

2020/21

ANNUAL REPORT

OUR MISSION

To advance the systemic interests and rights of low-income Ontarians around income security programs and low-wage precarious employment.

WHO WE ARE

The Income Security Advocacy Centre (ISAC) was established in 2001 by Legal Aid Ontario to serve low income Ontarians. Since then, we have been fully funded by LAO.

ISAC is a specialty legal clinic within a network of community legal clinics across Ontario. We are the only legal clinic wholly devoted to systemic advocacy on income security.

Our mandate requires us to advance the rights, interests and systemic concerns of low-income Ontarians. We do this through test and Charter litigation, organizing, and advocacy for both provincial and federal income security programs.

In order to achieve income security, ISAC challenges both income benefit programs and employment protections.

WHAT WE DO

We do our work using four primary strategies: test case litigation, policy and law reform, community organizing, and creating and distributing public education materials and training.

We are governed by a community Board of Directors with representation from all regions of Ontario. Our Board includes legal clinic caseworkers and people who identify as low-income, as well as academics and advocates, and has representation from Indigenous communities, racialized communities, people with disabilities and recipients of income support benefit programs.

We work closely with the more than 60 community legal clinics, both local and those with a provincial mandate, who work every day with the challenges faced by low-income people in Ontario. We also work in coalition with other advocacy groups and organizations. Our analysis and recommendations are informed by ongoing consultation with, and information provided by, low-income Ontarians, our partners and others in the anti-poverty sector.

MESSAGE FROM OUR CHAIR

The past year has been a difficult one for ISAC, with both Covid-19 and challenges to the ISAC Board on issues related to LAO budget cuts. I am pleased to report now that our organization as a whole is in a very good place.

As of March 15, 2021 we have a new Executive Director. Melinda Ferlisi, a veteran of the clinic system, comes to us from the Community Legal Clinic of York Region. Melinda and our Office Manager Elena Koneva are an excellent management team and the Board looks forward to a very productive year (and beyond) with them both.

The ISAC Board will now have the time and energy to spend strengthening and clarifying our governance policies and practices, working alongside ISAC staff and other clinic and community stakeholders to develop a new Strategic Plan and increasing our overall capacity to promote access to justice for low income Ontarians.

Both the previous and the current ISAC Board members have worked diligently over the past year to rebuild ISAC. It has been a pleasure for me to work with each and every Director. Our meetings, both in-person and virtual, have been productive and enjoyable with learning opportunities for all involved. The vast majority of our decisions have been unanimous, allowing us to move forward to address new issues as they arise.

I would like to recognize the significant contribution made to ISAC by Brendan Pooran of Pooran Law during the 2020/2021 fiscal year. Brendan contracted with ISAC as an interim, part-time Legal Supervisor while the Board continued the search for an Executive Director. Brendon was extremely helpful as staff strove to effectively manage the legal/policy caseload of the clinic.

There are a few Directors that have had to step down from the Board during the 2020/2021 fiscal year. We will miss Donna Eaton and Devon Sivill, clinic representatives from Hamilton Legal Clinic and Algoma Legal Clinic respectively. We will also miss Dr. Nili Kaplan-Myrth, a doctor and community member from Ottawa who provided important insights from the health-care field.

There are also a couple of Directors who had to withdraw just after the end of the fiscal year. We are sad to say goodbye to Brian Killick, a clinic representative from the Community Legal Assistance Sarnia who now sits on the Social Benefits Tribunal and Ginny Michano, from Ter-

race Bay, Ontario and a community member working with Pay Plat First Nation.

Thank you all for your important contributions to the success of ISAC.

As of the September AGM, we will have to say goodbye to Opal Sparks, a 6-year veteran of the ISAC Board and our Vice-President. Opal, thank you so much for your hard work, your passion and your insights over the past 6 years. You have contributed so much to our discussions and to our Board in general. Nobody can fully replace you and we are really sad to see you go.

Finally, thank you to all our ISAC members. Your interest and support is crucial to our ongoing success in promoting access to justice.

