REPORT

Let it be over

It’s time to wind down the collection of pandemic benefits from Canada’s poorest and most marginalized residents

John Stapleton and MacGregor Goodman

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About the authors

John Stapleton is a Social Policy, Ageing, and Well-being Policy Fellow at the National Institute on Ageing. He is a writer, instructor, and a former Innovation Fellow with the Metcalf Foundation.

MacGregor Goodman is a social worker, a researcher, and Health Equity Navigator in Palliative Care at Unity Health Toronto.

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About Maytree

Maytree is a Toronto-based human rights organization committed to advancing systemic solutions to poverty and strengthening civic communities. We believe the most enduring way to fix the systems that create poverty is to ensure that economic and social rights are respected, protected, and fulfilled for all people living in Canada. Through our work, we support non-profit organizations, their leaders, and people they work with.

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Maytree
77 Bloor Street West, Suite 1600
Toronto, ON M5S 1M2
CANADA

+1-416-944-2627

Email: info@maytree.com
Website: www.maytree.com

Executive summary

Canada's pandemic income supports were built for speed, not precision. Programs like the Canada Emergency Response Benefit (CERB) and Canada Recovery Benefit (CRB) delivered billions of dollars quickly through an attestation-based system that encouraged Canadians to apply if they believed they qualified. Millions did, often under conditions of fear, urgency, and unclear rules.

Six years later, the federal government is still pursuing repayment from many of those same individuals. This recovery regime is no longer justified – economically, administratively, or morally – and should be ended through a structured wind-down.

Other countries have recognized this reality. The United States allows hardship-based waivers, the United Kingdom has written off large portions as unrecoverable, and Australia declined to pursue many overpayments altogether. Canada stands out for continuing full enforcement against low-income individuals, while other countries have recognized the inefficiency and inhumanity of continuing to pursue government debt incurred during a global crisis.

This is not a story about fraud. It is a story about what happens when a government moves fast, makes mistakes, and then hands the bill to the people least able to pay it.

Imagine being instructed by your social assistance caseworker to apply for CERB because you are required to pursue every available source of income. Years later, the CRA determines you were ineligible and demands repayment, even though your provincial benefits had already been reduced when you received the money. Neither government accepts responsibility. You are left owing money you never truly had.

This is the situation that many thousands of Canadians continue to face.

By mid-2024, over $3.3 billion in pandemic benefits had already been repaid to the CRA, but nearly 774,000 individuals still owed a combined $10.35 billion. The people still carrying debt are not the ones who could have paid and chose not to. They are the ones who have nothing to give.

Even worse, for thousands of social assistance recipients, the money they owe to the federal government was already confiscated years ago by their provincial government in the form of social assistance clawbacks. Neither government is willing to take responsibility for the other's actions, and recipients who did not take individual action to rescind their clawback are left worse off than if the benefit had never arrived.

Federal Court cases show a system with no tolerance for near-eligibility or context, where small discrepancies or missing records result in full repayment demands. Pandemic benefit recovery departs from normal tax practice: no negotiated settlements, no proportional write-downs, no recognition of cash earnings, and no meaningful discretion. The system operates on a binary logic: Prove eligibility or repay in full. Judicial review leads to a cycle of reconsideration without resolution. Government often spends more pursuing repayment than it ultimately recovers, targeting individuals with no capacity to pay.

This is a failure in policy design, not a failure of individuals. For decades, Canada has delivered benefits through refundable tax credits that determined eligibility upfront, minimized disputes, and integrated with other systems. CERB and CRB broke from this model. They centralized delivery and decentralized risk – sending money quickly while leaving recipients to bear the consequences of design flaws.

The problem is systemic, as should be the resolution. This report proposes a single administrative wind-down consisting of income-based forgiveness, proportional settlements, expanded evidentiary standards, reconciliation of all provincial clawbacks, closure of low-value cases, and a fixed end date for routine recovery efforts.

Canada acted quickly in a crisis and prevented widespread harm. We should not undermine this success through years of enforcement against those who are struggling most. Continuing to pursue repayment does not serve the public interest. It is time to let it be over.

Emergency income support worked exactly as designed

Canada's pandemic income supports, including the Canada Emergency Response Benefit (CERB) and the Canada Recovery Benefit (CRB), were designed in response to an international health crisis. They were delivered quickly and at scale thanks to an attestation-based model that prioritized speed over verification. Canadians were offered access to pandemic supports without barriers, since they did not have to provide evidence of eligibility. They were encouraged to apply for the benefits if they believed they were eligible; the message was that no person should be left behind.

The personal income tax system has a long history of being leveraged to provide critical income support in Canada.

From the late 1970s through to 2020, Canada built every major new income support using the common architecture of refundable tax credits. Child benefits, the GST/HST credit (now the Canada Groceries and Essentials Benefit), and the Canada Workers Benefit all share the same core features: Eligibility is determined through the tax system, payments are based on assessed income, there is low administrative friction after implementation, and, critically, there is a general insulation from social assistance clawbacks. That architecture front-loads eligibility decisions, minimizes disputes, and integrates cleanly with the broader income security system.

For over 40 years, it worked. Even during the pandemic, the government continued this tradition by implementing four smaller pandemic benefits through existing refundable credits or special payments. These went to Guaranteed Income Supplement (GIS) recipients, child benefit recipients, Disability Tax Credit certificate holders, and GST/HST credit beneficiaries. None of these payments required an application because eligibility was determined automatically from existing program data. However, while efficient, the amounts provided through these refundable credits were not enough to support people.

By comparison, the CERB and CRB – through which much more money flowed – broke from the model entirely. Rather than routing pandemic support through the established refundable credit system, the government created something new in a matter of days. The income definitions used to determine eligibility were novel, the rules for eligibility were program-specific and shifted mid-program, and the downstream interactions with social assistance, housing supports, and other income-tested programs were not worked through in advance.

The nuances of eligibility and verification became increasingly opaque as guidelines, income definitions, and administrative guidance shifted.

Overview of eligibility for the CERB and CRB programs

The CERB and CRB programs provided temporary income support to people who were directly impacted by COVID-19.

