

# Disease Prevention



ARE WE DOING ENOUGH?  
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## Publicly funded immunization programs

Infectious diseases were once the leading cause of death in Canada. They now account for less than 5% of deaths, making immunization the most cost-effective and one of the most successful public health efforts of the last century. Universal coverage of paediatric vaccines offers all children and youth protection against many potentially life-threatening diseases.

In addition to a slate of vaccines that have been part of the routine immunization schedule for a number of years, the CPS and the National Advisory Committee on Immunization (NACI) recommend that children and youth receive

immunizations against rotavirus, varicella (chickenpox), adolescent pertussis (whooping cough), influenza, and certain forms of meningitis (meningococcal and pneumococcal infections). We also recommend that the human papillomavirus (HPV) vaccine be provided at no charge.

Coverage of these vaccines is not yet universal across the country. While most provinces/territories offer them, not all are administering these vaccines according to the schedule recommended by the CPS and NACI, and the harmonization of immunization schedules across the country has not been achieved.

## Publicly funded immunization program measures

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Good	Excellent	Meets all CPS recommendations.
<b>Alberta</b>	Excellent	Fair	Initiate a rotavirus immunization program and add a second dose of varicella vaccine.
<b>Saskatchewan</b>	Good	Good	Initiate a rotavirus immunization program.
<b>Manitoba</b>	Good	Fair	Initiate a rotavirus immunization program and add a second dose of varicella vaccine.
<b>Ontario</b>	Good	Excellent	Meets all CPS recommendations.
<b>Quebec</b>	Good	Good	Add a second dose of varicella vaccine.
<b>New Brunswick</b>	Good	Good	Implement a rotavirus immunization program.
<b>Nova Scotia</b>	Good	Fair	Initiate a rotavirus immunization program and add a second dose of varicella vaccine.
<b>Prince Edward Island</b>	Good	Excellent	Meets all CPS recommendations.
<b>Newfoundland and Labrador</b>	Good	Fair	Initiate a rotavirus immunization program and add a second dose of varicella vaccine.
<b>Yukon</b>	Good	Fair	Initiate a rotavirus immunization program and add a second dose of varicella vaccine.
<b>Northwest Territories</b>	Good	Fair	Initiate a rotavirus immunization program and add a second dose of varicella vaccine.
<b>Nunavut</b>	Good	Fair	Initiate a rotavirus immunization program and add a second dose of varicella vaccine.

**Excellent:** Province/territory provides meningococcal, adolescent pertussis, pneumococcal, varicella, rotavirus, influenza, and HPV vaccines according to the schedule recommended by the Canadian Paediatric Society and the National Advisory Committee on Immunization, at no cost to individuals.

**Good:** Province/territory provides all but one of the recommended vaccines.

**Fair:** Province/territory offers all but two of the recommended vaccines.

**Poor:** Province/territory only offers three or fewer of the recommended vaccines.

# Disease Prevention



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## Measures to prevent child and youth exposure to smoking

Legislation to protect children and youth from the effects of smoking continues to be strengthened. All provinces and territories enforce smoking bans in public places. While some legislation still allows for designated smoking areas, the trend is to reduce places where people can smoke. Alberta, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, and the Yukon Territory now ban smoking on public patios and in other outdoor hospitality venues. Yukon Territory stands out in also banning smoking from all postsecondary institutions.<sup>22</sup>

All provinces and territories continue to protect children and youth in cars, with Saskatchewan and Manitoba joining others to ban smoking in cars where children are present. Only Alberta, Quebec, the Northwest Territory, Nunavut and the Yukon Territory lack legislation prohibiting smoking in cars in the presence of young passengers.<sup>23</sup>

The smoking rate among teens aged 15 to 19 years dropped to about 13% in 2009, down from 15% between 2006 and 2008. Since statistics were first recorded in 1999, the number of young smokers in Canada has dropped by over half (53%). Ontario experienced the most significant annual reduction and has the lowest percentage of youth smoking in Canada, dropping from 13% in 2008 to 9% in 2009. Youth in Quebec, Manitoba and Saskatchewan continue to smoke more than the rest of the country, at 18%.<sup>24</sup> Smoking rates among youth in the Northwest Territories are unavailable.

Among Aboriginal youth in grades 9 through 12 living off-reserve, 25% reported smoking in 2008, versus 10% of non-Aboriginal youth.<sup>25</sup> This group was also more likely to be exposed to second-hand smoke at home and in cars (37% and 51%) than non-Aboriginal youth (20% and 30%).

The price of cigarettes is a deterrent to adolescent smoking.<sup>26</sup> Provincial/territorial taxes affect the price of cigarettes and are one indication of how aggressively governments are trying to discourage smoking. In 2011, the Northwest Territories levied the highest price on cigarettes, while Quebec remains the province where cigarettes are least expensive.<sup>27</sup> Nova Scotia increased prices more than any other jurisdiction, raising the cost of cigarettes to the second-highest in Canada. However, Quebec and Ontario lead the way in enforcing laws against contraband cigarettes, being the only provinces where individuals have been charged with possessing illegal cigarettes as well as for selling them.<sup>28,29</sup>

Children and youth living in poverty continue to be at greater risk for smoking. They also have a lower success rate when trying to quit, with cessation rates less than half of those achieved in the highest income groups.<sup>30</sup>

There is also compelling evidence that nicotine is neurotoxic to the fetal brain, which may have negative lifelong developmental consequences.<sup>31</sup>

## Measures to prevent child and youth exposure to smoking

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Excellent	Excellent	Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>Alberta</b>	Good	Good	Enact legislation to ban smoking in cars with occupants under the age of 16. Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>Saskatchewan</b>	Good	Excellent	Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>Manitoba</b>	Good	Excellent	Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>Ontario</b>	Good	Excellent	Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>Quebec</b>	Good	Good	Enact legislation to ban smoking in cars with occupants under the age of 16. Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>New Brunswick</b>	Excellent	Excellent	Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>Nova Scotia</b>	Excellent	Excellent	Nova Scotia is a leader in Canada, with a province-wide ban on smoking in outdoor public spaces.
<b>Prince Edward Island</b>	Good	Excellent	Prince Edward Island is a leader in Canada, with a province-wide ban on smoking in outdoor public spaces.
<b>Newfoundland and Labrador</b>	Good	Excellent	Newfoundland and Labrador is a leader in Canada, with a province-wide ban on smoking in outdoor public spaces.
<b>Yukon</b>	Excellent	Excellent	Yukon Territory is a leader in Canada, with a province-wide ban on smoking in outdoor public spaces.
<b>Northwest Territories</b>	Good	Good	Enact legislation to ban smoking in cars with occupants under the age of 16. Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.
<b>Nunavut</b>	Good	Good	Enact legislation to ban smoking in cars with occupants under the age of 16. Implement a province-wide ban on smoking in outdoor public places to complement existing municipal bans.

**Excellent:** Province/territory has a ban on smoking in all public places. Legislation has been introduced to protect children and youth from tobacco in automobiles. The province/territory has prevention programs specific to youth.

**Good:** Province/territory has passed legislation for a province- or territorial-wide smoking ban.

**Fair:** Province/territory has legislation banning smoking in some, but not all, public places.

**Poor:** Province/territory has no smoking ban.

# Health Promotion



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## Newborn hearing screening

Permanent hearing loss is one of the most common congenital disorders, with an estimated incidence of one to three per thousand live births. Universal newborn hearing screening (UNHS) results in early diagnosis of hearing impairment and interventions that allow for improved outcomes in hearing-impaired children.<sup>32</sup>

Without screening, children with hearing loss are typically not diagnosed until they reach two years of age, with mild and moderate hearing losses often going undetected until children are in school. Universal screening would detect most infants experiencing hearing loss by the age of three months with intervention in place by the time they reach six months of age.

Children with hearing loss who are not supported by early intervention show irreversible shortfalls in communication and psychosocial skills, cognition and literacy. The impacts of deafness can include lower academic achievement, underemployment, poor social adaptation and psychological distress, and are directly proportional to the severity of hearing loss and the time lag between diagnosis

and intervention. Evidence shows that infants who are diagnosed and receive intervention before six months of age score 20 to 40 percentile points higher on school-related measures (language, social adjustment and behaviour) compared with hearing-impaired children who receive intervention later.

The two-step screening procedure implemented in most UNHS programs is highly effective and cost-effective, particularly considering the lifetime costs of deafness. One Quebec study found that implementing a province-wide UNHS program would cost approximately \$5.3 million (in 2001), but would ultimately result in a net benefit of \$1.7 million per year to taxpayers.<sup>33</sup>

While some jurisdictions are moving in this direction, the Canadian Paediatric Society recommends that provinces and territories provide universal hearing screening for all newborns via a comprehensive, linked system of screening, diagnosis and intervention. Canadian infants deserve the advantages of early hearing loss detection and timely intervention.

