

TAKING CARE OF JUNIOR - ADULT CHILD SUPPORT

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Mr. Pearce did not get very far in court. The Vancouver father was opposed to paying any child support for his university-age children who resided with their mother. "I fully paid for my way through university and I now expect my children to do their best possible in doing the same." he stated to the judge. The court, however, saw things differently. Relying on Parliament's legislation, the court ruled that because the adult children were in university they were unable to withdraw from their mother's "charge or to obtain the necessaries of life." Consequently, the father had to pay child support.

Mr. Pearce's case is not unusual. Parents like him are ordered to pay maintenance for adult children every day in almost every family court in the country. Moreover, what is sometimes called basic child support is often inflated with extras like tuition and books. Both Parliament and the courts, therefore, have placed a heavy financial duty on departed fathers and mothers. The custodian can legally force the other parent to pay child support for, in some cases, four or more full years of university education.

Many of these support orders are for somewhat elderly children. An Alberta father was ordered to pay support for his 23-year-old daughter who was, at that age, commencing a two-year college course. A Manitoba judge ordered a father to assist paying for his son's Master's degree. Furthermore, the New Brunswick Court of Appeal went so far to say that support could be ordered for a child of any age "while seriously pursuing his or her education". All these precedents indicate there is no fixed age when the financial apron strings are cut between a child and a separated parent.

Of course circumstances are very different for cohabiting parents. They have no legal obligation to pay for their child's university or technical school - although many parents help out. The mandatory duty to financially support a child, however, ends at a young age. Cohabiting parents must only provide the necessaries of life for the child until the age of sixteen. After high school graduation, cohabiting parents can tell their son or daughter: "You're on your own! Get out. I'm not giving you money." Most certainly, they are not legally obliged or required to pay for tuition, books, or residence expenses. Therefore, cohabiting parents do not face the same heavy-handed assessments levied by the courts upon Mr. Pearce and thousands of other separated parents in Canada.

As a result of the Child Support Guidelines, our Parliament and courts have created a double standard for relationships between parents and their adult children. There is one set of legal duties for separated parents and another for parents who stay together. For the latter, any and all financial support is

voluntary. The parent determines the terms of what, if anything, is paid. For separated parents though, the courts regularly impose a long-term agenda or sentence of monthly payments.

The irony of this double standard is further illustrated with low-income families. Many poor couples cannot afford to send their children to university. Nonetheless, the courts rarely accept low income of a separated parent as an excuse from paying adult-child maintenance. For example, a Newfoundland court ordered a father who earned only \$26,000 per year to pay \$257 per month for his 20-year-old nursing-student daughter. A similar amount was ordered against a Prince Edward Island father who earned only \$29,000 per year and who was also paying support for two younger children. A Saskatchewan farmer who earned \$33,000 per year was ordered to pay \$585 per month for two children in university. Individuals earning these types of low incomes live with few luxuries. They may not be able to afford a vehicle or a house. Vacation trips and retirement savings are likely beyond their grasp. Yet the laws and courts force them to buy a college education and scrounge that money from their already meagre resources.

The financial burden created by these court decrees can be crippling. Take the case of Mr. Chu. He borrowed \$40,000 from his parents to put his first two children through university. Mr. Chu then protested paying university support for the third child and being pushed further into debt. "I can't afford it." he said. The Saskatchewan court, however, followed Parliament's laws and directed Mr. Chu to pay even more. This heavy burden fell upon Mr. Chu in middle age when he, and thousands of parents like him, are trying desperately to save for retirement. Few parents begrudge making a financial sacrifice when their children are young. At some point, however, many and perhaps most older parents want to save and invest their money for themselves instead.

If these child support orders are a financial drain on separated parents today, then the mere drain may become a sinkhole in the future. In 2001 the average undergraduate university year with residence cost \$12,251. That expense, though, is estimated to rise 5.7% annually. It may be worse. In December 2001, Queen's University petitioned the Ontario government to allow special undergraduate tuition increases. Currently, those increases are limited to 2 percent per year but Queen's University wants tuitions to increase 10% annually. At that same time, tuition at medical and law schools at the University of Toronto were set to rise massively. As a consequence, future adult-child support orders will undoubtedly climb far above their current levels.

In 1997, the Federal Government introduced the Child Support Guidelines. The laws were designed to deliver even and income-based maintenance to children after separation and divorce. Back then, however, many were unaware how far these rules would be extended to cover adult children. Beyond a doubt, the financial duty of separated parents now extends past high school and into college. Most troubling however, these laws create two standards of care. They treat separated parents in a harsh and domineering way compared to parents who are smart or lucky enough to stay together.