The CERB program provided $2,000 for each fourweek period of eligibility, up to a maximum of seven periods, from March to September 2020.

To be eligible for CERB, applicants must have had:

- A minimum 2019 income of $5,000 from employment, net self-employment, or provincial benefit payments related to maternity or parental leave in 2019 or in the 12 months prior to the CERB application;
- Income below $1,000 for at least 14 days in a row during each four-week CERB eligibility period; and
- An income loss from various COVID-19 related reasons.

The CRB was introduced after CERB ended to support workers who were still impacted by COVID-19 but did not qualify for Employment Insurance. It was available between September 2020 and October 2021. The CRB initially provided $500 for each week of eligibility, dropping to $300 per week in July 2021.

The CRB marked a policy shift away from the emergency income replacement model that characterized the CERB. This shift can be seen in changes to income limits and work requirements that signalled a new emphasis on encouraging re-entry into the workforce.

Today, the Canada Revenue Agency (CRA) is focused on recovering overpayments of these supports. The recovery regime rests on the premise that incorrect payments were primarily the result of claimant error. This premise is both insufficient and wrong. The policies of the federal government played a central role in shaping these outcomes.

The current situation of pandemic benefit recovery

As of 2025, over $3.3 billion in pandemic support had already been repaid to the CRA, but 773,992 individuals still carried outstanding debt related to pandemic benefits.[1] The total amount owed exceeded $10.3 billion: $5.4 billion from CERB, $3.2 billion from CRB, and the remainder spread across other benefits.[2]

More than 4,500 judicial reviews related to pandemic benefit repayment have been filed in Federal Court.[3] Of those, 1,276 remained active and unresolved as of late March 2026. A further 2,143 have been "resolved" in out-of-court negotiations, largely by being sent back to the CRA without judicial review for another decision, which may itself become the basis for another judicial review.[4] Some cases have now cycled through this loop more than once. In 1,064 cases, applications were withdrawn or dismissed, often not because the claimant was wrong, but because they could no longer sustain the process. The Court returned 118 applications to CRA for additional review after finding the original decisions legally deficient.

This is not a functioning system of review. It is an engine of attrition that runs on the assumption that enough procedural friction will eventually exhaust the most determined claimant.

Canada is not alone in having pandemic overpayments, but it is nearly alone in what it is doing about them. The United States identified approximately US$55.2 billion in pandemic unemployment overpayments and recovered US$3.7 billion by April 2024.[5] Federal law allowed states to waive recovery where the claimant was not at fault or recovery would cause hardship, and many states used that authority. The United Kingdom lost an estimated £10.9 billion to pandemic fraud

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1 Morrison, C. (2025, December 31). Tax agency says more than $10 billion in pandemic benefits must be repaid. *The Canadian Press*. https://www.cp24.com/news/canada/2025/12/31/cra-says-its-owed-more-than-10-billion-in-covid-19-benefit-payments/

2 CRA response to an inquiry by Heather Scoffield, Canadian Tax Observatory, on March 29, 2026. The full breakdown reported by CRA as of November 30, 2025: CERB, $5.41 billion; CRB, $3.20 billion; Canada Recovery Caregiving Benefit (CRCB), $1.52 billion; Canada Recovery Sickness Benefit (CRSB), $0.17 billion; Canada Worker Lockdown Benefit (CWLB), $0.04 billion; Canada Emergency Student Benefit (CESB), $0.01 billion; total, $10.35 billion.

3 A judicial review is a court process that examines whether a decision made by a government decision-maker was legal, fair, and reasonable. Importantly, it is not an appeal of a decision itself, merely a review of the process.

4 *Ryckman v. Canada (Attorney General)* (2025); accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/528951/index.do

5 U.S. Government Accountability Office. (2024). *COVID-19 Relief: SBA and DOL Should Improve Processes to Identify and Recover Overpayments*. https://www.gao.gov/products/gao-25-106199

and error and recovered £1.8 billion. Its commissioner's final report concluded that much of the shortfall is beyond recovery.[6] Enforcement has since focused on business loan fraud rather than low-income individuals. Australia administered its primary pandemic wage subsidy with explicit discretion to waive recovery where overpayments resulted from honest mistakes. It ultimately declined to pursue approximately A$180 million in identified overpayments altogether.[7]

Canada may not be the worst in dollar losses, but it is among the worst in moral posture. Other countries had overpayments, fraud, write-offs, and scandals. Canada's distinction is that it is still making the poorest recipients pay for its policy choices.

The government's position and its limits

The Government of Canada frames the issue as one of fairness, fiscal integrity, individual compliance failures, eligibility enforcement, and sound stewardship of public funds, while presenting the collection process as empathetic, flexible, and "people first."[8,9]

This framing relies on the assumption that eligibility criteria were clear and consistently applied, that recipients had the capacity to understand and comply, and that post-payment verification can fairly determine entitlement.

None of these assumptions hold, and the result is a system that appears unfair. Public trust in institutions is already low,[10] and this risks further undermining Canadians' faith in income support systems and government communication more broadly.

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6 Hayhoe, T. (2025). *Pursuing Recoveries and Preventing Reoccurrence: Final Report of the Covid Counter Fraud Commissioner*. HM Treasury. https://assets.publishing.service.gov.uk/media/693807357a605b2d61cd8f54/E03505750_HMT_CP_1462_v04_ELAY.pdf

7 Australian National Audit Office. (2022). *Administration of the JobKeeper Scheme*. https://www.anao.gov.au/work/performance-audit/administration-the-jobkeeper-scheme

8 Calabro, C. & Qureshi, N. F. (2026). *Why is the CRA still targeting pandemic aid recipients?* Canadian Centre for Policy Alternatives. https://www.policyalternatives.ca/news-research/why-is-the-cra-still-targeting-pandemic-aid-recipients/

9 Canada Revenue Agency. (2022, May 11). *Have you received a letter related to COVID-19 benefits? Don't worry, we are here to help!* Government of Canada. https://www.canada.ca/en/revenue-agency/news/newsroom/tax-tips/tax-tips-2022/have-you-received-letter-related-covid-19-benefits-dont-worry-are-here-help.html

10 Steinburg, J. (2024). *Trust in Canada: Recent Trends in Measures of Trust*. Trust in Research Undertaken in Science and Technology (TRuST) Scholarly Network.