## Newborn hearing screening

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	NOT ASSESSED	Excellent	Meets all CPS recommendations.
<b>Alberta</b>		Fair	Implement a universal newborn hearing screening and intervention program. Screening is only available in selected hospitals.
<b>Saskatchewan</b>		Fair	Implement a universal newborn hearing screening and intervention program. Screening is only available in selected hospitals.
<b>Manitoba</b>		Poor	Implement a universal newborn hearing screening and intervention program.
<b>Ontario</b>		Excellent	Meets all CPS recommendations.
<b>Quebec</b>		Good	Universal program has been announced but is not yet implemented.
<b>New Brunswick</b>		Excellent	Meets all CPS recommendations.
<b>Nova Scotia</b>		Excellent	Meets all CPS recommendations.
<b>Prince Edward Island</b>		Excellent	Meets all CPS recommendations.
<b>Newfoundland and Labrador</b>		Fair	Implement a universal newborn hearing screening and intervention program. Screening is only available in selected hospitals.
<b>Yukon</b>		Good	Meets all CPS recommendations. However, the program is only offered in Whitehorse due to staffing shortages.
<b>Northwest Territories</b>		Good	Meets all CPS recommendations. However, the program is only offered in Yellowknife due to staffing shortages.
<b>Nunavut</b>		Poor	Implement a universal newborn hearing screening and intervention program. Nunavut faces particular challenges in attracting the trained audiologists needed for a program.

- Excellent:** Province/territory has a fully funded, integrated screening program which is enforced through legislation, with screening by one month of age, confirmation of the diagnosis by three months, and intervention by six months.
- Good:** Province/territory has a fully funded, integrated screening program, with screening by one month of age, confirmation of the diagnosis by three months, and intervention by six months.
- Fair:** Province/territory has a partial program, with testing provided for children at risk of hearing loss (e.g., infants in neonatal intensive care units).
- Poor:** Province/territory does not offer newborn hearing screening.

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## An enhanced 18-month well-baby visit

With our better understanding of the link between early child development and health and well-being later in life, well-baby visits are emerging as key opportunities to assess and positively affect life outcomes. For some families, the 18-month visit might be the last regularly scheduled visit with a primary care provider before a child enters school. As such, this visit provides a critical opportunity to examine and evaluate a child's progress, to help parents nurture their child's development, and to identify areas where a child or family is having difficulty. It also offers an opening for introducing parents to community resources and supports.

Well-baby visits currently focus on immunization and identifying abnormalities, but the 18-month check-up can be a pivotal assessment of developmental health. Not only does it happen at an important point in a child's development, it comes at a stage when families

are dealing with formative issues such as child care, behaviour management, nutrition/eating patterns, and sleep. The 18-month assessment is an excellent opportunity to counsel and reinforce healthy behaviors, and to promote positive parenting, injury prevention and literacy. Screening for parental health issues, including mental health, domestic abuse and substance misuse can also take place at this visit.

The Canadian Paediatric Society supports a stronger system of early childhood development and care across Canada and recommends that all provinces and territories establish an enhanced well-baby visit. A standardized developmental screening tool and a clinician-prompt health guide with evidence-based suggestions for healthier development should be used.<sup>34</sup>

This systematic assessment must be supported by a special fee code that reflects the length of time required to conduct a detailed assessment.

## An enhanced 18-month well-baby visit

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	NOT ASSESSED	Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Alberta</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Saskatchewan</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Manitoba</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Ontario</b>		Excellent	Meets all CPS recommendations.
<b>Quebec</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>New Brunswick</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Nova Scotia</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Prince Edward Island</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Newfoundland and Labrador</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Yukon</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Northwest Territories</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.
<b>Nunavut</b>		Poor	Initiate an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.

**Excellent:** Province/territory has initiated an enhanced well-baby visit at 18 months, with standard guidelines and a special fee code.

**Poor:** Province/territory has not initiated an enhanced well-baby visit at 18 months.

# Health Promotion



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## Child and youth mental health plans

When it comes to mental health, there is good reason to focus on children and youth. An estimated 70% of adults living with mental health problems had their symptoms develop during childhood or adolescence.<sup>35</sup> Suicide attempts are at their peak among 15- to 19-year-olds.<sup>36</sup> Mental health problems tend to be chronic, with substantial negative outcomes<sup>37</sup> including higher school drop-out rates, unemployment, poverty and homelessness, and increased risk of criminal behaviour.<sup>38</sup> Prevention and early intervention have been shown to be less expensive and more effective than treatment.<sup>39</sup> Pre-emptive measures result in better health outcomes, improved school attendance and achievement, positive contributions to society and the workforce, and cost-savings on health care, justice and social services.<sup>40</sup>

About 14% of children and youth under 20 years old—1.1 million young Canadians—suffer from mental health conditions that affect their daily lives.<sup>41</sup> Children and youth of low-income

families are especially at risk.<sup>42</sup> What is worse, three out of every four children and youth who need specialized treatment services do not receive them.<sup>43</sup>

While access to mental health services continues to be inadequate, some jurisdictions are increasing their investments in mental health. Since 2009, a number of governments have introduced mental health plans, including British Columbia, Alberta, Manitoba, Ontario, New Brunswick, Nunavut and Northwest Territories.

Other provinces have now joined Quebec in changing their physician billing codes to recognize the time needed to provide care to children and youth with mental health issues.

The CPS is encouraged by the work of a number of provinces and territories to develop mental health strategies. Efforts must now be directed toward implementing strategies to address specific, critical child and youth mental health needs.

## Child and youth mental health care plans

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Good	Excellent	Meets all CPS recommendations.
<b>Alberta</b>	Good	Excellent	Meets all CPS recommendations.
<b>Saskatchewan</b>	Good	Good	Strengthen engagement of paediatricians in the mental health plan and set benchmarks for service delivery.
<b>Manitoba</b>	Good	Good	Strengthen engagement of paediatricians in the mental health plan and set benchmarks for service delivery.
<b>Ontario</b>	Fair	Excellent	Meets all CPS recommendations.
<b>Quebec</b>	Good	Good	Set benchmarks for service delivery.
<b>New Brunswick</b>	Fair	Excellent	Meets all CPS recommendations.
<b>Nova Scotia</b>	Fair	Fair	Develop a specific mental health strategy for children and youth with benchmarks for service delivery. Ensure that process and consultations informing this plan are ongoing.
<b>Prince Edward Island</b>	Fair	Fair	Develop a specific mental health strategy for children and youth with benchmarks for service delivery above and beyond the current plan for an addictions program.
<b>Newfoundland and Labrador</b>	Fair	Fair	Develop a specific mental health strategy for children and youth with benchmarks for service delivery.
<b>Yukon</b>	Poor	Poor	Develop a specific mental health strategy for children and youth with benchmarks for service delivery.
<b>Northwest Territories</b>	Fair	Good	Set benchmarks for service delivery.
<b>Nunavut</b>	Fair	Good	Set benchmarks for service delivery.

- Excellent:** Province/territory has a comprehensive mental health plan for children and youth with timely access to appropriate mental health professionals, including a wait time strategy with specific benchmarks. The plan has targeted goals for service improvement, including access to non-medical mental health services at no cost to families and a mental health promotion component. The development of the plan involves input from community paediatricians and recognizes their role in evaluating and meeting the mental health needs of children and youth.
- Good:** Province/territory has a mental health plan for children and youth with specific goals for service improvement, including access to non-medical mental health services at no cost to families, and a mental health promotion component. The development of the plan involves input from community paediatricians and recognizes their role in evaluating and meeting the mental health needs of children and youth.
- Fair:** Province/territory has a mental health plan for children and youth but does not recognize the role of paediatricians in delivering mental health care.
- Poor:** Province/territory has no mental health plan for children and youth.

# Health Promotion



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## Paediatric health human resource strategy

Canada's public health system is designed to provide access to all medically necessary services on a universal basis. For children and youth this sometimes means the specialist services of a paediatrician. Unfortunately, specialist health care for children and youth is threatened by a significant shortage of paediatricians and long wait lists. Ensuring that our health care system better meets the needs of children and youth is not only a moral obligation but a wise economic investment.

While universal coverage for physician services supports equal access to health care, people from higher socio-economic groups are more likely to receive optimal care, thereby widening health disparities.<sup>44</sup> Canadian families earning lower incomes tend to use more expensive emergency and hospital services more often than families with higher incomes, who also have better access to specialists.<sup>45</sup>

Surveys by the Canadian Paediatric Society reveal that the paediatric work force is aging, and there are not enough trainees to offset anticipated retirements. In 2005, about 11% of those surveyed said they would retire by 2010, while another 36% planned to reduce their work hours.<sup>46</sup> Smaller communities are particularly vulnerable as over 80% of Canadian paediatricians work in towns or cities with populations of over 100,000.<sup>47</sup>

Federal, provincial and territorial paediatric human resources strategies that can respond to the health needs of children and youth must be developed in collaboration with provincial paediatric leaders. They will need to address issues such as recruitment and retention, human resource planning, medical training and professional development.

## Paediatric health human resource strategy

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Alberta</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Saskatchewan</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Manitoba</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Ontario</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Quebec</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>New Brunswick</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Nova Scotia</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Prince Edward Island</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Newfoundland and Labrador</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Yukon</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Northwest Territories</b>	Poor	Poor	Develop a paediatric-specific human resource plan.
<b>Nunavut</b>	Poor	Poor	Develop a paediatric-specific human resource plan.

**Excellent:** Province/territory has a paediatric human resources plan that is less than three years old, addresses both generalist and subspecialist supply and demand issues, was developed in consultation with paediatricians, and is endorsed by the provincial/territorial paediatric association or by the paediatric section of the provincial/territorial medical association.

