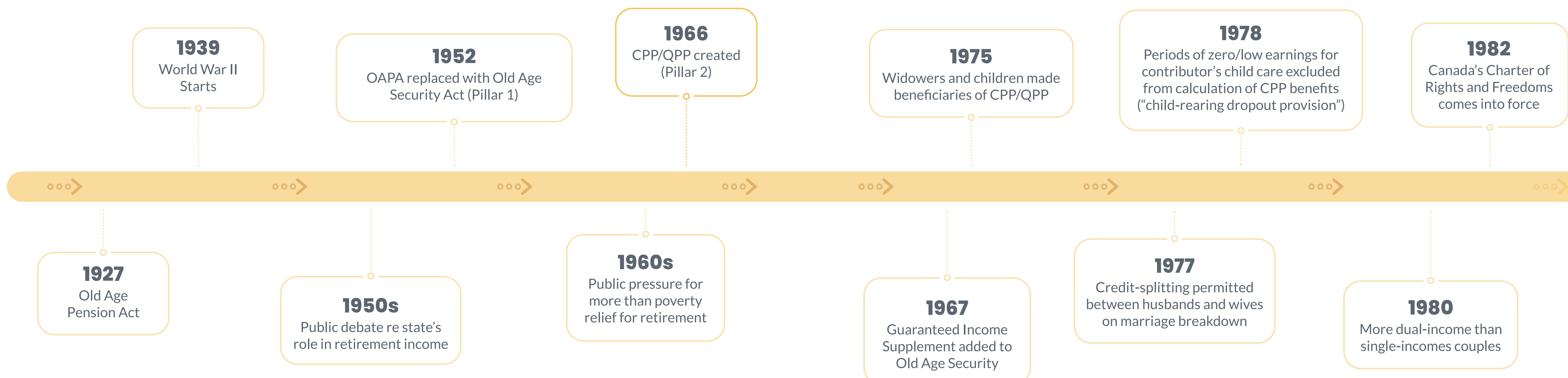
INCOME SMOOTHING AND SOCIAL INSURANCE

Male Pattern Employment

(CPP, QPP)

Following the international pattern, the CPP/QPP was firmly tethered to labour force engagement, with both benefits and contributions linked to time and earnings in the labour force.

In the 1960s, the heyday of the male-breadwinner family, most adult women were not labour market participants, and those who were reaped considerably smaller rewards for their work than their male counterparts.[21] The lawmakers of the day were well aware of the exclusionary impact that labour market-based pensions would have on women. However, their focus was on the homemaker: the wife and mother who took care of home and family while her husband earned the family’s living. Lawmakers reasoned that while homemaking women were not likely to accumulate their own pension credits, they would nevertheless benefit from improved pensions for workers. Women who had been supported by their husbands’ wages would continue to be supported by their husbands’ pensions once those



19 See Banting, The Welfare State and Canadian Federalism; Bryden, Old Age Pensions and Policy-Making in Canada; Myles, Old Age in the Welfare State; Myles and Teichroew, “The Politics of Dualism: Pension Policy in Canada”.

20 See Shilton. Empty Promises: 57-78 and sources cited therein. The politics behind this process were byzantine, and Ontario played a somewhat obstructive role as champion of the insurance industry.

21 Female labour force participation in Canada stood at less than 30 percent in 1961: Fortin and Huberman, “Occupational Segregation and Women’s Wages in Canada: An Historical Perspective”: S11.

husbands retired. If their husbands predeceased them, the preferred solution built into the CPP from the outset was the survivor pension for dependents of contributors.[22]

The survivor pension was a decidedly partial solution. First, it did nothing for single or divorced women, or women with same-sex partners, all of whom gained little from pension structures designed to reward what has elsewhere been called "male pattern employment"[23]. Second, it was a backward-looking approach. While female labour force participation was still low in the 1960s, it was about to surge by leaps and bounds. However, the survivor pension remained the mainstay of the governmental response to the gender pension gap throughout most of the 1970s, with little attention paid to the impact of CPP/QPP design on women in the labour force. There were some modest woman-friendly amendments to the CPP/QPP in the 1970s, impelled by demographic pressures and women's activism in the wake of the milestone 1967 Report of the Royal Commission on the Status of Women.[24] For example, while survivor pensions had initially been available only to dependents of male contributors, in 1975 they were extended to widowers and children of female contributors – a sop to formal equality that did nothing to shrink the gender pension gap. More effective were two 1977 changes: (1) the legislation was amended to permit credit-splitting between husbands and wives on marriage breakdown; and (2) a "child rearing drop-out provision" was introduced that would permit contributors to exclude from their benefit calculation periods of no or low earnings during which they were parenting a child under the age of seven.[25]

Marriage as an economic partnership

These changes were limited, however, and none of them affected private pensions. By definition, benefits from workplace pension plans had always been linked directly to labour markets. A set of first-generation regulatory statutes enacted in the 1960s along with the CPP/QPP built some rights-based guardrails around Pillar 3. But despite the fact that private plans long enjoyed public support from the income tax system, the new statutes left these plans largely to their own devices when it came to benefit design. By the 1980s it was time for a more comprehensive round of pension reform that included both public and private pensions. Women's groups, spurred by the newly enacted Charter of Rights and Freedoms, played an active role in ensuring that their issues were on the agenda in what became known as the "Great Pension Debate".[26]

> **PENSION PROBLEMS ARE WORSE FOR WOMEN.**
>
> **–The 1982 Green Paper**

BECAUSE WOMEN:

- are often in jobs less likely to offer pensions;
- change employers more frequently than men, so lose pension benefits;
- lose contribution time when they take time off to raise children;
- receive no pension if they are full-time homemakers;
- pay higher fees for annuities because they're priced using sex-based mortality tables;
- live longer.

The upsurge in women's labour force participation (discussed in Part 6) had stripped the notion of the male-breadwinner family of much of its legitimacy. By 1980, there were more dual-earner couples than single-earner couples,[27] and pension issues affecting women in the paid labour force could no longer be brushed under the table. The federal government's 1982 Green Paper, Better Pensions for Canadians, acknowledged significant flaws in the way the existing system served women. Some of those flaws flowed from the systemic impact on women of general weaknesses in the system. As the Green Paper put it: "Pension problems are worse for women. Women are often in jobs where they are less likely to be offered pension plan coverage. Women who are covered by pension plans are more likely to lose any pension benefits they may have accumulated because they change employers more frequently than men. Many pension plans do not provide adequate survivor benefits and few married women benefit from the pension credits of their spouses upon marriage breakdown."[28] Other flaws were more unambiguously gendered; the Green Paper noted that absences from the labour force to raise children had a negative impact on pensions, annuities were more expensive for women because they are priced using sex-based mortality tables (discussed in Part 4), inflation had a more detrimental

22 Survivor pensions were calculated as a percentage of the pension to which contributors had been entitled. Initially, these pensions were payable to widows, disabled widowers, with a lesser amount for dependent orphans. For a detailed explanation of the evolution of these benefits, see Canada. Phase 11 Evaluation of Survivor Benefits and Other Features of the Canada Pension Plan, Final Report.

23 See Shilton, "Gender Risk and Employment Pension Plans in Canada" (2013) 17 Canadian Labour and Employment Law Journal 101, 112. Part 7 will have more to say about women excluded from survivor benefits.

24 The role of women's activism is discussed in Kodar, "Pensions and Unpaid Work": 188-199.

25 Credit-splitting became effective in 1978. The child rearing drop-out provision took longer; while it was enacted in 1977, it was not implemented immediately because of lack of sufficient provincial support. The last two holdouts, Ontario and British Columbia, finally conceded in 1983: Kodar, "Pensions and Unpaid Work": 192.

26 Kodar, "Pensions and Unpaid Work": 188-199.

27 Moyser, "Women and Paid Work": 11, Chart 6. By the mid 2010s, the number of families with a single male-breadwinner had fallen to just above 10 percent; see Statistics Canada. The rise of the dual-earner family with children, Canadian Megatrends, 2016.

28 Canada. Department of Finance, Better Pensions for Canadians (also known as the "Green Paper"): 13.

29 Green Paper, 13. See also Shilton, Empty Promises: 70-71.

impact on women because they live longer, and homemakers earned no pensions in their own right.[29] The critique reflected in the Green Paper implicitly rejected the "male-breadwinner" concept of gender relations that had prevailed in the 1960s, in which women were viewed simply as dependents. It drew on a newer gender narrative that embraced marriage as an "economic partnership", in which joint decisions about the allocation of paid and unpaid work are made within the boundaries of individual families. The economic partnership approach produced a suite of gender-friendly reforms to the CPP/QPP. Building on the reform of the 1970s, the legislation was amended to permit credit-splitting on separation as well as divorce. It also now offered the option to pool CPP/QPP pension credits and divide the ensuing pension between spouses on retirement, giving women larger pensions in their own name. In addition, survivor benefits no longer ceased on remarriage. These provisions were available both to married and to common law spouses (but not yet to same-sex spouses).[30]

The newer economic partnership approach was also reflected in the new, second-generation regulatory statutes of the 1980s and 1990s that governed workplace pension plans. For example, the new statutes now required plans to offer optional survivor benefits. Previously, when a plan member died before retirement, the surviving spouse (usually a widow) was not entitled to any benefit from the contributor's pension. A new death benefit now required that when a plan member died before retirement, plans must pay out to a surviving spouse the commuted value of the contributor's pension. The definition of "spouse" encompassed both married and common law couples.[31] New rules also improved women's participation in workplace plans. Employers who

POLICY MAKERS RESPONSIBLE FOR THE DESIGN OF CANADA'S RETIREMENT INCOME SYSTEM WERE NOT OBLIVIOUS OR INDIFFERENT TO GENDER, THEY NEVERTHELESS CONSTRUCTED AND MAINTAINED A SYSTEM DESIGNED TO DELIVER ITS BEST REWARDS FOR MALE PATTERN EMPLOYMENT.

provided plans for full-time employees were now obliged to provide equivalent coverage for part-time employees. Waiting periods for plan membership could not exceed two years. From this brief history, we learn that while the policy makers responsible for the design of Canada's retirement income system were not oblivious or indifferent to gender, they nevertheless constructed and maintained a system designed to deliver its best rewards for male pattern employment. They acknowledged the need to remove discriminatory

30 From the outset, it was possible for common law couples to claim spousal status under the Canada Pension Plan Act, S.C. 1964-65, c.65, but recognition as spouses was discretionary and subject to strict limits (s.63).

31 Shilton, Empty Promises: 73-77. The definition of "spouse" varies from jurisdiction to jurisdiction.

barriers to plan membership, and to provide some accommodations for women's unique relationship to bearing children, such as the child rearing drop-out provisions (discussed in more detail in Part 3). But in general, they placed their faith in the social and economic forces that had already pushed the male-breadwinner family off centre stage. There were still substantial gender gaps in both labour force participation and earnings, but in the 1980s those gaps appeared to be slowly closing. The optimistic view was that with women now entering the labour force in large numbers, they

THE OPTIMISTIC VIEW WAS THAT WITH WOMEN NOW ENTERING THE LABOUR FORCE IN LARGE NUMBERS, THEY WOULD EVENTUALLY ADAPT TO THE SYSTEM, EMBRACE MALE PATTERN EMPLOYMENT, AND EARN MALE PATTERN RETIREMENT INCOME. THOSE POLICY MAKERS WERE NOT COMPLETELY WRONG.

would eventually adapt to the system, embrace male pattern employment, and earn male pattern retirement income.[32]

Those policy makers were not completely wrong. Women's labour force participation rates have continued to rise since the 1980s, and the gender earnings gap has continued to narrow. These changes have unquestionably improved women's pensions. As we shall see in Parts 5 and 6, however, these pension-positive trends have been tapering off over the past two decades, and we will not see convergence any time soon. At the same time, there have been other developments in the system pushing back against women's strengthening relationship with the labour force: in particular, the increasing role of Pillar 3 that our policy makers built into system design.

The section below deconstructs the gender pension gap, examining each pillar independently to see how it contributes to the gender pension gap. As we will see, while Pillar 3 delivers the highest proportion of women's retirement income to women, it is the least effective in pension equality. Women's labour market participation and earnings have seen very significant growth. But from the perspective of the gender pension gap, the growth of Pillar 3 means that women have been swimming upstream against a very strong current. Their improved labour market performance merely keeps them from being swept backwards; it has not assisted them in catching up with men.[33]

32 See Kodar, "Pensions and Unpaid Work": 203-4.

33 This metaphor was borrowed from F.D. Blau and L.M. Kahn, "Swimming Upstream: Trends in the gender wage differential in the 1980s, Journal of Labor Economics 15(1) (1997): 1.

Deconstructing the Gender Pension Gap: A Close Look at Some Key Data

Each pillar generates a different gender pension gap. In Figure 1.1 (Part 1), we looked at a graph showing the combined impact of all three retirement income pillars: OAS/GIS, CPP/QPP and private pensions. However, as we can see from Figure 2.1, once these pillars are disaggregated, they generate quite different gender pension gaps.

Women have always done best from OAS/GIS (Pillar 1), the "poverty relief" pillar, where the gender gap is negative (i.e. women do better than men). OAS pays a gender-neutral flat rate; however, women do better here because they are poorer and are disproportionately likely to receive the means-tested GIS in addition to basic OAS.[34] The CPP/QPP (Pillar 2) most closely tracks the consolidated gender pension gap, although it dropped modestly below that of the consolidated gap in the mid-1990s, and has maintained that position ever since. While Pillar 2 continues to generate a significant gender gap – 16 percent in 2021 – it is decidedly more hospitable to women than Pillar 3, which at 25 percent favours men by a much larger margin. However, we can also see from Figure 2.1 that private pensions now serve women somewhat better than they did prior to the reforms of the 1980s and 1990s. Pillar 3's gender pension gap has shrunk since 1976, from a peak of 30 percent to its current level of 25 percent.

This leaves us with an important question. While Canada's retirement income system was stacked in favour of male pattern employment, lawmakers have introduced law reform measures over the years designed to mitigate the full impact of gender inequality in the labour market. (We'll look more closely at these initiatives in Parts 3 and 4). The measures introduced in the 1970s and 80s begin to show up in retirement incomes at least by the late 1990s. In addition (as we'll see in Parts 5 and 6), while gender inequality in the labour market has certainly not disappeared, it has been significantly reduced. Figure 2.1 shows us that while the gender pension gaps in Pillars 2 and 3 peaked in the early 1990s, they have (mostly) declined since then. As a combined result of legal reforms and gendered changes in the labour market, there has been meaningful shrinkage in the gaps in these pillars. So why does the gender pension gap still stand at virtually the same level it stood at in 1976?

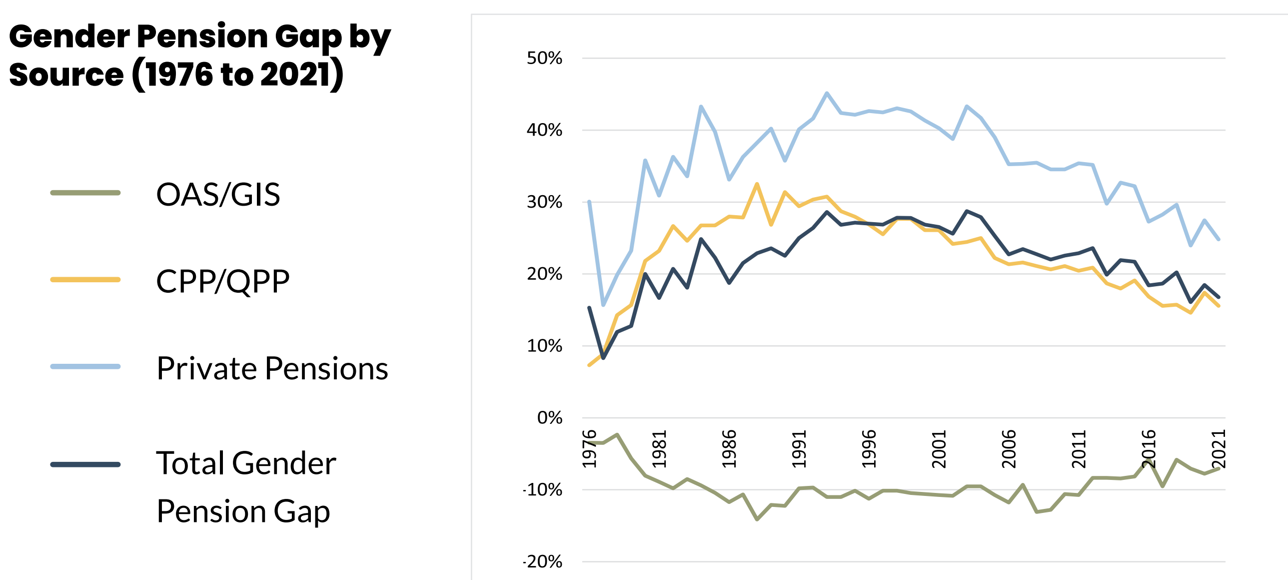


Figure 2.1. Source: Pay Equity Office, based on data from Statistics Canada. Table: 11-10-0239-01, Income of individuals by age group, sex and income source, Canada, provinces and selected census metropolitan areas. *OAS/GIS Income by Gender in Constant 2021 dollars, Age 65+.*

34 Another factor may be that the OAS benefits are reflected in StatCan tables as net benefits, meaning that the clawback for higher-income Canadians (discussed in Part 3) has been deducted. The clawback hits men harder, since they are more likely to have higher incomes than women.

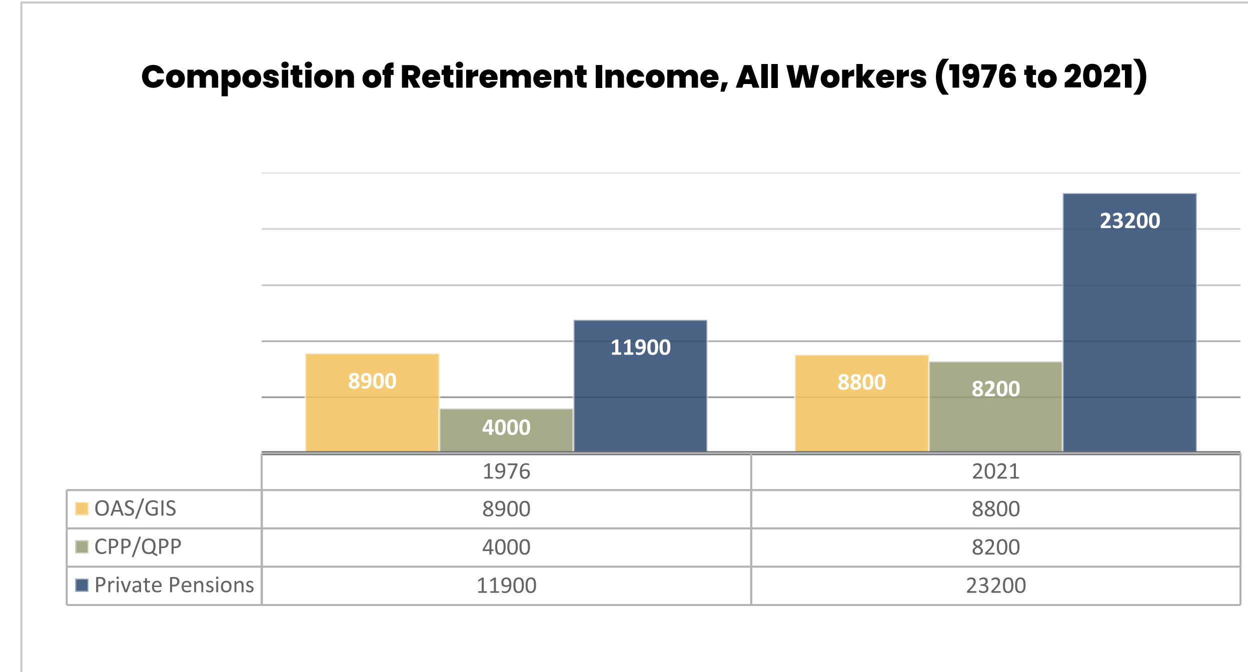


Figure 2.2. Source: Author's calculation based on Statistics Canada. Table: 11-10-0239-01. *Retirement Income by Source in Constant 2021 dollars, Age 65+*

Private pensions contribute an increasing share of total retirement income

The answer to this question lies at least in part in the extent to which the boundary between public and private pensions has shifted within the overall design of the system between the 1960s and 70s and the present day. Private pensions, which generate the largest gender pension gap, now contribute a significantly larger share of overall retirement income in Canada than they did in 1976.

Figure 2.2 breaks down the composition of annual retirement income by source for all Canadians age 65+ from 1976 to 2021. From the mid-1990s to the present day, income from OAS/GIS has remained relatively constant (in 2021 dollars) at just under $9,000. CPP/QPP has slightly more than doubled; this is unsurprising, since the plan only came into effect in 1966. More surprising is what has happened in Pillar 3, which has also almost doubled. In 1976 private pensions delivered an average of $11,900 a year, or 47 percent of total retirement income.

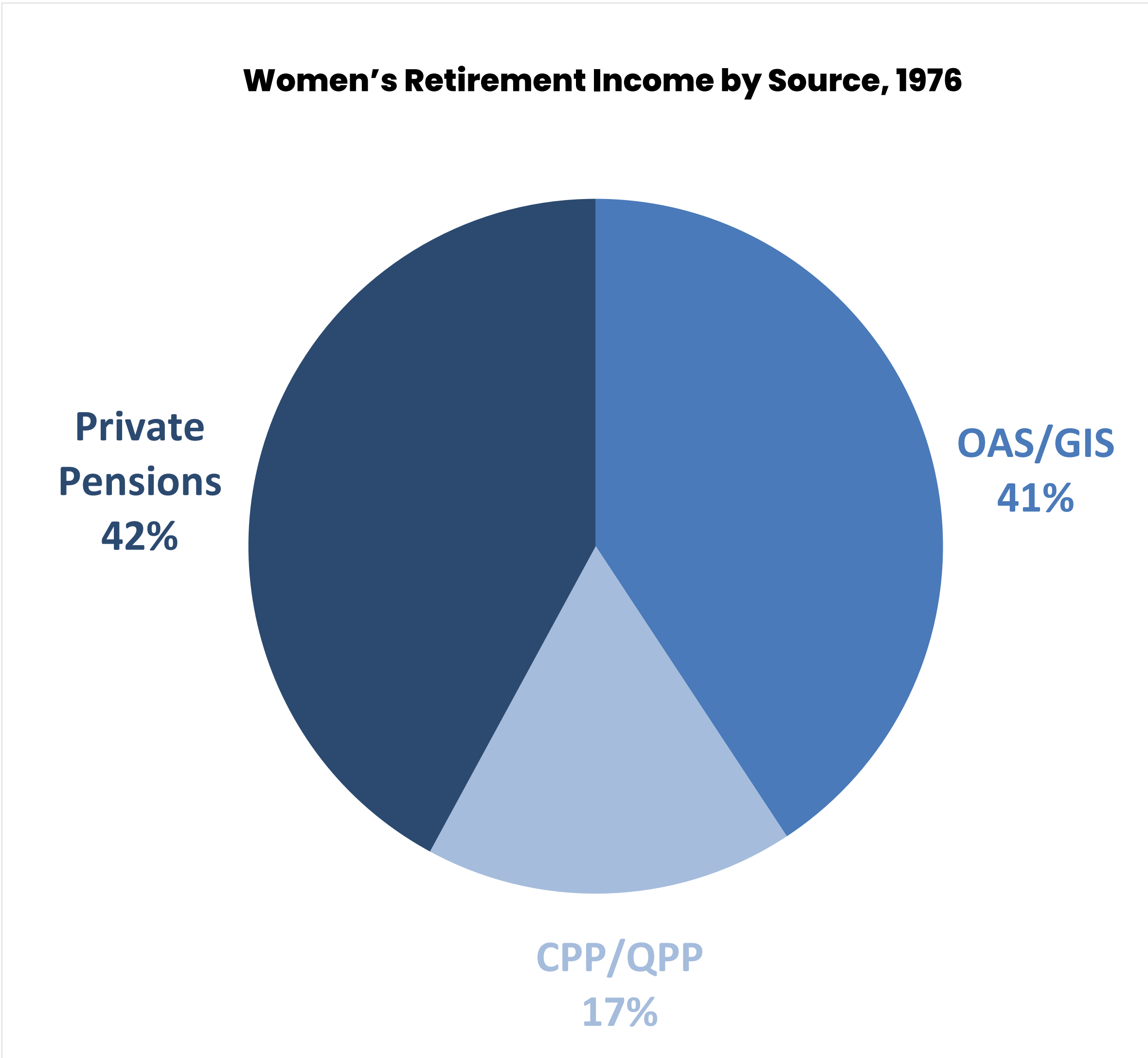


Figure 2.3. Source: Statistics Canada. Table: 11-10-0239-01, *Women's Retirement Income by Source in Constant 2021 dollars, Age 65+*