Ambiguity over eligibility criteria was systemic

Eligibility criteria, particularly around income loss, self-employment, and availability for work, were not stable or consistently communicated. This was especially true for workers with irregular or non-standard earnings. For example, the $5,000 income threshold for benefit eligibility could include declared tips, royalties, and non-eligible dividends, while self-employment income later turned on net rather than gross income, a distinction that was not consistently understood by claimants or administrators at the time.[11]

Official communications evolved over time, differed across platforms, and at times were incomplete or incorrect. Claimants relied on government websites, examples, and call centre advice, often applying in good faith under conditions of genuine uncertainty.

Courts have consistently held that such reliance is not determinative. In *Lemay v. Canada (Attorney General)* (2026),[12] the CRA's own application form gave the impression that Mr. Lemay qualified for relief under the Remission Order. The legislation said otherwise. No one told him the legislation existed until the government filed its court record. The judge found the situation "deplorable," but ruled against him anyway, because informal communications, including the government's own forms, cannot override the statute.

This problem of systemic ambiguity went beyond contradictory and misleading forms. In *Potvin v. Canada (Attorney General)* (2026),[13] the Federal Court's decision illustrates how the eligibility criteria failed to account for ordinary working life. Ms. Potvin had worked at a jewellery store since 2013 before going on maternity leave in December 2018. Her maternity benefits ran until January 2020, at which point she was planning to return to work. The shopping centre where her store was located closed in March 2020 due to COVID-19. She applied for CERB and CRB, submitting her employment record, tax returns, and maternity benefit documentation. The CRA denied her claim, placing significant weight on the fact that she had not returned to work in the two months between the end of her maternity benefits and the pandemic closures. The Court found the decision unreasonable: Nothing precludes a mother from remaining at home with her child after maternity benefits end, her seven-year employment record supported her

11 For example, *Amero v. Canada (Attorney General)* (2026); accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/530473/index.do

12 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/530310/index.do

13 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/530479/index.do

account that a return to work was planned and imminent, and the CRA offered no explanation for why the two-month gap was determinative. The judicial review was granted.

For some individuals, eligibility was unknown – and possibly unknowable. In *Coscarelli v. Canada (Attorney General)* (2022),[14] Amanda Coscarelli applied for $14,000 in Canada Recovery Benefits (CRB) in good faith, believing that her employment income combined with some workers' compensation benefits reached the $5,000 eligibility threshold for the CRB. Her workers' compensation benefits were not a qualifying income source. After much review, many calculations and clarifications, her qualifying earnings for the CRB turned out to be $4,992.74. She was $7.26 short of qualifying for the CRB. The Federal Court upheld the decision: She was ineligible for the $14,000 she would have received had she earned the equivalent of roughly half an hour more work in 2019.[15]

These cases reveal a structural contradiction. In one case, a man relied on the government's own application form and was told only after the fact that the legislation said something different. In another, a woman planning to return to work after maternity leave found that the program's eligibility criteria had never accounted for her situation. In the third, an individual's income was so close to the threshold that it required multiple reviews to determine whether she was eligible. In all of them, individuals acted reasonably given what they knew; they were found ineligible under a standard applied retrospectively and in isolation from the conditions under which they had made their decisions. The state did not merely adjudicate eligibility after the fact; it participated in producing the very conditions in which error became likely and declined to accept any responsibility for that role.

Remedies for some, inflexibility for others

During the pandemic, the federal government introduced targeted adjustments to address emerging issues affecting specific groups, including students and recent graduates, GIS recipients, and seasonal workers.[16] These interventions acknowledged that initial program design produced unintended and inequitable outcomes, and that the government was capable of modifying the program accordingly when those outcomes became sufficiently visible.

14 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/522550/index.do

15 Stapleton, J. (2023, January 13). "Achingly Close": A tale of policy intransigence, hubris and a half hour of paid work. *Open Policy Ontario*. https://openpolicyontario.com/achingly-close-a-tale-of-policy-intransigence-hubris-and-a-half-hour-of-paid-work/

16 Harris, K. (2020, April 15). Part-time, contract and seasonal workers now qualify for COVID-19 emergency benefits. *CBC News*. https://www.cbc.ca/news/politics/cerb-emergency-benefits-trudeau-1.5532767

These measures demonstrate that the federal government was aware that initial program design produced gaps, inconsistencies, and unintended harms. But corrective measures were not distributed evenly among those impacted. They were partial, reactive, and directed towards specific categories of recipients whose exclusion or hardship had become politically or administratively salient.

The government recognized that the original framework was not functioning neutrally or consistently, yet they did not adopt a broader corrective approach. Instead, they doubled down. Individuals whose cases fall outside those targeted corrections remain subject to a much more rigid system of post-payment verification and debt recovery. It is time for the government to correct its missteps and repair the harms caused by its action and inaction.

Fairness in review

Unlike an income tax assessment, the legislation governing CERB and CRB does not provide a statutory right of appeal to the Tax Court. The only legal remedy open to recipients is to request a judicial review in the Federal Court. In a judicial review, the court considers only whether the government's decision was reasonable and procedurally fair.

Federal Court cases reveal a disproportionate burden upon low-income individuals. Many applicants lack the financial resources, time, and legal knowledge required to pursue judicial review. As a result, a substantial number of cases are withdrawn, abandoned, or dismissed on procedural grounds rather than decided on their merits.[17] The system is not interested in whether people were eligible. It renders judgment based on whether they have the resources to prove their eligibility years later.