**Good:** Province/territory has a paediatric human resources plan that takes general and subspecialist paediatricians into account and was developed within the last six years.

**Fair:** Province/territory has a paediatric human resources plan that was not developed with paediatricians and has not been endorsed by the provincial/territorial paediatric association.

**Poor:** Province/territory has no paediatric human resources plan.

# Injury Prevention



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## Bicycle helmet legislation

Most injuries sustained by children and youth are both predictable and preventable, so there is every reason for governments to legislate proactively. Serious unintended injuries (including those caused by motor vehicle collisions) remain the leading cause of death in children 1 to 14 years of age in Canada. When bicycles are involved, the statistics are especially grim. Every year, about 20 young people aged 19 and under die due to bicycle-related injuries, and another 50 or so experience permanent disability.<sup>48</sup>

In 2009-2010, 1364 children or youth were hospitalized for serious bicycle injuries.<sup>49</sup> A properly fitted bike helmet decreases the risk of serious head injury by as much as 85% and brain injury by 88%.<sup>50</sup> Yet among youth 12 to 19 years of age, only 31.8% said they always wore a bicycle helmet when riding.<sup>51</sup> Boys aged 10 to 14 sustain over one-third of all cycling-related injuries, while up to 70% of deaths occur in boys aged 10 to 19.<sup>52</sup>

With legislation and subsequent increased helmet use, head injuries have dropped by more than

half in the past decade.<sup>53</sup> Research shows that more people wear helmets in jurisdictions with mandatory bike helmet laws and injury rates are, on average, 25% lower than in areas without helmet legislation.<sup>54</sup> If every cyclist wore a helmet, it is estimated that most (4 out of every 5) head injuries could be prevented.<sup>55</sup>

The direct and indirect costs of cycling injuries on roadways were \$443 million in 2004, with children and youth accounting for over half that cost.<sup>56</sup> Aside from the pain and anguish that could be averted, it is estimated that \$1 invested in bicycle helmets saves \$29 in injury costs.<sup>57</sup> Despite this, Saskatchewan, Manitoba, Quebec, Newfoundland and Labrador, and all three territories, do not have bicycle helmet legislation.<sup>58</sup>

The Canadian Paediatric Society recommends that everyone riding a bicycle be required to wear a CSA-approved helmet. Laws should be accompanied by enforcement and public education, which have been shown to increase helmet use.<sup>59</sup>

## Bicycle helmet legislation

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Alberta</b>	Good	Good	Amend current legislation to include all age groups.
<b>Saskatchewan</b>	Poor	Poor	Enact legislation that requires all age groups to wear helmets. Some education programs are available.
<b>Manitoba</b>	Poor	Poor	Enact legislation that requires all age groups to wear helmets. Low-cost helmets and education programs are available.
<b>Ontario</b>	Good	Good	Amend current legislation to include all age groups.
<b>Quebec</b>	Poor	Poor	Enact legislation that requires all age groups to wear helmets. Some education programs are available.
<b>New Brunswick</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Nova Scotia</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Prince Edward Island</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Newfoundland and Labrador</b>	Poor	Poor	Enact legislation that requires all age groups to wear helmets.
<b>Yukon</b>	Poor	Poor	Enact legislation that requires all age groups to wear helmets.
<b>Northwest Territories</b>	Poor	Poor	Enact legislation that requires all age groups to wear helmets.
<b>Nunavut</b>	Poor	Poor	Enact legislation that requires all age groups to wear helmets.

**Excellent:** Province/territory has legislation requiring all cyclists to wear helmets, with financial penalties for non-compliance. Parents are responsible for ensuring their child wears a helmet.

**Good:** Province/territory has legislation requiring all cyclists under 18 years of age to wear a helmet.

**Poor:** Province/territory has no legislation on bike helmets.

# Injury Prevention



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## All-terrain vehicle (ATV) safety legislation

ATVs are used widely in rural Canada for recreation, work and transportation. These vehicles are dangerous when used by children and young adolescents, who tend to take more risks and lack the experience, physical size and strength, and cognitive and motor skills to operate an ATV safely.

There was a 31% increase in hospitalizations for ATV injuries across Canada between the years 2001-2002 and 2009-2010.<sup>60</sup> The number of serious injuries involving ATVs is growing faster than for any other major wheel- or water-based activity,<sup>61</sup> with almost 20% of injuries involving trauma to the head.<sup>62</sup> A recent study in Alberta showed that serious ATV injuries contributed to health care costs in excess of \$6.5 million.<sup>63</sup>

Surveys in the U.S. and Canada show that youth rarely follow best practices for ATV use, with less than 50% and as few as 24% of those surveyed wearing helmets consistently, and less than one-quarter taking safety training courses.<sup>64</sup> There is little evidence that youth-sized vehicles with

limited speed capacity are safer. The risk to a child or youth operating a youth model ATV is still almost twice as high as that of an adult on a larger machine.

One year after Nova Scotia restricted children under the age of 14 years from operating ATVs, there was a 50% reduction in ATV-related injuries for that age group.<sup>65</sup>

The CPS is disappointed by the lack of comparable legislation in most jurisdictions to date, and urges provincial and territorial governments to introduce and enforce off-road vehicle legislation that—at minimum—requires:

- an operator to be **at least** 16 years of age,
- restricting the number passengers to the maximum for which the vehicle was designed,
- the compulsory use of helmets and other protective clothing,
- no operation while under the influence of alcohol or other substances, and
- mandatory approved training and vehicle registration.

## All-terrain vehicle (ATV) safety legislation

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Poor	Fair	Prohibit ATV use for children and youth under age 16 on both private and public lands. Helmet use and vehicle training are already mandatory.
<b>Alberta</b>	Poor	Poor	Prohibit ATV use for children and youth under age 16. Make helmet use and vehicle training mandatory.
<b>Saskatchewan</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16 on both private and public lands. Make helmet use mandatory on private land as well as public land, and institute mandatory safety training.
<b>Manitoba</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16 on both private and public lands. Make helmet use and vehicle training mandatory.
<b>Ontario</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16 on both private and public lands. Make helmet use mandatory on private land as well as public land, and institute mandatory safety training.
<b>Quebec</b>	Good	Good	Prohibit ATV use, regardless of the size of the machine, for children and youth under age 16. Helmet use and vehicle training are already mandatory.
<b>New Brunswick</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16 on both public and private lands. Helmet use and vehicle training are already mandatory.
<b>Nova Scotia</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16 on both public and private lands. Helmet use and vehicle training are already mandatory.
<b>Prince Edward Island</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16 on both private and public lands. Helmet use and vehicle training are already mandatory.
<b>Newfoundland and Labrador</b>	Good	Good	Prohibit ATV use for children and youth under age 16 rather than 14 years. Helmet use is already mandatory. Institute mandatory safety training.
<b>Yukon</b>	Poor	Poor	Prohibit ATV use for children and youth under age 16. Make helmet use and vehicle training mandatory.
<b>Northwest Territories</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16. Helmet use is already mandatory. Institute mandatory safety training.
<b>Nunavut</b>	Fair	Fair	Prohibit ATV use for children and youth under age 16. Helmets are already mandatory. Institute mandatory safety training.

**Excellent:** Province/territory has banned ATV operation for children under 16 years old and made driver education and helmet use mandatory.

**Good:** Province/territory has banned ATV operation for children under 14 years old and made driver education and helmet use mandatory.

**Fair:** Province/territory requires some adult supervision of children under 15 years old and restricts where youth under 16 years can operate an ATV.

**Poor:** Province/territory has no ATV legislation, or the minimum operating age is low.

# Injury Prevention



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## Booster seat legislation

Motor vehicle collisions are the leading cause of death among Canadian children over one year of age.<sup>66,67</sup> Child passenger restraints reduce the risk of serious injury by between 40% and 60%.<sup>68,69</sup> In fact, improved car seat design and the increased use of child restraints resulted in a 50% drop in the number of child passengers who died in motor-vehicle accidents between 1993 and 2006.<sup>70</sup>

Although all provinces and territories require by law the use of restraint systems for children up to about 4 years old, children aged 4 to 8 years often graduate prematurely to seat belt use, increasing their risk of injury, disability and death. In a collision, children using seat belts instead of

booster seats are 3.5 times more likely to suffer a serious injury and 4 times more likely to suffer a head injury.<sup>71</sup> Yet while 78% of parents support the use of booster seats,<sup>72</sup> only 30% are using them.<sup>73</sup>

The CPS recommends that provinces and territories require children weighing between 18 kg and 36 kg and travelling in a vehicle to be properly secured in a booster seat in the back seat. Legislative changes should be complemented by appropriate enforcement measures and public education programs to ensure that parents adopt and use booster seats properly. Legislation should be uniform across Canada to make it easier for families to comply with regulations.

## Booster seat legislation

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Alberta</b>	Poor	Poor	Enact booster seat legislation.
<b>Saskatchewan</b>	Poor	Poor	Enact booster seat legislation.
<b>Manitoba</b>	Poor	Fair	Enact booster seat legislation for children weighing 22 kg to 36 kg.
<b>Ontario</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Quebec</b>	Good	Good	Revise legislation to provide for a child's height (a minimum 145 cm) as well as weight.
<b>New Brunswick</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Nova Scotia</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Prince Edward Island</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Newfoundland and Labrador</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Yukon</b>	Fair	Fair	Enact booster seat legislation for children weighing 22 kg to 36 kg.
<b>Northwest Territories</b>	Poor	Poor	Enact booster seat legislation.
<b>Nunavut</b>	Poor	Poor	Enact booster seat legislation.