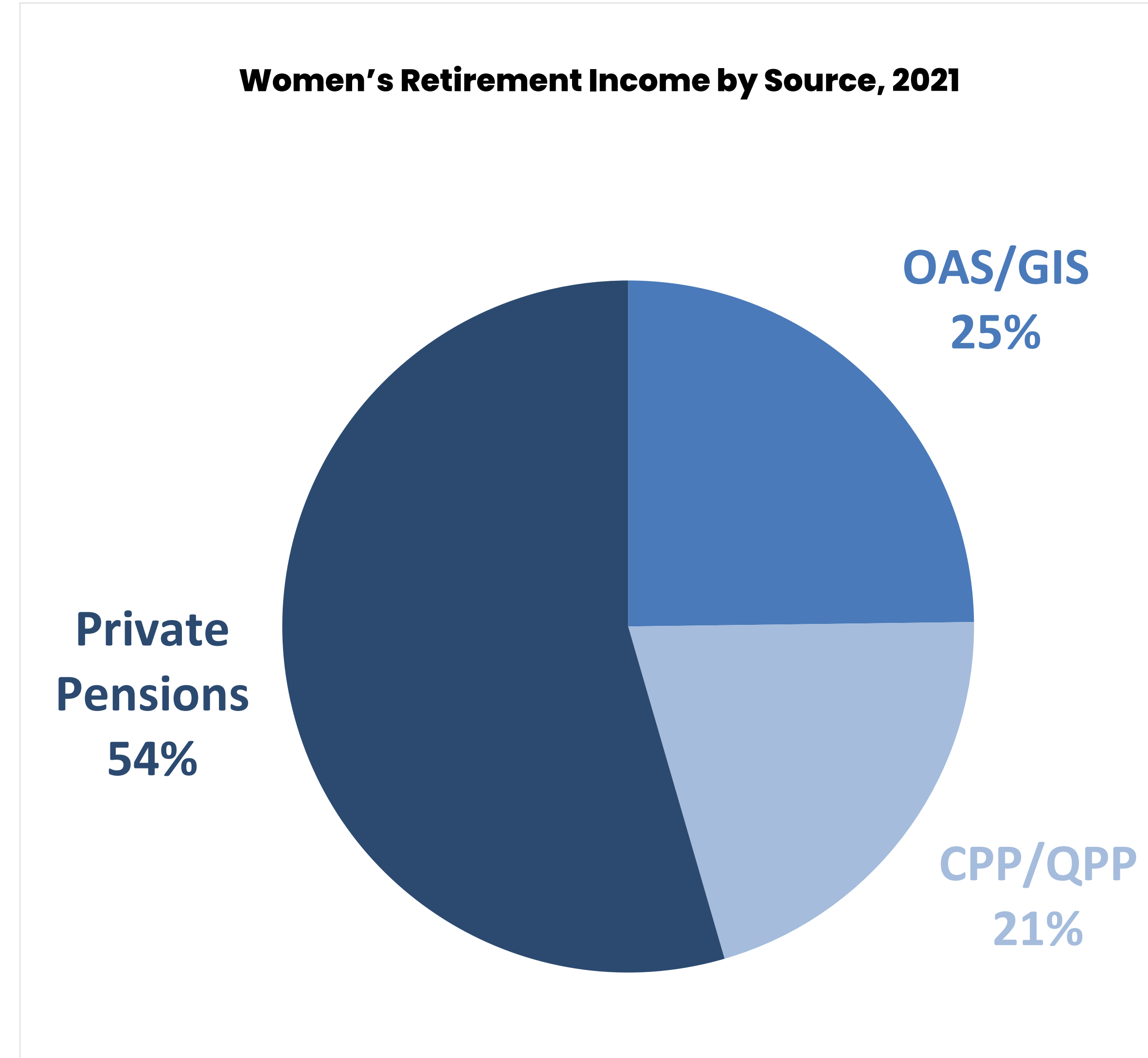


Figure 2.4. Source: Statistics Canada. (2023). Table: 11-10-0239-01. *Women's Retirement Income by Source in Constant 2021 dollars, Age 65+.*

In 2021, they delivered $23,200, accounting for 57 percent of the total. This outsize increase in private pension income accounts for much of the rapid and significant increase in overall retirement income we have seen in Canada over the last half century.

The increase in private pensions has benefited both men and women; overall, the rising tide of private pensions has raised all boats. But it has not been good news for the gender pension gap. It means that a share of women's retirement income in which women's benefits were more than equal to men's has been replaced by a share in which those benefits are much less equal. We can see this more clearly if we compare the distribution of women's retirement income in 1976 and 2021.

Figure 2.4 shows us that public pensions are now only 46 percent of the total, overtaken by private pensions which now contribute twice as much as Pillar 1 pensions to women's total retirement income. Since Pillar 1 is where women do best, and Pillar 3 is where women's systemic disadvantage is worst, this shift has not been good news for the gender pension gap.

Why is the gender pension gap so much higher in Pillar 3 than in the other pillars? To answer that question, we need to understand more about how Canada's three pillars really operate. The next two parts will identify key elements within Canada's public and private pensions that help to explain their differential impacts on the gender pension gap, and why private (Pillar 3) pensions are particularly problematic for gender pension equality.

CANADA'S PUBLIC PENSIONS.[35]

Pillar 1: Old Age Security and the Guaranteed Income Supplements (OAS/GIS)

This Part takes a detailed look at how Canada's public pensions are structured, with a view to uncovering how design decisions affect gender outcomes, and a focus on those operational aspects that have the most significance for the gender pension gap. The core component of Canada's first pillar is Old Age Security (OAS), a public, universal, flat-rate non-contributory pension provided at the federal level. Introduced in 1952 in response to an international effort to stabilize economies in the wake of two World Wars and the Great Depression, OAS was intended primarily as a poverty relief measure. Eligibility is quite straightforward for those who were born in Canada and have resided here all their lives; they are automatically entitled to full OAS benefits. For those born outside of Canada qualifications are more complex.[36] All who currently reside in Canada and have done so legally for at least ten years prior to reaching age 65 qualify for either full or partial OAS;[37] those with forty years of residence qualify for the full benefit, while those with shorter periods get partial pensions. As the fundamental building block of Canada's tiered system, full OAS is intended to replace about 14 percent of the average income of working Canadians. OAS is a taxable benefit, and since 1980 it has been subject to a clawback, formally known as the OAS Pension Recovery Tax, which is collected through the income tax system from higher income earners.[38]

In 1967, the federal government introduced a new component of the OAS program: the Guaranteed Income Supplement (GIS). GIS was originally intended as a temporary measure to assist in the transition to the new CPP/QPP (which would not begin to deliver meaningful benefits for a number of years), and to supplement OAS for the already retired who had no opportunity to participate in the CPP. A non-taxable income-tested supplement to the OAS for those with little or other income, it has remained an invaluable part of the system.

35 For a capsule summary of the key events in the evolution of Canada's retirement income system see Canadian Museum of History, The History of Canada's Public Pensions.

36 The government provides an on-line tool to help determine who qualifies: see Canada. https://publications.gc.ca/site/archivee-archived.html?url=https://publications.gc.ca/collections/collection_2018/servcan/SG5-97-2018-2-eng.pdf

37 Partial OAS benefits for those with shorter periods of residence were first introduced in 1977.

38 In 2022, the clawback applied to incomes over $81,761; at the rate of $0.15 per dollar, OAS was entirely clawed back once incomes reached $134,626. While GIS is non-taxable, it is required to be reported on tax returns. The OAS/GIS figures in https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1110023901. The modest non-taxable supplements some provincial governments pay to GIS recipients are categorized by StatCan as "other government transfers" rather than income and do not factor into the gender pension gap. This includes Ontario's GAINS program.

However, some amendments over the years have expanded eligibility and modestly improved benefits:

- Age of eligibility: Initially age 70, this was reduced to 65 on a phased-in basis beginning in 1969.[39]

- Spousal/survivor allowances: In 1975, an income-tested allowance was introduced, payable to spouses of OAS/GIS recipients aged 60-64 who had no independent sources of income. "Spouse" definition included common law as well as married spouses. In 1985, the allowance was extended to the widows and widowers of OAS/GIS recipients.[40]

- Indexation: Since 1972, both OAS and GIS have been fully indexed to prices.

- Inclusion of same-sex spouses: In 2000, spousal benefits became available to same-sex spouses.

- Improvements in benefit levels: Once indexation was implemented, there were few increases in OAS benefits until July 2022, when the benefit for those 75+ was increased by 10 percent. Improvements to Pillar 1 have focused on the income-tested GIS and have included increases in the amount of income GIS recipients are permitted to earn without penalty, and ad hoc top-ups to benefits.

- Right to defer benefits: An option was introduced in 2013 to defer receiving OAS between ages 65 and 70 on what is called an "actuarially neutral" basis; those who defer receive a higher pension once they begin to receive benefits. This option has mostly been used to date by high-income earners who are still in the labour force.[41]

Overall, these changes have likely benefited women. While the system is formally gender-neutral, Figure 3.1, a snapshot of the system in June 2022, shows important gender differences in how it is distributed.

Canadians with OAS/GIS Income, June 2022	Male	Female
Number of Canadians 65+	3,219,000	3,672,000
Number with OAS/GIS Income	3,182,223	3,763,704
Percentage of total with OAS/GIS Income	45.8%	54.2%
Number with OAS Income only	2,256,066	2,438,100
Percentage of Total with OAS Income Only	48.1%	51.9%
Number with GIS Income	926,157	1,325,604
Percentage of total with GIS Income	41.1%	58.9%

Figure 3.1. Source: Author, based on Canada. Employment and Social Development Canada, The CPP & OAS Statsbook, 2022, Table 41.AP.

39 In 2012, the Conservative government announced that it would increase from 65 to 67 beginning in 2023. However, the subsequent Liberal government reversed that change prior to it coming into effect.: OECD Pensions at a Glance 2017: How Does Canada Compare?: 1.

40 The allowance program is discussed in detail in Canada, Employment and Social Development Canada. Evaluation of the Old Age Security, Guaranteed Income Supplement Report, Phase II: 6-16:

41 The take-up of the deferral option is discussed in Canada, ESDC, Evaluation of the Old Age Security, Guaranteed Income Supplement Report, Phase II : 17-24.

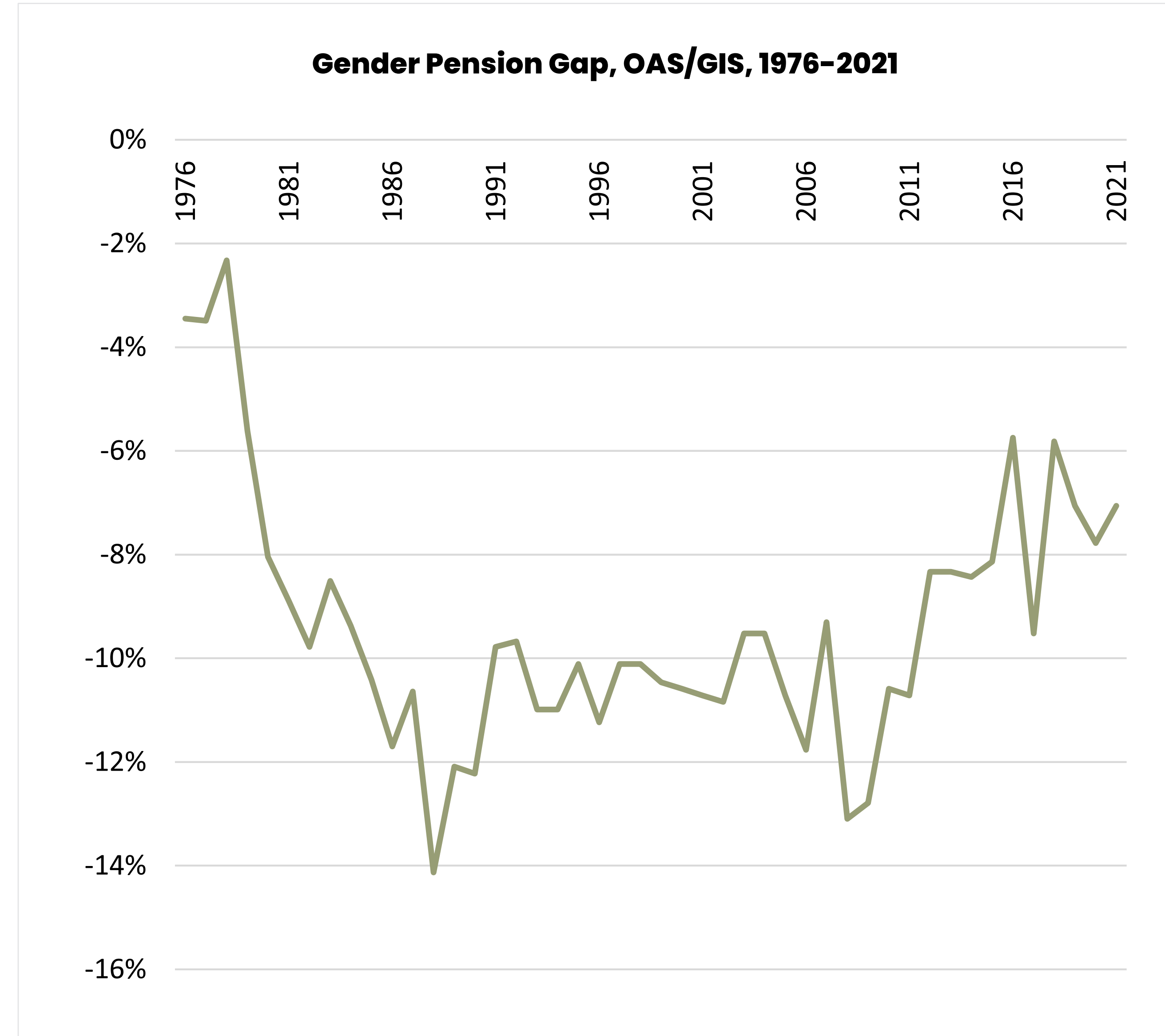


Figure 3.2. Source: Pay Equity Office, based on data from Statistics Canada. Table: 11-10-0239-01, *Constant 2021 dollars, Age 65+.*

Pillar 1 has the smallest gender gap, and the only one that favours women. Ironically, its negative curve is accounted for by women's income disadvantage. Women are disproportionately likely to be found among GIS recipients, which adds to their overall OAS/GIS income.[42] In addition, women's lower earnings (an issue we will look more closely at in Part 5) means that they are less likely to have retirement incomes that attract clawbacks.

42 Women receive 86 percent of GIS benefits. Fifty-nine percent of women receive GIS benefits, compared to 14 percent of men: Canada. https://www.canada.ca/en/employment-social-development/corporate/reports/departmental-plan/2023-2024.html

Pillar 2: The Canada Pension Plan/Quebec Pension Plan (CPP/QPP) [43]

PILLAR 02

Income Smoothing and Social Insurance
(CPP, QPP)

The Canada Pension Plan (CPP) and its sister plan, the Quebec Pension Plan (QPP), are mandatory, contributory public pension plans introduced into Canada in 1966 as a joint federal-provincial initiative.[44] For most Canadians, Pillar 2 is the CPP, while the QPP serves residents of Quebec. While the plans are substantially parallel, they are not complete mirror images, and this report does not purport to capture all the differences between the two plans. To avoid misleading readers, it refers only to the CPP when discussing plan details, although Pillar 2 is generally referred to as CPP/QPP.

Canada's Pillar 2 benefit formula is primarily driven by time and compensation for paid work. As we see on Figure 3.1, the CPP/QPP has always generated a significant gender

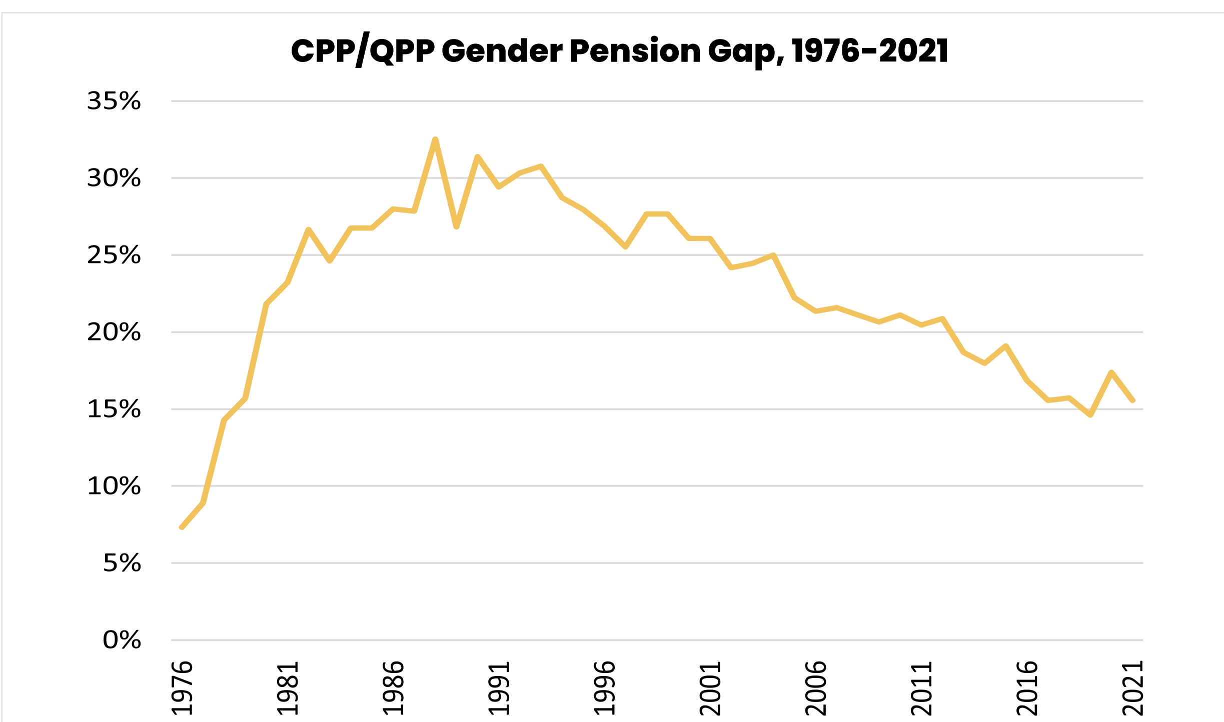


Figure 3.3. Source: Pay Equity Office, based on data from Statistics Canada. Table: 11-10-0239-01, *Constant 2021 dollars, Age 65+.*

43 Statistics Canada tables combine income received from these two plans.

44 A brief outline of the design and purpose of the CPP can be found in Canada, ESDC, Summative Evaluation of the Canada Pension Plan Retirement Pension and Survivor Benefits, 1992-2012: 3-8.

45 The Canada Pension Plan Enhancement (CPPE) introduced the concept of an Adjusted YMPE effective January 1, 2023.

pension gap favouring men. Contributions for the period covered by Figure 3.3[45] are pegged to "pensionable earnings": earnings that fall between a ceiling known as the "Yearly Maximum Pensionable Earnings" (YMPE) and a floor known as the "basic exemption amount". The YMPE in turn is roughly pegged to overall average wage levels in Canada and changes annually. In 2021, the most recent year for which CPP/QPP pension gap data is currently available, the YMPE was $61,600 in 2021. (For 2024, it is $68,500). The basic exemption has remained unchanged at $3,500 since the mid-1990s. As initially designed, the plan was intended to provide a benefit at age 65 capped at 25 percent of average annual pensionable earnings between the ages of 18 and 65. From the outset, it has been possible to take an early retirement pension between age 60 and 65, with an actuarially reduced benefit. Amendments in 2012 introduced the option of deferring pension up to age 70, with a commensurate actuarial enhancement.

In 2021, the maximum CPP pension was $1,203.75 monthly for those retiring at age 65. (As of January 2024, it increased to $1,364.60). The average retirement pension actually paid by the plan was significantly less than that: in 2021, only slightly more than half the maximum: $605.44.[46] The amount paid to women is substantially lower. The CPP's official statistical report for December 2021 shows an average monthly retirement pension of $711.92 for men, and only $514.82 for women, a difference of $197.10 and a gender gap of 28 percent, much larger than the 16 percent gap we see for 2021 on Figure 3.3.[47] However, the "retirement pension" takes account only of the pension earned through a member's own contributions, whereas the Pillar 2 income reflected in Figure 3.3 includes survivor benefits, which flow disproportionately to women and constitute an important segment of women's Pillar 2 income.[48]

The CPP benefit formula is primarily driven by time and compensation for paid work. From the outset, however, it has contained a number of built-in social insurance features that mitigate the impact of gender inequality in the labour market. First and almost certainly foremost, participation in the plan is mandatory and universal. That universal coverage applies to "pensionable earnings". This includes not just earnings from full-time work but also from part-time, casual and gig work, and self-employment income. Also critical is the fact that all contributions earn immediate entitlement to a pension benefit; anyone who has made even a single CPP contribution will be entitled to a CPP benefit on reaching a qualifying age. Pension specialists would describe this feature as "immediate vesting", a concept explained more fully in Part 4. In addition to immediate vesting, these entitlements accumulate within a single plan to produce a single pension; in the language of pension specialists, the plan offers seamless and complete "portability" of pension credits across different jobs and discontinuous periods of work. An important

46 Canada. EDSC. 2020-21 Canada Pension Plan Annual Report, 7-11.

47 Canada. EDSC. Monthly Statistical Bulletin, Canada Pension Plan/Old Age Security, December 2021: Table 10. This data includes retirement pensions paid to those aged 60-64 and is therefore not entirely comparable to the data used to construct Figure 3.3.

48 Women currently collect 88 percent of the total paid out monthly in CPP survivor pensions: Canada. EDSC. Monthly Statistical Bulletin, Canada Pension Plan/Old Age Security, September 2023; Table 15.

feature is the survivor pension for spouses of deceased contributors. The survivor pension is a maximum of 60 percent of the retirement benefit to which the contributor was entitled. Survivors who are contributors themselves will not get that full amount, because the overall combined benefit (i.e. the retirement benefit generated from contributory credits plus the survivor benefit) cannot exceed the maximum retirement benefit. This means that as women become increasingly entitled to their own retirement benefits, survivor benefits make a smaller contribution to their overall retirement income. However, as we have seen, the gender pension gap based on CPP retirement pensions alone is considerably wider than the gap generated by combined retirement and survivor pensions. An evaluation of the survivor benefit conducted for the CPP in 1997 concluded that it makes a particularly sizable contribution to the pensions of low-income women, and that "[i]n spite of changing conditions there is strong evidence for a need for surviving spouse's benefits".[49]

Also significant for women are the "drop-out" features of the plan. From the outset the benefit calculation formula included "forgiveness" for some periods of low income, through what has become known as the "low income drop-out" feature. The standard contribution period for earning the maximum benefit spans a very lengthy 47 years, from age 18 to 65. However, the "low income drop-out" feature means that the actual benefit calculation excludes a certain number of years of low earnings (initially 15 percent, now 17 percent). Effectively, this means that the benefit is based on contributions for an individual's 39-40 years of highest earning, rather than the full 47 years. This benefits women, since they typically have fewer years in the labour force and lower earnings.

Since 1977, the basic "low income drop-out" feature has been supplemented by a "child-rearing drop-out" provision which permits years of low or no income, while parenting children under the age of 7, to be excluded from CPP benefit calculation. This benefits those who earn less than the YMPE during the years when their children are young. In two-parent families, either parent can take advantage of this provision. However, it more likely benefits women because they are more likely to reduce their paid working time during this phase of their children's lives (see Part 6).

Over time, the CPP has accumulated additional features designed to shrink the gender pension gap:

- Since 1974, benefits have been indexed to prices. Since indexation protects the value of pension benefits against price inflation, it benefits women, who are statistically more likely to live longer.
- Since 1978, spouses have had the option of splitting CPP credits on marriage breakdown. This is not compulsory, but it does provide a mechanism for divorcing women to acquire CPP pension credits in their own names.
- Since 1987, options for spouses to share pension credits have been expanded:
    - The option to split credits on marriage breakdown has been expanded to include separation as well as divorce.
    - Spouses can pool credits and divide them to equalize their pensions on retirement;
- Surviving spouses can retain their survivors' pensions even after remarriage; previously they lost the benefit on remarriage.
- Since 2000, spousal rights have been extended to same sex spouses, both married and common law.

A VERY RECENT REFORM, THE CANADA PENSION PLAN ENHANCEMENT (CPPE) INTRODUCED IN 2019, ALSO HAS POTENTIAL TO SHRINK THE GENDER PENSION GAP.

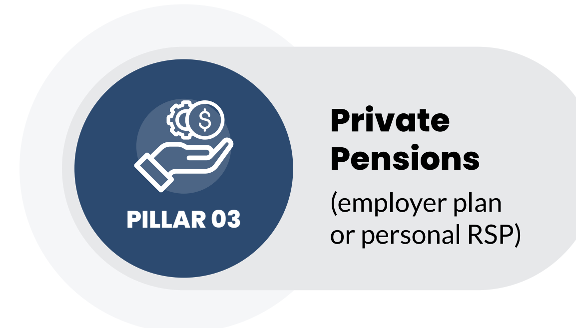
A very recent reform, the Canada Pension Plan Enhancement (CPPE) introduced in 2019, also has potential to shrink the gender pension gap. As discussed above, Pillar 2 was originally designed to replace 25 percent of income up to a maximum that reflected Canada's general overall average. The new CPPE raises both the target replacement rate, and the maximum amount of income the plan can replace. The enhancement has two components. First, as of January 1, 2019, the target replacement rate increased from 25 percent to 33 percent of YMPE. Second, as of January 1, 2023, the YMPE ceiling itself was increased by 14 percent above average earnings to a figure called the Adjusted YMPE (AYMPE); contributions after that date will be made on the AYMPE. Canadians will have to wait quite some time to receive fully enhanced pensions, since the value of the enhancements will not be fully reflected in benefit payments until 2059 – some forty years after enhanced contributions commenced. However, it is anticipated that once both components of the enhancement are fully mature, Pillar 2 will replace 33 percent of total earnings for about 70 percent of Canada's workers.[50]

49 Canada. Phase 111 Evaluation of Survivor Benefits and Other Features of the Canada Pension Plan, Final Report, May 1997.