***Jenny Gullen, Chair
ISAC Board of Directors***

MESSAGE FROM OUR EXECUTIVE DIRECTOR

I could not be prouder to join the Income Security Advocacy Centre (ISAC) as Executive Director. I moved into this new role at the tail end of the 2020-2021 fiscal year, after having worked at a geographic community legal clinic for a number of years. Becoming part of the ISAC team at this time in history allowed me to see first-hand how 20 years of incorporation has taught ISAC to approach challenges with resilience, responsiveness and service to the client communities and clinics with whom we work. I am also optimistic for ISAC's future as we embrace change and continue to push for the advancement of interests and rights for people who access income security programs or who are low-wage or precariously employed. I am pleased to provide a snap shot of some of the events and highlights of the last year, and a glimpse of what is to come.

In 2020, Covid-19 turned the world upside down. It did not take long to see that we were not "all in this together" as the virus affected low-income, vulnerable, disabled, racialized and Indigenous people, and women disproportionately. ISAC staff were able to pivot quickly to remote work while continuing to provide services and collaborate with our client communities and other clinics. ISAC worked to provide education information about benefits and supports available. At the same time, ISAC advocated vigorously for increased access to those benefits as well for policies that would not adversely affect social assistance recipients by clawing back benefits, or punish low income people who accessed benefits in error.

In spite of the challenges presented by Covid-19 and other factors, 2020-2021 saw ISAC engaged in precedent setting litigation before the Supreme Court of Canada in *Uber v. Heller*. ISAC was also granted intervenor status in *Fair Change Community Legal Clinic v. Attorney General of Ontario*, a Charter challenge to Ontario's *Safe Streets Act* which prohibits people with low-income from panhandling in certain circumstances.

ISAC welcomed additional staff in 2020-2021, including a Senior Policy Analyst and two lawyers. This increased staff capacity has allowed ISAC to advocate through written pre-budget submissions and provide thoughtful analysis on both the federal and provincial budgets. Further, increased capacity has allowed ISAC to take on leadership roles in various inter-clinic working groups, and to collaborate with our communities through groups like Defend Disability and the ODSP Action Coalition. With these staff increases, ISAC's litigation team is now better equipped to take on more direct representation and intervention work, as well as to provide summary advice and co-counselling with our clinic partners. You can read more about ISAC's work over the last year in this annual report.

Looking to the year ahead, we are excited to put the finishing touches on a new strategic plan that will direct our work for the next several years. The plan will guide our annual planning processes, and inform the initiatives and cases we work on. We hope to add to our staff complement so that we can continue to do meaningful litigation, policy and organizing work.

As ISAC embraces the challenges and opportunities of the new path ahead, ISAC acknowledges our funding from Legal Aid Ontario. We appreciate the support and leadership of our Board who has navigated the organization through unprecedented times. We are grateful for the wisdom and experience of partnerships, both within the clinic system and those in the broader community. ISAC, of course, would be nothing without its staff. The dedication, resilience, and sheer talent of the people who work tirelessly alongside our clients and communities to chip away at the injustice of income insecurity cannot be overlooked as ISAC continues on its way.

Melinda Ferlisi

POLICY AND ADVOCACY

Responding to Covid-19

When the Covid-19 pandemic arrived in Canada in 2020, ISAC immediately got to work. The pandemic highlighted the inequities of poverty in countless ways: people already struggling to survive lost their jobs and homes, the cost of basic necessities like food and transportation increased, and low-wage precarious workers were on the frontlines of the pandemic, at increased risk of illness. ISAC engaged and continues to engage in various advocacy efforts to address income supports for low-income and vulnerable communities, gaps in benefit programs, advocate for safe working conditions, and ensure the income security of Ontarians.

On April 7, 2020, ISAC released an open letter signed by 150 community organizations from across the province, calling on Ontario to address the needs of low-income people during the pandemic. The letter demanded that social assistance rates be immediately increased, and that any federal benefits be exempt from clawbacks. Together with the ODSP Action Coalition, Health Providers against Poverty, and Daily Bread Food Bank, ISAC hosted a virtual press conference to launch the open letter.

Throughout 2020-2021, ISAC also monitored critical federal income support programs including the Canada Emergency Response Benefit, Canada Recovery Benefits and Employment Insurance. ISAC provided trainings to the legal clinic system on these new or evolving benefits to ensure that clinics could assist people with accessing the supports they need. Through the Ontario Legal Clinic EI Working Group, ISAC advocated with the federal government for improvement to these programs, including ensuring they were more accessible to migrant workers, students, and other marginalized groups.

