



# Information Sheet: Culturally Based Equity for First Nations Children & Youth

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## What is Equity?

There is a story about a teacher who had her class sit in a circle and then asked them to put all of their shoes in the middle. The teacher picked up all the shoes and handed a random pair to each child. The teacher said, "I have treated you all equally and provided you each with a pair of shoes. Are you happy with your shoes?" One student raised their hand and said, "No I'm not happy, these shoes don't fit my feet!" That is the difference between equality and equity. Equality is making sure that everyone has the same opportunity, so it doesn't matter if the shoe fits. As a result, sometimes equality falls short of meeting peoples actual needs. Equity is treating everyone equally and fairly (OED, 2013). To be fair is to make sure that opportunities are appropriate for, and relevant to, the unique needs and circumstances of individuals and groups. Equity is about making sure that everyone has the right to access goods, services or accommodations that are generally available to the public in ways that meet their needs.

## What is culturally based equity?

Culturally based equity is providing equal and fair treatment that is sensitive to the distinct cultures and needs of individuals and groups (OED, 2013). Culturally based equity for First Nations children and youth is making sure that children and their families have the same opportunities as other Canadians for growth, development, and safety that are reflective of their distinct cultural needs and take full account of the historical disadvantage linked to colonization, discrimination and residential schools.

Children have human rights too. The United Nations Convention on the Rights of the Child (1990; UNCRC) was passed by the UN General Assembly in resolution 44/25 on November 20, 1989 (UNICEF, 2013). It was signed and later ratified as an international legally binding document by Canada on December 31, 1991. Article 1 of the UNCRC

define a child as every human being under the age of 18 years old, and Article 2 requires that the state shall ensure and respect the rights of all children without discrimination of any kind, and that the state shall take measures to ensure that the rights of every child is protected against discrimination (UNHCHR, 1990). Article 3 also states that "in all actions in regards to children...the best interests of the child will be the primary consideration" (UNHCHR, 1990) All actions, regardless of whether the action is public or private, must put the child's best interests first. Article 30 specifically recognizes the rights of Indigenous children and the UN Committee on the Rights of the Child adopted General Comment 11 (UNHCHR, 2009) to provide countries like Canada with specific guidance in interpreting the UNCRC for Indigenous children.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) adopted by the UN General Assembly on September 17, 2007 provides further protection for the rights of Indigenous children and their families. Canada was one of four countries that voted against UNDRIP but has since reversed its decision and is now expressing support (UNPFII, 2013).

Despite Canada's obligations under the UNCRC and UNDRIP, many First Nations children and youth continue to receive inequitable funding from governments in education, health and child welfare as well as basics like housing, water, access to healthy food, and sanitation. Every child in Canada has a right to grow up safely at home, receive a good education, be healthy, and be proud of whom they are, with no exceptions.

## Current Inequities

Almost half (48%) of all children in care under the age of 14 in Canada are Aboriginal children (Statistics Canada, 2013). The placement of Aboriginal children in informal care with relatives is 11.4 times the rate for non-Aboriginal children, and 12.4 times the rate of non-Aboriginal children for formal



placement in the child welfare system (Sinha, *et al*, 2011; pp. 81). The Auditor General of Canada (2008, 2011) confirms that the federal government's provision of First Nations child and family services and elementary and secondary education (2004, 2008, 2011) is flawed and inequitable. These inequities contribute to First Nations children and youth being denied or delayed receipt of public services available to other Canadian children for healthy growth and development.

Inequitable treatment violates the human rights of First Nations children. Not only is the government responsible for the creation and perpetuation of these inequities, but they have spent over \$3 million dollars to avoid being accountable for their actions fighting against a human rights complaint on behalf of First Nations children currently before the Canadian Human Rights Tribunal (FNCFCFS, 2013). In failing to welcome and support a full and proper hearing before the CHRT, the Federal government has failed to advance the safety and best interests of First Nations children, in direct violation of Articles 2 and 3 of the UNCRC.

Jordan's Principle is a child-first principle to resolve jurisdictional disputes within, or between, federal and provincial governments that can delay or deny government services to First Nations children on-reserve (FNCFCFS, 2013). Jordan's Principle is in honor of Jordan River Anderson, a young First Nations boy from Norway House Cree Nation who was born with complex medical needs (FNCFCFS, 2013). Jordan spent over two years unnecessarily in a Manitoba hospital, far from his family home and community, while provincial and federal governments disputed who should pay for his at home care. Jordan sadly passed before the dispute was resolved at the age of 5 never having spent a day in a family home.

Jordan's Principle was passed by the House of Commons in Motion 296, and was later re-affirmed by Private Members Motion 363 (FNCFCFS, 2013). Jordan's Principle has helped over 37 children (Canadian Paediatric Society, 2009), and if properly implemented will continue to challenge, and ultimately bring an end to, inequitable access to government services that undermines the wellbeing of First Nations children, their families, and their communities.

Unfortunately, the Canadian Government has failed to fully honor Jordan's Principle meaning that some families are turning to the courts and human rights commissions to force Canada to implement it. For example, *Beadle and Pictou*

*Landing Band v. Canada* is an on-going federal case under Jordan's Principle to receive funding for home care services on-reserve. Maurina Beadle has been the primary care provider for her son Jeremy until she suffered from a stroke in 2010, after which she had to bring in outside support so that Jeremy could stay at home with his family and in his community. The Federal Court ruled in favour of Maurina Beadle and Pictou Landing Band on April 4, 2013. Unfortunately, the Government filed for an appeal that was granted on May 6, 2013. To receive up to date information on the case go to <http://www.fncaringsociety.com/jordans-timeline>.