50 Canada. Canada Pension Plan Enhancement.

CANADA'S PRIVATE PENSIONS.

The Pillar 3 Universe in Canada



Canada's mandatory public pensions were initially designed to replace about 40 percent of earned income – more than poverty relief, but by no means adequate to ensure a comfortable and secure retirement. The shortfall between public pensions and adequate income replacement – often considered to be about 70 percent of pre retirement income, especially for lower-income Canadians[51] – was not an oversight by the system's architects. It was a deliberate choice, made initially in the 1960s and continuing to this day, to leave generous room for the expansion of voluntary private pensions.[52] That strategy has been successful; as we saw in Part 2, Pillar 3 is an ever-increasing proportion of overall retirement income for both men and women. However, the expansion of Pillar 3 has come at the expense of gender equality, since private pensions generate the largest gender pension gap within the system.

Pillar 3 pensions in Canada fall into two distinct categories. The first consists of pension plans linked to specific employment relationships, typically called workplace pension plans. They may also be referred to as occupational pension plans or registered pension plans (RPPs). Workplace pension plans currently contribute by far the largest share of Pillar 3 income in Canada; in 2021, they accounted for about 95 percent.[53] The second category consists of what have come to be called "personal pensions": savings vehicles for individuals called Registered Retirement Savings Plans (RRSPs), which must be converted to Registered Retirement Income Funds (RRIFs) at age 71 and liquidated over time to fund retirement. RRSP/RRIFs contribute the other 5 percent of private pension income.

Workplace Pension Plans

In their heyday in the late 1970s, workplace pension plans covered close to 47 percent of employees, and policy makers anticipated that this number would increase. Instead, coverage has been gradually declining. These plans now cover fewer than 40 percent of paid workers (see Figure 4.1). Workplace plans are tied directly to specific employment relationships, and up until recently have typically been employer-designed and -sponsored.[54] The most popular type of workplace plan remains the defined benefit

51 Not all analysts agree that a 70 percent replacement level is an appropriate target for retirement income systems, but it remains widely used: see Baldwin and Shillington, "Unfinished Business": 6-7.

52 See Part 2 of this report and Shilton, Empty Promises, 57-78.

53 Author calculations based on Statistics Canada, Table 11-10-0039-01 Tax filers and dependants, seniors with income by source of income and age. This table reports family income rather than individual income.

54 This category also includes multi-employer plans, union-sponsored plans and a growing number of jointly-sponsored plans: see Shilton, Empty Promises: particularly Chapters 2 and 8.

IN THE LATE 1970S, WORKPLACE PENSION PLANS COVERED CLOSE TO 47 PERCENT OF EMPLOYEES, AND POLICY MAKERS ANTICIPATED THAT THIS NUMBER WOULD INCREASE. INSTEAD, COVERAGE HAS BEEN GRADUALLY DECLINING.

(DB) plan, which pays regular, guaranteed and ascertainable benefits from retirement until death. From an employee perspective, DB plans are the "gold standard"; they "pool risk across broad populations, they allow higher returns on investment, and they provide a guaranteed benefit at retirement".[55] However, DB plans also require employers to bear the entire burden of the "investment risk" (the risk that money invested to provide retirement income will do poorly in financial markets and not be sufficient to cover pension payments) and "longevity risk" (the risk that individuals will outlive their retirement savings) inherent in pension plans. Employers with business models that depend on attracting long-service employees have historically been content to shoulder these risks, particularly back in the day when financial markets were more stable and regulatory standards less burdensome. However, shifting social, economic and legal environments over the past few decades have reduced the number of employers prepared to take on the costs of DB plans.

The decline of the DB plan has increased the popularity of the other leading type of workplace pension plan: the defined contribution (DC) plan. In DC plans, employers do not guarantee the payment of periodic benefits after retirement. Instead, they promise only to make fixed and regular contributions to the pension fund on behalf of employees. DC plans are essentially "capital accumulation plans"[57], functioning more like savings accounts than traditional pension plans. Employees know how much money stands to their credit in their plan at a given time, but not how much retirement income that money will generate. In DC plans, individual plan members bear both investment risk and longevity risk,

	Is based on:	And is also based on:	The amount of your retirement income is:	The investment risk is borne by:
(DB) Defined Benefit	How long you've worked for the company	Your salary while working – could be your final salary or your career average	Predictable payment amounts	Your employer
(DC) Defined Contribution	How much you've paid in	How your investments performed	Dependent on your savings and investments	You

55 Block, Galabuzi and King, Canada's Colour-Coded Retirement: 10.

56 This figure reflects a COVID 19-related drop in overall employment in 2020; the comparable figure in 2019 was only 37.1: Statistics Canada, Pension plans in Canada, as of January 1, 2021: 2.

57 See Canadian Association of Pension Regulators. *Guidelines for Capital Accumulation Plans.*

Key Data on Workplace Pension Plans, 2020	
Employees covered by workplace pension plans	39.7%[56]
Female employees covered by workplace pension plans	43.3%
Male employees covered by workplace pension plans	36.5%
Covered employees whose plans are DB plans	66%
DB plan members who are female	55.8%
DB plan members who work in the public sector	72.5%
Public sector plan members who are female	66%

Figure 4.1. Source: Author, based on Statistics Canada, *Pension plans in Canada, as of January 1, 2021.*

making the income they provide less predictable and less secure.[58] In general, employers typically contribute less to these plans than they do to DB plans, and expenses are often higher. The benefits generated by DC plans tend to be smaller than DB pensions.[59]

Historically men have done much better than women in workplace pension plans, which were primarily structured to recruit "career" employees and encourage male pattern employment: full-time, long and unbroken service for a single employer.[60] Women's jobs typically did not offer pensions. Where pension plans existed, women were often denied membership. Early plan membership rules contained explicit exclusions on the basis of sex. When explicit exclusions went out of style (or became illegal), they were often replaced by rules that effectively restricted plan membership to male (or male-pattern) workers: for example, rules that imposed lengthy waiting periods for plan membership, limited membership to permanent full-time employees, or made membership compulsory for men but not for women.

Regulatory statutes slowly eliminated many of these exclusionary strategies. By the mid-1980s, pension laws prohibited explicit sex discrimination, required employers to offer plans to part-time workers where full-time workers in similar jobs had pension coverage, and limited waiting periods for plan membership to two years.[61] By the late 1990s, a higher proportion of female employees than male employees belonged to workplace pension plans,[62] and by 2016, female members began to outnumber male members in these plans. However, these changes have not opened the

58 See Shilton, Empty Promises: 178 and accompanying note 32. Baldwin cautions against over-generalizing about the differences between DB and DC plans, pointing out that DC plan design is quite variable: Baldwin, "The Economic Impact on Plan Members", 35-36.

59 Baldwin, "The Economic Impact on Plan Members of the Shift from Defined Benefit to Defined Contribution in Workplace Pension Plans": 65.

60 Shilton. "Gender Risk": 112; Shilton, Empty Promises, Chapter 2.

61 Shilton, Empty Promises: 74.

62 OSFI, Registered Pension Plans (RPP) and Other Types of Savings Plans – Coverage in Canada.

WORKPLACE PENSION PLANS WERE PRIMARILY STRUCTURED TO RECRUIT "CAREER" EMPLOYEES AND ENCOURAGE MALE PATTERN EMPLOYMENT: FULL-TIME, LONG AND UNBROKEN SERVICE FOR A SINGLE EMPLOYER. WOMEN'S JOBS TYPICALLY DID NOT OFFER PENSIONS.

floodgates for women to join workplace pension plans. The percentage of employed women who are plan members hit its peak at about 40 percent in 2009, and has remained relatively stagnant for the past two decades.[63] The fact that women now outnumber men in plan membership is largely accounted for not by an increase in women members, but by a decline in the proportion of male employees belonging to workplace pension plans, from a high of almost 50 percent in the early 1990s to a current level of about 35 percent. This decline is closely related to shifts in the types of workplaces where workplace pensions are found. Declines in coverage have been steepest in the private sector, where male-dominated workplaces predominate. By contrast, coverage has held up much better in the public sector, in professions like education, healthcare and public administration that are largely female dominated.[64]

While the gender shift in the composition of plan membership now seems firmly established, it has not produced a comparable shift in the distribution of plan benefits. Where they belong to DB workplace pension plans, women are often disadvantaged by the benefit formula typical of such plans, in which pension entitlement is determined by multiplying earnings by years of service.[65] Prior to regulatory intervention, women's fundamental disadvantage was frequently compounded by plan design features that deprived short-term employees of the benefit of earned pension credits. For example, it was not unusual for early workplace pension plans

63 OSFI, Registered Pension Plans (RPP) and Other Types of Savings Plans – Coverage in Canada.

64 Canada. Statistics Canada. Pension plans in Canada, as of January 1, 2021.

65 The basic gender disadvantage produced by this formula can be further compounded by plan rules which discriminate against employees who opt for work arrangements which accommodate parenting responsibilities: see Fraser v. Canada, 2020 SCC 28, in which the Supreme Court of Canada held that pension rules treating participants in a job-sharing plan as part-time employees (who did not have a right to buy pension credits for their non-working time) rather than full-time employees (who did have this right for periods of absence while on leave, etc.) had a disproportionate impact on women and violated their Charter equality rights.

66 Vested benefits are "accrued pension benefits that a pension plan member, former member, or retired member is entitled to receive unconditionally under a pension plan, even if they are not payable until a future date": see Ontario. Financial Services Regulatory Authority, Glossary of Pension Terms.

67 Ontario led the way on this; the rules in other provinces have varied both in content and timing.

68 The intricacies of changing vesting rules are explained in detail in Kaplan and Frazer, Pension Law, 3rd ed.: 211-214. See also Shilton, Empty Promises: 76.

to provide that pensions would only be paid to employees who stayed with the company until they retired; men were much more likely than women to fall into this category. Other plans delayed the vesting of earned benefits until employees had put in many years of service.[66] Legislation in the 1960s put limits on these strategies, introducing a requirement that all plans provide for some degree of pre-retirement vesting.[67] The vesting standard of the 1960s was the "45 and 10" rule: once employees reached the age of 45 with 10 years of continuous plan membership, their accrued pension credits vested, which meant that they were entitled to collect a pension based on those credits when they reached retirement age, even if they were no longer employed in that workplace. If they left before they satisfied the "45 and 10" rule, however, plans confiscated the value of their accumulated entitlements. Further reforms in the late 1980s shortened the vesting period to two years. However, even short delays in vesting resulted in women losing pension credits when they left jobs to marry, have children or take up elder care duties. It was not until 2012 that Ontario amended its legislation to require immediate vesting for all services.[68] Although the gradual shrinkage in vesting periods has likely improved women's pension income, there are still many women retirees drawing low pensions as a result of vesting rules in place during their child-bearing years.

DECLINES IN COVERAGE HAVE BEEN STEEPEST IN THE PRIVATE SECTOR, WHERE MALE-DOMINATED WORKPLACES PREDOMINATE.

The shift to immediate vesting is helpful, but it is a far from complete solution to the problem of women's broken service and historically higher rates of job turnover. To understand why, it is necessary to look at another specialized pension term: "portability".[69] This term describes what happens to vested pension credits when an employee leaves a job prior to retirement: are those credits "portable", in the sense that they can be removed from the plan, or must they be left behind in the plan to be claimed only when the employee reaches retirement age? Since 1987, Ontario law has required that workplace pension plans offer portability options; employees may leave their credits in the plan to be claimed as a pension when they reach retirement age, move them to a new plan (provided that their new employer has a plan, and is willing to accept the transfer) or transfer them to a special individual account called a Locked-In Retirement Account (LIRA). However, within DB plans all these options will generate a smaller pension than those same credits would have produced if the employee had stayed with the original employer until retirement, since transferred credits are valued based on the employee's salary at the point of job change, rather than at retirement age when that salary would likely have been significantly higher.

Within DC plans, the structural privileges built into DB pension formulae for male pattern employment are not so apparent, since they do not promise specific benefits and normally lack complex benefit formulae with gendered leveraging effects. However, benefits derived from DC plans are tied just as closely to individual labour market earnings over a working life. In addition, they lack a vital protection found in DB plans: protection against longevity risk. Women are more exposed to longevity risk because statistically speaking, they live longer than men, an issue discussed in more detail in section 4, below. DB plans pool longevity

69 Kaplan and Frazer, *Pension Law*: 223-29.
70 Canada. *Canada Pension Plan (CPP) Backgrounder.*
71 Hubert Frenken, *RRSPs: Tax-Assisted Retirement Savings.*

risk, paying benefits from retirement to death, while DC plans leave their long-lived members exposed to the risk that they will outlive their retirement savings. To avoid this, women must find ways to make their DC assets – already smaller than men's due to the gender labour force engagement gap and the gender earnings gap – last longer.

Personal Pension Plans

For those without good workplace pension coverage, personal pension plans are expected to play an increasingly important role in providing Pillar 3 income. As the federal government explained when it announced the recent enhancements to the CPP, "[o]verall participation in private sector RPPs [i.e. workplace pension plans] has declined since the 1970s and there has been an ongoing shift from defined benefit to defined contribution plans… These trends of declining workplace pension plans and the shift from defined benefit to defined contribution plans suggest that younger Canadians will need to increasingly rely on individual forms of private savings to ensure that they have an adequate standard of living in retirement." [70]

The "individual form of private savings" currently embedded in the retirement income system is the RRSP/RRIF, which has been around since 1957.[71] RRSP/RRIFs are essentially administrative "umbrellas" for delivering tax relief to contributors as an incentive to build private retirement savings. Under this umbrella, individuals deposit funds with private financial institutions, up to a ceiling based on their accumulated labour market earnings in the prior year.

They then instruct the institution on how to invest the funds, and get a tax deduction equal to the value of their contribution. Higher earners have higher contribution limits, and because they are also in higher tax brackets, their tax deduction is more valuable. Investment income earned under the RRSP umbrella accumulates tax-free without limit, and tax is paid only when funds are withdrawn. Provided they have contribution room, taxpayers can contribute annually up to age 70, after which they must convert their RRSPs into Registered Retirement Income Funds (RRIFs). RRSP owners can withdraw funds from their accounts as they see fit at any age (provided they pay the applicable tax), but they must begin the draw down no later than the year after they convert to a RRIF, on a schedule designed to eventually empty the fund. Proponents promote these instruments as tools for meeting the retirement income needs of Canadians while keeping public pension costs down. However, personal pensions are not cost-free; the public costs of tax subsidies for the RRSP system are substantial. In a recent analysis of Canada's Retirement Income System, researchers for the Library of Parliament estimated that 2017 tax expenditures supporting RRSPs amounted to $17.3 billion.[72]

72 The cost of tax subsidies for workplace pension plans was $28 billion, for a total tax cost for Pillar 3 of $45.3 billion. Program spending for Pillars 1 and 2 amounted to $91.1 billion in 2017: see Canada. Library of Parliament. Canada's Retirement Income System:15. In "Pensions, Privatization and Poverty: The Gendered Impact", Claire Young explains the gendered impact of the tax expenditures that support Canada's private pension system and is particularly critical of the way in which the RRSP system disadvantages women.

RRSPs HAVE ALWAYS BEEN UNDER-UTILIZED BY CANADIANS… HOWEVER, CONTRIBUTIONS COME DISPROPORTIONATELY FROM HIGH EARNERS, WHO HAVE BOTH THE HIGHEST CONTRIBUTION LIMITS AND THE HIGHEST MARGINAL TAX RATES.

As a substitute for workplace pension plans, personal pensions have significant disadvantages. Unlike workplace plans, personal pensions are funded by individuals; even where employers establish Group RRSPs in the workplace, they are not required to contribute.[73] RRSP/RRIF owners bear both the investment risk and the longevity risk, and as individuals, they pay higher prices for expert investment advice, and higher fees for investment products than institutional investors like pension plans. Some of these disadvantages also plague DC plan members, but RRSP/RRIF holders are even more exposed than DC plan members to the vagaries of financial marketplaces, since DC member may be sheltered within a collective pension fund while their funds are accumulating, whereas RRSP/RRIF holders manage their own investments during both the accumulation phase and after retirement (the "decumulation phase").[74]

RRSPs have always been underutilized by Canadians, and despite falling workplace pension coverage, Canadians have not rushed to embrace them. In fact, the proportion of adult Canadians contributing to an RRSP has decreased from 25 percent to 22 percent over the decade between 2009 to 2019.[75] It is true that average contributions have increased by some 35 percent over that same period.[76] However, contributions come disproportionately from high earners, who have both the highest contribution limits and the highest marginal tax rates, and consequently get the most value from the system. In addition, many contributors to RRSPs are also members of workplace pension plans, using RRSPs to generate a tax deduction and top-up retirement incomes that already include pensions from all three Pillars.[77] Overall, Canadians have accumulated billions of dollars in unused RRSP contribution room within the system,[78] suggesting that at least for lower earners, the tax incentives are not sufficiently attractive to outweigh the system's shortcomings.

There is much we do not know about personal pensions. Statistics Canada tracks annual contributions to RRSPs for women and men, but there is no comprehensive reliable public data on total amounts accumulated within these accounts. We lack data on how efficient these instruments are in turning accumulated capital into retirement income, compared to other pension instruments, and we do not know much about who gets that income. What we do know suggests that increasing use of personal pensions is likely to widen the gender pension gap. Annual RRSP contribution room is directly linked to annual earnings; gender labour market participation and earnings gaps ensure that women generate less contribution room while they are working and are more likely to have years in which they generate no new contribution room at all. In addition, the gender earnings gap means that women have less discretionary money to contribute to RRSPs. It is therefore no surprise to discover that in 2021, men made up 53 percent of RRSP contributors, the median contribution from a male contributor was $4,650, compared to $3,080 from a female contributor; and men made 60 percent of total RRSP contributions in that year.[79] This gendered pattern has held over decades.

…MEN MADE 60% OF TOTAL RRSP CONTRIBUTIONS IN [2021]. THIS GENDERED PATTERN HAS HELD OVER DECADES.

Women, Longevity Risk and Annuities

A further flaw in personal pensions is their treatment of longevity risk. Statistically speaking, women are exposed to higher longevity risk. In 2021, Statistics Canada estimated that females at age 65 had a life expectancy of 22.28 years; men, at 19.48 years, had 2.8 years fewer.[80] This statistical disparity has been shrinking, but it is unlikely to disappear anytime soon. And it is more than an abstract construct; it is concretely reflected in Statistics Canada data telling us that while females constitute 50.6 percent of the adult Canadian population as a whole, they are 54 percent of those 65+, and 68 percent of those 90+.[81] Women's greater longevity has been cited by Canadian experts as one reason "why the pensions of women are inadequate".[82] However, like the labour market metrics that generate lower pensions for women, longevity does not operate in a vacuum; the extent to which women's longevity affects women's pensions depends very much on pension plan design.

73 From the perspective of both pension law and income tax regulation, Group RRSPs are essentially collections of individual RRSPs. Employers typically set them up through financial institutions, which may offer administrative services and investment advice. Employers may also match employee contributions, although they are not required to do so. Popular with employers because they are less regulated and less expensive than workplace pension plans, they are currently more widespread than DC plans: see Baldwin, "The Economic Impact on Plan Members": 38-39.

74 See discussion of the investment fee/expense issue in Baldwin, "The Economic Impact on Plan Members": 55-57.

75 OSFI, *Registered Pension Plans (RPP) and Other Types of Savings Plans – Coverage in Canada.*

76 OSFI, *Registered Pension Plans (RPP) and Other Types of Savings Plans – Coverage in Canada.*

77 Canada. Library of Parliament. *Canada's Retirement Income System:* 11-14.

78 See Statistics Canada Table 11-10-0045-01. The data in this table is available only from 2000-2016. It shows that in 2016, Canadians had accumulated $1,065,960,525 in unused RRSP contribution room since 1991.

79 Statistics Canada. https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1310083701 Selected characteristics of tax filers with Registered Retirement Savings Plan (RRSP) contributions, DOI

80 Statistics Canada. Table 13-10-0837-01 Life expectancy and other elements of the complete life table, single-year estimates, Canada, all provinces except Prince Edward Island. In 1980, the comparable figures were: female, 18.82 years; male, 14.45 years, for a difference of 4.37.

81 Statistics Canada. Table 17-10-0005-01 *Population estimates on July 1st, by age and sex.*

82 Canada. House of Commons, Standing Committee on the Status of Women. *Pension Security for Women: 3.*

WOMEN'S GREATER LONGEVITY HAS BEEN CITED BY CANADIAN EXPERTS AS ONE REASON "WHY THE PENSIONS OF WOMEN ARE INADEQUATE".

Pillars 1 and 2 in Canada relieve individual members of longevity risk in two ways. First, they pool that risk by paying benefits from retirement to death for all plan members. Second, they index benefits to prices, ensuring that their real value is not eroded too significantly by inflation. Pillar 3 pensions take a much more variable approach. Defined benefit plans pool longevity risk by paying benefits from retirement to death. Some also index benefits, although that expensive practice was never widespread in the private sector, and fully indexed private pensions are increasingly scarce. Defined contribution plans generally leave individual members exposed to longevity risk. However, members of these plans can choose to hedge their own longevity risk by purchasing a retirement annuity with the lump sum accumulated to their credit in the pension fund.

Legal rules in pension statutes require that annuities purchased from workplace pension funds are priced using unisex mortality tables, meaning that the cost is the same for men and women.[83] However, those legal rules do not apply to annuities purchased with funds that do not come from workplace pension funds. This means that they do not apply to funds saved under the RRSP/RRIF umbrella. Outside the employment context in which workplace pension plans are grounded, the insurance companies who sell annuity products are legally permitted to make distinctions on the basis of sex in annuity contracts, provided those distinctions are drawn "on reasonable and bona fide grounds". They rely on this permission to price annuities sold on the private market using sex-based mortality tables, resulting in higher prices for women than for men.[84]

HOWEVER, LIKE THE LABOUR MARKET METRICS... LONGEVITY DOES NOT OPERATE IN A VACUUM; THE EXTENT TO WHICH [IT] AFFECTS WOMEN'S PENSIONS DEPENDS VERY MUCH ON PENSION PLAN DESIGN.

83 This discussion focuses on the law of Ontario.

84 For a full discussion of the legal context see Shilton, "Insuring Inequality": 417-430. That paper argues that the Canadian regime permitting the use of sex-based annuity pricing contravenes s.15 of the Charter. Since 2011, sex-based annuity pricing has been illegal in Europe: Shilton, "Insuring Inequality": 410-416.

Impact of Sex-Based Annuity Pricing

	Age	Purchase Price (Amount Invested)	Annual Annuity
Male Annuitant	65	$500,000	$32,932
Female Annuitant	65	$500,000	$30,922

Figure 4.2. Source: Calculations performed by author using https://www.sunlife.ca/en/tools-and-resources/tools-and-calculators/annuity-calculator/, May 26, 2023

Sex-based annuity pricing can make a significant difference to the pension income of an individual woman. Figure 4.2 illustrates what happens when a man and a woman take funds they have saved in an RRSP to a Canadian insurer to purchase a retirement annuity. For this exercise, we assume that both purchasers have the same amount in their RRSPs; in fact, on average women save less. But even with the same capital sum, women do not get the same periodic annuity payments.

Actuaries tell us that statistically speaking, the use of sex-based mortality tables ensures that both women and men get the same return on their capital. But the real return on their capital depends on how long each of them really lives. And many women do not in fact outlive many men.[85] Meanwhile, our female annuitant gets a smaller pension benefit to pay her bills on a day-to-day basis: a meaningful 8 percent less, based on this example.

There is no public data on annuity purchases in Canada, so we do not know how large a contribution the use of sex-based annuity pricing makes to the gender pension gap. Annuities have been relatively unattractive to individuals with RRSP savings in the low-interest environment to which we have become accustomed. However, now that interest rates have moved higher, annuity pricing practices could become a more significant factor, particularly if the overall size of Pillar 3 continues to increase and personal pensions take up more space within Pillar 3.

...INSURANCE COMPANIES WHO SELL ANNUITY PRODUCTS ARE LEGALLY PERMITTED TO MAKE DISTINCTIONS ON THE BASIS OF SEX..., RESULTING IN HIGHER PRICES FOR WOMEN THAN FOR MEN.

85 See M. Bergeron-Boucher et al. "Probability of males to outlive females: an international comparison from 1751 to 2020", BMJ Open 2022;12:e059964. doi: 10.1136/bmjopen-2021-059964, in which the authors conclude that "Although male life expectancy is generally lower than female life expectancy, and male death rates are usually higher at all ages, males have a substantial chance of outliving females. These findings challenge the general impression that 'men do not live as long as women' and reveal a more nuanced inequality in lifespans between females and male".

