

**United Nations
Committee on the Rights of the Child**

Non Discrimination and Diversity

First Nations Child and Family Caring Society of Canada



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Overview of Key Issues for Aboriginal Children and Families

In contrast to the lives experienced by other Canadian children and youth, Aboriginal children are more likely to be born into poverty, to suffer health problems, maltreatment, incarceration, and placement in the child welfare system. Although provincial data collection systems vary, best estimates are that there are currently between 22,500 and 28,000 Aboriginal children in the child welfare system – three times the highest enrollment figures of residential school in the 1940s (Child Welfare League of Canada, 2003; First Nations Child and Family Caring Society of Canada, 2003.) In terms of First Nations children on-reserve, the numbers of children entering into care are tragically rising. Department of Indian Affairs and Northern Development (DIAND) data confirms that between the years of 1995 and 2001 the number of Registered Indian children entering into care rose an astonishing 71.5% nationally (McKenzie, 2002).

Aboriginal peoples are aware of these problems and are actively working to establish Aboriginal Child and Family Service agencies in Canada to respond to the needs of these children and their families. With the support of the federal and provincial governments there are now over 100 of these agencies across the country, the vast majority of which receive their statutory authority to deliver child welfare programs through the provincial/territorial child welfare statutes. The requirement to use provincial/territorial child welfare statutes poses a significant challenge for Aboriginal agencies which must try to adapt services that reflect the holistic, interdependent, and communal rights framework of the cultural communities they serve with the individual rights based child welfare statutes.

Funding regimes for Aboriginal child welfare services vary depending on whether the agency is serving clients on- or off-reserve. With the exception of Ontario, which operates under a separate agreement, First Nations child and family service agencies servicing on-reserve clients are funded by a national funding formula known as Directive 20-1. This funding formula was studied in a joint review conducted by the Department of Indian Affairs and Northern Development (DIAND) and the Assembly of First Nations in 2000 which provides some insight into the reasons why there has been such an increase in the numbers of Registered Indian children entering into care (MacDonald et al, 2000.) The review found that funding for a range of services intended to ameliorate risk factors for children and youth at risk known as targeted prevention services were inadequately funded. In addition, the funding formula does not adjust for changes in provincial/territorial child welfare authority thus resulting in inequities of service, nor did it support tribal based child welfare authority. Despite the positive involvement of DIAND in the review process the recommendations of this review remain unimplemented, as does the call for substantial investment in community development to redress the etiology of child maltreatment sourced in the multi-dimensional impacts of colonization.

Although Aboriginal agencies serving off-reserve Aboriginal peoples are funded by the provinces and territories and thus do not experience the disconnection between funding

and authority to the same degree as on-reserve based agencies, they too require the vigorous investment in prevention and targeted prevention services to keep the growing numbers of Aboriginal children living off reserve at home with their families and connected to their diverse cultures and communities. This is particularly critical given the migration trend of Aboriginal peoples to urban centers.

United Nations' Convention on the Rights of the Child

On November 20, 1989, the United Nations General Assembly promised certain things to children by formally adopting the United Nations *Convention on the Rights of the Child* (CRC) (United Nations, 1991). The CRC provides the framework for governments to improve, promote and protect the basic human rights for all children, everywhere. It calls for continuous action and progress in the realization of children's rights based on four general principles:

1. non-discrimination (Article 2) – by which states commit to respect and ensure the rights of all children under their jurisdiction without discrimination of any kind;
2. the best interests of the child (Article 3) – in which the interests of the child are recognized as paramount and budgetary allocations should give priority to children and to the safekeeping of their rights;
3. respect for the children's views and right to participate in all aspects of democratic society (Articles 12-15) – which asserts that children are not passive recipients, but actors contributing actively to the decisions that affect their lives;
4. the child's right to survival and development (Article 6) – which claims the right for children to realize their fullest potential, through a range of strategies from meeting their health, nutrition and education needs to support their personal and social development. (UNICEF, 2000, pp. 46-51)