Moreover, judicial review decisions, including *Cameron v. Canada (Attorney General)* (2024),[18] have criticized the CRA for ignoring accessibility concerns, including by relying on communication practices that make it more difficult for claimants to understand and respond to concerns. Applicants with disabilities and those who face language barriers have been poorly accommodated, as in *Matthew v. Canada* (2025),[19] and left to represent themselves against a system determined to

17 CRA response/addendum to Heather Scoffield, March 29, 2026

18 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/524701/index.do

19 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/529041/index.do

recoup pandemic-era financial losses from the most vulnerable members of society, with little regard for the impacts on families in great need of financial support.[20,21]

The judicial review process also raises fundamental fairness concerns. It asks individuals to reconstruct compliance with rules that were poorly communicated at the time and are difficult to piece together retrospectively. Individuals who applied in good faith, often under pressure and uncertainty, are recast as having acted improperly. The system does not account for the conditions under which decisions were made, nor does it recognize the role of the state in producing those ambiguous conditions.

Judicial review is the wrong tool in this circumstance. It can identify deficient reasoning and cause a matter to be sent back to CRA for review, but it cannot redesign the recovery regime, forgive debts, or account for the cumulative unfairness produced by years of reassessment, reconsideration, and litigation. The result is a system that compounds the original design failures of the program with administrative failures of its own.

When cases do reach court, judges have found decisions that were unjustified, opaque, and, in several instances, an affront to the basic requirements of administrative fairness. In cases such as *Bishop v. Canada (Attorney General)* (2023),[22] CRA agents repeatedly issued decisions without providing any coherent rationale or evidence that materials provided by appellants were even considered. Under *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019),[23] administrative decisions must be justified, transparent, and intelligible. A reviewing court must be able to understand how the decision-maker moved from the evidence to the conclusion. Yet, in many cases, this is not possible.

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20 Office of the Auditor General of Canada. (2022). *Reports of the Auditor General of Canada, Report 10 – Specific COVID-19 Benefits*. https://www.canada.ca/en/auditor-general/our-work/audit-reports/parl-oag-202212-10-e.html

21 Income Security Advocacy Centre. (2023). *Analysis: The Auditor General of Canada's report on pandemic benefits fails low-income people*. https://incomesecurity.org/wp-content/uploads/2023/01/Auditor-General-Report-10-Specific-COVID-19-Benefits-ISAC-analysis-December-2022.pdf

22 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/523536/index.do

23 Accessed at https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18078/index.do

A fair system allows for discretion and negotiation

In most areas of tax administration, the CRA routinely exercises discretion through negotiated settlements, interpretive flexibility, evidentiary balancing, and pragmatic decisions about whether to pursue recovery at all.

Pandemic benefit recovery departs sharply from these norms, operating instead on a binary logic: Either eligibility is proven to the CRA's satisfaction, or the full amount is repayable. The only accommodation offered is time to repay, rather than adjustment of the underlying debt. There is no provision in the law for negotiated write-downs, shared-error settlements, or meaningful discretion tied to claimant circumstances.[24]

This is a distinct administrative approach that removes the forms of discretion normally used to achieve fair outcomes, leaving decision-makers few tools to account for context, fault, or proportionality.

Thousands of judicial review applications have been filed in relation to pandemic benefits, drawing courts into disputes that could have been addressed through administrative or policy resolution.

A fair system treats people consistently

The evidentiary standards applied in pandemic benefit recovery are disconnected from the reality of how many low-income Canadians earn and use money, and from the standards the CRA applies in every other context.

The CRA often does not accept evidence of cash earnings for CERB purposes unless the money was deposited into a bank or credit union, as shown in *Velasquez-Garboza v. Canada (Attorney General)* (2026)[25] (see box on next page) and *Stigas v. Canada (Attorney General)* (2026).[26] Yet, cash gratuities must be reported as taxable income. For the purposes of determining eligibility for CERB, a snow shoveller who takes payment in cash and spends it directly at the grocery store will be treated as though they had no qualifying income at all – even if they reported that income on their tax return, even if a chartered accountant certified it,

24 *Canada Recovery Benefits Act*, SC 2020, c 12; *Canada Emergency Response Benefit Act*, SC 2020

25 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/fr/item/530324/index.do

26 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/530639/index.do

and even if CRA accepted it for tax purposes and collected additional tax on it, as in the example of *Vatankhah*.[27]

Spotlight on inconsistent treatment

Velasquez-Garboza v. Canada (Attorney General) (2026)

Matthew Velasquez-Garboza worked as a casino croupier in 2019 and was paid in cash. He did not deposit these amounts into a bank account, and his employer did not issue T4 slips, though he had reported this income on his 2019 tax return. He submitted pay stubs to the CRA covering April 1 to June 9, 2019, showing a gross income of $5,365. Despite this documentation, the officer concluded that the income could not be verified, citing the absence of bank deposits or additional supporting records. At the judicial review stage, he submitted additional evidence, which the court refused to consider. It was determined by the Federal Court that it was reasonable for the CRA to have found him ineligible for CERB.

Vatankhah v. Canada (Attorney General) (2025)

Mr. Vatankhah and his wife had operated a small cash café for 25 years before COVID-19 closed it permanently. Their business did not issue invoices or sell on credit – cash was paid on delivery and deposited by ABM. After an initial ineligibility determination, a chartered accountant reviewed his records, corrected errors in the original return, and submitted an amended tax return showing 2019 net income of $6,745. The CRA accepted the amendment, issued a Notice of Reassessment, and collected an additional $478 in taxes owed on that income. It then denied his CERB claim on the grounds that the same income could not be verified. The decision was found unreasonable under judicial review; the CRA cannot, without explanation, accept documents for tax purposes and simultaneously reject them as proof of income for benefit eligibility.

Such CRA determinations amount to immense hypocrisy: Evidence sufficient for taxation or other program eligibility is deemed insufficient for pandemic benefits. People did not need to have filed taxes to access CERB. Yet, years later, they are required to produce unreasonably extensive documentation. No one, certainly not the CRA, lives in a world in which asking a snow shoveller for invoices or issuing a babysitter a T4 is a reasonable standard.

27 *Vatankhah v. Canada (Attorney General)* (2025); accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/527445/index.do

Applying forensic evidentiary requirements to people working in the cash economy, years after the fact, represents an inconsistent, selective evidentiary standard that systematically disadvantages claimants.