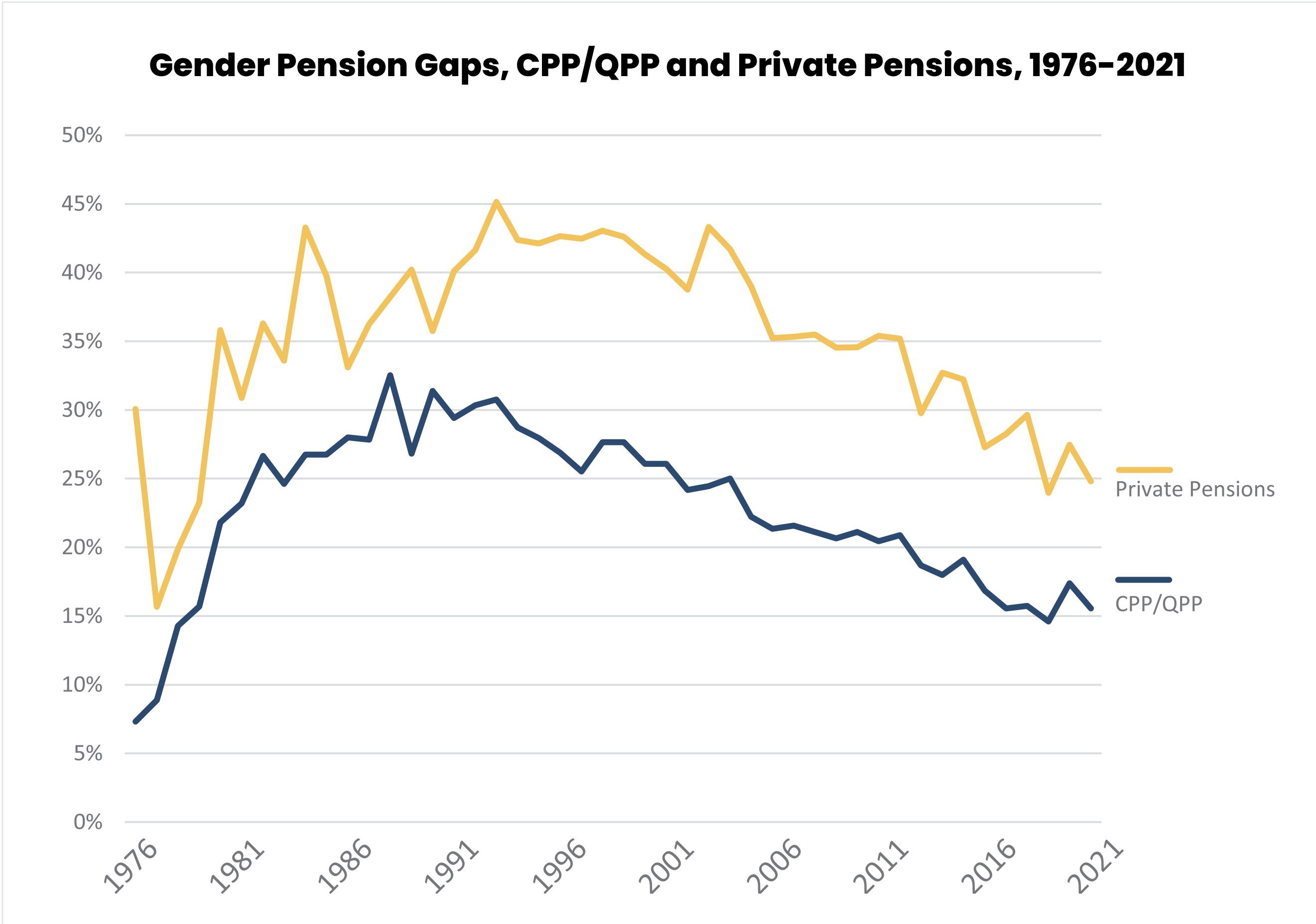


Figure 4.3. Source: Pay Equity Office, based on data from Statistics Canada. Table: 11-10-0239-01, *Constant 2021 dollars, Age 65+.*

Why does Pillar 3 have a Wider Gender Gap than Pillar 2?

Both Pillars 2 and 3 pensions are fundamentally dependent on time in the workforce and compensation for that time. However, the gender pension gap in Pillar 3 is significantly larger than the gap in Pillar 2. The difference between them is starkly illustrated in Figure 4.3.

Despite the CPP's superiority, the bottom line is that both Pillar 2 and Pillar 3 produce gender pension gaps. They do so because they are fundamentally designed to convert time and earning in the labour force into pension entitlements. If women and men allocated equal time to paid work and were compensated equally for that work, the gender pension gap would likely disappear. That has not happened. In Parts 5 and 6, we look at gender earnings gaps and evolving gender patterns of labour force engagement to help us understand why.

86 Where a workplace plan is in place, membership is typically mandatory for all workers who fall within the scope of the plan, but even this level of compulsion is a matter of individual plan design.

87 The exceptions are multi-employer plans like Ontario's Teachers Pension Plan, which accommodates career breaks and does not penalize members who change employers within Ontario's education system.

88 See Lis and Bonthuis, Drivers of the Gender Gap in Pensions: 32-42: Lodovici et al, The gender pension gap: differences between mothers and women without children: 67-69; OECD, Towards Improved Retirement Savings Outcomes for Women: 5.2.

89 Ontario. Financial Services Regulatory Authority, Pensions and Marriage Breakdown: A guide for members and their spouses.

Exploring the Gap between the Two Pillars

We have now seen that many design features present in the CPP are missing in some or all of Pillar 3's pension instruments. Several of these missing features have adverse impact on women:

- **Mandatory v. Voluntary:** Pillar 2 provides mandatory coverage to the entire workforce. By contrast, Pillar 3 instruments are voluntary. Employers need not provide workplace pension plans, and for many years they were much more likely to provide them in male-dominated workplaces, or to male dominated job categories.[86] While women are now more likely than men to belong to workplace pension plans, older patterns continue to shape the retirement income of current female retirees. In addition, men have more money to invest in personal pension instruments.

- **Vesting and portability:** The CPP has always had immediate vesting and seamless portability of pension credits, both important features for workers with discontinuous careers. Immediate vesting did not become a feature of workplace plans until 2012, and with few exceptions,[87] portability is still not seamless.

- **Indexation:** Since 1974, benefits have been indexed to prices. Indexation protects the value of pension benefits against price inflation. It is largely missing in workplace pension plans, and entirely missing in personal plans.

- **Longevity insurance:** CPP pays pensions for life to all eligible contributors. Within Pillar 3, only DB pensions do likewise.

- **Capped pensionable earnings:** For most of the period covered by this report, the earnings cap on CPP pensions was the YMPE, roughly the average earnings level in Canada. This makes it easier for women to reach maximum earnings levels. The cap on earnings for RRSPs, established by income tax rules, is much higher: $162,000 in 2022, compared to that year's YMPE of $64,900. This allows men more scope to turn their higher earnings into tax-supported pension benefits.

Pillar 3 pensions also lack important features identified in the research literature as offering some mitigation for the labour market inequities that depress women's retirement income.[88] These include:

- **Mandatory, plan-funded survivor benefits:** CPP survivor benefits have been mandatory from the outset and make a significant contribution to women's retirement income. Since the 1980s, regulatory statutes have required workplace pension plans to offer survivor benefits, but they are typically "paid for" through lower pensions for the contributing spouse, and they can be waived. Personal pensions offer a tax rollover to surviving spouses who are beneficiaries of the contributor's plan. In addition, contributors may opt to establish and contribute to a spousal RRSP. Neither of these methods of providing for a surviving spouse are mandatory, and little research has been done on how they actually work in practice.

- **"Child rearing drop-out" mechanism:** There are no mechanisms within Pillar 3 instruments to accommodate women's differential role in child-bearing and family care.

- **Pension credit-splitting:** The CPP requires credit-splitting on divorce and allows partners to apply for it on separation. Split credits are then allocated to the individual pension accounts of the parties. In most cases Pillar 3 pensions are valued and treated like any other family asset on divorce or separation. Ontario's current credit-splitting regime for workplace pension plans is governed by both family law and pension law and does not apply to common law couples.[89]

- **Pension pooling on retirement:** The CPP allows couples to pool and share their pension entitlements on retirement, so that each gets an independent pension. This option is not available within workplace plans and could be replicated by RRSP/RRIF holders on retirement only at significant tax cost to the contributor.

WOMEN'S EARNINGS AND THE GENDER PENSION GAP.

Part 5 Definitions:

Gender wage gap: the difference between men's and women's hourly wages, expressed as a percentage of men's hourly wage.

Gender pay gap: the difference between men's and women's annual earnings, expressed as a percentage of men's annual earnings.

Gender earnings gap: generic term for gender inequality in earnings, including both the gender wage gap and the gender pay gap.

Gender labour force participation gap: the difference between men's and women's labour force participation rates, expressed as a percentage of men's labour force participation rate.

Gender labour force engagement gap: generic term for the difference between men's and women's working time, including both their labour force participation rates and their hours worked while they are labour force participants.

Gaps vs ratios: Gaps and ratios are two sides of the same coin. If the gender pay gap is 28 percent, the gender pay ratio is 72 percent.

Why has the Gender Pension Gap Resisted Shrinkage?

Up to now, we have focused on only one pole of analysis: the retirement income system. Parts 2-4 show how Canada's current three-pillar system operates to make time and earnings in the paid labour force the key determinants of individual retirement income in Canada. In the 1960s when the foundations of the system were laid, women were not considered serious labour force participants. By the 1980s, however, their labour force engagement and earnings levels were both on the upswing. It was conceivable that women's retirement incomes might soon converge with men's, particularly with the assistance of the pension reforms implemented in the 1970s and 1980s. That convergence has not happened. Instead, as we saw in Part 1, Figure 1.1, the gender pension gap increased to almost 30 percent in the decade spanning the turn of the century. It has now fallen back to pre-1980 levels but shows no sign of disappearing any time soon.

To account for its stubborn resistance to shrinkage, we need to take a close look at the other pole of analysis: women's earnings and women's labour force engagement. This Part examines both the hourly wage gap (the gender wage gap) and the annual earnings gap (the gender pay gap). There is ample Canadian research on these issues; our objective here is to tease out the implications of that research for the gender pension gap.

The Evolution of the Gender Earnings Gap in Canada

By any measure, women earn less than men on the labour market. However, there are important differences in how the earnings gap is measured. In a recent paper for Statistics Canada, Measuring and Analyzing the Gender Pay Gap: A Conceptual and Methodological Overview, Melissa Moyser discusses various common measures and helps to sort out some of the competing terminology.[90] As she explains it, **there are two primary measures of gender difference in earnings.** The first is the ratio of women's to men's hourly wages (the "gender wage ratio") and the second the ratio of women's to men's annual labour market income (the "gender pay ratio"). The corresponding gaps are the "gender wage gap" and the "gender pay gap" respectively.

These different measures provide different information. Moyser describes the gender wage gap (hourly earnings) as "the most restricted measure of the gender pay gap, as it captures only the per-unit price of labour, and it is therefore largely unaffected by gender differences in labour supply".[91] By contrast, the gender pay gap (annual earnings) gives a fuller picture of women's economic disadvantage. As Moyser explains it, "The typical criticism of the unrestricted measure of the gender pay gap is that it is 'confounded' by gender differences in hours and weeks worked. The counterargument is that the unrestricted measure of the gender pay gap captures the full scope of the financial implications of gender, which partly result from women's reduced labour supply, relative to men, given their greater family responsibilities." Most inclusive, in her view, is the measure of annual earnings for all employees, regardless of full- or part-time status, since it captures "gender differences in both pay (i.e. the price of labour) and hours and weeks worked (i.e. labour supply)".[92]

As Moyser also points out, which measure is most meanin gful will depend on the issue under the analyst's lens. In our case, that issue is the gender pension gap. For that purpose, the key measure is the measure of annual earnings for both full and part-time workers, since it is overall annual earnings that factor into pension calculations in Pillars 2 and 3. However, this does not mean that gender differences in hourly rates are irrelevant. In fact, the gender wage gap is embedded in the gender pay gap, since that pay gap reflects both the gendered

Wages:

- Hourly rate
- Usually shift work, part-time work, precarious work
- Less likely to receive benefits
- Women are disproportionately represented

Annual Income:

- Paid in consistent amounts at consistent intervals
- Usually full-time work
- More likely to include benefits

90 Moyser, Measuring and Analyzing the Gender Pay Gap.
91 Moyser, Measuring and Analyzing the Gender Pay Gap: 14.
92 Moyser, Measuring and Analyzing the Gender Pay Gap: 13-14.

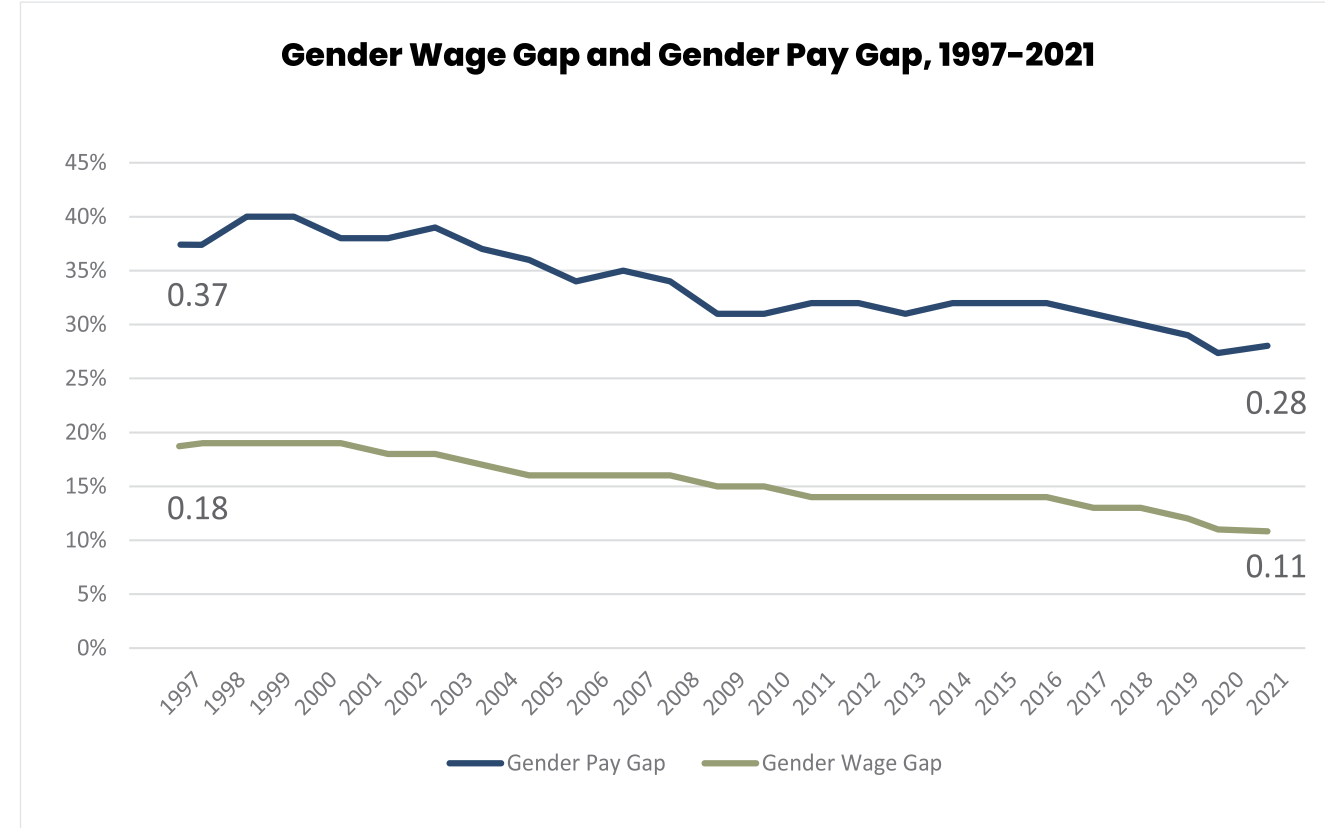


Figure 5.1. Source: Author, based on data from Moyser, *Measuring and Analysing the Gender Pay Gap*, Chart 1 and StatCan. *Pay Gap*, 1998-2021, Chart 1.

compensation women receive for their hours of paid work, and the reality that they have fewer (or no) paid hours in any given year.

There were dramatic drops in both the gender wage gap and the gender pay gap in the latter half of the 20th century. In 1967, the gender pay gap was 53.9 percent. Between 1967 and 1997, it had dropped to 37 percent, with an average drop of .56 percent per year. After edging up again at the turn of the century, it continued to fall, but more slowly, from 37 percent in 1997 to 28 percent in 2021, for an average drop of .37 percent a year. Its trajectory has been mostly downward, but as we can see on Figure 5.1, for a period of almost ten years (a decade from 2008 to 2017), it hovered above 30 percent, with no downward momentum at all.

By contrast, Figure 5.1 shows us that the descent of the gender wage gap, which measures the unit price of labour, has been more consistent. Always lower than the gender pay gap, it has shrunk more rapidly, dropping almost 40 percent between 1997 and 2021, compared to a drop of 25 percent for the gender pay gap. In the next sections, we'll look for explanations of these patterns and discuss what impact they may have on the gender pension gap and its prospects for convergence.

Why the Gender Wage Gap has Narrowed

According to the research, certain key labour market factors have consistently contributed to gendered earnings differences: in particular (1) human capital (e.g.

BY 2010, THE IMPROVEMENTS IN THE GENDER PAY GAP THAT ARISE FROM GENERATIONAL COMPOSITION EFFECTS ASSOCIATED WITH THE 1960S WOMEN'S REVOLUTION HAD LARGELY BEEN EXHAUSTED.

education, work experience, job tenure); (2) occupational/industrial segregation, both vertical (more women in entry level jobs and fewer in management) and horizontal (women concentrated in different occupations and industries than men); and (3) discrimination (disparate treatment of similarly-qualified and similarly-positioned workers).[93] Research studies have attempted to isolate and measure the role of the various factors within the first two categories in explaining at least part of the earnings gap. The remaining part, the "unexplained" part, is likely attributable at least in part to discrimination. While studies do not always agree on how these explanatory factors intersect and operate, there is relative consensus on the key factors influencing the general downward drift of the gender wage gap over the last couple of decades in Canada. A 2019 StatCan study concluded that "[t]he reduction in the gender wage gap between 1998 and 2018 was largely explained by changes in the distribution of men and women across occupations; women's increased educational attainment; and the decline in the share of men in unionized employment." The study identified the gender distribution across industries and the disproportionate representation of women among part-time workers as the two largest explanatory factors for the remaining "explained" portion of the gap. Importantly, however, it acknowledged that nearly 2/3 of the gap remained unexplained.[94] A follow-up study updating the data from 2018 to 2021 found a further reduction between 2018 and 2021, which it attributed primarily to changes in industry of employment, occupation and educational attainment, some of which were influenced by the COVID-19 pandemic.[95]

● Why Gender Earnings Gaps Won't Fix Themselves

Optimists take some comfort from the steady (if slow) decline in gender earnings gaps. They point to the fact that the gender wage gap is considerably smaller for younger women (younger cohorts) than for older women; in 2017, it was 7 percent for women age 15-25, but more than twice that (15.2 percent) for women 45-54: "[C]ohort replacement drives the convergence of the gender

93 Moyser, Measuring and Analyzing the Gender Pay Gap: 18.

94 Pelletier, Patterson and Moyser, The gender wage gap in Canada: 1998 to 2018: 4.

95 Statistics Canada, Pay gap, 1998-2021.

96 Moyser, Measuring and Analyzing the Gender Pay Gap: 33.

97 Ontario. Final Report and Recommendations of the Gender Wage Gap Steering Committee: 59-61. See also PWC, Women in Work 2023: Closing the Gender Pay Gap for Good, in which the global consultant concluded that "[a]n 18-year-old woman entering the workforce today will not see pay equality in her working lifetime. At the rate the gender pay gap is closing, it will take more than 50 years to reach gender pay parity".

wage gap over time: as younger cohorts replace older ones, the overall gender wage gap decreases simply because the gender pay gap is smaller among younger cohorts than older ones".[96] However, convergence is not just around the corner. Pay momentum for women has slowed considerably, and the continued narrowing of the gender wage gap takes account not only of increases in women's earnings, but also the decline in men's earnings (linked to de-unionization and periods of significant economic downturns in the first decade of the 21st century). Pointing to the International Labour Organization (ILO)'s estimate that "the worldwide gender wage gap would take 70 years to close at the current rate", a 2016 report to the Ontario government observed that at the current pace of change, "it may take many generations before the gap is fully closed".[97]

In her 2019 article, "Increasing Earnings Inequality and the Gender Pay Gap in Canada: Prospects for Convergence", Nicole Fortin explores what these patterns of change in gender earnings gaps in Canada can tell us about the likelihood of future progress and eventual convergence in earnings.[98] Her conclusion is discouraging. She identifies three key factors conspiring against convergence.

i. Generational (Cohort) Effects

It is not at all clear that the positive cohort effects predicted by current age-related patterns will in fact materialize. The most significant decline in gender earnings gaps in Canada occurred during the era in which the women's liberation movement was making its most dramatic impact on women's engagement with the labour market.[99] Fortin's research suggests that the factors associated with the women's liberation movement have already done most of the work they are capable of doing: "by 2010, the improvements in the gender pay gap that arise from generational composition effects associated with the 1960s Women's Revolution had largely been exhausted."[100]

98 Fortin, "Increasing Earnings Inequality": 407-440.

99 Moyser itemizes multiple factors associated with the women's liberation movement that have influenced the gender earnings gap: see "Women and Paid Work": 4.

100 Fortin, "Increasing Earnings Inequality": 415.

CHILDLESS WOMEN HAVE HIGHER EARNINGS THAN WOMEN WITH CHILDREN; THE EARNINGS OF CHILDLESS WOMEN ARE ALMOST EQUAL TO THOSE OF THEIR MALE COUNTERPARTS; AND MEN WITH CHILDREN EARN AS MUCH, IF NOT MORE, THAN CHILDLESS MEN.

ii. The Motherhood Wage Penalty

The second factor is "the motherhood wage penalty": the clear, persistent and long-lasting correlation between motherhood and the gender earnings gap. Moyser cites research demonstrating that "the gender pay gap is virtually non-existent during early adulthood, but increases with age thereafter," particularly with motherhood: "childless women have higher earnings than women with children; the earnings of childless women are almost equal to those of their male counterparts; and men with children earn as much, if not more, than childless men."[101] Honing in on the hourly wage gap, Moyser notes that "[b]y 2015, the impact of motherhood on women's hourly wages had lessened, but not yet disappeared: mothers with at least one child under the age of 18 earned $0.85 for every dollar earned by fathers, while women without children earned $0.90 for every dollar earned by men without children".[102]

The motherhood wage penalty is a global phenomenon. A 2021 OECD working paper reports that what it calls the "child penalty" accounts for about 60 percent of the gender wage gap across 25 European countries, and an even higher amount (about 75 percent) in northern and western Europe where discrimination factors do not operate so strongly.[103] Of even more direct pertinence here is a report from the FEMM Committee of the European Parliament linking the motherhood wage penalty directly to the gender pension gap. That study found that "for a number of EU countries, gender gaps in pensions tend to increase with the number of children".[104]

We would expect to find that women lose earnings during periods when they are actually absent from the work force for child-bearing and infant care. However, the effects of motherhood on earnings reach beyond those accounted for simply by maternity and parenting leaves. Recent research by Ontario's Financial Accountability Office found that "after having a child, it takes Ontario mothers up to four years to return to their prebirth earning levels.[105] Other studies have identified even longer-term effects, depending on such factors as the length of the initial leave, the number of leaves, the timing of leaves in relation to career stage, and whether women return to the same job or change jobs either within a firm or moving to a different firm, on return from leaves.[106]

THE EFFECTS OF MOTHERHOOD ON EARNINGS REACH BEYOND THOSE ACCOUNTED FOR SIMPLY BY MATERNITY AND PARENTING LEAVES.

iii. Income Inequality

The third factor Fortin identifies as an impediment to convergence is the exponential increase in income inequality.

As elsewhere in the world, incomes in Canada have increased much more rapidly for top earners than for lower earners. Between 1990 and 2017, the overall income share of the top 1 percent of earners increased from 8.1 percent to 11.2 percent.[107] Since women account for less than one-quarter of the top 1 percent, the benefits of this increase show up disproportionately on the male side of the income ledger. Women are likewise underrepresented in the top ten percent.[108] Fortin's analysis of the gender wage ratio on a decile-by-decile basis finds that ratio narrowing much faster among the bottom 90 percent than among the top 10 percent.