The CRC was ratified by 91 countries including the Canadian government which signed the Convention in December, 1991 (Luxton, 2002). In 1990, one year prior to signing the CRC, Canada along with other world leaders attended the 1990 World Summit for Children in New York which resulted in a Plan of Action for the survival, protection, and development of children. As part of this coalition, Canada submits regular reports detailing its progress in achieving its promises made at the World Summit for Children in New York in implementing the goals and objectives of the CRC made to date. While Canada's status reports to the UN appear to be positive, its ability to apply and extend the spirit and intent of the CRC to the children and youth of First Nations and Aboriginal ancestry in Canada has not been as encouraging.

The available evidence consistently suggests that First Nations children, youth and families residing on- and off-reserves are disproportionately represented amongst all Canadians living in poverty. For example, the Vancouver Aboriginal Council, in a report for the Vancouver Richmond Aboriginal Health Board in 1999, estimates that of the 4,300 Aboriginal children aged 0-6 years in the area, eight of ten Aboriginal children live in poverty (Vancouver Aboriginal Council, 2000). Poverty continues to be a significant

factor contributing to the myriad social problems for Aboriginal and First Nations children, youth, and families including child maltreatment. It is concerning that seven years after the Royal Commission on Aboriginal Peoples tabled its recommendations for restoring and affirming the capacities of First Nations and Aboriginal peoples, that Aboriginal Canadians still continue to lag behind other Canadians in quality of life measures and too many Aboriginal children live in poverty in one of the wealthiest countries in the world.

First Nations children and youth are also highly represented in the child welfare systems of the country. Eight years after Canada closed its last residential school in Saskatchewan, and seven years after the Royal Commission on Aboriginal Peoples completed its final report, the numbers of First Nations children in care continues to increase. In fact, the Department of Indian and Northern Affairs Canada indicates that Registered Indian children in care of the child welfare system has increased by a shocking 71.5% from 1995 to 2001 (McKenzie, 2001.) Of additional concern is that many of these children are placed in non-Aboriginal homes. Regrettably, not all provinces/territories track the degree to which Aboriginal children are placed in Aboriginal homes; however, the available data suggests that much improvement is needed. For example, in 1988 the British Columbia Children's Commissioner found that only 2.5% of Aboriginal children in the care of the Ministry for Children and Families were placed in Aboriginal homes. The increasing numbers of First Nations children in care coupled with the lack of cultural match in placement does not support Aboriginal children in maintaining their connections with family, culture and community.

Almost half of the First Nations people in Canada now live in urban centers (Graham & Peters, 2002; Hanselmann, 2001, 2003). Data recently released by Statistics Canada shows that Winnipeg, Manitoba in particular continues to lead the country in Aboriginal population rates. But the increased numbers of Aboriginal people is not just a Winnipeg phenomenon; it is mirrored in cities and towns across Manitoba as well as throughout Canada (Rollason, 2003). As the population increases so too does the proportion of children and youth in the Aboriginal populations (Hanselmann, 2001, 2003; Rollason, 2003). Children under 15 years of age comprise one-third (33%) of the urban Aboriginal population, compared with 20% of the urban non-Aboriginal population (Graham & Peters, 2002). In terms of child welfare, these statistics are significant as most Aboriginal children and families in urban areas do not receive the same access to a range of culturally appropriate programming as First Nations on-reserve (Graham & Peters, 2002). Hanselmann (2003) also noted that urban First Nations and Aboriginal people (especially children) lack an effective voice with which to participate in designing and implementing policies and programs that impact on them. In terms of culturally based service access, there have been some improvements such as the federal government support of Aboriginal Head Start, however, more focused investment in culturally based secondary and tertiary prevention services are needed off-reserve.