**Excellent:** Province/territory has legislation in place requiring children to be in an approved booster seat until they reach the height of 145 cm or 9 years of age, *and* a weight minimum of 18 kg to 36 kg. Public education programs are in place.

**Good:** Province/territory has legislation in place requiring children to be in an approved booster seat until they reach the height of 145 cm or an age specified as less than 9 years, and a weight minimum of 18 kg to 22 kg. Public education programs are in place.

**Fair:** Province/territory requires the use of a booster seat after children have outgrown their front-facing safety seat, but legislation is based on age and/or weight criteria without mentioning height. Public education programs are in place.

**Poor:** Province/territory has no booster seat legislation for children weighing over 18 kg.

# Injury Prevention



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## Snowmobile safety legislation

In Canada, snowmobiling has the highest rate of serious injury of any popular winter sport, with younger people the most likely victims of such injuries. Head injuries are the leading cause of mortality and serious morbidity associated with snowmobiling. Such injuries usually happen when snowmobiles collide or overturn during operation. Children have also been injured while being towed by snowmobiles in a variety of devices.

No uniform code of provincial or territorial law governs the use of snowmobiles by children and youth, making it confusing for parents, who may cross provincial/territorial boundaries while snowmobiling.

There is little evidence to support the effectiveness of operator safety certification, and no research on its influence on snowmobile-related injuries to people younger than 16 years old. Also, many children and adolescents do not have the required strength and skills to operate a snowmobile safely.

The Canadian Paediatric Society recommends that children and youth under 16 years of age not be permitted to operate snowmobiles.<sup>74</sup> Snowmobiles should not be used to tow anyone on a tube, tire, sled or saucer. The CPS also recommends a graduated licensing program for snowmobilers 16 years of age and older.

## Snowmobile safety legislation

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Poor	Poor	Enact snowmobile safety legislation.
<b>Alberta</b>	Poor	Poor	Prohibit youth under age 16 from operating a snowmobile. Mandate helmet use and safety courses.
<b>Saskatchewan</b>	Good	Good	Prohibit youth 12 to 16 years of age from operating a snowmobile and make helmet use mandatory in all situations.
<b>Manitoba</b>	Fair	Fair	Prohibit youth under age 16 from operating a snowmobile. Make helmet use and safety training mandatory in all situations.
<b>Ontario</b>	Fair	Fair	Prohibit youth under 16 from operating snowmobiles and make helmets and safety training mandatory in all situations.
<b>Quebec</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>New Brunswick</b>	Good	Good	Prohibit youth under age 16 from operating a snowmobile. Helmet use and safety training are mandatory.
<b>Nova Scotia</b>	Good	Good	Prohibit youth under age 16 from operating a snowmobile. Helmet use and safety training are mandatory.
<b>Prince Edward Island</b>	Fair	Good	Prohibit youth 14 to 16 years of age from operating a snowmobile and mandate safety training. Helmet use is mandatory.
<b>Newfoundland and Labrador</b>	Poor	Fair	Prohibit youth 12 to 16 years of age from operating a snowmobile and mandate safety training. Helmet use is mandatory.
<b>Yukon</b>	Fair	Good	Prohibit youth under age 16 from operating a snowmobile and mandate safety training. Helmet use is mandatory.
<b>Northwest Territories</b>	Fair	Fair	Prohibit youth under age 16 from operating a snowmobile. Make helmet use and safety training mandatory in all situations.
<b>Nunavut</b>	Fair	Fair	Prohibit youth under age 16 from operating a snowmobile. Make helmet use and safety training mandatory in all situations.

**Excellent:** Province/territory has snowmobile safety legislation prohibiting children under 6 years old as passengers, and youth under 16 years old from operating snowmobiles for recreational purposes. Youth 16 years and over with a graduated driver's licence may operate snowmobiles after completing an approved training program. Helmets are mandatory.

**Good:** Province/territory has snowmobile safety legislation with a minimum driver age of 14 years, requires drivers to complete an approved training program, and places restrictions on snowmobile use. Helmets are mandatory.

**Fair:** Province/territory has some requirement for adult supervision of children and youth under 15 years old, and restricts where youth under 16 years can operate a snowmobile. Helmets are mandatory.

**Poor:** Province/territory has no legislation covering the use of snowmobiles by children and youth, or the minimum age for operating a snowmobile is less than 14 years.

# Best Interests of Children and Youth



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## Child poverty reduction

There is ample evidence that child poverty can lead to poor health outcomes during adulthood, including cardiovascular disease and stroke, type II diabetes and mental health issues.<sup>75</sup> Family socioeconomic status is the primary marker for health disparities among Canadian children and youth.<sup>76,77</sup> Poor children are at greater risk of low birthweight (<2500 grams) and typically have higher rates of death and illness, lower rates of growth, and more behavioural and developmental problems.<sup>78,79</sup> They may also achieve lower levels of education, thus increasing the likelihood of lifelong poverty.<sup>80</sup>

Despite a unanimous resolution in the House of Commons in 1989 to end child poverty by the year 2000, the gap between rich and poor has widened over the past 20 years.<sup>81</sup> The percentage of Canadian children living in poverty in 2009 (9.5%) was only slightly lower than in 1989 (11.8%) (after-tax figures).<sup>82</sup> In 2009, the first full year following the recession of 2008, 639,000 children still lived in poverty.<sup>83</sup>

Poverty is not a given. It can be eliminated, or at least drastically reduced. Government legislation plays a large role, as shown by the fact that Quebec and Newfoundland and Labrador, which have had poverty reduction strategies in place for a number of years, show reduced poverty rates.<sup>84</sup>

Certain groups continue to be over-represented, including Aboriginal children (1 in 4 lived in

poverty in 2008) and single-parent families (more than half of single moms with children under 6 live in poverty). Children with disabilities and children whose families have emigrated recently are also at higher risk of growing up poor.<sup>85</sup>

Internationally, Canada ranked 20th out of 30 wealthy developed nations in child poverty rates as recently as 2007,<sup>86</sup> and has the regrettable distinction of being one of the few nations where child poverty rates were higher than overall poverty rates over the past two decades.<sup>87</sup>

The Canadian Paediatric Society is pleased to see some alleviation of child poverty in a number of provinces and territories. Manitoba and New Brunswick have passed legislation to reduce poverty levels. Prince Edward Island and all three territories are in the process of developing anti-poverty strategies.

The CPS calls upon the remaining provincial governments to set targets and timetables, and for the federal government to show leadership with a national strategy. A number of evidence-based solutions are available, including income support measures, education and job training, and quality child care programs.<sup>88,89</sup> The CPS believes that ending child and youth poverty should receive the same focus as stimulating economic growth. Public accountability is imperative for tracking progress on this critical health issue.

## Child poverty reduction

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Poor	Poor	Develop both legislation and a strategy to reduce poverty.
<b>Alberta</b>	Poor	Poor	Develop both legislation and a strategy to reduce poverty.
<b>Saskatchewan</b>	Poor	Poor	Develop both legislation and a strategy to reduce poverty.
<b>Manitoba</b>	Fair	Good	Launched a strategy in 2009 and passed poverty reduction legislation in 2010. Develop specific targets for reducing child poverty.
<b>Ontario</b>	Good	Excellent	Meets all CPS recommendations.
<b>Quebec</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>New Brunswick</b>	Poor	Excellent	Meets all CPS recommendations. Launched a strategy in 2009 and passed poverty reduction legislation in 2010, with specific targets.
<b>Nova Scotia</b>	Fair	Fair	Add specific targets to its strategy for poverty reduction and develop legislation to meet them.
<b>Prince Edward Island</b>	Poor	Poor	Develop both legislation and a strategy to reduce poverty. The province has begun public consultations on poverty reduction.
<b>Newfoundland and Labrador</b>	Excellent	Excellent	Meets all CPS recommendations.
<b>Yukon</b>	Fair	Fair	Finalize strategy and develop poverty reduction legislation with specific targets. A framework for poverty reduction was developed in 2011.
<b>Northwest Territories</b>	Poor	Fair	Develop specific targets for reducing child poverty. Passed poverty reduction legislation in 2010 calling for a strategy.
<b>Nunavut</b>	Poor	Poor	Develop both legislation and a strategy to reduce poverty. Public consultations on poverty reduction are underway.

**Excellent:** Province/territory has had anti-poverty legislation promoting long-term action and government accountability for at least three years, and has a poverty reduction strategy with specific targets.

**Good:** Province/territory has a comprehensive poverty reduction strategy with specific targets.

**Fair:** Province/territory has a poverty reduction strategy or legislation but without specific targets.

**Poor:** The province territory has no anti-poverty legislation or poverty reduction strategy.

# Best Interests of Children and Youth



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## Jordan's Principle

Jordan's Principle is a child-first policy principle intended to resolve jurisdictional disputes within and between federal and provincial/territorial governments. It applies to all government services for children, youth and families, including health. When a jurisdictional dispute arises around providing any service to a Status Indian or Inuit child, Jordan's Principle requires that the government department of first contact pay for the service without delay or disruption. The paying government can then refer the matter to intergovernmental authorities to pursue repayment of the expense.