Her research suggests that the under-representation of women in the top 10 percent of earners accounts for a growing proportion of the total gender pay gap: perhaps as much as 79 percent.[109] The consequence, as she puts it, is that "further improvements in the top decile will be four times more important to the closing of the gender gap than improvements in the bottom 90%".[110]

The Limitations of Legal Remedies

Although gender discrimination in pay has been illegal in Canada since the 1960s, the complex composition of gendered earnings gaps has rendered them largely immune to laws aimed generally at workplace discrimination. More targeted efforts to eradicate wage discrimination through "equal pay for equal work" laws were only modestly more effective since employers control work assignment and can easily ensure that gendered jobs are not "equal". Legal tools based on concepts like "equal work of equal value" (or "comparable worth" as it is typically called in the U.S.) have evolved in some Canadian jurisdictions into highly specialized pay equity statutes. Ontario was a leader here, enacting legislation in

101 Moyser, Measuring and Analyzing the Gender Pay Gap: 27

102 Moyser, "Women and Paid Work": 30. In 2015, the gender pay gap for women with at least one child under 18 (as compared to fathers) was 15 percent; for women without children (compared to men without children) the gap was 10 percent.

103 Ciminelli, Schwellnus and Stadler, "Sticky floors or glass ceilings?": 7-8, 22-25.

104 Lodovici et al. *The gender pension gap*: 39.

105 Financial Accountability Office of Ontario, *Women in Ontario's Labour Market*: 3.

106 See Moyser,"Women and Paid Work":30; TD Economics. *Career Interrupted*; PWC, *Women in Work 2023: Closing the Gender Pay Gap for Good*: 14-18.

107 Fortin, "Increasing Earnings Inequality":416. See also Bonikowska, Drolet and Fortin. *Earnings Inequality and the Gender Pay Gap in Canada.*

108 Fortin: "Increasing Earnings Inequality":416-420.

109 Fortin: "Increasing Earnings Inequality":420-421.

110 Fortin: "Increasing Earnings Inequality":420.

ALTHOUGH GENDER DISCRIMINATION IN PAY HAS BEEN ILLEGAL IN CANADA SINCE THE 1960S, THE COMPLEX COMPOSITION OF GENDERED EARNINGS GAPS HAS RENDERED THEM LARGELY IMMUNE TO LAWS AIMED GENERALLY AT WORKPLACE DISCRIMINATION.

the late 1980s that required employers to undertake comparisons of male and female jobs using evaluation systems that measure skill, effort, responsibility and working conditions, and produce detailed plans for bringing the pay for jobs of equal value into line. Other provinces followed suit, although the content of these statutes varies. In 2021, federal pay equity legislation came into effect for both government employees and other employees working in industries within federal jurisdiction.[111]

Pay equity legislation is a step forward, but with some critical limitations. First, as Fortin puts it, "By design, pay equity policies pertain to horizontal segregation aiming to redress pay in predominantly female occupations, but do not address gender disparities arising across firms/industries or from vertical segregation within firms." She concludes that the benefits of pay equity legislation have run their course.[112] She argues that "at least three-quarters of the average gap originate among the top 10% of earners. Thus, policies that target gender disparities in pay originating from horizontal segregation, such as comparable worth or pay equity policies, will have limited effectiveness when the more important source of the gap comes from vertical segregation."[113] Second, pay equity legislation can target only the gender wage gap – the unit cost of labour – leaving untouched the many complex social and economic factors that drive the much larger gender pay gap.

Gender Earnings Gaps and the Gender Pension Gap

What implications does this analysis have for the gender pension gap? The very significant improvements in

PAY EQUITY LEGISLATION CAN TARGET ONLY THE GENDER WAGE GAP – THE UNIT COST OF LABOUR – LEAVING UNTOUCHED THE MANY COMPLEX SOCIAL AND ECONOMIC FACTORS THAT DRIVE THE MUCH LARGER GENDER PAY GAP.

111 See Canada, Fact sheet: Evolution of Pay Equity. A useful compact history of legal developments targeted at the gender earnings gap can be found in England and Gad, "Geographical Perspectives on Gendered Labour Markets": 281, 287-90.
112 Fortin, "Increasing Earnings Inequality": 6, fn. 3.
113 Fortin, "Increasing Earnings Inequality": 4.

What if Women were Paid the Same Hourly Rate as Men?

Methodology: Calculate the adjustment for women's real annual earnings for 2021 by multiplying women's real annual earnings by the gender wage gap for 2021 and add the product to women's real annual earnings.

Subtract women's adjusted annual earnings from men's annual earnings and calculate the remaining gender pay gap.

Source: Statistics Canada, Average and median gender pay ratio in annual wages, salaries and commissions, Table: 14-10-0324-01

women's earnings since the 1970s have almost certainly improved the income of current female pensioners to varying degrees and will continue to do so. But the pace of these improvements has slowed, if not yet stalled. Moyser sees continued momentum in the gender wage ratio, but the three factors flagged by Fortin and her colleagues – the cohort issue, the motherhood wage penalty, and the gender effects of income inequality – will undoubtedly be a drag on that momentum.

And there is considerably less momentum and less reason for optimism in the trajectory of the gender pay gap. That is a big problem, since the gender pay gap is the compensation metric driving the gender pension gap within our current retirement income system. To illustrate the scope of the problem we are left with if we focus only on the gender wage gap, let us assume a best-case scenario in which the gender wage gap closes soon, and women are paid for their work at the same hourly rate at which men are currently paid. How far would this take us towards removing women's earnings as a factor driving the gender pension gap? We can roughly calculate what women's average annual earnings might look like in this scenario if we adjust women's current earnings by a factor representing the gender wage gap. The calculation in the box below shows what happens if we do this.

If we close the gender wage gap, we make major progress. But if we do not close the gender pay gap, the largest part of that gap – the part that reflects the impact of women's fewer hours and fewer years in the paid labour force – would remain. Part 6 explores factors accounting for that result, with particular attention to the role played by the gender-unequal distribution of family care work.

TIME, FAMILY CARE AND THE GENDER PENSION GAP.

Women in the Labour Force

By the 1980s when Canada embarked on its second round of pension reform, women were serious labour force participants. Indeed, lawmakers saw the influx of women into the labour force as the ultimate solution to the gender pension gap. Once female pattern employment converged with male pattern employment, as it surely would, the gender pension gap would disappear. However, this convenient hypothesis failed to account for the reality that production cannot subsist and thrive without social reproduction.[114] Whether or not women participate in the paid labour force, family care work still needs to be done and both in Canada[115] and internationally,[116] women still spend more time than men doing it. The gendered allocation of family care remains a powerful impediment to women's increased labour force engagement. And gendered labour force engagement is a key driver of the gender pension gap within Canada's retirement income system.

THE GENDERED ALLOCATION OF FAMILY CARE REMAINS A POWERFUL IMPEDIMENT TO WOMEN'S INCREASED LABOUR FORCE ENGAGEMENT. AND GENDERED LABOUR FORCE ENGAGEMENT IS A KEY DRIVER OF THE GENDER PENSION GAP WITHIN CANADA'S RETIREMENT INCOME SYSTEM.

There have been seismic shifts in women's labour force participation rates since the mid-20th century. As we see in Figure 6.1, in 1950 only about one-fifth (21.6 percent) of Canadian women were formal labour market participants, compared to almost all (97.1 percent) of men, leaving an enormous gender participation gap of 75.5 percent.

114 "Two types of work are fundamental to capitalist societies: paid employment associated with the waged economy, and unpaid domestic labour that produces and sustains both the current generation of workers and the children who are the future workforce": Moyser and Burlock, "Time Use": 6. In feminist sociology, unpaid domestic labour is an important part of what is usually called "social reproduction": see Kate Bezanson, "Feminism, Federalism and Families": 171-174. Moyser and Burlock's time use study separates reproductive work into two categories: caregiving and housework. "Family care", the term used in this report for unpaid domestic work, includes both these categories.

115 Moyser and Burlock, "Time Use": 6.

116 OECD Pensions at a Glance 2015: 83.

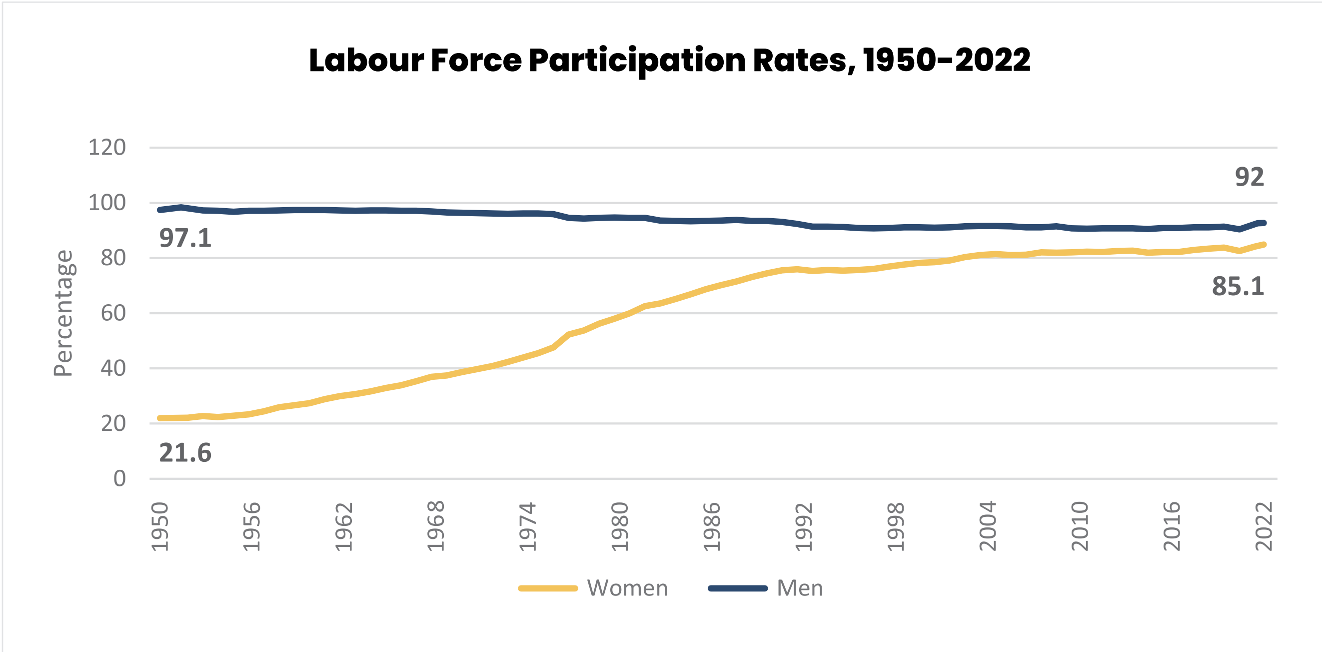


Figure 6.1. Source: Moyser, "Women and Paid Work", Chart 1, updated by the author based on Statistics Canada, Table14-10-0018-01 and Table 14-10-0327-01.

By 1957, when old age pensions were first introduced, women's labour force participation rate had inched upward to about 25 percent. Nine years later when the CPP/QPP came into being, the participation curve was ascending more steeply. By the mid 1990s, however, it had begun to slow down considerably. It has budged very little over the last two decades.[117] Interestingly, over the same period, men's participation rates have been slowly but steadily declining. The overall result has narrowed the overall gender participation gap, which by 2022 had hit an all-time low of 7.9 percent.

Gendered differences in labour market participation are often expressed in years.[118] In fact, measured from entry to exit, it appears unlikely that Canadian women have substantially shorter careers than men. Labour force "membership" is not binary; working people move in and out of the workforce in response to life-course contingencies.[119] It is true that in bygone days, women often postponed entry into or left the labour force for marriage, but marriage is no longer statistically relevant to labour force participation.[120] Among youth (age 15-24), there is virtually no gender labour force participation gap

117 "[F]or Canada as a whole, while female LFP [labour force participation] grew at a rate of 0.6% over the entire period, that rate was twice as high, at 1.1%, from 1976 to 1996 and down to 0.3% from 1997 to 2017.": Fortin, "Increasing Gender Inequality": 408, fn. 2.

118 See Lis, "Drivers of the Gender Pension Gap": "Current gender labor statistics by age imply that women work 4.9 years less than men in full-time jobs, on average across EU countries, and 2.6 years less in self-employment. On the other hand, they work 3.3 years more in part-time employment. Women work less because they spend 5.1 years more on care activities between age 15 and 70, but also 0.6 of a year more in education and 0.5 of a year more in retirement": 43. Canadian data is likely comparable.

119 Statistics Canada defines persons "not in the labour force" as "[p]ersons who were neither employed, nor unemployed during the reference period. This includes persons who, during the reference period, were either unable to work or unavailable for work. It also includes persons who were without work and who had neither looked for work in the past four weeks, nor had a job to start within four weeks of the reference period." See Statistics Canada, Guide to the Labour Survey.

in Canada.[121] Current data tells us that Canadian women retire roughly one to two years younger than men,[122] but in the absence of comparative data on labour market entry dates, we do not know how much impact this has on career length. A much larger portion of the gap is generated during periods within a woman's working life when she withdraws temporarily from the labour force.

In addition, gender participation gaps are only part of women's labour market engagement. A factor at least equally important is the extent to which women participate, measured by paid hours per week. **On average, women log fewer weekly hours than men.** That gap is narrowing: in 1976, the gender gap in paid labour force hours was 9.1 hours/week; by 2015 it had declined to 5.6 hours. However, women's paid hours had increased over that period by less than 3 percent, from 34.5 hours/week to 35.5 hours/per week; a significant contributor to the narrowing gap is declining hours of paid work for men. It is important to note that women's average 35.5 hours/week includes all workers, regardless of whether they are working full- or part-time.[123] Statistics Canada classifies this as full-time work.[124] **Part-time work is generally on the decline in Canada, although women continue to be over-represented in this category;** in 2015, three-quarters (75.8 percent) of part-time workers were women (down from 89 percent in 1976). This means that 3 times as many Canadian women as men are working part-time, and **Statistics Canada reports that women are "19 times more likely to cite 'caring for children' as the reason they work part-time."**[125]

WOMEN SPENT 3.9 HOURS A DAY ON UNPAID FAMILY CARE WORK, COMPARED TO 2.4 HOURS FOR MEN.

Women's Role in Family Care

What are women doing during the hours and years they are not engaged in paid work? Both globally[126] and in Canada, it appears that they spend much of that time performing unpaid family care work. While there is no consensus on whether women work longer than men overall when unpaid hours are added to paid hours, there is consensus that they are putting in at least equal time.[127] A recent StatCan report reviewing data from Canada's General Social Survey (GSS) on Time Use reports that women spent 3.9 hours a day on unpaid family care work, compared to

120 By 2010 the gap between the labour force participation rates for married and single women had narrowed to less than 1 percent: 77.1 percent for married women, compared to 76.6 percent for single women: Moyser, "Women and Paid Work": 9-11.

121 "[T]he participation rates of female and male youth have been within 1.0% of each other since 2005": Moyser, "Women and Paid Work": 35.

122 Statistics Canada, *Retirement Age by class of worker, annual.* Table: 14-10-0060-01.

123 Over the same period, men's hours declined from 43.6 to 41.1 hours per week: Moyser, "Women and Paid Work": 13.

124 Statistics Canada defines "part-time" as including "employed persons who usually worked less than 30 hours per week, at their main or only job": Statistics Canada: *Classification of Full-time and Part-time Work Hours.*

125 Lambert and McInturff, *Making Women Count: The Unequal Economics of Women's Work*: 4.

126 Ferrant at al., *Unpaid Care Work.*

127 Moyser and Burlock, "Time Use": 4.

2.4 hours for men: in other words, women spend 1.5 hours more per day than men on this work.[128] In addition to the quantitative data, the authors point to "[q]ualitative research highlight[ing] women's retention of ultimate responsibility for the coordination of children's lives; the smooth functioning of the household (e.g., planning meals; scheduling medical, dental, and other appointments; and arranging for repairs or deliveries); "emotion work" (i.e. the enhancement of relatives' emotional well-being and provision of support); and "kin keeping" (i.e. the maintenance of relationships with immediate and extended family by keeping in touch; remembering and acknowledging birthdays and other milestones; and planning and organizing family celebrations and vacations) — even as their economic roles have expanded."[129]

What does StatCan include in unpaid care work?

- Coordinating children's lives
- Smooth functioning of the household, e.g. planning meals, medical/dental appointments, repairs or deliveries
- Emotion work, e.g. enhancement of relatives' emotional well-being
- Kin-keeping, e.g. maintaining relationships by remembering and acknowledging birthdays, organizing family celebrations

THE BIGGEST GENDER DIFFERENCES EMERGE IN LONE-PARENT FAMILIES, A CATEGORY THAT HAS ALMOST DOUBLED BETWEEN 1986 AND 2015.

There have been positive changes in the allocation of family care work between 1986 and 2015. For example, women took on more paid work and less unpaid work, while for men the reverse was true.[130] However, convergence is clearly not right around the corner. **Although the percentage of men participating in family care has increased since 1986, participation is still heavily weighted towards women; 37.4 percent of women participate in child care, compared to 25.3 percent of men**, and the amount of time women spend on family care has increased more.[131] Not surprisingly, the biggest gender differences emerge in lone-parent families, a category that has almost doubled between 1986 and 2015, from 8.4 percent to 14.2 percent. Within these families, 71.8 percent of lone mothers participate in caregiving, compared to only 28.2 percent of lone fathers.[132] Even though men are now more likely to participate in specific forms of family care, they allocate significantly less time to those tasks.[133]

128 Moyser and Burlock: 6. The difference rises to 2.5 hours of day if account is taken of multi-tasking (i.e. the performance of multiple tasks simultaneously).
129 Moyser and Burlock, "Time Use": 4.
130 Moyser and Burlock, "Time Use": 4.
131 Moyser and Burlock, "Time Use": 15-16.
132 Moyser and Burlock, "Time Use": 3.
133 Moyser and Burlock, "Time Use": 9, 15, 20.

Accommodating Family Care within Labour Markets: Current Policy Responses

The mass entry of women into the labour force has been accompanied by an attitudinal sea change on the social utility of women combining work and family. In the 1960s, it was common for employers to expect women to quit their jobs when they became pregnant, an expectation reinforced by the cultural norms of the day. Now, the reverse is true. Women are expected and encouraged to minimize time off from work for childbirth, parenting and the performance of other family-related responsibilities. It bears repeating, however, that this work still needs to be done. The need to combine paid work and unpaid family care work has placed new pressures not just on women and dual-earner families, but also on public policy and labour markets.

Governments have responded with law reform initiatives designed to reduce labour market penalties on women for taking time out to bear and parent children. These reforms are reflected in laws requiring employers to provide leaves of absence for family reasons, bolstered by modest income protection during those leaves through the (federal) Employment Insurance program. All Canadian provinces mandate leaves, as does the federal government for employees whose work falls under federal jurisdiction). However, standards vary across Canadian jurisdictions. Where reforms fall under provincial jurisdiction, the primary focus here is on the law of Ontario.

Employment standards laws protect against termination for pregnancy and childbirth-related absences from work. In addition, they may also guarantee reinstatement to the same position, and protect against loss of seniority and credit for length of employment/service for the period of the statutory leave. They typically preserve continuity of access to workplace benefit plans for workers on leave, including workplace pension plans. The value of these protections varies from province to province and from workplace to workplace, depending on the specific language of statutes, benefit plans and collective agreements. Where benefit plans are contributory (i.e. both employer and employee share the cost of premiums/contributions), seamless participation may depend on the employee's willingness (or ability) to continue her own contributions during the leave period. However, employees on statutory leaves cannot be ejected from such plans, or treated as new employees when they return from leave.[134]

1970s	Unpaid 17-week maternity leave required by law
1990s	10-week parental leave added, shared between two birth parents
2001	10-week parental leave extended to 35 weeks
2004	6 weeks granted to care for terminally ill family member
2016	Compassionate care leave extended to 26 weeks
2017	2-week wait period shortened to 1-week
2019	5 weeks added for second parent who has not take substantial leave

134 The Ontario government provides a detailed policy manual outlining how employment standards rules will be applied at an administrative level: see Ontario, *Employment Standards Act Policy and Interpretation Manual*.

Canadian employers are under no statutory obligation to pay employees during family-related leaves (although they may choose to or be required to by a collective agreement).[135] However, partial income protection is provided through the federal Employment Insurance program. The content of both leave and benefit programs has evolved over the years. Maternity benefits were first introduced into the (Un) Employment Insurance Act (EI) in the 1970s, and most provinces began to mandate (unpaid) maternity leave shortly thereafter. Initially, leaves were 17 weeks with 15 weeks of benefits, pegged at 2/3 of individual earnings up to a weekly maximum. In the 1990s, the 17 weeks of maternity (or pregnancy) leave for birth mothers was augmented by a 10-week parental benefit, shared between mothers and fathers and available to either birth or adoptive parents. The EI benefit was now capped at 55 percent of maximum insurable earnings. In 2001, parental benefits were extended from 10 to 35 weeks (on top of 15 weeks of maternity benefits), and qualifications were made less onerous. In 2017, the standard 2-week waiting period was reduced to one week, and parents were given the option of stretching the 35-week parental benefit over 12 or 18 months. Finally, effective 2019, an extra 5-week benefit was added (8 weeks for parents who opt for an 18-month leave); the extra five weeks is effectively a "use-it-or-lose-it" benefit for a second parent who has yet not taken substantial leave.[136]

In addition to addressing pregnancy and parenting obligations, since the early 2000s, the EI program has also supported "compassionate care" for terminally ill family members. Initially only 6 weeks, this benefit was expanded in 2016 to 26 weeks.[137] Care leaves of various sorts are now mandated in provincial and territorial employment standards. Ontario labels its compassionate care leave "family medical leave".[138] Ontario law also mandates other family-related leaves of absence not matched by EI benefits.[139] These leaves protect job security for workers compelled to address certain types of family crises, although the lack of income protection no doubt limits uptake.

Work Scheduling and Family Status

Family leaves and benefits are indispensable for women's participation in the labour force, but they do not address the ordinary quotidian pressures

135 Some employers do "top-up" employment insurance benefits, particularly in the public sector: see Katherine Marshall, "Employer Top-Ups".

136 The detail is important for tracking pension outcomes across age cohorts. This account relies heavily on Donna S. Lero & Janet Fast, "The Availability and Use of Flexible Work Arrangements and Caregiving Leaves". While the authors deal only with Employment Insurance provisions, they note that provincial laws governing leaves have largely tracked EI changes. See also Statistics Canada, *Parental leave, 1997-2022*.

137 Lero and Fast, "The Availability and Use of Flexible Work Arrangements and Caregiving Leaves": 26-27.

138 Employment Standards Act, 2000, SO 2000, c 41, s.49.1.

139 Ontario's unpaid leaves include family responsibility leave, family caregiver leave, critical illness leave, child death leave, crime-related child disappearance leave, and domestic or sexual violence leave: see Ontario, *Employment Standards Act Policy and Interpretation Manual*.

of work/family conflict that continue to impede women's fuller participation in the labour force. Among those pressures are the problems posed by the organization of time. The statistics look only at the number of hours per day and per week allocated between work and family care. However, the logistical challenge is not simply a question of dividing up the hours, but also scheduling them – ensuring that hours available for family care work mesh with the needs of family members and the institutions that serve them, such as schools, daycare centres and healthcare providers. Family care requires careful planning. Daycare arrangements for infants and preschoolers must often be made months – sometime even years – in advance. For older children, there must be reliable arrangements in place for school drop-off and pick-up, after-school care, holidays and school vacation, snow days, sick days and emergency care. Families who have children with disabilities face extra challenges in all these areas. In addition to child-related needs, many families provide support and care for elderly parents, juggling errands, regular and specialist medical appointments and emergency coverage.

Fitting work schedules in among all these moving parts is challenging enough for women who work 9-5 Monday-to-Friday schedules. But increasingly, women's jobs don't come in this conventional package. A 2017 report to the Ontario government, The Changing Workplaces Review, An Agenda for Workplace Rights, points to the increasing prevalence of what has become known as "precarious work", including much part-time work as well as temporary, casual and seasonal work.[140] Data reviewed in the report confirms that precarity is a gendered hazard. Almost 40 percent of Ontario women hold precarious jobs, compared to 33.1 percent of the workforce as a whole, and women are more likely than men to hold more than one of these jobs at the same time. With precarity comes instability, which makes both organizing and budgeting for child care more challenging, compounding the ordinary difficulties faced by women searching for strategies to combine paid work with family care.[141]

...PRECARITY IS A GENDERED HAZARD... ABOUT 40 PERCENT OF ONTARIO WOMEN HOLD PRECARIOUS JOBS COMPARED TO 33.1 PERCENT OF THE WORKFORCE AS A WHOLE... WITH PRECARITY COMES INSTABILITY.

Traditionally, workers have had very little control over their work schedules. Conventional employment law doctrine locates work scheduling squarely within the realm of "management rights", upholding the right

140 Ontario, *The Changing Workplaces Review, An Agenda for Workplace Rights: Final Report.*

141 Ontario, *The Changing Workplaces Review:* 41-54.

142 Ontario, *The Changing Workplaces Review;* 187.

143 *The Changing Workplaces Review* summarized "right to request" laws in other jurisdictions and provided some recommendations (#96-97) which have not yet been implemented in Ontario.

of employers to establish and change work schedules as they see fit unless limited by contract or collective agreements. As the report of Ontario's Changing Workplaces Review points out, "[t]here is currently no provision in the [Employment Standards Act] requiring an employer to provide advance notice of shift schedules or of last-minute changes to existing schedules".[142] Among the few statutory limits imposed on the absolute right of employers to set and change work schedules are so-called "right to request" laws, which permit employees to ask for changes in their hours of work, work schedules or work locations. These laws provide protection from reprisals for workers who ask for accommodation and require employers to consider and respond to such requests.[143] Since 2017, the Canada Labour Code, which establishes employment standards for federally regulated employees, has included a "right to request",[144] but despite recommendations by the Changing Workplaces Review, Ontario has no similar provision.