In a publication entitled *National Plans of Action for Children: Involving Children and Young People in their Development* produced in 2002 by Save the Children, two major gaps regarding the lack of participation of children and youth were identified in the

National Plans of Action which arose from conducting research in the 1990s toward the implementation of the goals and objectives of the CRC:

- Even when other groups were encouraged to get involved in their development, children and young people themselves were rarely included. National Plans of Action were seen as being something that was prepared *for* children rather than *with* them.
- National Plans of Action for children were developed separately from implementation plans for the CRC. This resulted in wasted efforts and a failure to link the goals in the National Plans of Action to the human rights of children. (Save the Children, 2002, p. 5)

While both of these problems are beginning to be addressed, a recent consultation with children and youth in care conducted by the Saskatchewan Children's Advocate Office (2000) indicates that children and youth calls for greater efforts to involve them in all decisions that affect them. The need for active inclusion of children and youth in matters affecting them are reflected in Articles 12-15 of the CRC.

Despite these and other risk factors facing First Nations children and youth, the effort so far has been to address these concerns in a piecemeal fashion that fails to consider the holistic needs of First Nations children and their interdependence with First Nations families, communities, and Nations. As noted in the research of Cornell and Kalt (1998) of Harvard University, the available evidence suggests that sustained social and economic well being in First Nations communities is preceded by self-government, suggesting a call for Canada to commit to the deliberate implementation of the recommendations of the Royal Commission on Aboriginal Peoples. Cornell and Kalts' findings are echoed by the research of Michael Chandler and Christopher Lalonde (1998), of the University of British Columbia, who found that a decrease in youth suicide rates is correlated with increased evidence of First Nations' self-determination and government.

The issues confronting First Nations children, youth, and families are as multi-dimensional as the colonial policies which gave rise to them and thus rights based approaches which inadequately considers children's interdependence with the historical and present experiences of family, community, and culture are unlikely to be successful. The Assembly of First Nations in partnership with the Department of Indian and Northern Affairs Canada suggested a holistic approach to ensuring child and youth well being in the seventeen recommendations of the *First Nations Child and Family Services Joint National Policy Review* conducted in 2000. The recommendations, which range from supporting First Nations self-government aspirations in child welfare to increases in levels and flexibility of funding regimes to promote community capacity to care for children, through community development and prevention programming, and meeting the needs of special needs children, remain unimplemented.

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ANNEX 1: Recommendations

1. Prompt action must be taken in order to implement the seventeen recommendations to improve the national funding formula for First Nations child and family service agencies contained in the *Assembly of First Nations/Department of Indian Affairs and Northern Development Joint National Policy Review on First Nations Child and Family Services* (2000). Priority should be given to ensure that First Nations children and their families, resident on reserve, have access to least disruptive services that are intended to mitigate child maltreatment risk factors allowing greater numbers of children to remain safely in their homes. CRC processes should be developed to identify and monitor areas of inequity affecting indigenous children ensuring that active and meaningful actions are undertaken to ensure equitable access to resources.
2. Poverty is a key concern for indigenous children. Immediate and deliberate commitment is required in order to ensure indigenous communities have the resources and authority needed to put their economies back on their feet and reduce the numbers of indigenous children living in poverty.
3. First Nations and Aboriginal children continue to be over-represented in school drop out rates, special education programs and amongst children classified with behavioral challenges. This calls for focused inclusion of indigenous history, culture, and language into school curricula giving equal footing to Indigenous ways of knowing and being. This would not only validate the experience of Indigenous children but would also promote greater awareness amongst the population in general creating a better environment for respectful coexistence.
4. There must be greater inclusion of First Nations peoples, particularly those working directly with children and their families, and First Nations NGO's in the dialogue, implementation, and measurement of the efficacy of the United Nations' *Convention on the Rights of the Child* and the *World Fit for Children*.
5. The multi-dimensional and multi-generational impacts of colonization have created a plethora of systematic problems that give rise to significant risk for Aboriginal children and youth. The appropriate response is to support adequately resourced culturally based community development approaches that build on community assets. An over-reliance on services intended to respond to the symptomatic impacts of colonization versus routing out the fundamental etiology of colonization has resulted in marginal outcomes for Aboriginal children and families. This is particularly the case for universal services and programs that fail to recognize the significant inequalities and unique cultural contexts of Aboriginal children.