Jurisdictional disputes involving the costs of caring for First Nations children are common, with nearly 400 occurring in 12 First Nations child and family service agencies sampled in one year alone.<sup>90</sup> Recently, a Nova Scotia mother and her Band Council filed a court proceeding against

the federal government to enforce the rights of her son to equal care and services.<sup>91</sup>

Jordan's Principle honours a young First Nations child from Norway House, Manitoba, who was born with complex medical needs and languished in hospital for two years while the federal and provincial governments argued over who would pay for his at-home care. Jordan died in hospital, having never spent a day in a family home.<sup>92</sup>

While almost all provinces and territories have adopted Jordan's Principle, First Nations children continue to be the victims of administrative impasses. The Canadian Paediatric Society urges governments to implement Jordan's Principle without delay, to work in partnership with First Nations communities on its implementation, and to provide First Nations children and youth with the care they are entitled to.

## Jordan's Principle

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Fair	Fair	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth has been introduced and discussions with the federal government are underway. An implementation plan is needed.
<b>Alberta</b>	Poor	Poor	Discussions with the federal government are underway but a child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.
<b>Saskatchewan</b>	Fair	Fair	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth has been introduced and interim implementation received unanimous support from First Nations leaders. An implementation plan is needed.
<b>Manitoba</b>	Fair	Fair	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth has been introduced and discussions with the federal government are underway. An implementation plan is needed.
<b>Ontario</b>	Fair	Fair	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth has been introduced and discussions with the federal government are underway. An implementation plan is needed.
<b>Quebec</b>	Poor	Poor	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.
<b>New Brunswick</b>	Poor	Poor	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.
<b>Nova Scotia</b>	Good	Good	Tripartite agreement between the federal government, province and Mi'kmaq Family and Children's Services provides a mechanism for dispute-resolution to address children's needs, including special medical requirements.
<b>Prince Edward Island</b>	Poor	Poor	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.
<b>Newfoundland and Labrador</b>	Poor	Poor	Discussions with the federal government are underway but a child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.
<b>Yukon</b>	Poor	Poor	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.
<b>Northwest Territories</b>	Poor	Poor	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.
<b>Nunavut</b>	Poor	Poor	A child-first policy to resolve jurisdictional disputes involving the care of First Nations children and youth needs to be introduced.

- Excellent:** Province/territory has adopted and implemented a child-first principle to resolve jurisdictional disputes involving services provided to First Nations children and youth.
- Good:** Province/territory has a dispute resolution process with a child-first principle for resolving jurisdictional disputes involving the care of First Nations children and youth.
- Fair:** Province/territory has adopted a child-first principle to resolve jurisdictional disputes involving services for First Nations children and youth, but has not yet developed or implemented specific strategy.
- Poor:** Province/territory has not adopted a child-first principle.

# Best Interests of Children and Youth



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## Child and youth advocate

Canada signed the United Nations Convention on the Rights of the Child over 20 years ago (in May 1990), agreeing to protect and ensure children's rights. That commitment also acknowledges our obligation to ensure that all children are provided with the opportunities they need to develop cognitively, physically, socio-emotionally and spiritually.<sup>93</sup> After all this time, there is still no federal child and youth advocate in Canada to hold the government accountable for this commitment, nor any system of monitoring that includes early childhood outcomes.

With the exceptions of the Northwest Territories, Nunavut and Prince Edward Island, all provinces and territories now have child and youth advocates who focus mainly on children and youth in care. UNICEF notes that "The main task for such institutions is ... ensuring that rights are translated into law, policy and practice."<sup>94</sup>

International literature on child advocacy has determined that the most effective advocates are independent from government and act as stand-

alone agencies. A recent review of child advocacy offices found that British Columbia, New Brunswick, Newfoundland and Labrador, Ontario and Saskatchewan had the most successful child advocacy offices, judging by their powers and level of activity.<sup>95</sup> The advocates in Manitoba, Ontario and Saskatchewan have had the most successes in terms of influencing systemic reforms, legislation and policy.

Nevertheless, these offices focus on children and youth in care, while the Canadian Paediatric Society contends that to be truly effective, the mandate of each child advocate must include all children and youth.

At the federal level, a 2007 Senate committee on human rights recommended that Canada establish an independent Children's Commissioner to monitor the protection of children's rights and to ensure that the federal government is held publicly accountable for fulfilling its responsibilities with respect to child and youth protection.<sup>96</sup> This recommendation remains unaddressed.

## Child and youth advocate

Province/Territory	2009 Status	2011 Status	Recommended actions
<b>British Columbia</b>	Good	Good	Grant the advocate the power to ensure compliance with findings/recommendations.
<b>Alberta</b>	Fair	Fair	Ensure advocate is able to represent all children and youth who receive government services and reports directly to legislature. Pass proposed legislation to grant power to initiate systematic reviews and monitoring of child welfare system.
<b>Saskatchewan</b>	Good	Good	Grant the advocate the power to ensure compliance with findings/recommendations. Proposed new legislation will strengthen office.
<b>Manitoba</b>	Good	Good	Grant the advocate the power to ensure compliance with findings/recommendations and to represent all children and youth who receive government services.
<b>Ontario</b>	Good	Good	Grant the advocate the power to ensure compliance with findings/recommendations and to represent all children and youth who receive government services.
<b>Quebec</b>	Fair	Fair	Establish a child and youth advocate in addition to the Commission des droits de la personne et des droits des jeunes, with the power to ensure compliance with findings/recommendations.
<b>New Brunswick</b>	Good	Good	Grant the advocate the power to ensure compliance with findings/recommendations.
<b>Nova Scotia</b>	Fair	Fair	Establish a child and youth advocate in addition to the Youth Service Division of the Ombudsman's Office, with the power to ensure compliance with findings/recommendations.
<b>Prince Edward Island</b>	Poor	Poor	Establish an independent child and youth advocate.
<b>Newfoundland and Labrador</b>	Good	Good	Grant the advocate the power to ensure compliance with findings/recommendations.
<b>Yukon</b>	Fair	Fair	Implement the Child and Youth Act (2009).
<b>Northwest Territories</b>	Poor	Poor	Establish an independent child and youth advocate.
<b>Nunavut</b>	Poor	Poor	Establish an independent child and youth advocate.

**Excellent:** Province/territory has a child and youth advocate who is independent, reports to the legislature, and has broad-based powers to monitor, investigate and ensure compliance with findings/recommendations at both the individual and systemic levels.

**Good:** Province/territory has a child and youth advocate who reports to a government minister and has limited powers to monitor, investigate and implement recommendations concerning child/youth welfare at both the individual and systemic levels.

**Fair:** Province/territory has a child and youth advocate who reports to a government minister and has limited powers to investigate the welfare of individual children and youth in care, but cannot address systemic issues.

**Poor:** Province/territory has no child and youth advocate.



# Federal Government Policies and Programs

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Federal leadership has the potential to make major, long-term improvements in the health and well-being of Canada's youngest citizens.<sup>97</sup>

In the areas of early child development and injury prevention, the federal government could strengthen the efforts of provinces/territories if it provided national research and surveillance, a national strategy that would be implemented at the provincial/territorial level, and public education programs to raise awareness of such initiatives.

To address child and youth poverty, the federal government has a pivotal role to play through its fiscal and social policies, including income security, social programs and incentives for action. It can also support parental and community capacity, generate and transfer knowledge, build societal support for action on the determinants of health, and foster action among different sectors. The federal government has direct fiscal obligations to two groups with especially pressing needs: First Nations and Inuit children and youth.

Having access to quality early learning and child care is too important for families to be subject to the vagaries of competing government positions. In a country of nearly 5 million children aged 0 to 12, there are at present fewer than 90,000 regulated

child care spaces. The vast majority of families find child care expensive and hard to access. Among 37 OECD nations, Canada places second-to-last in spending on child care and pre-primary education.<sup>98</sup>

Yet one recent Quebec study showed that their provincially funded early learning and child care (ELCC) program more than pays for itself in increased tax revenue.<sup>99</sup> By 2008, the number of working women in Quebec had grown by almost 4%, increasing provincial GDP by \$5.2 billion (1.7%). For every dollar spent on ELCC, the provincial government recouped \$1.05, and the federal government received \$0.44 in tax revenue without contributing to the provincial program.

The Canadian Paediatric Society continues to call on the federal government to implement a national child care strategy, with an integrated system of services that are universal and publicly funded.

A Canadian Commissioner for Children and Youth would consider the needs of children and youth in all federal government initiatives and policies affecting them. The Canadian Paediatric Society continues to recommend the immediate establishment of this position.