One potential limitation that does apply in Ontario and elsewhere in Canada is the prohibition against discrimination on the basis of "family status".[145] The term "family status" is not well-defined in the statutes, and its meaning has been contested in several high-profile cases over the past two decades. Most of the key cases have involved work scheduling for women with young children.[146] The women involved in these cases were ultimately successful because they were able to persuade adjudicators that their situations were "exceptional". In fact, the complex situations in these cases are not exceptional at all; they are typical of the day-to-day dilemmas of women attempting to juggle paid work with family responsibilities.

144 *Canada Labour Code*, (R.S.C., 1985, c. L-2), Part 3, Division 1.1 (Flexible Work Arrangements), s.177.1.

145 The current approach to family status anti-discrimination laws is discussed in Shilton, "Family Status Discrimination".

146 *Communications, Energy, and Paperworkers Union, Local 707 v. SMS Equipment Inc (Cahill-Saunders Grievance)* (2013), 238 LAC (4th) 371, [2013] AWLD 5319 (AB), aff'd 2015 ABQB 162, 254 LAC (4th) 34 (A single mother with two young children had a shift schedule of seven days on - seven days off, with her working weeks alternating between day and night shifts. Her request to work only on day shift was denied, despite the availability of a qualified and union-approved volunteer to swap shift assignments with her); *Canada (Attorney General) v. Seeley, 2013 FC 117; Canada (Attorney General) v. Johnstone*, 2014 FCA 110, [2015] 2 FCR 595; 2014 FCA 110, 372 DLR (4th) 730 (Three female train conductors based in rural Alberta were recalled from a lengthy layoff and assigned to temporary (but indefinite) work assignments in metropolitan locations far from their home base. Two were single parents, one with a complicated custody arrangement and one whose child had disabilities required complex care. They requested relief from recall based on their difficulties in making temporary child care arrangements, but their employer had refused to consider their request on the grounds that childcare issues were not the employer's problem.); *Health Sciences Association of British Columbia v. Campbell River & North Island Transition Society*, 2004 BCCA 260, 240, DLR (4th) 279 (The mother of a neurodiverse child with serious behavioral issues had a part-time work schedule that allowed her to care for her child after school hours. Her employer changed her schedule, extending her hours so that she could no longer do this.)

COMPARABLE CHILD CARE COSTS FOR QUEBEC CITIES ARE MUCH LOWER, AS IS THE GENDER LABOUR FORCE PARTICIPATION GAP. THE QUEBEC DIFFERENCE REFLECTS QUEBEC'S 1998 INTEGRATED FAMILY POLICY.

The Cost of Child Care

Scheduling is not the only child care-related difficulty impeding women's labour force participation. At least as fundamental is the challenge of paying for child care. Up to very recently, child care costs in Canada have been very high by international standards,[147] so high that in many places in Canada, it is a rational economic decision to have family members provide it themselves rather than sell their time on the labour market. In families with two parents, it is typically the lowest-paid parent that stays home with the children. Thanks to the gender pay gap and its attached motherhood wage penalty, that parent is typically the mother.

Research shows clearly that women's labour market participation is linked to the cost of child care. Studies of the relationship between child care costs and women's labour force participation rates in various metropolitan regions across Canada in 2015 clearly illustrate the problem. For example, Toronto shows the highest median monthly fee for both infants and toddlers, matched by a significantly lower female labour force participation rate than the national average and a significantly higher gender participation gap.[148] Comparable child care costs for Quebec cities are much lower, as is the gender labour force participation gap. The Quebec difference reflects Quebec's 1998 Integrated Family Policy, which included standardizing and radically reducing child care fees across the province. A 2022 StatCan study identified meaningful effects from the policy, linking universal low child care fees to a 9 percent increase in women's labour force participation rates.[149]

A 2022 STATCAN STUDY IDENTIFIED MEANINGFUL EFFECTS FROM THE POLICY, LINKING UNIVERSAL LOW CHILD CARE FEES TO A 9 PERCENT INCREASE IN WOMEN'S LABOUR FORCE PARTICIPATION RATES.

147 OECD, Is *Childcare Affordable*: 2.

148 Moyser "Women and Paid Work": 6-7. See also Macdonald and Klinger, They Go Up So Fast.

149 Wulong Gu, The value of unpaid childcare and paid employment by gender: 18. Interestingly, Gu and other researchers do not find that lower child care fees increase women's paid hours per week or their overall earnings.

As a result of the federal government's recently implemented Early Learning and Child Care program, Quebec-style child care costs can now be expected to spread to the rest of Canada. Ontario's Financial Accountability Office describes the initiative as follows: "In the 2021 federal budget, the government of Canada outlined a national child care spending plan with the aim to reduce child care fees by 50 per cent from 2019 levels by the end of 2022, and to further reduce fees for all regulated child care spaces for children under the age of six years to $10 a day by 2026. In 2021 and 2022, the federal government signed bilateral Early Learning and Child Care Agreements with all provinces and territories. These agreements outline regional funding allocations, as well as the planned number of child care spaces and early child care educator jobs to be created."[150]

Based primarily on data from Quebec, Ontario anticipates an increase of some 1.6-3.1 percent in women's labour force participation rate by 2027.[151] This expectation may be somewhat optimistic. Quebec's Integrated Family Policy went beyond regulating daycare costs. It also provided longer parenting leaves, more generous and accessible EI parenting benefits, a use-it-or-lose-it "second caregiver" leave and refundable tax credits for daycare expenses.[152] While several studies have found that the Quebec approach produces meaningful (if modest) differences in the metrics of women's labour market engagement that will produce differences in pension outcomes, it is not clear how much of Quebec's success is attributable to the reduction in daycare costs alone.[153] **Ontario and other provinces may find that they cannot achieve Quebec's results without adopting other aspects of Quebec's program.**

Intersections between Gendered Earnings and Family Care Issues

In much of the literature, gendered earnings and the gendered allocation of family care work are treated as independent drivers of the gender pension gap. Within Canada's existing retirement income instruments, they do operate in independent and linear ways to depress women's pensions. But they also operate synergistically to produce complex linked and overlapping effects on pensions. One clear example of this phenomenon already discussed is the "motherhood wage penalty", which is measurable in hourly wage rates, but also correlates closely with the disproportionate time women spend on child care after they return to work, and with employer stereotypes about how mothers (or potential mothers) prioritize work and family.

gender pension gap. Women who work fewer hours may decide that they cannot afford to participate in group RRSPs or join workplace pension plans where membership is voluntary. Loss of income during parental leaves may influence women's decisions not to contribute to their pension plans while on leave. Decisions like these come with long-term costs. In the past, they were facilitated by delayed vesting rules that postponed the "locking in" of contributions and permitted plan members to withdraw pension funds for use elsewhere. Well into the 1980s, these rules permitted women teachers to withdraw pension contributions

THE "MOTHERHOOD WAGE PENALTY", WHICH IS MEASURABLE IN HOURLY WAGE RATES… CORRELATES CLOSELY WITH THE DISPROPORTIONATE TIME WOMEN SPEND ON CHILD CARE AFTER THEY RETURN TO WORK, AND WITH EMPLOYER STEREOTYPES ABOUT HOW MOTHERS PRIORITIZE WORK AND FAMILY.

In addition, the gender earnings gap influences individual and couple choices about the allocation of family care work. In male-female two-parent families, it is a factor in deciding which parent will take parental leave to care for infants and small children, which parent will work part-time to accommodate the needs of school-age children, and which member of a couple will reduce working time to care for aging elders. In turn, these family care-related decisions influence financial decisions directly affecting women's retirement savings and the

when they took breaks from employment to start families. Reforms to vesting rules mean that workplace pension plans no longer permit early withdrawals, **but many current women pensioners still live with the consequences of the short-term decisions they took decades ago.** And the problem lives on in personal pension plans where contributions are not locked in, and income tax rules which maximize benefits for high income earners provide an incentive to withdraw funds from existing RRSPs during periods of low income.

150 Financial Accountability Office of Ontario, Women in Ontario's Labour Market.

151 Financial Accountability Office of Ontario, Women in Ontario's Labour Market.: 19-28. The report anticipates only a modest reduction in the gender wage gap from this program and describes the expected impact on the motherhood wage penalty as "unclear".

152 Bernstein and Valentini, "Working Time and Family Life": 145.

153 See McKay, Mathieu and Doucet, "Parental-leave rich and parental-leave poor"; Robson, Parental Benefits in Canada; Lero and Fast, "The Availability and Use of Flexible Work Arrangements and Caregiving Leaves": 23-26.

SOME INTERSECTIONAL QUESTIONS ABOUT THE DISTRIBUTION OF GENDER PENSION DISADVANTAGE.

Identifying Winners and Losers in Canada's Retirement Income System

Our focus so far has been on the gender pension gap. That gap is a comparison of averages, which can mask considerable distributive differences. The existence of a gender pension gap tells us that in general men are better served by the retirement income system than women, but it tells us nothing about how women's smaller share is distributed. In this part, we will take a closer look at some of the distributive mechanisms within the system that exacerbate systemic disadvantage for some groups of women, depending on their social location.

A look at medians instead of averages gives us some clues about where we might look to get a better distributive picture of how the system treats different groups of women. Figure 7.1 shows both average and median retirement incomes for Canadian women on a pillar-by-pillar basis for the single year, 2021.

We see that total median income for 2021 is lower than average income, with a 20 percent gap between median and average that is larger than the 17 percent gender pension gap for that year. Within Pillar 1, the median is smaller and the gap is 12 percent, smaller than the total gap but perhaps unexpectedly large. Part 3 identified two possible explanatory factors, both related to gender income inequality; more women than men collect GIS, and the OAS clawback has a disparate impact on men because of their higher earnings. Within Pillar 2, the gap between median and average is much smaller. Here it is the average that is smaller. The data "skews left", as the statisticians would say, suggesting that while the income of female Pillar 2 recipients clusters around the average, outliers likely receive less. The gap in Pillar 3 is a very significant 31 percent, with the median smaller. Here the data "skews right", suggesting the presence of outliers with income very substantially higher than the group as a whole. All of this confirms the presence of distributive differences, and signals that **the widest disparities are to be found in Pillar 3. But outside of Pillar 1, it sheds little light on which groups of women do best in the system, and which do poorly.**

Can an intersectional perspective help us understand this better? Canadian scholars Anna Cameron and Lindsay Tedds explain intersectionality this way: "As an analytical framework, intersectionality abandons single-axis considerations of gender and invites a focus on the

Women's Average v. Median Income by Pillar, 2021

	Pillar 1 OAS/GIS	Pillar 2 CPP/QPP	Pillar 3 Private Pensions	Total Retirement Income
Average Income	$9,100	$7,600	$20,000	$36,700
Median Income	$8,000	$7,900	$13,800	$29,700

Figure 7.1. Source: Author based on Statistics Canada. Table: 11-10-0239-01 *Income of individuals by age group, sex and income source, Canada, provinces and selected census metropolitan areas*, age 65+.

ways in which multiple and interlocking systems of power both interact to produce privilege and oppression for diverse people on the basis of their social location, as well as undergird and work through norms, narratives and institutions to structure the world".[154] They caution against confounding this holistic concept with an "additive approach" which takes gender as a starting point and slots women into categories based on a series of indicia of disadvantage "in addition to" gender. In a study in which the gender pension gap is the focus, it is difficult to avoid an additive ("gender plus") approach in attempting to tease out the myriad ways in which social location influences pension outcomes for women. Their caution is nevertheless useful in that it directs us back to system design, and the interaction of social location with system design.

Intersectional Issues and System Design

Certain intersectional distributive issues were built into system design. One obvious example is the Canadian residence qualification for OAS benefits; only those who have resided in Canada for ten years or more will receive any OAS pension, and only those who have legally resided in Canada for forty years will receive full pension. It follows that recent immigrants are treated less favourably in Pillar 1 than those born in Canada, although some of those not eligible for full OAS may be receiving partial pensions from other countries where they resided, pursuant to reciprocal treaty arrangements.

RECENT IMMIGRANTS ARE TREATED LESS FAVOURABLY IN PILLAR 1 THAN THOSE BORN IN CANADA.

Equally embedded in system design but of broader impact is eligibility for spousal/survivor benefits. As we saw in Parts 2 and 3, Canada's public pension system was initially designed to meet the retirement income of women through a family model based unambiguously on heterosexual married couples in which a male breadwinner provided support for a full-time homemaker. This model discriminated against women by making their benefits dependent on their male spouse's success in the labour market. But it also explicitly privileged women in heterosexual marriages over those who did not fit that mould, excluding single women, divorced women, many women in common law relationships[155] and women with same-sex partners. Initially, the benefit delivered by this model was a survivor pension for widows of contributors that ceased on remarriage. As time went on, however, additional spousal benefits were added. These included a spousal allowance introduced into the OAS/GIS regime, allowing partners of pensioners between the ages of 60

154 Cameron and Tedds, "Canada's GBA+ framework in a (post)pandemic world: Issues, tensions and paths forward":7.

155 The original CPP provided a survivor pension for "widows", a term which assumed prior marriage. Common law relationships were not entirely excluded, but recognition was subject to ministerial discretion within quite narrow boundaries, requiring a lengthy relationship publicly represented as marriage. If the relationship was shorter than seven years, there was an additional requirement that neither spouse be already legally married to someone else: Canada Pension Plan Act, S.C. 1964-65, c.51, s.63. While the current statute is more generous to common law partners, there continue to be distinctions in treatment between common law and married spouses: see Hodge, discussed below.

and 64 to claim supplementary benefits if the couple met a low-income threshold. Survivor benefits were extended to the widowers of female contributors, new provisions permitted divorced and separated spouses to split their pension credits, and ultimately to share pension credits even in the absence of marriage breakdown. Within the private pension universe, a new spousal death benefit entitled widows or widowers to inherit the capital value of their spouses' pension if their spouse died before retirement. For both public and private pensions, survivor pensions now continued after remarriage. Altogether, spousal relationships deliver a valuable package of retirement income benefits. The very traditional nature of the legislative boundaries erected around spousal status was an open invitation to claims of discrimination on the basis of sexual orientation, marital and family status. With the advent of the Charter of Rights and Freedoms in the 1980s, those whose relationships did not fit the traditional mould had a tool to challenge their exclusion from these valuable benefits. However, as we will see, these challenges were largely unsuccessful.

The first such challenge to reach the Supreme Court of Canada was Egan v. Canada,[156] challenging the exclusion of same-sex couples from the definition of spouse in the Old Age Security Act. In a split decision that showed extreme deference to parliamentary choices, the court rejected the claim, reasoning (in language that sounds very antique now) that support for heterosexual marriage and marriage-like relationships promoted fundamental social objectives. Ultimately, however, after a series of lower appellate court decisions affirming Charter protection against discrimination on the basis of sexual orientation, the federal government passed the Modernization of Benefits and Obligations Act, S.C. 2000, c. 12, which amended spousal definitions in both the Old Age Security Act and the Canada Pension Plan to include same-sex couples. Initially these amendments applied only to situations where the contributing spouse had died after January 1, 1998, but this limitation was ultimately ruled unconstitutional.[157]

Other challenges focused on distinctions between married and common law couples. In 1975, both the Old Age Security Act and the Canada Pension Plan Act broadened the definition of spouse to clarify that spousal and survivor benefits were not restricted to legal marriage but could also flow from common law relationships.

156 Egan v. Canada, 1995 CanLII 98 (SCC), [1995] 2 SCR 513.

157 Canada (Attorney General) v. Hislop, 2007 SCC 10 (CanLII), [2007] 1 SCR 429.

THE DISTINCTION BETWEEN MARRIAGE AND COMMON LAW STATUS CAN BE EVEN MORE CONSEQUENTIAL WITHIN WORKPLACE PENSION PLANS, WHERE BOTH THE DEFINITIONS OF "SPOUSE" IN REGULATORY STATUTES AND RULES GOVERNING THE DISTRIBUTION OF PENSION RIGHTS ON SEPARATION, DIVORCE AND DEATH MAY VARY FROM JURISDICTION TO JURISDICTION.

However, this did not guarantee that common law relationships would be treated as entirely equivalent to legal marriage. For example, Hodge v. Canada involved a woman who had lived in a common law relationship for more than 20 years, but whose partner died shortly after the two had permanently separated. She claimed a CPP survivor pension based on her partner's contributions, but her claim was denied on the ground that at the time of her partner's death, she was no longer his common law spouse. She brought a Charter challenge on the basis of marital status, arguing that it was discriminatory to require common law spouses to be actually cohabiting on the death of the contributing spouse, when there was no equivalent residence requirement for married spouses who had separated. A unanimous court rejected her claim, holding that "[c]ohabitation is a constituent element of a common law relationship. This is to be contrasted with the situation of married spouses, whose legal relationship continues to exist and who still have legal obligations to each other despite a separation, and despite any subjective intention on their part to put a de facto end to the marriage." [158] As the court saw it, common law spouses had no continuing legal obligation of mutual support after separation, and therefore no continuing legal foundation for a survivor pension. The distinction between marriage and common law status can be even more consequential within workplace pension plans, where both the definitions of "spouse" in regulatory statutes and rules governing the distribution of pension rights on separation, divorce and death may vary from jurisdiction to jurisdiction.

Legal challenges have also arisen from the byzantine exclusions and distinctions on the basis of age built into statutory spousal and survivor benefits. These cases required courts to consider the legislative purpose behind specific benefits. Their results demonstrate that in addition to the foundational assumption that women are dependents of men heading up male-breadwinner families, legal rules governing eligibility for survivor benefits import a set of additional stereotypical assumptions about how families are structured and how dependency relations are systematized. Two cases illustrate this point:

158 Hodge v. Canada, Minister of Human Resources Development, 2004 SCC 65 (CanLII), [2004] 3 SCR 357.
159 Law v. Canada (Minister of Employment and Immigration), 1999 CanLII 675 (SCC), [1999] 1 SCR 497.

Law v. Canada (Minister of Employment and Immigration)[159] (involving public pensions), and Withler v. Canada (Attorney General)[160] (involving statute-based private pensions). Law involved a plaintiff who clearly fit the definition of surviving spouse, but was required to wait until she reached age 65 before she could collect her CPP survivor benefit because she was under the age of 35 and without dependent children when her spouse died.[161] The Court found the delayed payment justified on the premise that younger spouses have more capacity to be self-sufficient: "Older surviving spouses, like surviving spouses who are

LEGAL CHALLENGES HAVE ALSO ARISEN FROM THE BYZANTINE EXCLUSIONS AND DISTINCTIONS ON THE BASIS OF AGE BUILT INTO STATUTORY SPOUSAL AND SURVIVOR BENEFITS.

disabled or who care for dependent children, are more economically vulnerable to the long-term effects of the death of a spouse. Parliament's intent in enacting a survivor's pension scheme with benefits allocated according to age appears to have been to allocate funds to those persons whose ability to overcome need was weakest. … The concern was to enhance personal dignity and freedom by ensuring a basic level of long-term financial security to persons whose personal situation makes them unable to achieve this goal, so important to life and dignity".[162]

In Withler, a class action, surviving spouses challenged an age-based exclusion built into pension plans covering federal civil servants and members of the Canadian Forces.[163] In this case, the exclusion was not from the basic survivor benefit, but from a supplementary lump sum benefit payable to beneficiaries on the member's death. This death benefit was reduced by 10 percent for each year the plan member exceeded age 65 (or in the case of armed service personnel, age 60) at the time of death. The court analogized this to a life insurance benefit. As in Law, the Supreme Court of Canada found a rationale for upholding the age-based distinction that emphasized the need for clear line-drawing within pension systems: "In determining whether the [challenged] distinction perpetuates prejudice or stereotypes a particular group, the court will take into account the fact that such programs are designed to benefit a number of different groups and necessarily draw lines on factors like age. It will ask whether the lines drawn are generally appropriate, having regard to the circumstances of the persons impacted and the objects of the scheme. Perfect correspondence between a benefit program and the actual needs and circumstances of the claimant group is not required. Allocation of resources and particular policy goals that the legislature may be seeking

160 Withler v. Canada (Attorney General), 2011 SCC 12 (CanLII), [2011] 1 SCR 396.
161 Law v. Canada: paras 8-9.
162 Law v. Canada: para. 103.
163 While these pension plans were subject to Charter challenge because they were rooted in statute, they are functionally equivalent to workplace pension plans for private sector employees.

to achieve may also be considered".[164] The Court dismissed the challenge, satisfied that the age-based distinction was justified because the surviving spouses of older plan members had less need for a lump sum death benefit.

These cases are troubling. The Court is clearly reluctant to disturb pensions schemes with multiple complex and interconnected moving parts. The decisions emphasize the complexity and collective nature of pension arrangements and show serious concern that pulling a single brick out of these complex edifices might bring them crashing down. This concern is not misplaced; courts are not the ideal venue for rewriting pension plan provisions. However, the result is a set of decisions in which the court upholds distinctions clearly grounded in an ideology of gendered dependency relations. The court's reasoning is based on post facto hypotheses about the purpose of these distinctions that have little foundation in legislative history. As a group, these cases raise important policy questions about the continued utility of survivor benefits as the best mechanism for addressing women's pension needs in an era in which the type of family these benefits

THE COURT IS CLEARLY RELUCTANT TO DISTURB PENSIONS SCHEMES WITH MULTIPLE COMPLEX AND INTERCONNECTED MOVING PARTS. THE DECISIONS EMPHASIZE THE COMPLEXITY AND COLLECTIVE NATURE OF PENSION ARRANGEMENTS AND SHOW SERIOUS CONCERN THAT PULLING A SINGLE BRICK OUT OF THESE COMPLEX EDIFICES MIGHT BRING THEM CRASHING DOWN. THIS CONCERN IS NOT MISPLACED.

164 Withler v. Canada: para. 67. See also War Amputations of Canada v. Canada, (1997)36 O.R. (3d) 709 (CA.), in which the Ontario Court of Appeal held that it did not violate that Charter for survivor's pensions for widowed spouses of disabled veterans to be smaller than the pensions received by the veterans themselves, even though the difference had a disparate impact on the basis of sex, since the pensions were for different purposes.

were designed for – the male-headed single-earner family – is now the exception rather than the rule.[165]

Intersectional Issues and Social Location

To date, Canada's retirement income system has largely escaped intersectional analysis based on social location. The few existing studies focus primarily on aspects of racialization and immigration status. In 2002, Statistics Canada published an analysis examining workplace pension coverage for immigrants and "visible minority" Canadians. It concluded that both male and female immigrant employees had slightly lower coverage than Canadian-born workers, and that visible minority status significantly depressed coverage for immigrant males, while it appeared to have no similar impact on women. The study called for further research to understand the reasons for these outcomes.[166] An analysis of the Canada Pension Plan for the years 1992-2012 found similar results, concluding that "foreign-born individuals have a lower likelihood of collecting CPP benefits," with "the magnitude of the difference… particularly large for those not born in the U.S. or in Europe."[167] The CPP study did not report on gender differences.

A more recent examination of distributive issues within the retirement income system as a whole, and the only one to invoke intersectionality by name, is a 2016 study from the Canadian Centre for Policy Alternatives (CCPA), Canada's Colour-Coded Retirement: An intersectional analysis of retirement income and savings in Canada.[168]

The CCPA analysis focused on 2016 census data, comparing not only retirement income, but also retirement savings for those still in the workforce. It examined three broad categories: white, racialized (i.e. Black, Chinese and South Asian) and Indigenous Canadians, broken down by gender. Predictably, the study found that those in the white group had significantly higher retirement income, and men's incomes were higher than women's in all three categories. Not quite so predictably, when the three broad categories were disaggregated, researchers identified significant differences among Indigenous groups; for example, Metis and Inuit have broader

AN ANALYSIS OF THE CANADA PENSION PLAN FOR THE YEARS 1992–2012 … CONCLUD(ED) THAT 'FOREIGN-BORN INDIVIDUALS HAVE A LOWER LIKELIHOOD OF COLLECTING CPP BENEFITS WITH THE MAGNITUDE OF THE DIFFERENCES … PARTICULARLY LARGE FOR THOSE NOT BORN IN THE U.S. OR IN EUROPE.

165 Statistics Canada, The rise of the dual-earner family with children, Canadian Megatrends, 2016.
166 Morissette, "Pensions: Immigrants and visible minorities": 13-18.
167 Canada, ESDC Summative Evaluation of the Canada Pension Plan Retirement Pension and Survivor Benefits, 1992-2012: 14.
168 Block, Galabuzi and King, Colour-coded Retirement.

workplace pension coverage than First Nations. Likewise, there were significant differences among racialized groups; for example, the average RRSP contribution of Chinese Canadians was more than double that of Black Canadians. With respect to gender, the study concluded that the "gender income gap is consistent across Indigenous and racialized seniors. However, the income gap between senior white men and senior racialized and Indigenous women points to the intersectional impact of racism and sexism across the life course."[169]

Beyond these few studies, we have little definitive information about the direct impacts of Canada's pension system on different groups of Canadians characterized by multiple disadvantages, and few reliable data sources to assist in the kind of intersectional analysis called for by Cameron and Tedds. However, we may be able to get some insight by focusing directly on the labour market factors that drive pension outcomes within that system. Given the design of Canada's system, we could expect to find that the key identity factors influencing labour market outcomes also influence pension outcomes. The three pension studies referred to above generate results that correlate with inequalities identified in more extensive intersectional analysis of Canadian labour markets. Since our purpose here is to locate research threads that may be helpful for understanding the construction of the gender pension gap, we focus on the labour market metrics which determine women's pension outcomes: time and earnings in the labour market.