A fair system is based on reasoned decisions

Recent Federal Court decisions suggest a recurring pattern in pandemic benefit adjudication: decisions are issued with limited or unintelligible reasoning, set aside on judicial review, and returned to the CRA for reconsideration, where the process begins again. In cases such as *Leibel v. Canada (Attorney General)* (2026),[28] the Court has found that it is not possible to trace the reasoning underlying the decision, rendering it unreasonable. The judge invoked the *Vavilov* case's own warning against the "endless merry-go-round of judicial reviews and subsequent reconsiderations," and then, bound by the limits of judicial review, sent the matter back anyway.

Reasoned decisions are necessary to enable meaningful review. Decisions that do not provide clear reasoning are not reasonable.

The system that the CRA has created and upheld offers no true appeal mechanism while constraining access to reconsideration and judicial review. People often do not understand why or how they were found ineligible by the CRA because warning letters use vague, boilerplate language. This is an issue of administrative opacity.

While a small number of cases reach the Federal Court, the vast majority do not. Most individuals accept repayment demands or disengage from the process altogether.

This pattern of opaque administrative decision-making, procedural attrition, and cyclical appeals processes requires legal examination. The Department of Justice should assess whether Federal Court processes adequately protect unrepresented claimants cycling through a system designed to outlast them.

28 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/530440/index.do

A fair system has fair procedures and reasonable outcomes

Canadian jurisprudence has consistently emphasized procedural fairness, reasonableness in decision-making, and the need for decisions to reflect the context in which they arise.[29] In pandemic benefit cases, several tensions have emerged:

- **Reasonableness**
  Decisions that disregard credible evidence, or apply excessively rigid interpretations of eligibility, risk failing the standard of reasonableness.
- **Legitimate expectations**
  Where claimants relied on official guidance, particularly from government sources, there is a credible argument that they had good reason to believe in their eligibility. Courts have acknowledged this tension while declining to give it legal effect. Within the existing framework, this contradiction cannot be appropriately remedied.
- **Proportionality**
  Administrative action must be proportionate to its objectives. Pursuing full recovery from low-income individuals, for the infraction of earning less than $5,000 in the year before the pandemic, years after the fact, through a process that costs far more to administer than the debt is worth, is difficult to justify on any measure of administrative efficiency or public interest.

Procedural fairness concerns are especially acute where claimants receive decision letters with little or no intelligible reasoning, as in *Matta v. Canada (Attorney General)* (2026),[30] or where they are not given a meaningful opportunity to respond to the basis of ineligibility.

Justice Shirzad Ahmed noted in his decision in *Matta* his criticism of CRA decision-makers: *"The fact that this decision has come before this Court yet again with nearly identical issues supposes that this Court's reasoning may not have been adequately absorbed."*

The formal availability of judicial review does not represent access to justice, as it is practically inaccessible for most low-income claimants due to cost, complexity, and risk.

29 *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817; *Canada (Minister of Citizenship and Immigration) v. Vavilov* [2019] SCC 65

30 Accessed at https://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/530545/index.do

Burdening low-income individuals: Debt as administrative control

Most workers who received pandemic income supports had lower earnings. In 2020, one study found that of the roughly one in four workers who received support through CERB, nearly two-thirds earned less than $50,000 in the year before the pandemic.[31]

The CRA is aware that many, even most, of the people they have determined owe money do not have the assets to pay that money back. That is why they have implemented repayment plans as the only measure responsive to people's inability to repay. Payments towards a debt that may be as high as $14,000 can be as low as $5 per month, not including tax credits and benefits, including EI, that are held back and put towards the debt.

No other debt forgiveness architecture was built into the system for low-income people. Instead, governments have normalized the idea of long-term repayment obligations extending years into the future, framing this as a kindness.[32] Tax refunds can be intercepted indefinitely. Benefits can be reduced. The debt itself becomes permanent administrative supervision.

Those who appeal to the CRA for debt relief under the Financial Administration Act are often not told if their debt has been written off at all, if it has been paused, and timelines on when and if their payments will resume. The CRA has chosen to conceal both their decision-making processes and their decisions, systemically avoiding putting details of agreements in written documentation, avoiding setting a precedent for future decisions.

All the while, the recipient must remain reachable, documentable, accountable, and procedurally cooperative. They must continually demonstrate good faith towards institutions like the CRA that often display little reciprocal flexibility towards them.

31 Kalhor, S. (2024). *The role of the Canada Emergency Response Benefit in alleviating the impact of the COVID-19 pandemic on the employment income of racialized workers*. Statistics Canada. https://www150.statcan.gc.ca/n1/pub/75-006-x/2024001/article/00004-eng.htm

32 Canada Revenue Agency. (2022, May 11). *Have you received a letter related to COVID-19 benefits? Don't worry, we are here to help!* Government of Canada. https://www.canada.ca/en/revenue-agency/news/newsroom/tax-tips/tax-tips-2022/have-you-received-letter-related-covid-19-benefits-dont-worry-are-here-help.html

These are low-income workers in the informal, gig, or cash economy. Some face acute survival needs and many have limited documentation and financial literacy.[33] Many of the people who received pandemic benefits, and many of those who are now being targeted with repayment demands, were already marginalized.[34] These are largely people who are racialized, Indigenous, single mothers and their children, immigrants, seniors, and young people in transitional stages. For many, these debts are effectively unpayable.[35] Repayment demands trigger deeper poverty, entrenching the conditions these benefits were meant to alleviate.