## Federal government policies and programs

	2009 Status	2011 Status	Comments
<b>National Immunization Strategy</b>	Good	Good	Ensure sustainable funding for full implementation of the National Immunization Strategy, including a national registry and a harmonized immunization schedule.
<b>Measures to prevent and reduce adolescent smoking</b>	Good	Good	Renew the Federal Tobacco Control Strategy. Work with youth, provincial/territorial governments and non-governmental organizations to develop programs and approaches that will decrease youth smoking rates further and reduce the availability of contraband tobacco.
<b>Child and youth mental health</b>	Fair	Fair	Work with provincial/territorial governments, the Mental Health Commission of Canada and non-governmental organizations to develop a strategy based on the Evergreen Framework (see endnote 37).
<b>Injury prevention</b>	Poor	Poor	Work with provincial/territorial governments and non-governmental organizations to develop a national strategy.
<b>Child and youth poverty</b>	Fair	Fair	Develop a national poverty reduction strategy that goes beyond the current Universal Child Care Benefit and other income assistance for families with young children.
<b>Early childhood development</b>	Poor	Poor	Work with provinces/territories and non-governmental organizations to develop a national early years strategy, with a monitoring component and an enhanced 18-month visit for all Canadian children.
<b>Jordan's Principle</b>	Fair	Fair	Finalize arrangements with all provinces and territories to adopt a child-first approach for resolving jurisdictional disputes when the care of First Nations children and youth is at issue.
<b>Commissioner for Children and Youth</b>	Poor	Poor	Legislate the establishment of this office.
<b>Early learning and child care</b>	Poor	Poor	Develop a national early childhood education and child care strategy. Ensure that provincial/territorial services are integrated, regulated, publicly funded and universally accessible.

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## **Acknowledgement**

The Canadian Paediatric Society wishes to acknowledge, with thanks, the Action Committee for Children and Teens, chaired by Dr. Andrew Lynk, for their guidance and review of this status report.

The Canadian Paediatric Society is the national association of paediatricians, committed to working together to advance the health of children and youth by nurturing excellence in health care, advocacy, education, research, and support of its membership.

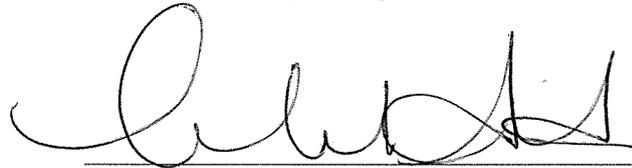


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This is **Exhibit "C"** to the affidavit of  
Cindy Blackstock, sworn before me  
in SYDNEY  
this 6th day of September, 2016

A handwritten signature in black ink, appearing to be 'C. Blackstock', written over a horizontal line.

Public Notary



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 42**

**FOURTH SESSION, FORTIETH LEGISLATURE**

**PRAYER**

**10:00 O'CLOCK A.M.**

By unanimous consent, it was agreed that the House will sit in July, August, September, October, November and December.

Mrs. STEFANSON moved:

THAT Bill (No. 202) – The Participation of Manitoba in the New West Partnership Act/Loi sur la participation du Manitoba au nouveau partenariat de l'Ouest, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Mrs. STEFANSON, Messrs. GAUDREAU and FRIESEN, Hon. Mr. CHIEF and Messrs. SMOOK, WIEBE and GRAYDON having spoken,

And Mr. ALTEMEYER speaking at 11:00 a.m. The debate was allowed to remain in his name.

Mr. BRIESE moved:

Resolution No. 8: Recognizing Jordan's Principle

WHEREAS across Canada, there is a lack of jurisdictional clarity between the Government of Canada and provincial and territorial governments as to which level of government should pay to ensure that First Nations' children receive essential medical care; and

WHEREAS Article 3 of the United Nation's Convention on the Rights of the Child states that "*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration*"; and

WHEREAS all children in Manitoba, regardless of government disputes, deserve to have their health protected without ever having to sacrifice this fundamental right; and

**Thursday, June 4, 2015**

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WHEREAS Jordan's Principle – named after Jordan River Anderson of Norway House Cree Nation, who spent his entire short life battling Carey Fineman Ziter Syndrome – was unanimously passed in the House of Commons on December 5, 2007; and

WHEREAS Jordan's Principle states that the rights of the child should be regarded first and foremost when considering the provisions of health care and social services; and

WHEREAS Jordan's Principle has yet to be formally recognized in the Legislative Assembly of Manitoba, despite the reality that Manitoba First Nations' children continue to fall victim to government jurisdictional disputes.

THEREFORE BE IT RESOLVED that the Provincial Government be urged to formally support Jordan's Principle and its implementation in order to provide necessary care for all children in Manitoba, while re-affirming the United Nation's Convention on the Rights of the Child.

And a debate arising,

And Mr. BRIESE, Hon. Ms. BLADY, Hon. Mr. GERRARD, Ms. LATHLIN, Mrs. ROWAT and Mr. BJORNSON having spoken,

And the Question being put. It was agreed to, unanimously.

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**1:30 O'CLOCK P.M.**

The following Bills were severally read a First Time and had their purposes outlined:

(No. 34) – The Safer Roads Act (Drivers and Vehicles Act and Highway Traffic Act Amended)/Loi sur la sécurité accrue des routes (modification de la Loi sur les conducteurs et les véhicules et du Code de la route)

(Hon. Mr. MACKINTOSH)

(No. 208) – The Regulatory Accountability and Transparency Act/Loi sur la responsabilité et la transparence en matière réglementaire

(Mrs. STEFANSON)

(No. 211) – The Family Maintenance Amendment and Garnishment Amendment Act/Loi modifiant la Loi sur l'obligation alimentaire et la Loi sur la saisie-arrêt

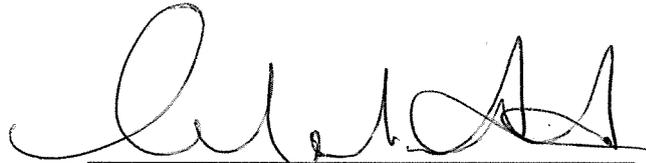
(Mr. PEDERSEN)

(No. 212) – The Consumer Protection Amendment Act (Gift Card Inactivity Fees)/Loi modifiant la Loi sur la protection du consommateur (frais d'inactivité applicables aux cartes-cadeaux)

(Mr. SWAN)

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This is **Exhibit "D"** to the affidavit of  
Cindy Blackstock, sworn before me  
in SYDNEY  
this 6th day of September, 2016

A handwritten signature in black ink, appearing to be 'A. M. A.', written over a horizontal line.

Public Notary



April 4, 2016

The Right Honourable Justin Trudeau  
Prime Minister of Canada  
House of Commons  
Ottawa ON K1A 0A6

[justin.trudeau@parl.gc.ca](mailto:justin.trudeau@parl.gc.ca)

Dear Prime Minister Trudeau,

*RE: Advocating for Canada's First Nations children*

On behalf of almost 139,000 Canadian registered nurses, CNA urges the government of Canada to act on the two recommendations including nine conditions and systematic measures put forth by the Assembly of First Nations, the Canadian Paediatric Society, and UNICEF Canada in the report: *Without Denial, Delay, or Disruption: Ensuring First Nations Children's Access to Equitable Services Through Jordan's Principle*.

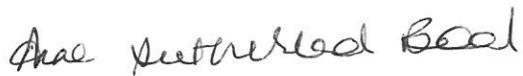
Jordan's Principle speaks to a child-first principle resolving any jurisdictional disputes within and between federal and provincial governments. It is named in memory of Jordan River Anderson of Norway House Cree Nation. Jordan was ready to go home from hospital when he was two years old. Instead, he went on to spend over two years unnecessarily in hospital, as the Province of Manitoba and the Government of Canada could not agree on who should pay for his at-home care. While governments continued to argue, Jordan died at the age of five, never having spent a day in a family home. The campaign calls on the government-of-first-contact to pay for child services and to seek reimbursement later, so the child does not get tragically caught in the middle of government red tape. Jordan's Principle applies to all government services and must be adopted and fully implemented by the federal, provincial and territorial governments in order to circumvent a repeat of this tragedy. Jordan left a legacy of equity for all other children.

There is growing recognition that the previous governmental response to Jordan's Principle did not reflect the vision advanced by First Nations and endorsed by the House of Commons. The report, mentioned above, provides an analysis of more than 300 related documents and details the ways in which the previous governmental response limited the population and range of jurisdictional disputes to which Jordan's Principle is applied; instituted barriers to the timely application of Jordan's Principle; and severely restricted accountability, transparency, and stakeholder participation.

The Liberal government has taken a strong position on this issue, as noted in your mandate letters to ministers of the crown. Taking immediate action on Jordan's Principle would confirm your government's commitment to address these long-standing concerns.

As the national professional voice of registered nurses, CNA urges the government to act on the recommendations to address the persistent inequities faced by First Nations.