169 Block, Galabuzi and King, Colour-coded Retirement: 37.

Intersectional analysis of Canadian labour markets typically looks at relationships among numerous indicia of disadvantage – gender, Indigenous status, race and visible minority status, disabilities, immigration status (including whether immigration was recent), and less typically, marital and family status – to determine their impact on labour market participation and labour market earnings. Schirle and Sogaolu's 2015 study focused solely on annual earnings. The authors compared white, Indigenous and visible minority men and women, and non-indigenous individuals born and not born in Canada. Even when earnings were adjusted to account for demographic and job characteristics, they found that Canadian-born white men out-earned all other groups, with the largest gaps between Canadian-born white men and Indigenous women. Overall, they concluded that "the results demonstrate complex interactions between the roles played by gender, racial identity, and immigrant status in affecting labour market outcomes".[170]

Lambert and McInturff's 2016 study looked at both labour force participation and earnings and identified similar complex interactions between and among multiple factors. They found that "[i]mmigrant women's employment lags 7% behind Canadian-born women and 14% behind that of immigrant men. Aboriginal women's employment rates are 5% below those of Aboriginal men and 11% below those of non-Aboriginal women."[171] They also found wage gaps even greater than the participation gaps: "Working full-time, Aboriginal women earn 10% less than Aboriginal men and 26% less than non-Aboriginal men. Racialized

170 Schirle and Sogaolu, *A Work in Progress*:1.
171 Lambert and McInturff, *Making Women Count*: 5.

THE EMPLOYMENT RATE OF MOTHERS INCREASES WITH THE AGE OF THE YOUNGEST CHILD WHEREAS THE EMPLOYMENT RATE OF MEN SHOWS LITTLE VARIANCE BASED ON THE AGE OF THE YOUNGEST CHILD.

women earn 21% less than racialized men and 32% less than non-racialized men. Immigrant women earn 25% less than immigrant men and 28% less than non-immigrant men."[172]

Shifting to more general data not disaggregated by race, they identified wage gaps based on marital status, disability and age: "More than 1 in 3 (37%) single mothers live in poverty. Women with disabilities are not only more likely to live in poverty than those without disabilities, but are more likely than men with disabilities to live in poverty. Older women are far more likely to live in poverty than are older men: 32% of single women over the age of 65 live below the poverty line".[173] Importantly, they also locate significant wage disparities at the top end of the income spectrum, noting that men make up 70 percent of the top 10 percent of income earners in Canada, a share that increased to 78 percent in the top 1 percent of earners.[174] These findings are corroborated by Fortin's work on gender differences among top Canadian earners; as we already noted in Part 5, Fortin attributes the bulk of the remaining gender earnings gap to gender disparities at the top end of the wage spectrum.[175]

Marie Drolet's 2022 study, "Unmasking differences in women's full-time employment" is also useful in constructing an intersectional map of women's labour market participation.[176] Using 2021 data, Drolet compared full-time female workers aged 20 to 54 across four categories: Canadian born, recent immigrants, long-term immigrants, and Indigenous women. Her findings are interesting and not entirely predictable. As we would expect, she found that Canadian-born non-Indigenous women and long-term immigrants had higher rates of full-time employment than Indigenous women and recent immigrants. However, education made a significant difference for Indigenous women: those with university degrees were just as likely to hold full-time employment as non-Indigenous Canadian-born women. In addition, she found that while marriage and motherhood lowered the full-time employment rates of immigrant women, these factors had almost no impact for Indigenous and other Canadian-born women.

These studies assist in understanding diverse pension outcomes among women, particularly those who participate in the labour market. Also helpful for intersectional analysis is understanding more about the identify factors characterizing

172 Lambert and McInturff, *Making Women Count*: 6.
173 Lambert and McInturff, *Making Women Count*: 6.
174 Lambert and McInturff, *Making Women Count*: 7.
175 Fortin, "Increasing Earnings Inequality".
176 Drolet, "Unmasking differences in women's full-time employment": 1.

women who do not participate in the labour market. On that issue, it is useful to return to the study we looked at in Part 6, Melissa Moyser's report on "Women and Paid Work". Focusing on Canadian women of core working age (25-54), Moyser found participation rates linked to educational levels: "Gender employment gap decreases as educational attainment increases, but it does not disappear".[177] She found that marriage was no longer a significant deterrent to labour force participation for women.[178] However, parental status remains important; the employment rate of mothers increases with the age of the youngest child, whereas the employment rate of men shows little variance based on the age of the youngest child. This is particularly true for lone-female parents, who participate at lower rates than either lone-male parents or female-parents with partners.[179]

It is almost certainly no coincidence that so many of these identity factors relate directly to women's disproportionate role in family care.

177 Moyser, "Women and Paid Work": 8-9.
178 Moyser, "Women and Paid Work": 9-11.
179 Moyser, "Women and Paid Work": 11-13.

THE PANDEMIC AND THE GENDER PENSION GAP.

Will the Pandemic Widen the Gender Pension Gap?

The gender pension gap is a product of the complex interaction between the design of the retirement income system, and women's time and earnings in the labour market. As we saw in Part 6, women's time and earnings in the labour market are heavily dependent on women's disproportionate role in family care. However, most of the data we looked at there predates the COVID-19 pandemic, a watershed event that at least in the short term disrupted labour markets and the social and economic conditions that shape those markets. Before we explore what measures might assist in closing the gender pension gap, we need to ask whether the pandemic has changed the labour market landscape for women, and what impact it may have on women's retirement income in future.

COVID-19 is still with us. Even now we lack key data on its direct impact during the more than three-year period when it was officially an international health emergency,[180] and it will be many years before we have sufficient data to evaluate its medium and longer-term impact. However, the consensus of both global and Canadian researchers so far is that the pandemic has been particularly hard on women. In addition, intersecting identity factors such as race, Indigenous status, disability and parental status have made women more vulnerable to COVID-19, and left them with fewer resources to engage with the labour market, carry out their family care responsibilities, and manage their own physical and mental health.[181] The editors of an influential Canadian collection addressing pandemic impacts on women put it this way: "Not all Canadian women have experienced the same kind of pandemic. Women with disabilities… survivors of domestic violence… Indigenous women and girls…, racialized women and girls…

THE GENDER PENSION GAP IS A PRODUCT OF THE COMPLEX INTERACTION BETWEEN THE DESIGN OF THE RETIREMENT INCOME SYSTEM, AND WOMEN'S TIME AND EARNINGS IN THE LABOUR MARKET.

180 The World Health Organization (WHO) declared COVID-19 a Public Health Emergency of International Concern (PHEIC) on January 30, 2020, and labelled it a pandemic on March 11, 2020. On May 5, 2023, WHO officially declared that it is no longer a PHEIC, but emphasized that it is still a pandemic: *World Health Organization, Coronavirus disease (COVID-19) pandemic.*

181 See Robson, Tedds et al, *Impacts of the COVID-19 Pandemic on Women in Canada.* Royal Society of Canada; Scott, *Women, work and COVID-19*; Standing Committee on the Status of Women, *Impacts of the COVID-19 Pandemic on Women*; Roundtable with Minister Chrystia Freeland, *Summary: Recommendations For A Gender Just Recovery;* Etowa and Hyman, "Unpacking The Health and Social Consequences of COVID-19-19 Through A Race, Migration and Gender Lens: 8-11; European Institute for Gender Equality, Gender Equality Index 2022: *The COVID 19 Pandemic and Care;* Dikler, *COVID-19 and the Exacerbation of Gender Inequality*: 21-45.

182 Robson, Tedds et al, *Impacts of the COVID-19 Pandemic on Women in Canada*: 62.

INTERSECTING IDENTITY FACTORS SUCH AS RACE, INDIGENOUS STATUS, DISABILITY AND PARENTAL STATUS HAVE MADE WOMEN MORE VULNERABLE TO COVID-19, AND LEFT THEM WITH FEWER RESOURCES TO ENGAGE WITH THE LABOUR MARKET, CARRY OUT THEIR FAMILY CARE RESPONSIBILITIES, AND MANAGE THEIR OWN PHYSICAL AND MENTAL HEALTH.

and women and gender-diverse members of the LGBTQI2S+ community… have been particularly at risk for the direct and indirect health, psychological, social, and economic effects of the pandemic."[182] The pandemic has both highlighted and exacerbated the many cracks in the system of social and economic support for women and other disadvantaged groups, particularly as they cope with family care.

This part examines research to date on the gender impacts of COVID-19, focusing on three issues: (1) the direct impact of COVID-19 on labour markets, women's labour market engagement and earnings; (2) the direct impact of COVID-19 on the retirement income of Canadian women; and (3) the potential for longer-term impacts of COVID-19 that may affect women's future pensions.

COVID-19 and Gender Impacts on Labour Markets

The impact of COVID-19 on the Canadian labour market was initially catastrophic, and clearly more so for women than for men. In July 2020, headlines like "Pandemic Threatens Decades of Women's Labour Force Gains" were commonplace.[183] Noted economist, Armine Yalnizyan coined the memorable term "she-cession" to describe disproportionate job loss among women in the early days of pandemic shutdowns, contrasting this pattern to "normal" recessions in which male job loss leads the way.[184] Gendered patterns in job losses in part reflected gender segregation in the workforce; much early, job loss targeted sectors such as accommodation and food services, personal care services and retail trade, which are largely populated by women. However, at the level of participation rates for the core labour force, employment bounced back surprisingly quickly from the deep lows experienced in the late summer and fall of 2020. By the end of 2020, male employment had returned to close to pre-COVID-19 levels. Female employment took longer but had returned to pre-COVID-19 levels by mid-2022.[185]

182 Robson, Tedds et al, *Impacts of the COVID-19 Pandemic on Women in Canada*: 62.
183 Desjardin et al, *Pandemic Threatens Decades of Women's Labour Force Gains*.
184 Armine Yalnizyan, Opinion: "The 'She-cession' Is Real and a Problem for Everyone".

But job loss was not the only labour market risk to which women were exposed during the pandemic. Even as they were losing employment in greater numbers, they were disproportionately represented in occupations that were essential and could not be done on a work-from-home (WFH) basis. [186] Healthcare workers in particular were exposed both to the virus and to the extraordinary pressures generated by caring for the very sick under emergency conditions in overcrowded and under-resourced facilities.[187] Teachers and other education workers took on extraordinary burdens as well, adjusting their pedagogical methods to the constantly changing demands of both in-person and remote learning, risking exposure of themselves and their families to COVID-19, and for many, managing their own children's online learning at the same time.[188]

The pandemic placed tremendous additional care burdens on families. With hospitals and healthcare providers stretched to the limit and beyond, families provided care to all but their sickest members. Childcare centres were initially

185 Clarke and Fields, *Employment growth in Canada and the United States during the recovery from COVID-19*: 2, Chart 1.
186 Scott. *Women, work and COVID-19*: 11-13.
187 Lotta et al., *Gender, Race, and Health Workers in the COVID-19 Pandemic*; Sriharan et al, "Women in Healthcare Experiencing Occupational Stress and Burnout during COVID-19".

locked down, and even after formal lockdowns were lifted, they often operated at reduced capacity and were forced to close with little or no notice due to COVID-19 outbreaks. Schools in many areas were shuttered for prolonged periods, and remote learning meant that parents were required to provide childcare and support during their own working hours. Evidence before the Federal Standing Committee on the Status of Women in 2021 demonstrated that predictably, women were taking on a disproportionate share of these additional burdens. The Committee's recommendations included a request for increased federal support for the work of unpaid caregivers.[189]

COVID-19 and Women's Retirement Income[190]

The pandemic had little or no impact on the public pension income of those already retired. Both the OAS/GIS and CPP/QPP continued regular payments throughout the pandemic. Indeed, pandemic benefits targeted at seniors and low-income people may have modestly improved the standard of living of older women, but these one-time, non-taxable payments will not affect retirement income data over the longer term.[191] Workplace pension payments from DB plans were likewise unaffected, although the volatility of the investment climate during the pandemic was undoubtedly a concern for members of DC plans and those who drew their Pillar 3 income from RRSPs/RRIFs not invested in guaranteed instruments. By contrast, those who retired during the pandemic are more likely to have lost ground, particularly if they retired early as a result of pandemic pressures. Research in mid-2022 showed that employment levels for older women were particularly slow to recover as the pandemic wore on, suggesting that the impact of COVID-19 may have prompted them to withdraw from the labour force entirely.[192] Further research will be required to determine if this was indeed the case, but if so, early retirement will depress their future income from both CPP/QPP and private pensions over the longer term, with consequential impact on the pension gender gap.

Although women's disproportionate loss of employment during the early part of the pandemic and slower recovery were relatively short-lived, they will also have some negative impact on future pension entitlements for women. In terms of basic income continuity, Canadians did comparatively well during the pandemic. The government response to the catastrophic loss of employment following the March 2020 lockdown was swift, relatively generous and relatively gender-inclusive.[193] The Canada Emergency Response Benefit (CERB) program to support those who lost income due to COVID-19 was put in place quickly, paying a benefit of $500 weekly – more than many low-income women earned – from March 15, 2020 to October 3, 2020. When the CERB program expired, it was followed immediately by a suite of income-support programs. For our purposes, the most important income-support programs were the Canada Recovery Benefit (paid until October 23, 2021) for those with COVID-19-related earnings losses who were not entitled to Employment Insurance benefits; the Canada Recovery Care-giving Benefit (paid until May 7, 2022) for those unable to work because they were caring for children out of school or daycare or family members unable to care for themselves; and the Canada Recovery Sickness Benefit (until May 7, 2022) for those required to stay home from work due to COVID-19 or the need to self-isolate.[194] CERB and the other COVID-19 recovery benefits provided critical immediate income support for those whose labour market earnings were curtailed by the pandemic.

188 Gallagher-Mackay et al. *COVID-19 and Education Disruption in Ontario*.

189 Standing Committee on the Status of Women, *Impacts of the COVID-19 Pandemic on Women*, March 23, 2021, Recommendation 10.

190 OECD *Pensions at a Glance 2021* contains a useful discussion of the potential impact of COVID-19 on future pension entitlements across the OECD spectrum: 19-27.

191 In July 2020 the federal government made a one-time payment of $300 to all seniors eligible for OAS, with an additional $200 for GIS recipients. In August 2021 there was an additional one-time payment of $500 to seniors 75+. Ontario doubled its Guaranteed Annual Income System (GAINS) payments for eligible recipients beginning in April 2020.

192 Scott, *A Bumpy Ride*: 10-11.

193 See Scott, *Canada's Gender Pandemic Response: Did it measure up?* Scott writes: "The federal government, for its part, clearly acknowledged the gendered character of the COVID-19 crisis in its policy statements. [Canada] was one of a small group of countries, as reported by the OECD, that explicitly undertook gender impact assessments in the design and delivery of its pandemic and recovery response. It applied a gender lens to its pandemic response and recovery efforts"; 9.

194 Canada. Office of the Auditor General. *COVID-19 Pandemic*. The report contains a detailed description of these benefits and their applicable conditions of eligibility. It found that "[w]omen, visible minorities, Indigenous groups, and youth aged 15–24 accessed programs at slightly higher rates than other groups did" (11).

But the period during which workers collected COVID-19-related benefits will nevertheless leave gaps in contribution records and accumulation of pensionable service that will ultimately reduce retirement pensions. These benefits were not "pensionable earnings" and will not count towards a future CPP/QPP pension or create additional RRSP contribution room. It is also unlikely that they generated matching employer pension contributions to DC plans or group RRSPs.

Post-pandemic Implications for Women

The increased burden of family care resulting from COVID-19 may not end with the pandemic. Preliminary research indicates the likelihood of longer-term impacts on children's educational development and mental health resulting from COVID-linked school closures;[195] the ensuing problems will almost certainly increase the already complex responsibilities of childrearing.

Ongoing labour shortages in daycare, education, elder care and long-term care, some of them pandemic-linked and others predating the pandemic, will require families to take on care work formerly provided by the state or the market.[196] These additional care burdens will inevitably have ongoing labour market consequences for women that will affect their career development and promotional opportunities as well as their incomes.

Women are also likely to shoulder additional burdens linked to "post-COVID-19 condition" (PCC), colloquially known as Long COVID. According to a 2022 study from the Office of the Chief Scientific Advisor of Canada, PCC has affected almost 5 percent of adult Canadians, the majority being "adults of working age – with higher representation of women versus men".[197] In addition to dealing with their own PCC issue, the prevalence of PCC within families may well make family care more complex and time-consuming. As the study puts it, "As women are often the caregivers of children and elderly parents or family relatives, their dependents could also be negatively impacted unless alternative supports are available. For example, healthy children can suffer from their caregiver's reduced capacity to do daily tasks such as helping with homework, taking them to school, or feeding and caring for them". PCC has intersectional complexity as well: "[s]ome groups are especially vulnerable to the impact of PCC. For example, racialized communities and recent immigrants are more likely to be providing care and financial support to extended family members and a higher proportion of them live in multigenerational households. These groups require special attention, as data indicate that, because of occupation and/or housing conditions, they are at higher infection risk and consequently at increased risk for PCC."[198]

While women are now back at work, at least as relevant to the impact of the pandemic on women's pensions are questions such as whether women can maintain their pre-COVID-19 hours and earnings. The periods in which women were out of the labour force or forced to work reduced hours may have longer-term impacts on future earnings. We need to assess the impact of the pandemic on self-employment for women, and the success of women-led businesses. One much-debated question is whether there will be an ongoing pandemic wage penalty, similar to the motherhood wage penalty discussed in Part 5. These questions are closely linked to the question of whether work-from-home and hybrid work were simply stop-gap phenomena that got us through the pandemic, or whether they are here to stay. A recent headline in the New York Times encapsulates the concerns of many feminist scholars focusing on women in the workplace: "Is Remote work the Answer to Women's Prayers, or a New 'Mommy Track'?"[199] For women trying to balance work and the family responsibilities which may well have been enhanced by a range of post-COVID-19 complications, the answer to this question is critical to both their current well-being and their future retirement income. The data required to answer this and related questions is not yet available, but interim data suggests that economic recovery for women has been uneven.[200]

While labour market participation rates bounced back for both men and women, women were out of the workforce longer than men. Even without considering potential longer-term impacts, this means that women's pension income will fall further behind men's, solely as a result of time away from work during the pandemic. When we add in the likelihood that post-pandemic family care needs may further cut into women's time at work and labour market earnings, it seems likely – indeed inevitable – that absent policy intervention, the pandemic will exacerbate the gender pension gap.

195 Gallagher-Mackay et al. *COVID-19 and Education Disruption in Ontario.*

196 Prentice, "Women as Caregivers and Canada's Care Economy" in Robson and Tedds et al, *Impacts of the COVID-19 Pandemic on Women in Canada*: 57-59.

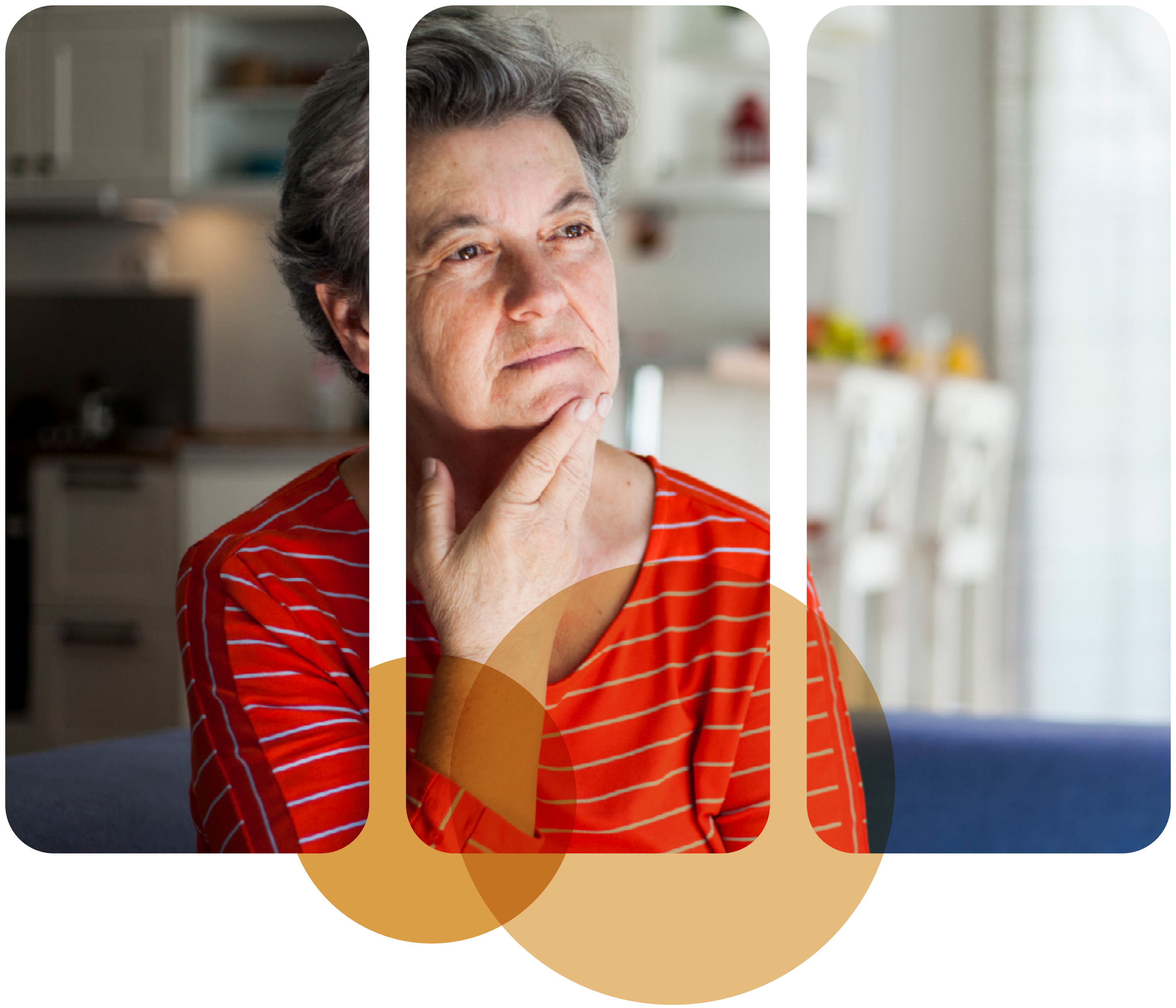
197 Canada, Office of the Chief Scientific Advisor of Canada, *Post-COVID 19 Condition in Canada*: 16.

198 Canada, Office of the Chief Scientific Advisor of Canada, *Post-COVID 19 Condition in Canada*: 16-17.

199 Kessler, "Is Remote work the Answer to Women's Prayers, or a New 'Mommy Track'? The article quotes legal scholar Joan Williams and Nobel-prize-winning economist Claudia Goldin.

200 Scott, *Still in Recovery*; Scott, A Bumpy Ride: 10-11.

PART 9



CLOSING THE GENDER PENSION GAP: SOME THOUGHTS ON REMEDIES.

Why Does Canada Still Have a Gender Pension Gap?

The core design principle of Pillars 2 and 3 of Canada's retirement income system is the conversion of labour force engagement and earnings into retirement income. The initial architects of the system were well aware that this design would not produce good pensions for women. This was not seen as a flaw, however, since they did not perceive women primarily as labour force participants; women were homemakers, ensconced in male-breadwinner families supported by their husbands' earnings and their husbands' pensions. If their husbands predeceased them, survivor benefits would move into the vacuum. As times changed and women embraced paid work in large numbers, law makers saw no need to change the model. Once women seriously engaged with the labour market, they anticipated that women's retirement incomes would eventually converge with men's and the gender pension gap would disappear. As we know, this has not happened. Instead, that gap stands almost exactly where it stood in the mid-1970s.

This report has shown that despite women's impressive gains on the labour market metrics that drive the current system, two countervailing factors impede meaningful progress in shrinking the gender pension gap. The first of these is fundamental to system design. As we saw in Parts 1 and 2, when Canada first added a public second pillar (CPP/QPP) to its system in the 1960s, it chose to keep that pillar small to leave ample room for the growth of Pillar 3. That strategy has succeeded. Canada's system has come to depend more and more on private pensions. Unfortunately for women, private pensions

generate the largest gender pension gap. Overall, the retirement income of Canadians has grown substantially, benefiting both men and women. However, because that growth has taken place primarily within Pillar 3, it has not benefited men and women equally. As Pillar 3 colonizes a larger and larger share of overall pension income, gains made by women through increased labour market engagement and increased earnings – gains that policy makers counted on to close the gender pension gap – have been offset by the gendered mechanisms of Pillar 3.