Finally, the Ontario government provided a temporary emergency benefit to social assistance recipients who requested it, but only for four months. The government also partially exempted the Canada Emergency Response Benefit (CERB) from clawback. These measures were not sufficient, and ISAC has continued to advocate for adequate income support during the pandemic for low-income Ontarians. Together with Campaign 2000, for instance, ISAC was very active with the CERB repayment amnesty. Low-income families who applied for income supports necessary to survive a pandemic should be protected, even if in the end they were excluded by CERB's restrictive and confusing eligibility rules.

Defend Disability

In October 2020, ISAC reconvened Defend Disability and has wrote an open letter about the need for timely adjudication at and to preserve and enhance the Social Benefits Tribunal. It has also been actively advocating for consultation with people with disabilities and ODSP recipients in the current transformation of social assistance.

Basic Income

ISAC served on LEAF's Universal Basic Income Project Committee this past year, to advise on two reports related to basic income, one on the care economy and second on disability.

Social Benefits Tribunal (SBT) Advocacy

Prior to 2020, and during the Covid-19 Pandemic period, the Social Benefits Tribunal stopped reappointing members whose terms were coming to an end, and the Tribunal did not engage in filling the vacancies that were left until more recently. This resulted in lengthy delays for low-income people who were seeking to get the chance to appeal decisions on matters that greatly impacted their lives. ISAC worked together the Steering Committee of Social Assistance, to prepare and send a letter to the Attorney General and relevant opposition critics, highlighting these concerns. In addition to that, ISAC coordinated efforts with clinics across the province to have media coverage on this issue.

Advocacy as part of Digital Access Strategy

In September 2020, Tribunals Ontario announced its intention to have hearings conducted virtually, by phone or in writing, for the purpose of keeping the public safe during the pandemic. In November 2020, Tribunals Ontario further announced that their digital approach would be the norm for hearings going forward. This raised concern about appellants not being given the choice to elect the mode of hearing that would be most appropriate for them. Many people on low-incomes face barriers to access the hardware needed as well as an internet connection in order to participate in virtual hearings. Rural and Northern communities have bandwidth problems. To assist with future advocacy on this issue, ISAC developed and launched a survey to collect data on the user experience in participating in digital hearings, to learn more about the barriers faced by appellants. Report to be prepared at the end of this year.

LITIGATION

Access to EI and CPP: R.S. v. MESD

In *R.S. v. MESD*, ISAC co-counselled together with IAVGO to represent a seasonal agricultural worker who was severely injured on the job in Canada and returned to Jamaica. His application for CPP-Disability benefits was denied on the basis that his disability was not considered severe and prolonged. We appealed this decision to the Social Security Tribunal General Division and provided evidence and submissions in a written hearing. ISAC was successful in the appeal and the client was awarded his full benefits.

Special Diet Allowance Denial Case

A young man with cognitive impairments was denied social assistance benefits he needed; namely, the special diet allowance. Despite having verified medical conditions that required him to be on a special diet, he was denied benefits because he resided in an assisted living environment. After serving a Notice of a Human Rights application, where he indicated he was discriminated against, due to his disability resolution discussions were held. A successful settlement was reached for the client, who was able to receive a lump payment as well as monthly payments going forward.

Housing Benefits Denial Case

ISAC co-counselled with Kinna-aweya Legal Clinic on a judicial review of a decision to deny housing benefits to an individual who suffered from disabilities related to addictions and other health issues. The applicant in this case needed the housing benefits to help him relocate to a safer living environment free from illicit drug activity to assist him in his sobriety journey. After resolution discussions, a settlement was reached in favour of the applicant.

Long Service Wrongful Dismissal Case: R.B. v. K.W.C.L.

ISAC co-counselled with Scarborough Community Legal Services to represent a worker who was employed by a construction company for over two decades before he was abruptly fired without notice. He had also been renting accommodation from the company and lost his housing as a result of his termination. The case concerned issues of entitlement to reasonable notice for dependent contractors. After commencing a wrongful dismissal action in the Superior Court of Ontario, the case was successfully settled.