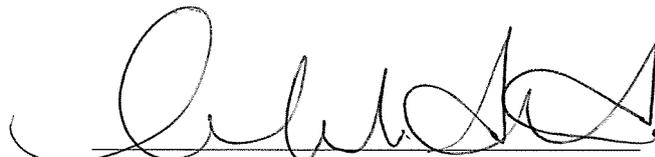
Sincerely,



Anne Sutherland Boal, RN, BA, MHSA  
Chief Executive Officer

- cc. The Hon. Dr. Carolyn Bennett, Minister of Indigenous and Northern Affairs  
The Hon. Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada  
The Hon. Jane Philpott, Minister of Health  
Dr. Cindy Blackstock, Executive Director, First Nations Child & Family Caring Society  
of Canada National Chief Perry Bellegarde, Assembly of First Nations

This is **Exhibit "E"** to the affidavit of  
Cindy Blackstock, sworn before me  
in SANDY  
this 6th day of September, 2016



Public Notary

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**TITLE:** Full and Proper Implementation of the historic Canadian Human Rights Tribunal decisions in the provision of child welfare services and Jordan's Principle

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**SUBJECT:** Child Welfare

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**MOVED BY:** Cheryl Casimer, Proxy, Tobacco Plains Indian Band, BC

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**SECONDED BY:** Chief Ian Campbell, Squamish Nation, BC

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**DECISION** Carried by Consensus

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**WHEREAS:**

- A. The Federal Government of Canada funds First Nations child and family services on reserve through Indigenous and Northern Affairs Canada (INAC).
- B. Jordan's Principle is a child-first principle which provides, in the matter of public services available to all other children, that where jurisdictional disputes arise between Canada and a province or territory, or between government departments in the same government, the government or department of first contact pays for the service, and can seek reimbursement from another government or department after the fact.
- C. As an example, First Nations children in British Columbia are funded in accordance with Directive 20-1 which provides the lowest level of child welfare funding among INAC's four funding approaches. This means that culturally based prevention services to keep children safely at home are not available, contributing to growing numbers of children in foster care.
- D. In 2007, the First Nations Child and Family Caring Society of Canada (the Caring Society) and the Assembly of First Nations (AFN) filed a complaint pursuant to the *Canadian Human Rights Act* alleging that INAC's provision of First Nations child and family services to over 163,000 First Nations children is discriminatory and that implementation of Jordan's Principle is flawed, inequitable and thus discriminatory under the *Canadian Human Rights Act* (CHRT 1340/7008).

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- E. On January 26, 2016, the Canadian Human Rights Tribunal (the Tribunal) issued its decision (2016 CHRT 2) regarding the complaint filed in February 2007 by the Caring Society and the AFN, finding among other things that:
- i. Canada's design, management and control of the First Nations Child and Family Services Program (FNCFS), along with its corresponding funding formulas and the other related provincial/territorial agreements, have resulted in the denial of services to many First Nations children and families living on-reserve and that the FNCFS Program resulted in adverse impacts for them because it was based on flawed assumptions about First Nations communities that did not reflect the actual needs of those communities.
  - ii. The FNCFS Program's two main funding mechanisms incentivized removing First Nations' children from their families.
  - iii. INAC's narrow interpretation and implementation of Jordan's Principle results in service gaps, delays or denials, and overall adverse impacts on First Nations children and families on-reserve.
  - iv. The racial discrimination arising from Canada's provision of the First Nations Child and Family Services Program and failure to implement Jordan's Principle is widening the historical disadvantage of residential schools.
- F. Subsequent to the Tribunal's decision, Canada unilaterally announced the budget allotments for First Nations child and family services without meaningful consultation with First Nations and unilaterally made an announcement about Jordan's Principle without meaningful consultation with First Nations. Budget 2016 is a five year budgetary plan where \$71 million is provided for child and family services for fiscal 2016/2017 and 54% of the planned funding is allocated for the year of the next federal election or the year after. This incremental budget approach fails to adequately consider children's development and the severity of the harms posed to children by unnecessary removals from their families.
- G. Such actions and impacts are inconsistent with the *United Nations Convention on the Rights of the Child* and articles of the *United Nations Declaration on the Rights of Indigenous Peoples*, which states:
- i. Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.
  - ii. Article 22 (2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

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- iii. INAC's narrow interpretation and implementation of Jordan's Principle results in service gaps, delays or denials, and overall adverse impacts on First Nations children and families on-reserve.
  - iv. The racial discrimination arising from Canada's provision of the First Nations Child and Family Services Program and failure to implement Jordan's Principle is widening the historical disadvantage of residential schools
- H. In its decision, the Tribunal made several orders, including:
- i. Cease its discriminatory practices regarding the FNCFS Program and reform the program.
  - ii. Cease applying a narrow definition of Jordan's Principle.
  - iii. Take measures to immediately implement the full meaning and scope of Jordan's Principle.
- I. The Tribunal also retained jurisdiction over the complaint to allow for gathering of further information regarding the immediate and long-term remedies sought by the Caring Society and the AFN, and to seek further information regarding the compensation sought for First Nations children impacted by child welfare practices on-reserve between 2006 and January 26, 2016.
- J. On April 26, 2016, the Tribunal issued a second decision (2016 CHRT 10) expressing concern with Canada's compliance with 2016 CHRT 2 and compelling Canada to confirm implementation of Jordan's Principle by May 10, 2016 and file detailed reports regarding its compliance with the non-discrimination order regarding First Nations Child and Family Services funding.
- K. The Tribunal is expected to issue a third order on remedies in the coming weeks.
- L. Prime Minister Justin Trudeau committed to implement all 94 Calls to Action of the Truth and Reconciliation Commission. A number of Calls to Action urge all levels of government to reduce the number of Aboriginal children in care and to provide adequate resources to support communities and child-welfare organizations in keeping families together.
- M. The Tribunal's order coupled with the Government of Canada's commitment to reconciliation requires that the federal government take immediate action.

**THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:**

- 1. Respectfully call upon the Government of Canada to:
  - a. Honour its commitment to fully implement the Truth and Reconciliation Commission's recommendations regarding children and families.

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**Certified copy of a resolution adopted on the 14th day of July 2016 in Niagara Falls, Ontario**

ANNUAL GENERAL ASSEMBLY

JULY 12, 13, & 14, 2016; NIAGARA FALLS, ON

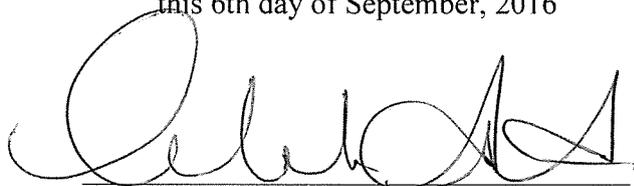
Resolution no. 62/2016

- b. Take immediate and concrete actions to implement and honor the Canadian Human Rights Tribunal findings in *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (2016 CHRT 2)* and all subsequent orders, and implement Jordan's Principle across all First Nations and all federal government services.
  - c. Allocate sufficient resources immediately to remedy the discrimination against children and their families, taking into full account the best interests of First Nations children, their vulnerability, development, and the significant harms posed by unnecessary placements in child welfare care resulting from insufficient and discriminatory prevention services.
  - d. Immediately and fully implement the measures outlined in the document entitled "First steps in fixing the inequities in First Nations child and family services: Immediate action reforms, Directive 20-1" and "First steps in fixing the inequities in First Nations child and family services: Immediate reforms, Enhanced Prevention Focused Approach" and "First steps in fixing the inequities in First Nations child and family services: Immediate reforms, 1965 Indian Welfare Agreement" to provide some immediate relief to the children's suffering while the longer-term issues are resolved.
  - e. Cease unilateral action without consultation with First Nations and cease engaging in bi-lateral discussions with provinces and/or territories regarding First Nations children without the participation of First Nations, and fully commit to full consultation with First Nations and First Nations child and family service agencies and the parties to *First Nations Child and Family Caring Society of Canada v. Attorney General of Canada (CHRT 1340/7008)* to fully remedy the discrimination.
2. Support the revitalization of the AFN National Advisory Committee on child and family services with equal representation of First Nations across the country.

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This is **Exhibit "F"** to the affidavit of  
Cindy Blackstock, sworn before me  
in SIDNEY  
this 6th day of September, 2016

A handwritten signature in black ink, appearing to be 'A. W. A.', written over a horizontal line.

Public Notary

## **Convention on the Rights of the Child**

**Adopted and opened for signature, ratification and accession by General Assembly  
resolution 44/25 of 20 November 1989**

**entry into force 2 September 1990, in accordance with article 49**

### **Preamble**

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

## **PART I**

### **Article 1**

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

### **Article 2**

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### **Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

### **Article 4**

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

### **Article 5**

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

### **Article 6**

1. States Parties recognize that every child has the inherent right to life. 2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

#### **Article 7**

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

#### **Article 8**

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

#### **Article 9**

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

#### **Article 10**

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their

own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

#### **Article 11**

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

#### **Article 12**

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

#### **Article 13**

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

#### **Article 14**

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

#### **Article 15**

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

#### **Article 16**

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

### **Article 17**

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

### **Article 18**

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

### **Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

### **Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

#### **Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

#### **Article 22**

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

#### **Article 23**

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 24**

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
  - (a) To diminish infant and child mortality;
  - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
  - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
  - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
  - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
  - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

**Article 25**

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

**Article 26**

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

**Article 27**

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

**Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - (a) Make primary education compulsory and available free to all;
  - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
  - (d) Make educational and vocational information and guidance available and accessible to all children;
  - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy

throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

#### **Article 29**

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### **Article 30**

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

#### **Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

#### **Article 32**

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

### **Article 33**

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

### **Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

### **Article 35**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

### **Article 36**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

### **Article 37**

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

### **Article 38**

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

### **Article 39**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

### **Article 40**

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### **Article 41**

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party; or

(b) International law in force for that State.

### **PART II**

#### **Article 42**

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

#### **Article 43**

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute

a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

#### **Article 44**

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

#### **Article 45**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

### **PART III**

#### **Article 46**

The present Convention shall be open for signature by all States.