For low-income Canadians already living amid precarity, disability, unstable work, or welfare dependence, the burden becomes continuous behavioural surveillance embedded within everyday life. The debt reminds recipients that emergency relief was never fully transformed into social solidarity or collective responsibility. Instead, it was always a part of the older moral architecture of compliance, deservingness, and administrative discipline.[36]

Double recovery

While there is no transparent reporting on how many people with low incomes are being asked to pay back their pandemic benefits, many of them are among the lowest-income recipients of pandemic support. For those receiving social assistance or living in rent-geared-to-income housing, the first penalty often came immediately: Pandemic benefits could reduce provincial assistance, increase rent in social housing, or affect access to related supports, including legal aid, special diet allowances, drug and dental benefits, medical transportation, and other income-

33 Sarangi, L. (2022). Dangerous double standard in treatment of pandemic benefit programs, warn anti-poverty advocates. *Campaign 2000*. Retrieved July 9, 2026, from https://campaign2000.ca/dangerous-double-standard-in-treatment-of-pandemic-benefit-programs/

34 Pin, L., Levac, L., & Rodenburg, E. (2023). Legislated Poverty? An Intersectional Policy Analysis of COVID-19 Income Support Programs in Ontario, Canada. *Journal of Poverty*, 27(5), 404–425. https://doi.org/10.1080/10875549.2022.2113590

35 Philipupillai, K. (2023, July 5). 'You can't get blood from a stone': Critics say CERB repayment process undermines poverty reduction goals. *The Hill Times*. https://www.hilltimes.com/2023/07/05/you-cant-get-blood-from-a-stone-critics-say-cerb-repayment-process-undermines-poverty-reduction-goals/391991/

36 Forget, E. & Frankel, S. (2024). Flirting with a basic income in Canada: Were the lessons worth the risk of popular backlash? *International Social Security Review*, 77: 67–83. https://doi.org/10.1111/issr.12354

tested services.[37] In these cases, much or all of the value of pandemic benefits was effectively captured by other levels of government.

The interaction between CERB, CRB, social assistance, subsidized housing, and other income-tested systems produced strikingly inequitable outcomes. Because pandemic benefits were layered onto a pre-existing patchwork of provincial and territorial income assistance rules,[38] their treatment varied significantly across the country.[39] Some jurisdictions fully exempted CERB and CRB, some partially exempted them, and others treated them as income that reduced assistance, including dollar-for-dollar in several provinces and one territory.

In Ontario, CERB and CRB were treated like employment income for existing Ontario Works (OW) and Ontario Disability Support Program (ODSP) recipients: The first $200 was exempt, and 50 per cent of the remaining amount was deducted from social assistance. In practical terms, a $2,000 CERB payment produced a $900 reduction in OW or ODSP. For new OW applicants, the deduction could be dollar-for-dollar.[40] In other jurisdictions, CERB and CRB were treated even more harshly, with five provinces and one territory reducing social assistance benefits dollar-for-dollar.

These clawbacks created the conditions for double recovery. Provincial systems reduced social assistance or related supports when CERB or CRB was received. Years later, the federal government now seeks repayment of the same CERB or CRB amounts. In these cases, individuals are not simply being asked to return money they retained. They are being asked to repay federal benefits that had already been partially or fully absorbed by another level of government.

This is the central unfairness. Some people were told, encouraged, or pressured by provincial caseworkers to apply for CERB or CRB, despite uncertainty about whether they met the federal eligibility rules. Others applied knowing that

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37 Gibson, V. (2020, June 29). 'Am I scared? Hell, yes': CERB was supposed to be a lifeline during COVID-19. Instead, it may put some seniors in a shakier financial position. *The Toronto Star*. https://www.thestar.com/news/gta/am-i-scared-hell-yes-cerb-was-supposed-to-be-a-lifeline-during-covid-19/article_c52372e7-e9a3-58fe-ba2d-27388c27a8cf.html

38 Petit, G., & Tedds, L. M. (2020). The Effect of Differences in Treatment of the Canada Emergency Response Benefit across Provincial and Territorial Income Assistance Programs. *Canadian Public Policy*, 46(S1), S29–S43. https://doi.org/10.3138/cpp.2020-054

39 Tweddle, A., & Stapleton, J. (2023). *How do the Canada Response Benefit (CRB) and the temporary EI changes impact social assistance benefits in provinces and territories?* Maytree. https://maytree.com/publications/how-do-the-canada-response-benefit-crb-and-the-temporary-ei-changes-impact-social-assistance-benefits-in-provinces-and-territories/

40 Stapleton, J. (2020). *Canada's CERB: How an emergency benefit designed for exposed people became a giant windfall for governments*. Open Policy Ontario. https://openpolicyontario.com/canadas-cerb-how-an-emergency-benefit-designed-for-exposed-people-became-a-giant-windfall-for-governments/

they might not fit neatly within the rules but did so because the alternative was immediate deprivation during a public health emergency. In those circumstances, applying was a rational response to a frightening situation.

The recovery regime now treats those decisions as the fault of the individual. But for many social assistance recipients, the choice was shaped by government systems themselves: federal programs designed for rapid access, provincial systems that treated CERB and CRB as income, and unclear guidance about how these systems would interact. People were pulled into one system for emergency relief, penalized by another system for receiving it, and later pursued by the first system for repayment.

This is a cruelly circular trap built by uncoordinated governments. Only coordinated government action can dismantle it. It is time for federal, provincial, and territorial actors to stop treating this as someone else's problem, reconcile the clawback data rather than leaving it up to individual recipients, and ensure that not one person is left repaying money that was already taken from them.

The story of Lucille[41]

Lucille lived inside a number. Each month, it arrived from the Ontario Disability Support Program – just enough to survive if survival was defined carefully. There is a kind of stability in that. Then came the pandemic.

Lucille was told to apply for the Canada Emergency Response Benefit. Everyone was applying. It was help. And there was a risk that if she did not apply, her existing support might be reconsidered. Lucille applied.

The money came quickly. No interviews. No proof. No waiting. For a moment, it felt like something else entirely – a version of life in which support did not require interrogation. And then, just as quickly, her ODSP payments were reduced. The system adjusted itself, as it always does.

Then the letters came. The Canada Revenue Agency informed her that she was not eligible after all. There were rules she had not understood. There were documents she did not have for work she had done in ways that do not leave records. The money she had received – money already taken back – was now a debt.

41 A fictionalized account based on a true story.

Lucille explained that she could not repay the federal debt without the money the province had taken. The province explained that it could not return the money until an arrangement was made for the federal debt to be repaid.

The CRA recovered its money slowly, through the reduction of tax credits and benefits Lucille had depended on – small amounts, carefully withheld. In the end, each government's account approached balance. Lucille's did not. She would be left with less than she had before she received it.