Misclassification, Discrimination and Wrongful Dismissal: *S.O.T.B. v. Canada*

Together with Lake Country Community Legal Clinic, ISAC is representing an Indigenous Elder who worked as a Cultural Advisor at a federal penitentiary and who experienced discrimination and harassment. ISAC has filed a wrongful dismissal action with the Superior Court of Ontario, as well as a human rights complaint with the Canadian Human Rights Commission. ISAC successfully brought a motion before the Superior Court of Ontario to obtain key evidence from the penitentiary that it relied upon for the Elder's termination, but which it had improperly withheld. The action and complaint are ongoing.

PUBLIC INTEREST INTERVENTIONS

Access to Justice for low-wage precarious workers: *Uber v. Heller*

In Ontario, if your boss refuses to pay the minimum wage or violates your other employment rights, you can go to court or contact the Ministry of Labour. But can your boss make you sign an agreement to give up that right? On November 6, 2019, the Supreme Court of Canada heard the case of Uber drivers who were forced to accept a "mandatory arbitration agreement" when they signed up to be drivers on the Uber app. According to Uber, this meant that the drivers had given up the right to complain to the government if they had any disputes with the company. Instead, they were required to go before a private decision-maker in Amsterdam – in a process that is both secret and expensive.

ISAC and Parkdale Community Legal Services (PCLS) teamed up to intervene in the case to argue that workers' right to seek justice in our public institutions cannot be signed away or privatized. Otherwise, employers may be able to sidestep Ontario's laws that guarantee workplace rights. In her oral arguments before the Court, ISAC's lawyer Nabila Qureshi underscored the importance of access to justice for low-wage precarious workers we serve.

On June 26, 2020, the Supreme Court released its ground-breaking decision in this case. The decision sided with Uber drivers and addressed some of the concerns raised by ISAC and PCLS about access to justice. A majority of the judges held that

the mandatory arbitration agreement was unfair, or “unconscionable”, and could not stand in light of Uber’s unequal relationship with its drivers.

The decision makes it easier for workers to challenge unfair agreements imposed on them. To show that an agreement is unconscionable, workers will no longer need to prove that their employer knowingly took advantage of the worker’s vulnerable status.

Privacy rights for low-income individuals who access courts and tribunals: *Sherman Estate v. Donovan*

In October 2020, the Supreme Court of Canada heard a case about whether courts should grant sealing orders over court files that contain an individual’s private and sensitive information. ISAC successfully intervened in the case and made both written and oral submissions before the Supreme Court. ISAC’s submissions highlighted the harms that may arise when vulnerable individuals’ personal or sensitive information is shared publicly as a result of their engagement in the legal system. ISAC argued that there is a public interest in granting sealing and confidentiality orders, in appropriate circumstances, to protect the privacy of low-income and vulnerable individuals and ensure that they can continue to access courts and tribunals.

ISAC is grateful to Ewa Krajewska, Teagan Markin and Mannu Chowdhury of Borden Ladner Gervais LLP, who represented ISAC before the Supreme Court of Canada and provided excellent submissions on ISAC’s behalf.

Panhandling to survive should not be an offence: *Fair Change Community Legal Clinic v. Ontario (Attorney General)*

Thousands of people in Ontario struggle with poverty and homelessness, and many turn to panhandling in order to survive. However, Ontario’s *Safe Streets Act* prohibits poor individuals from panhandling in certain circumstances. Anyone who violates the *Safe Streets Act* could be subject to fines they cannot afford to pay, or even jail time.

As a result, the Fair Change Community Legal Clinic in Ottawa launched a *Charter* challenge at the Superior Court of Ontario that states that the *Safe Streets Act* is unconstitutional. ISAC was granted leave to intervene in the case. ISAC will argue that the *Act* discriminates against individuals who receive social assistance, contrary to section 15 of the *Charter*, and that it hurts individuals’ ability to meet their basic needs, contrary to section 7 of the *Charter*.

Ensuring access to the Canada Child Benefit for all children: YY, XH, SZ. v Her Majesty the Queen

The Canada Child Benefit (CCB) was introduced by the Federal Government in 2016, for the purpose of assisting low and middle-income families with the cost of raising children. Unfortunately, section 122.6 (e) of the *Income Tax Act (ITA)* denies this benefit to some of the most vulnerable children in Canada, due to their parents' immigration status. The denial of CCB benefits has adversely impacted racialized people and women.