The second countervailing factor relates to the material realities of family care that shape women's labour market performance. Significant increases in women's labour force engagement

and earnings have buffered much of the impact of an expanding Pillar 3. But the pace of those increases has slowed down considerably. That deceleration is particularly apparent in the gender pay gap, the metric that measures not just the per-unit price of women's labour but also the amount of time women engage in paid work. The policy measures discussed in Part 6 to assist families in balancing the competing claims of paid work and family care appear to have already spent much of their force. Meanwhile, as family care burdens have become more onerous, men have not stepped in to fill the unpaid family-care vacuum and women simply have no more time to commit to paid work. Women's progress on the labour market metrics that drive Canada's current system has allowed them to hold their own; without that progress, the gender pension gap would be much wider. But they have not caught up with men. And they will not catch up with men within a system that fails either to accommodate or to close the gender pay gap and de-gender the distribution of family care.

Design Features that Narrow the Gender Pension Gap: The International Research

Are there lessons to be learned from other national systems about how to shrink the gender pension gap? National choices about how to assemble the pillars that make up their retirement income systems vary widely. The range of gender pension gaps reported by the OECD reflects an equally wide range of socioeconomic arrangements and national pension philosophies, and there is only limited value in searching for "best practices" outside Canada. Countries with lower gender pension gaps are not necessarily models we would wish to emulate, since they may also provide lower pensions to both men and women.

However, there are lessons to be learned from the recent policy interest in gender pension gaps within those countries that have been increasing their reliance on private market-based pension instruments in the last few decades. As we saw in Part 2, in the 1960s when Canada chose to keep its public pension pillars small to leave room for the growth of voluntary private pensions, Canada was an international outlier. However, pension reforms promoted by the World Bank in the 1980s and 90s, and more recently by the OECD have generated increased reliance on the private sector. These reforms have tightened the links between pension benefits and labour market activity. Canada remains an outlier in its heavy reliance on voluntary private pensions,[201] but it is now very much in the mainstream in allowing a significant role for the market in shaping its pension instruments.

Surprisingly little attention has been paid to the general distributive implications of this shift towards market-based pensions, but its potential for increasing the gender pension gap has been hard to ignore. Recent studies commissioned by the OECD, the World Bank and the European Parliament have focused on identifying system features that shrink or widen gender pension gaps.[202] These studies take it as a given that the primary drivers of gender pension gaps are the labour market factors we have discussed in this report: systemic gender differences in time and earnings in the paid labour force. But they emphasize the important role of system design features that can exacerbate or mitigate the impact of gendered inequality within labour markets. Mitigating features include indexation of benefits, the use of unisex life expectancy tables for calculating benefits, portability of pension credits, the provision of (child) care credits, survivor benefits, and spousal credit-splitting and sharing of pensions. It is no coincidence that these features are among the factors identified in Part 4 as present in the CPP/QPP and largely absent from the pension instruments that make up Canada's Pillar 3.

Canadian Reforms Still in the Pipeline

The focus here is on measures that might help reverse the gender impact of Canada's increasing reliance on voluntary private pensions. Before turning to new measures, however, it is worth considering whether there are reforms still working their way through the system that might contribute to solving the problem. The gender pension gap we saw in Figure 1.1 (Part 1) reflects the intersection of labour markets, social organization, public policy and law over the past four or five decades. Identifying the factors that produced that gap gives us only partial insight into future retirement income outcomes. Most of the major shifts in the socioeconomic and legal landscape discussed here that have contributed to those outcomes have largely spent their force, and are unlikely to have further distributive impact on the pensions of Canadians already retired or about to retire.

However, two very recent reforms still in the pipeline have potential to make meaningful inroads on the gender pension gap for Canadians in mid-career or those just embarking on working lives and family formation. The first is the Canada Pension Plan Enhancement (CPPE), the first major change in system design since the 1960s. The CPPE, discussed in Part 3, raises the overall income replacement level of the CPP from 25

201 OECD *Pensions at a Glance 2021* lists Belgium, Canada, Germany, Ireland, Japan, New Zealand and the United States as the countries with significant reliance on voluntary pensions: 19.

202 Lis and Bonthuis, *Drivers of the Gender Gap in Pensions*; Lodovici, et al, *The gender pension gap*; OECD, *Towards Improved Retirement Savings Outcomes for Women.*

percent of pensionable earnings to 33 percent, and raises the cap on replacement earnings from average earnings to 14 percent above average earnings. The gender impact of the CPPE is not yet clear. The benefit formula for the enhancement adds additional complications to an already complex calculation; it may or may not alter gendered outcomes. Within the enhanced area, the accommodation of parental responsibilities has shifted from the "child rearing drop-out" approach discussed in Part 6 to a "drop-in" approach in which eligible parents are awarded notional credits;[203] this may also have some impact on the gender pension gap. Bob Baldwin and Richard Shillington argue that the enhancements will do little for low-income earners, primarily because of interactions with GIS, other social benefits and the income tax system.[204] However, the enhancements will almost certainly encroach on the market share of overall retirement income now held by Pillar 3 pensions, particularly for middle income earners. For women, this should decrease their dependence on private pensions and modestly reduce the gender pension gap overall, although the full impact of CPPE will not be felt until 2059.

The second major reform with still-unrealized potential is the Early Learning and Child Care program discussed in Part 6 which addresses the cost of child care, a key impediment to women's labour force engagement. The federal-provincial agreements implementing this program have already dramatically lowered the cost of child care in most provinces, with further reductions to come. A similar program in effect in Quebec for over two decades fueled significant increases in women's labour force participation (although not necessarily in increased hours). However, there are clouds on the horizon. The Early Learning and Child Care program was intended to address both the cost of child care and its availability, but availability remains a key issue.[205] Severe post-pandemic staffing shortages have impeded the expansion of the low-cost system, forcing some parents to accept places in centres that did not opt into the low-cost system. Furthermore, because only children under the age of six are eligible, the system fails to reach most before-school and after-school care, which remains both scarce and costly. These problems require solutions before the program can be expected to have a significant effect on the gender pay gap that so heavily influences the gender pension gap.

Where Do Public Pensions Go from Here?

While the biggest issue for Canada is Pillar 3, reforms focused on public plans where governments have more leverage can mitigate gender differences overall. Pillar 1 produces the best results for women. Expanding Pillar 1 is an obvious option, but it should not be undertaken without careful gender-based analysis, since

203 Canada Pension Plan-Overview, Child-rearing provisions. I.

204 Baldwin and Shillington, Unfinished Business: 1. The authors do not address gender impacts. See also Milligan and Schirle, The Pressing Question: Does CPP Expansion Help Low Earners?: 2.

205 Statistics Canada reports that lack of availability now surpasses cost as a problem for parents who need childcare. "Difficulty finding available care remained the top challenge for parents, and the proportion of those reporting this difficulty increased from 53% in 2019 to 62% in 2023. Finding affordable care also remained a common concern among parents, but the proportion of those reporting this declined from 48% in 2019 to 41% in 2023": Child Care Arrangement 2023, Statistics Canada, The Daily, Tuesday, December 5, 2023.

Pillar 1 interacts with numerous other federal and provincial social programs, and increasing its contribution to overall retirement income might well produce unintended consequences elsewhere.[206]

Despite the presence of important features to mitigate gender labour market inequality, Pillar 2 continues to show a significant gender gap. Changes here would also require careful gender-based analysis to determine their actual impact in light of the interactions between system design, labour market, and social and fiscal policy that ultimately shape pension outcomes.

Measures worth considering include:

- A COVID-19 "drop-out" period: As we saw in Part 8, women's labour force engagement took longer than men's to bounce back from the impact of the pandemic. An additional one-to-two-year "drop-out" of low-income years for purposes of calculating benefits would help to even out the gender impact of the pandemic on future retirement income.
- Faster transition to 33 percent: If gender-based analysis confirms that the CPPE will have positive gender effects, women should not have to wait until 2059 to see the full impact of those effects in their pensions.
- Reducing the number of years required to qualify for full benefits: Policy discussions about how much pre-retirement income should be replaced by Pillar 2 pensions often imply that plan members get the maximum Pillar 2 benefit. In fact, the average benefit the plan pays out does not come even close to the maximum. Based on current data, the average Canadian gets just over half the maximum benefit, and women get less than men. This strongly suggests that the assumptions about labour market engagement that went into devising the benefit formula do not realistically reflect the careers of average Canadians. Requiring fewer years of contributions at average earnings to qualify for the maximum pension would benefit all Canadians, but they would particularly benefit women, who have fewer years of labour market engagement because of the disproportionate distribution of family care work.
- Survivor benefits: Current provisions for survivor benefits exclude many women who are denied access because their lives do not fit the conventional family mould cast in the 1960s. For this reason, it may be timely to re-examine the whole area of survivor benefits in light of the current realities of family life (See Appendix). This approach is not without risk, since many women continue to depend on Pillar 2 survivor benefits to stay out of poverty in retirement; any reform would have to "grandmother" their benefits. However, a system in which some women get pension supplements simply because of their relationship to a deceased contributor whereas other equally needy women do not has become increasingly difficult to justify.

206 Shillington and Baldwin's discussion of unintended consequences of the CPPE provides some useful clues to potential problems that might arise from OAS expansion: see Unfinished Business.

Where Do Private Pensions Go from Here?

What can we do about Pillar 3 pensions? For reasons discussed in Part 4, Pillar 3 pensions make by far the largest contribution to the gender pension gap. Furthermore, within Pillar 3 the best instruments (DB workplace pension plans) are yielding ground to second-best instruments (DC plans), and even DC plans struggle to hold their own against personal pensions. As the quality of Pillar 3 deteriorates, the Pillar 3 gender gap, already the widest within the three pillars, may well expand even further.

The fact that Pillar 3 pensions are driven by labour market metrics is an obvious part of the problem. However, the much smaller gender gap in the CPP/QPP proves that it is possible to design plans that link benefits to labour force metrics but at the same time mitigate at least some of the gender impact of labour market inequality. As we saw in Part 4, some of the CPP/QPP's gender-friendly design elements are present in modified form in some workplace pension plans; for example, DB plans take care of investment and longevity risk. In addition, since the late 1980s, workplace pension plans have been required to offer portability and survivor benefit options, and since 2012, benefit credits in Ontario workplace pension plans vest immediately. However, key CPP/QPP design features are missing even in the best DB workplace pension plans, in particular child-rearing credits. In addition, DC plans and personal plans lack the all-important pooling of investment and longevity risk.

Can we remedy these deficiencies by further regulating Pillar 3 pensions to bring them into closer alignment with Pillar 2? Sadly, mandating

design elements that impose significant new costs on Pillar 3 instruments is not likely to be a practical option. The key distinction between Pillar 2 and Pillar 3 is that Pillar 3 pensions are voluntary instruments. Employers are not compelled to offer workplace pension plans. Individual employees are not compelled to set up personal pension plans. This makes them much more resistant than mandatory plans to the imposition of regulatory rules that improve standards but increase costs to employers/consumers and/or reduce profitability to the financial services industry. When regulatory rules make workplace pension plans so expensive for employers that costs of offering a pension plan outweigh the business benefits, employers can and do simply shut down their plans, or transition to pension options that shift risks and costs to plan members. This kind of cost-benefit calculus has been an important contributor to the ongoing shift from DB plans to DC plans, group RRSPs or no pension plan at all.[207]

If Canada's third pillar cannot be reshaped to mitigate women's labour market inequality, we need to ask whether Canadians are getting good policy value for the tax subsidies supporting it. This question is particularly pertinent with respect to personal pensions. Women unquestionably benefit less than men from the personal pension system. Because they have lower earnings, women have less RRSP contribution room. When they do contribute, their contributions are smaller and their tax deductions less valuable. In addition, RRSPs are structurally ill-adapted to mitigating any of the risk of gender labour market equality.

As we saw in Part 4, personal pensions generate only about 5 percent of overall Pillar 3 income. However, they account for almost 40 percent of the total annual tax expenditures that support Pillar 3.[208] Given this disparity, it is more than reasonable to explore whether these tax dollars can be better spent.

While we await a thorough review of the personal pension system, however, there are two areas in which gender-friendly fixes are clearly overdue. The first is the use of sex-based mortality tables in pricing retirement annuities. Women are already disadvantaged by the fact that their RRSP savings are smaller; the use of sex-based mortality tables in the sale of annuities means that their nest eggs buy them less annual income than if they were men. The rationale that women as a group live longer than men was never a very compelling justification for forcing individual women to live on a reduced income, particularly when a very large number of them do not outlive men. The decision of the European Court of Justice in Association belge des Consommateurs Test-Achats ASBL et al. v. Conseil des ministres now bars the use of sex-based annuity pricing in the European Union.[209] Canada should follow suit.

A second feature of the personal pension system of questionable value from a gender perspective is the ability to withdraw funds from or collapse RRSPs at any time for purposes other than retirement. Under the current rules, the only penalty for doing so is that the income becomes taxable in the year it is withdrawn. This incentive

207 The paradox of regulating private pensions is discussed in Shilton, Empty Promises: Ch. 9 (170-184).
208 Canada, Library of Parliament, Canada's Retirement Income System: 18.
209 See Shilton, "Insuring Inequality": 414-416.

structure makes it tax-effective for women to withdraw RRSP savings during periods in which they are not in the labour force or have low income, which tend to coincide with periods in which they are on maternity/parenting leave or are working reduced hours to accommodate family care. These breaks in their regular full-time working lives already mean that women are accumulating less (or no) RRSP contribution room and are less likely to be able to afford substantial new contributions. Withdrawing funds already contributed to RRSPs does further damage to future pensions. Within workplace pension plans, funds once contributed are "locked in" when vested and as we have seen, the modern rule is that contributions vest immediately. Women would benefit in the long term if the same rule applied to funds contributed to RRSPs.

Labour Market Metrics and Family Care: The Challenge that Won't Go Away

Women's role in unpaid family care lies at the core of the gender pension gap within Canada's current system. More challenges are on the horizon for women seeking to balance paid work with family care. Even prior to the advent of COVID-19, crises in health-care generally and long-term care in particular were forcing families to take on additional care burdens for the sick and elderly, and for children with disabilities. The pandemic both revealed and exacerbated huge gaps that had previously been papered over in public care services. There was some initial optimism that COVID-19 would be the catalyst that would finally force governments to fix public care systems. However, global post-pandemic economic adjustments have renewed governmental concern about budget deficits and stalled progress in that direction. If Canada enters a post-pandemic recession, we can expect increased unemployment, with unpredictable impact on the trajectory of women's labour force engagement and the gender pension gap.

The motherhood wage penalty that plays such an important role in the overall gender pay gap has so far been resistant to remedies. To the extent that it flows from the practical constraints of parenthood, it may be alleviated somewhat by measures directed at more equal distribution of family care, and more flexible employment policies. To the extent that it reflects employer biases (direct or indirect) against women with children, it calls for more vigorous and creative enforcement of human rights laws.

Policy measures targeted at the intersecting axes of advantage and disadvantage that influence

labour market performance could bring us closer to closing the gender gaps that impede pension equality. More employee input into workplace policies around the scheduling of paid work hours would assist both women and men in meeting family care responsibilities. COVID-19 has shown us that for many types of work, more employer flexibility in scheduling both working time and work location is possible without measurable impact on productivity or profitability. Better access to leaves for family reasons would give men as well as women more options, helping to even out the gender distribution of family care work within two-parent families, as well as broadening work opportunities for single parents.[210] While Canada's family leave policies have improved over the last two decades, leaves continue to be poorly compensated if they are compensated at all, and there is inadequate protection for the kind of short-term leaves that are often most necessary for parents and other caregivers attempting to balance full-time work with family emergencies.[211] Recent "use-it-or-lose-it" approaches to increased parental leave offer a model for the creative use of incentives for fathers to take on a larger role in child care and family care more generally.

Gender-based Analysis as Public Policy

As we have seen, the gender pension gap is the outcome of multiple, complex interactions between system design, families and labour markets. The very complexity and multiplicity of those interactions underscores the need for sophisticated, contextual, intersectional and ongoing gender-based scrutiny at both poles of our analysis: system design and labour market performance. Despite governmental commitment to gender-based (now GBA+) policy analysis, the kind of fine-grained scrutiny required rarely takes place. Jennifer Robson and Lindsay Tedds

210 Lero and Fast, "The Availability and Use of Flexible Work Arrangements and Caregiving Leaves": 12-19.

211 Tucker and Vosko, Designing Paid and Protected Employment Leaves for Short-Term Sickness and Caregiving, includes a table itemizing current short-term leave provisions by jurisdiction in Canada: 10-11.

addressed implementation deficiencies in their 2022 report on Women and COVID-19. They argued that "[w]hen it is considered at all, gender and intersectional analysis is too often an afterthought".[212] While acknowledging recent federal efforts to expand its Gender Based Analysis Plus (GBA+) program, they observed that GBA+ is often conducted too late in the process to have real influence: "In Budgets 2021 and 2022, the government released detailed supplements that applied GBA+ and the Gender Results Framework (GRF) to most of the budget measures, but it was frequently reported that GBA+ was applied later in the policy process, after problems had been defined, policy goals set, and preferred options chosen."[213]

Little or no gender-based analysis was apparent in the debates conducted in the 2000s and 2010s over whether Canada should respond to the decline in its workplace pension system through expansion of the CPP or through private sector solutions. Neither the provincial task forces examining the workplace pension system nor the economic analysis commissioned by the federal government offered any gender analysis of their proposals.[214] In 2012, seeking to relieve public pressure to expand the CPP, the federal government then in power created a new Pillar 3 Pooled Registered Pension Plan (PRPP) that promised broader coverage but otherwise offered no obvious advantage over pension vehicles already available in the personal pension marketplace.[215] When draft PRPP legislation was first tabled, a Freedom of Information request made by the author of this report for the gender-based analysis supporting the proposed legislation was initially rejected on the grounds that the analysis was confidential. A successful appeal to the Office of the Information Commission produced a somewhat more substantive response, which appeared to conclude that because PRPPs would not worsen the situation for women, they raised no gender concerns. There was no analysis to back up this conclusion. Since 2012, GBA (now GBA+) has been more formally and firmly embraced as part of government policymaking, but it is far from clear that the result would now be any different.

Other researchers have also called for robust and contextualized gender-based analysis of pension policy proposals. In its 2009 report, Pension Security for Women, the House of Commons Standing Committee on the Status of Women made two recommendations on this issue. They first asked the federal government to "conduct a thorough gender-based analysis (GBA) of all policy proposals relating to women and pensions. This should include a consideration of the impact of unpaid caregiving work on the lifetime income of women; the impact of elder-care responsibilities, which are disproportionately borne by women, on the retirement options of women; and the fact that women have a longer life expectancy than men." The second noted that gender-based analysis requires gender-specific data and requested that "all federal government data on pensions and income be disaggregated by sex so that trends in the retirement income of women and men can be easily monitored." Recommendation 10 also included a request that "future triennial reviews of the Canada Pension Plan clearly identify the potential impact of changes on women and men".[216] More than a decade later, these recommendations have not yet been heeded.[217]

Furthermore, it is not sufficient to assess the gender impact of pension-related policy initiatives on a one-time basis when they are first adopted. Pension outcomes result from interactive processes between pension instruments and labour market factors, both of which are constantly evolving. To date, the retirement income system has failed to respond dynamically to the massive changes we have seen in family structures and women's labour force engagement over the years. What is needed to assess whether the system is living up to its constitutional obligation to provide equal protection and equal benefit of the law to both women and men is ongoing gender-based monitoring and on-going adjustment where it falls short. Starting from where we are now, that will require impact research of the kind suggested in the Appendix to this report, and much more. It will also require ongoing commitment and accountability from federal, provincial and territorial governments to collect more and better gender-based data on the issues relevant to pension outcomes.

PENSION OUTCOMES RESULT FROM INTERACTIVE PROCESSES BETWEEN PENSION INSTRUMENTS AND LABOUR MARKET FACTORS, BOTH OF WHICH ARE CONSTANTLY EVOLVING.

212 One COVID-19 measure that clearly evaded GBA+ was the 25 percent reduction in the minimum withdrawal rate from RRIFs for 2020. This amounted to a tax break for RRIF-holders wealthy enough not to need money from their RRIFs to meet their ongoing needs during the pandemic. Without GBA+ analysis, it is not possible to say for sure, but given the information available on the profile of RRSP contributors, it appears likely that the primary beneficiaries of this measure were wealthy men.

213 Robson and Tedds et al, Impacts of the COVID-19 Pandemic on Women in Canada, 63-64. See also Cameron and Tedds. "Canada's GBA+ framework in a (post)pandemic world".

214 Kodar, "Pensions and Unpaid Work": 199-202; Woodman, "The Fiscal Equality of Women: 130-131. The provincial task force reports referred to are British Columbia and Alberta, Joint Expert Panel on Pension Standards, Getting Our Acts Together; Nova Scotia. Pension Review Panel. Promises to Keep; Expert Commission on Pensions. A Fine Balance. None of them were asked to address the gender pension gap.

215 PRPPs are discussed in detail in Shilton, "Gender Risk": 133-139.

216 Canada. House of Commons, Standing Committee on the Status of Women. Pension Security for Women: 36, Recommendations 9 and 10.

217 There is no reference to GBA+ in the most recent triennial report on the CPP (as at December 31, 2021). However, EDSC has made a commitment to do GBA+ in the upcoming triennial review: Departmental Plan for Fiscal Year 2023-2024.

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Appendix: Suggested Areas for Further Research

This list identifies some key areas in which additional research areas questions would shed more light on gender inequality in retirement income and help to provide a solid basis for law reform.

1. Should Canada rethink its dependence on survivor benefits as a key strategy for addressing the impact of family care on women's retirement income?

Studies of the distribution of survivor benefits confirm that (1) women are the primary recipients of survivor benefits by a significant margin, and that (2) survivor benefits make a significant contribution to the overall retirement income of some women. (See Phase 11 Evaluation of Survivor Benefits and Other Features of the Canada Pension Plan, Final Report, May 1997: Summative Evaluation of the Canada Pension Plan Retirement Pension and Survivor Benefits, 1992-2012, 2017.) Generous survivor benefits are on the list of system features that scholars studying gender gaps across international systems identify as important for limiting the growth of gender pension gaps. (See Maciej Lis and Boele Bonthuis. Drivers of the Gender Gap inPensions: Evidence from EU-SILC and the OECD Pension Model. World Bank Social Protection and Jobs Series, No. 1917, 2019; Manuela Samek Lodovici et al. The gender pension gap: differences between mothers and women without children. European Parliament study for the FEMM committee, Luxembourg. 2016). At the same time, the rationale for survivor benefits as they currently exist within the CPP/QPP is inextricably linked to a male-breadwinner family model that no longer prevails. The current system privileges one group of women – widows of male breadwinners – over other women whose needs may be just as compelling and whose retirement income may have been negatively affected by the same gendered labour market factors that depress the incomes of women in conventional couple families. The most obvious example is single mothers (including divorced, separated or never married women) who are equally affected by the gender wage gap and even less able than married women to juggle family care with sufficient labour market engagement to earn an adequate pension. Is there a better, fairer way to compensate women for family care within public pensions?

2. Gender-based Analysis of Pillar 3 Pensions

We now know that the gender gap within Pillar 3 makes the largest contribution to the overall gap between men's and women's retirement income. However, we need to know much more than we do about how that gap is distributed between personal pension plans and workplace pension plans, and also among different types of workplace pension plans; for example, are gender pension gaps larger of smaller within DB plans, DC plans, or multi-employer plans like Ontario's Teachers' Pension Plan? Policy-making would be greatly assisted by focused research on these issues. In addition, it would be useful to know more about how survivor benefits work in practice within workplace pension plans: what types of survivor benefit provisions are actually found in workplace plans? Do most plans provide only the statutory minimum, or are more generous provisions common? What percentage of spouses waive the survivor benefit? How has the changing nature of families complicated the landscape for spousal benefits? How do plans resolve issues between competing "spouses"?

3. RRSPs/RRIFs (Personal Pensions): Are Canadians getting good value in exchange for the tax subsidies that support these plans?

We need a thorough gender-based analysis of the personal pension system. Here are just a few of the areas that need to be examined:

- Who uses them?
- How efficient are they at creating retirement income? How they are invested and how much of the income they generate gets eaten up in commissions, management fees and fees for investment advice?
- Do spousal RRSPs serve a useful function in delivering retirement income to women, or are they simply midcareer tax breaks or income splitting devices for wealthy families? Do they continue to serve a useful purpose in light of current tax rules that permit pension income splitting between spouses?
- What proportion of RRSP contributions remain in registered accounts until retirement, and how much gets withdrawn prior to retirement for other purposes?
- What is the gender impact of RRIF decumulation rules, which require RRIF owners to withdraw a minimum percentage of the balance every year?

4. Are there lessons to be learned from an analysis of the retirement incomes of women working in public sector workplaces with defined benefit-type plans?

A case study focused on the retirement income of women in public sector workplaces would be helpful in examining the relationship among various labour market factors that may improve women's retirement income. Studies of public sector workplaces suggest they typically differ from private sector workplaces in many respects including: (1) employees are more likely to be members of workplace pension plans; (2) pension plans are more likely to be DB or DB-like; (3) women have higher pay and are better distributed across pay ranges, including the top 10 percent; (4) there is less income inequality in general; (5) women are better represented in management positions; (6) there may be more flexibility in working hours and availability of short-term and long-term leaves; (7) employees are more likely to be unionized. How do these factors affect women's retirement income?