## The Tide is Changing

Aboriginal and non-Aboriginal organizations and people of all ages across the country are coming together to work towards culturally based equity for First Nations children and youth.

*Have a Heart Day* is an annual national day of action to support First Nations children and youth that takes place on February 14, Valentine's Day! It is about Canadians coming together to ensure that First Nations children have access to the services they need to support their growth and development in realizing their dreams and potential. Activities vary with the creativity of the organizers and participants. On February 14, 2013 in Ottawa, Aboriginal and non-Aboriginal people met on Parliament Hill to read Valentine's Day letters to the Prime Minister written by Aboriginal and non-Aboriginal children and youth. More information can be found at [www.fncaringsociety.com/have-a-heart](http://www.fncaringsociety.com/have-a-heart).

*Our Dreams Matter Too* is an annual walk and letter writing event for Aboriginal and non-Aboriginal peoples to show their support for culturally based equity for First Nations children and youth. The event(s) take place on June 11, which is the anniversary of the apology from the government for the harms caused by the residential school system (2008). In 2012, there were over 50 walks that took place across the country, many of which were led by children. Information on walks, as well as tips for planning a walk in your community, letter samples, and other resources are available at [www.fncaringsociety.com/our-dreams-matter-too](http://www.fncaringsociety.com/our-dreams-matter-too).

The voices of children and youth in Canada are valuable and make a difference, especially as we look to the future.

## The Way Forward

The difference between equality and equity is in the recognition of historical disadvantage, coupled with fairness of process and outcomes. In the opening story, the teacher only knows that each child needs a pair of shoes, but it is each child that knows what shoe size they need.

First Nations Communities are the experts on their own cultures and needs. Rather than just giving everyone a pair of shoes, we can work together through consultation and collaboration to make sure that the shoes fit too. Through listening and understanding we will be better able to work together towards a more equitable future for all with sustainable solutions.

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## Sources

- Auditor General (2004). Chapter 5 - Indian and Northern Affairs - Education Program and Post-Secondary Student Support. In *2004 November Report of the Auditor General*. Retrieved from [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_200411\\_05\\_e\\_14909.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_200411_05_e_14909.html).
- Auditor General (2008). Chapter 4 - First Nation Child and Family Services Programs - Indian and Northern Affairs. In *2008 May Report of the Auditor General*. Retrieved from [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_200805\\_04\\_e\\_30700.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_200805_04_e_30700.html).
- Auditor General (2011). Chapter 4 - Programs for First Nations on Reserves. In *2011 June Status Report of the Auditor General*. Retrieved from [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201106\\_04\\_e\\_35372.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201106_04_e_35372.html).
- Canadian Paediatric Society (2009). Are we doing enough? A Status Report on Canadian public policy and child and youth health. Retrieved from <http://www.cps.ca/advocacy/StatusReport2009.pdf>.
- First Nations Child and Family Caring Society (2013). I Am a Witness. In *What We Do*. Retrieved from <http://www.fncaringsociety.com/i-am-witness>.
- First Nations Child and Family Caring Society (2013). Jordan's Principle. In *What We Do*. Retrieved from <http://www.fncaringsociety.com/jordans-principle>.
- Oxford English Dictionary (2013). *Equity*. Retrieved from <http://www.oed.com.proxy.library.carleton.ca/view/Entry/63838?redirectedFrom=equity#eid>.
- Statistics Canada (2013). Aboriginal Peoples in Canada: First Nations People, Métis and Inuit. In *National Household Survey (NHS)*. Retrieved from <http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-011-x/99-011-x2011001-eng.cfm#a7>.
- UNHCHR (1990). *Convention on the Rights of the Child*. In United Nations Human Rights. Retrieved from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.
- UNHCHR (2009). Indigenous children and their rights under the Convention. In *Committee on the Rights of the Child: General Comment No. 11*. Retrieved from [http://www2.ohchr.org/english/bodies/crc/docs/GC.11\\_indigenous\\_New.pdf](http://www2.ohchr.org/english/bodies/crc/docs/GC.11_indigenous_New.pdf).
- UNPFII (2013). Adolescent Friendly version of the Declaration on the Rights of Indigenous Peoples. In *United Nations Declaration on the Rights of Indigenous Peoples*. Retrieved from [http://www.unicef.org/policyanalysis/rights/files/HRBAP\\_UN\\_Rights\\_Indig\\_Peoples.pdf](http://www.unicef.org/policyanalysis/rights/files/HRBAP_UN_Rights_Indig_Peoples.pdf).
- UNICEF (2013). *Convention on the Rights of the Child*. Retrieved from <http://www.unicef.org/crc/>.
- Sinha, V., Trocmé, N., Fallon, B., MacLaurin, B., Fast, E., Prokop, S.T. et al. (2011). *Kiskisik awasisak remember the children: understanding the overrepresentation of first nations children in the child welfare system*. Assembly of First Nations. Retrieved from [http://cwrp.ca/sites/default/files/publications/en/FNCIS-2008\\_March2012\\_RevisedFinal.pdf](http://cwrp.ca/sites/default/files/publications/en/FNCIS-2008_March2012_RevisedFinal.pdf).