The Chinese and Southeast Asian Legal Clinic is representing three individuals who launched an appeal and a Charter Challenge. ISAC prepared submissions to seek leave to intervene in this case. ISAC argued that s.122.6 (e) of the *ITA* violated section 15 of the Charter on the basis of immigration status; that Canada's obligations under the *U.N. Convention of the Rights of the Child* requires the CRA to consider the Best Interests of the Child, and that equality principles must inform the analysis of whether s.122.6 (e) of the *ITA* breaches section 7 of the *Charter*. ISAC's motion to seek leave was opposed by the Department of Justice, but the Tax Court of Canada granted ISAC's leave motion.

SUBMISSIONS AND LETTERS BY ISAC 2020-2021 (PROVINCIAL/FEDERAL)

- Fall 2020 Budget consultations, written submission (October, 2020)
- 2021 Provincial Budget consultation, written submission and oral presentation (February, 2021)
- Federal 2021 Budget consultations written submission (February, 2021)

TRAINING, WEBINARS AND PRESENTATIONS BY ISAC

Some of these events were co-presented with others. We thank and acknowledge all of our co-presenters.

LEGAL CLINIC SYSTEM

- Canada Emergency Response Benefit, with the EI Working Group (provided to legal clinic system, April 2020)
- Canada Emergency Student Benefit and Ontario Pandemic Pay, with the EI Working Group (provided to legal clinic system, May 2020)
- Employment Law Update, for the Workers' Rights Action Group Annual Employment Law Conference (provided to legal clinic system, June 2020)
- Contractual Clauses Update, for the Southwest Region Employment Study Group (July 2020)
- Post-CERB Benefits and EI, with the EI Working Group (provided to legal clinic system, September 2020)
- Social assistance update with Social Assistance Action Committee (SAAC, Toronto) and CRO (provided to legal clinic system, December 2020)

COMMUNITY

- National conversation on Disability and Poverty (invited to participate by National Advisory Council on Poverty)
- Building on advocacy done in early 2020, ISAC delivered a number of PLE sessions to clinic and non-clinic staff in order to raise awareness on issues impacting the rights and livelihood of people on low incomes.
- Presentation at the Ontario Justice Education Network Conference, COVID-19 and Social Assistance benefits;
- Presentation at the South Riverdale Community Healthy Centre, COVID-19 and Social Assistance benefits;
- Presentation to George Brown class: Introduction to Social Assistance and Community Organizing
- “Know Your Rights” Webinar for Personal Support Workers, with the St. Michael’s Hospital Health Justice Program – Empower Advisory Committee Meeting

FINANCIALS

Income Security Advocacy Centre Statement of Financial Position March 31, 2021

INCOME SECURITY ADVOCACY CENTRE

Statement of Financial Position

March 31, 2021

	General Fund \$	Legal Disbursements Fund \$	Capital Fund \$	Indigenous Research Fund \$	Non-LAO Fund \$	Total \$
ASSETS						
Current Assets						
Cash	661,799	71,687	-	-	-	733,486
Accounts receivable	992	-	-	-	-	992
HST recoverable	19,899	15	-	-	-	19,914
Prepaid expenses	37,855	-	-	-	-	37,855
	720,545	71,702	-	-	-	792,247
Capital assets (note 3)	-	-	830	-	-	830
Total assets	720,545	71,702	830	-	-	793,077
LIABILITIES						
Current Liabilities						
Accounts payable	67,537	-	-	-	-	67,537
Inter-fund payable (receivable)	17,403	-	-	-	(17,403)	-
	84,940	-	-	-	(17,403)	67,537
FUNDS BALANCE	635,605	71,702	830	-	17,403	725,540
Total liabilities and funds balance	720,545	71,702	830	-	-	793,077

The accompanying notes are an integral part of these financial statements

Approved on behalf of the Board:

Director
Income Security Advocacy Centre

NOTE: This information is a condensed financial statement consistent with and derived from the audited financial statements of the Income Security Advocacy Centre as at March 31, 2021. Audited financial statements were prepared by Hilborn LLP Chartered Professional Accountants in accordance with the Canadian generally accepted standards and who express an unqualified opinion on these financial statements in their report dated September 9, 2021. To obtain a better understanding of the organization's financial position and the results of its operations and cash flows for the year in question, the condensed financial statements should be read in light of the relevant audited financial statements, which are available upon request.