There is something revealing in how Canadians respond to stories like Lucille's. When pandemic benefits were introduced, the federal government made a conscious decision: Get money out now, sort it out later. "Later" has now arrived, and the public reaction has followed the same familiar pattern long set out by the state.

It is the idea that those who receive benefits are fundamentally different from "the rest of us." That they are more likely to bend rules, to take advantage, to "get away with something" if given the chance. That they are people who must be watched, verified, and corrected.

It sits just beneath the surface of public reaction. They knew what they were doing. They tried to get away with it. Good on the government for going after them. In this framing, pandemic benefit recovery becomes not an administrative correction, but a moral restoration. The state is disciplining behaviour. And the people being disciplined are not seen as people like us. They are seen as something else – closer to what might once have been called the "undeserving poor," or, more bluntly, as people whose relationship to the truth is inherently suspect.

This framing allows Canadians to maintain confidence in institutions by locating failure in individuals – specifically, in individuals already viewed with suspicion.

The administrative cost of pandemic benefit recovery

The government's public framing renders invisible the massive public costs of the recovery process itself. The administrative and legal processes deployed to recover pandemic benefit overpayments are expensive and slow, and in many cases cost far more than they recover. Continuing the current approach will add administrative costs, deepen hardship, and yield diminishing fiscal returns.

Each stage of recovery carries public cost. A repayment letter requires review, correspondence, documentation assessment, and staff time. A reconsideration requires further analysis, often involving unstable earnings histories, self-employment records, cash income, shifting eligibility rules, and incomplete documentation. Where matters proceed to judicial review, the process draws in CRA staff, Department of Justice counsel, court personnel, judges, and often self-represented claimants attempting to navigate a complex legal system. These costs accumulate before a single dollar is recovered.

Estimates by Open Policy Ontario show that for a small dispute over a $2,000 benefit, total system all-in costs can range from $4,000 to $20,000. For a moderately disputed claim, the range can be $30,000 to $110,000. For the complex, multi-period, self-employment cases that now make up most active litigation, the total system costs can range from $100,000 to $330,000 or more. These figures do not include the costs to the claimant, who, in many cases, is self-represented and bearing costs that cannot be quantified, such as time, stress, and procedural burden.[42]

The Department of Justice alone can average $60,000 to $180,000 per file in internal costs. Federal Court operations can add $8,000 to $12,000 per decision. By comparison, most pandemic benefit disputes involve overpayments of $2,000 to $14,000, owed by people with no realistic capacity to repay.

The government is routinely spending ten dollars to recover one – or sometimes nothing at all. For regular tax matters, spending amounts greater than those recovered can sometimes be logical, as it may be necessary to deter future actors from making incorrect claims. In the case of CERB and CRB, there are no future claimants, and there is no rationale for spending more than can be recovered.

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42 Stapleton, J. (2025). *When it costs more to collect than to care: Why Ottawa should stop litigating pandemic benefits for the poor.* Open Policy Ontario. https://openpolicyontario.com/when-it-costs-more-to-collect-than-to-care-why-ottawa-should-stop-litigating-pandemic-benefits-for-the-poor/

The case for a wind-down

Case-by-case adjudication is not a reasonable method to resolve systemic design flaws. The pandemic recovery regime stands in contrast to the CRA's normal administrative practice, which routinely accommodates financial hardship, pragmatic settlements, and discretionary write-offs.

A straightforward test could guide wind-down decisions: Is the potential recovery meaningful? Is the person solvent? Was the original administrative decision sound, or is there a high risk the court will find it unreasonable? Does the public cost of litigation exceed the expected return? If applied to the remaining cases, this test would clearly show the vast majority of files should be resolved.

A unified, time-limited resolution framework is needed. This framework must have clear criteria for closure, standardized settlement options, and coordination across federal, provincial, and territorial systems, treating the measures below as components of a single, cohesive, and administrative wind-down.

A policy wind-down is rational, necessary, and humane, and it is the only response proportionate to the scale of what went wrong. However, the legislative authority to make it happen does not yet exist, so Finance Canada must create it. Similarly, the operational plan to execute it has not been drafted, so the CRA, working with Employment and Social Development Canada (ESDC), which held the initial policy authority over the design of pandemic supports, must write it. Both should begin now.

Policy recommendations

Six years is long enough. The recommendations that follow rest on a premise drawn from the design of the original pandemic relief programs themselves: No low-income person should be made worse off today because they accepted an emergency benefit during a national crisis under confusing and changing attestation-based rules.

Stop pursuing low-income debtors

Create a clear, income-tested amnesty for people below or near the Low Income Measure or Market Basket Measure, especially those on social assistance, GIS, disability benefits, or very low earnings. For these individuals, full forgiveness should be the default rather than the exception. The CRA has confirmed that no penalties or interest are charged on pandemic benefit debts. The next step is to stop pursuing the debt at all from people who have nothing left to give. For those above the threshold, recovery should reflect capacity to repay rather than the full value of the debt. Standardized settlement options should be available to anyone for whom repayment would cause hardship.

Stop enforcement and end pursuit of low-value cases

Discontinue enforcement where recovery is unlikely, or administrative costs exceed returns. These files should be closed.

Resolve the double-recovery problem

As explained above, many low-income recipients were charged twice for the same dollars, through provincial social assistance clawbacks and then federal repayment demands years later. The clean systemic fix is an intergovernmental data-sharing protocol whereby provinces reconcile clawback data, matching it against CRA collections files so that clawed-back amounts are matched against federal debt. In the interim, the federal government should treat provincial clawback amounts as de facto partial repayment of any outstanding federal debt in all cases. Going forward, settlements and resolutions must not trigger new clawbacks, rent-geared-to-income increases, or reductions in other income-tested supports.

Expand evidentiary standards

Documentation adequate for tax purposes must be adequate for pandemic benefit purposes. The CRA cannot, without explanation, accept amended tax returns for the purpose of collecting taxes and simultaneously reject the same documents as proof of income for benefit eligibility. The forensic standard currently applied to people in the cash economy is disconnected from reality and must end.

Recognize shared responsibility

Where government guidance, call centre advice, application forms, or caseworker direction contributed to a recipient's decision to apply, recovery should be reduced or waived. The state participated in producing the conditions in which error became likely. It cannot now treat every resulting debt as solely the fault of the individual.

Restore what was already taken

This is the critical equity piece. Forgiving remaining debts for low-income people while doing nothing for those who faced significant hardship, as they made efforts to repay their debts (often by draining their savings, losing benefits, paying higher rent, or just going without) punishes compliance. A fair resolution requires two tracks, not one. The person who repaid out of fear was no less harmed than the person who could not. A restoration credit, available to anyone under the income threshold who repaid or had tax credits or other benefits intercepted, is the necessary companion to forward forgiveness. Where exact reconstruction is administratively impossible, a flat restorative payment capped at the amount recovered is a reasonable proxy.

Close the program

Establish a fixed end date. The recovery effort has now lasted longer than the emergency it was meant to address. Enforcement for clear, organized, and high-income fraud should continue. The wind-down should not extend to fake employers, fabricated payrolls, organized schemes, identity theft, or people with clear high-income capacity to repay. This is not an argument for impunity. It is an argument for distinguishing confusion and poverty from intentional theft. All else should be resolved and closed.

Implementation plan

Finance Canada: Introduce legislative authority for wind-down
(Fall 2026)
The current pandemic benefit legislation leaves no room for negotiated settlements or partial write-downs. Finance Canada must introduce amendments to the Income Tax Act to formally wind down CERB/CRB collections and give the CRA explicit statutory discretion to negotiate and accept settlements, including partial payment, waiver, and instalment arrangements. Without this, CRA officials authorizing a less-than-full recovery have no legal protection. Communication between the CRA and recipients must be timely, coherent, and transparent. This is the legislative foundation everything else depends on.

Canada Revenue Agency and ESDC: Draft the wind-down plan
(Immediately)

Waiting for legislation before beginning operational planning will waste months. The CRA, working closely with ESDC, should begin drafting its wind-down plan immediately: case triage criteria, settlement frameworks, debtor communications, staffing, and timelines. ESDC must be involved, since they have expertise in how to best design programs that support people with low incomes. Such plans must also include meaningful consultation with diverse people affected, including Indigenous communities. In addition, the CRA and ESDC should assess whether existing fairness provisions under the Income Tax Act provide any interim authority to settle cases while legislation is pending.

Canada Revenue Agency: Resolve the 1,276 outstanding cases
(By the end of 2026)

The 1,276 cases currently before the Federal Court are identifiable now. The CRA should undertake a structured review, categorizing cases by vulnerability, amount, and double-recovery risk, and begin issuing settlement offers, with priority to cases involving provincial clawbacks where these have not been resolved. Every one of these cases involves a real person, and every month of delay is a month of ongoing harm.

Federal government: Convene a federal/provincial/territorial task force on double recovery

(Immediately)

Resolving the double-recovery problem requires intergovernmental cooperation that no single actor can deliver alone. A federal/provincial/territorial task force should be convened immediately to develop an information-sharing protocol enabling provinces to transmit clawback data to the CRA so that amounts already recovered provincially and not resolved individually can be credited against federal debt.

Auditor General: Examine double recovery

(Immediately)

The Auditor General should conduct a performance audit examining cases of double recovery and assess whether existing federal frameworks are adequate to prevent this outcome. The Office of the Auditor General should also examine whether the CRA's administration of pandemic debt collection has been carried out in a fair, efficient, and equitable manner.

Parliamentary Budget Officer: Report on the full costs

(Immediately)

The Parliamentary Budget Officer should report on the fiscal scope of outstanding cases, the projected costs of continued collection versus structured wind-down, and how Canada compares internationally. Canada is an international outlier, and the Parliamentary Budget Officer is best positioned to make that case credibly.

CRA Taxpayers' Ombudsman: Expand the mandate

(Immediately)

The Ombudsman's current mandate is largely limited to service complaints. It should be expanded to include a policy advisory role in the wind-down, with authority to recommend systemic changes and report publicly on patterns of unfairness in pandemic debt collection.

Department of Justice: Review the application of Vavilov

(Immediately)

The Vavilov standard of reasonableness review is not well suited to a situation where thousands of unrepresented claimants cycle through a system that issues decisions without adequate reasons. The Department of Justice should assess whether the current framework adequately protects these claimants and what legislative or regulatory reform, if any, is warranted.

If the government fails to make immediate progress on the above recommendations, advocates and civil society should mount a coordinated and sustained public pressure campaign. Government action on this file has been slow because the affected population is diffuse, low visibility, and largely unorganized. Sustained, coordinated public advocacy, including storytelling, media engagement, parliamentary submissions, and monitoring of government progress, is what creates the political conditions for government action.

The legal community should also explore whether a class action is a viable means of securing justice for affected individuals.

A final word: It is time to end this

Canada's pandemic income supports were an extraordinary act of public trust. In the face of a once-in-a-century crisis, the government moved with speed and reach to prevent mass destitution. The government asked Canadians to apply quickly, without proof, on their word alone. Millions did.

The fact that Canada acted quickly in 2020 does not justify applying rigid, retrospective enforcement for years afterward against people who applied under conditions of fear, uncertainty, and shifting guidance. Two things can be true at once: The emergency response was necessary, and the recovery regime that followed is now producing injustice. The federal government helped create the conditions in which error became inevitable. It cannot now treat every resulting debt as though it were solely the fault of the individual recipient.

Beneath the legal and administrative complexity lies a simple and disturbing truth. Hundreds of thousands of people have been left in crushing debt to their own government because they received emergency support during a once-in-a-century emergency. For many, these are debts that may never be repaid and may follow them for the rest of their lives; they may die still owing this debt. A program built to keep people afloat has become a mechanism through which the state holds a continuing claim over the income, stability, and futures of some of the most vulnerable people in our country.

A wind-down is not a retreat from accountability. It is an acknowledgement that systems designed for crisis cannot be unwound through mechanisms designed for certainty. Public policy must be judged not only by its rules, but by its outcomes. Canada acted quickly to prevent harm at the height of the pandemic. It must now act with equal clarity to stop compounding that harm.

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