FINANCIALS

Income Security Advocacy Centre Statement of Operations and Funds Balance March 31, 2021

INCOME SECURITY ADVOCACY CENTRE

Statement of Operations and Funds Balance

March 31, 2021

	General Fund \$	Legal Disbursements Fund \$	Capital Fund \$	Indigenous Research Fund \$	Non-LAO Fund \$	Total \$
Revenues						
Legal Aid Ontario						
-direct receipts	1,309,216	-	-	-	-	1,309,216
-indirect receipts (note 4)	47,722	-	-	-	-	47,722
Other income	1,676	39	-	-	-	1,715
	<u>1,358,614</u>	<u>39</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,358,653</u>
Expenses						
Salaries	403,026	-	-	-	-	403,026
Benefits	60,915	-	-	-	-	60,915
Professional dues	6,509	-	-	-	-	6,509
Travel	4,416	-	-	-	-	4,416
Communications	10,635	-	-	-	-	10,635
Accommodations	120,650	-	-	-	-	120,650
Equipment	1,613	-	-	-	-	1,613
Library	361	-	-	-	-	361
Supplies and services	15,508	-	-	-	-	15,508
Audit fees	4,282	-	-	-	-	4,282
Indirect payments (note 4)	47,722	-	-	-	-	47,722
Consulting and legal	57,197	-	-	-	-	57,197
Legal disbursements	-	682	-	-	-	682
Amortization	-	-	3,788	-	-	3,788
	<u>732,834</u>	<u>682</u>	<u>3,788</u>	<u>-</u>	<u>-</u>	<u>737,304</u>
Excess of revenues over expenses (expenses over revenues)	625,780	(643)	(3,788)	-	-	621,349
Funds transferred to General Fund (note 6)	2,000	-	-	(2,000)	-	-
Funds balance, beginning of year	7,825	72,345	4,618	2,000	17,403	104,191
Funds balance, end of year	<u>635,605</u>	<u>71,702</u>	<u>830</u>	<u>-</u>	<u>17,403</u>	<u>725,540</u>

Community Members

Claudette Paul,
Ginny Michano,
Jenny Gullen (*chair*),
Julia McNally (*treasurer*),
Opal Sparks (*vice chair*),
Sandra Parker (*secretary*),
John Mills,
Dr. Nili Kaplan-Myrth,
Jessica Mayer

Regional Clinic Reps

Christie McQuarrie,
Fay Moore,
Dominique Conway,
Brian Killick,
Devon Seville

STAFF TEAM

Melinda Ferlisi, *Executive Director* (March 2021)
Brendon Pooran, *Legal Counsel* (August 2020 – March 2021)
Yola Grant, *Executive Director* (until July 2020)
Nabila Qureshi, *Staff Lawyer*
Sandra Gonzalez Ponce, *Staff Lawyer* (August 2020)
Anu Bakshi, *Staff Lawyer* (February 2021)
Devorah Kobluk, *Senior Research & Policy Analyst* (August 2020)
Lorna Martin, *Receptionist and Administrative Assistant*
Elena Koneva, *Office Manager*

We deeply appreciate our partnerships with and the support of:

The clinics we've co-counselled with during 2020-2021

The Chinese and Southeast Asian Legal Clinic

Kinna-aweya Legal Clinic

Parkdale Community Legal Services (PCLS)

Industrial Accident Victims Group (IAVGO)

Advocacy Centre for Tenants Ontario (ACTO)

Community Legal Clinic in Ottawa

Lake Country Community Legal Clinic

Scarborough Community Legal Services

Borden Ladner Gervais LLP

Clinic Resource Office (CRO)

Co-operative of Specialty Community Legal Clinics of Ontario

Migrant Workers Alliance for Change

ODSP Action Coalition recipient members & member organizations



INCOME SECURITY ADVOCACY CENTRE
Centre d'action pour la sécurité de revenu

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