#### **Article 47**

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### **Article 48**

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### **Article 49**

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

#### **Article 50**

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any

amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

#### **Article 51**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General

#### **Article 52**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

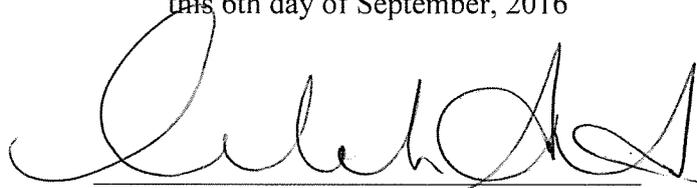
#### **Article 53**

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

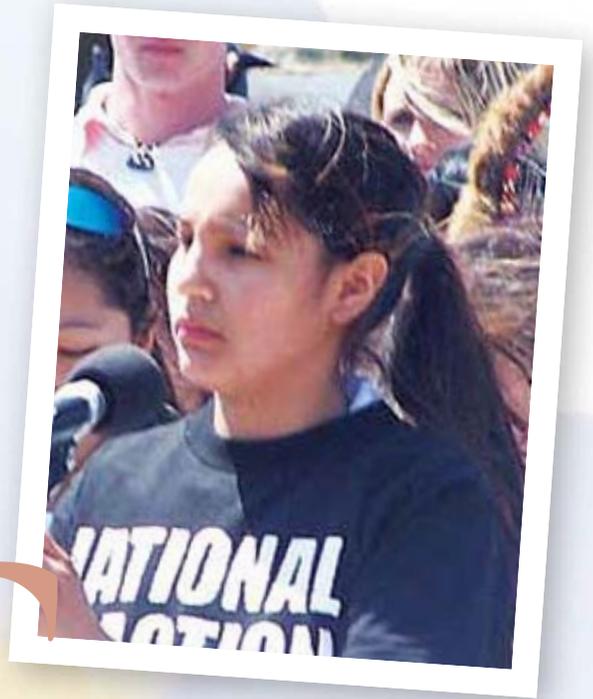
#### **Article 54**

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

This is **Exhibit "G"** to the affidavit of  
Cindy Blackstock, sworn before me  
in SYDNEY  
this 6th day of September, 2016

A handwritten signature in black ink, appearing to be 'C. Blackstock', written over a horizontal line.

Public Notary



# Jordan & Shannen:

First Nations children demand that the Canadian Government stop racially discriminating against them

**SHADOW REPORT:** Canada 3<sup>rd</sup> and 4<sup>th</sup> Periodic Report to the UNCRC

January 28, 2011



Submitted by: Cindy Blackstock, PhD  
First Nations Child and Family Caring Society of Canada  
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613 230 5885 | URL: [www.fncaringsociety.com](http://www.fncaringsociety.com) | [cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)

DEDICATED TO JORDAN RIVER ANDERSON (AGE 5)  
AND SHANNEN KOOSTACHIN (AGE 15)

We will never give up until your legacies  
of culturally based equity are realized for  
every First Nations child in Canada.

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**WATCHEY...** My name is Shannen Koostachin. I am an Mushkegowuk Innu from an isolated community called Attawapiskat First Nation. I have three brothers and three sisters. I am fourteen years old. I've graduated and finished elementary school called JR Nakogee Elementary School and going to go to school somewhere in down south just to have a proper education. I want to have a better education because I want to follow my dreams and grow up and study to be a lawyer. For the last eight years, I have never been in a real school since I've started my education. For what inspired me was when I realized in grade eight that I've been going to school in these portables for eight long struggling years. We put on our coats outside and battle through the seasons just to go to computers, gym and library. I was always taught by my parents to stand up and speak out for myself. My message is never give up. You get up, pick up your books and keep walking in your moccasins."

Shannen Koostachin led a campaign inviting thousands of Non-Aboriginal children to write to the Canadian Government to ensure safe and comfy schools and culturally based education for First Nations children. It was the largest child led campaign to realize child rights in Canada. Shannen wrote to the UN Committee on the Rights of the Child in 2008 saying she would submit a shadow report when Canada came up for review. Sadly, Shannen died in a car accident in the spring of 2010 at the age of 15 while attending school far away from her home because the high school in her home community sat on a contaminated brown field and was so dramatically under-funded by the Canadian Government that she could not get the education she needed to become a lawyer.

## INTRODUCTION: CANADA FIGHTING TO DISCRIMINATE AGAINST VULNERABLE CHILDREN

Canada's lawyer has to come up with a good reason as to why the Tribunal should be dismissed and really there is no reason except for the fact that the government is scared, and does not want justice to be done. It's no wonder the government doesn't want this to be public. It is quite embarrassing and sad to think that our government is trying to get out of its responsibility to provide the same quality of services to First Nations children in the child welfare system as they do to non-Native children. I am a student and I am aware and I am going to make sure other youth are aware. Cindy is speaking for others who cannot speak and that is amazing. So I am going to speak for others who cannot be here today and make sure they're aware.

—*Summer Bisson, student, Elizabeth Wyn Wood Secondary who came to watch the Canadian Human Rights Tribunal where First Nations allege Canada is racially discriminating against First Nations children by providing less child welfare benefit on reserves.*

Canada's conduct toward First Nations children creates so many violations of children's rights pursuant to the United Nations Convention on the Rights of the Child that it is often difficult to keep track. The most pronounced violation challenges one of the pillars of the Convention—the obligation of State Parties to not engage in government driven racial discrimination against children.

This submission begins by describing Canada's conduct at the Canadian Human Rights Tribunal on First Nations child and family services where First Nations allege that Canada is racially discriminating against First Nations children on reserve by providing lesser child welfare benefit than other children receive. Canada has spent hundreds of thousands of dollars to derail a full hearing on the facts at the Tribunal by relying on a series of legal technicalities instead of dealing with the problem. The submission then shows how inequities in elementary and secondary education on reserve undermine the potential of thousands of First Nations children trying to learn and grow up proud of their cultures and languages. Conditions of some First Nations schools rival those in the most desperate of third world countries with children having to attend school on grounds contaminated by thousands of gallons of diesel fuel, infested with snakes or in the case of one school, in tents. We share the story of Shannen Koostachin, a First Nations child from Attawapiskat First Nation, who led a campaign for "safe and comfy schools and culturally based equity in education" before tragically dying at the age of 15 years in a car crash while she attended school hundreds of kilometres away from her family because the school in her own community was so under-funded and sat next to a contaminated brown field. Finally, the submission demonstrates how First Nations children are often denied, or delayed receipt of government services available to all other children because the Federal and Provincial/territorial governments cannot agree on who should pay for First Nations children. These disputes

have devastating impacts as the story of Jordan River Anderson, a five year old from Norway House Cree Nation, who spent his whole life in hospital because Canada and Manitoba could not agree on who should pay for his at home care. Jordan tragically died at the age of five never having spent a day in a family home. The submission will rely heavily on the Government of Canada's own documents to demonstrate that it clearly knows about the discrimination and its impacts and then set out how Canada is actively working to undermine the right of First Nations children to non-discrimination. We also rely on the voices of many non-Aboriginal and First Nations children and youth who are standing with First Nations children, young people and leaders to ensure their rights under the UNCRC are fully realized.

It is important to note that the form of government based discrimination outlined in this document is not experienced by

other children in Canada. Shannen, and thousands of children like her, would be entitled to a proper school and a good education if she was not First Nations living on reserve. Jordan, and the thousands of children he represents, would have gotten the services he needed to go home if he was not First Nations living on reserve. Thousands of other children would be growing up safely with their families instead of in foster care if they were not First Nations living on reserve.

Given Canadian Prime Minister Harper's commitment to child and maternal health in the international stage, it is extraordinary that his government has done very little to address the dramatic inequities affecting First Nations children in Canada choosing to spend Canada's significant financial wealth on other projects such as the 1.2 billion to host the G-8, billions for fighter jets, 150 million on signs advertising how tax dollars are spent and most recently \$650,000 to buy a vase.

## WHY FIRST NATIONS CHILDREN ON RESERVES GET INEQUITABLE GOVERNMENT SERVICES

Evidence of the unequal provision of government services to First Nations children on reserve by Canada is overwhelming (Assembly of First Nations, 2007; Auditor General of Canada, 2008; Canadian Welfare Council, 2009; Standing Committee on Public Accounts, 2009.) There are two criteria that drive the inequality—the child must be First Nations and the other is the child must live on reserve. For thousands of First Nations (Indigenous) children in Canada who meet these criteria, the reality is they get less funding, and thus benefit, for essential government services such as education, health and child

welfare care than other children receive even though the needs of First Nations children are higher.

The reason for this inequality is that although provincial/territorial child welfare, health and education laws apply on reserves, the federal government funds these services. When the federal government does so at a lesser level, or not at all, the provinces/territories typically do not top up the funding levels resulting in a two tiered system where First Nations children on reserves get less funding, and thus less services and benefit, than other children enjoy.

## THE CANADIAN HUMAN RIGHTS TRIBUNAL ON FIRST NATIONS CHILD AND FAMILY SERVICES (CHILD WELFARE) [www.fnwitness.ca](http://www.fnwitness.ca)



First Nations children are tragically over-represented among children in child welfare care. The Auditor General of Canada (2008) notes that First Nations children are 6-8 times more likely to be placed into foster care because of cases of neglect fuelled by factors that are often outside of parental control such as poverty, poor housing and substance misuse. The good news is that Canada holds the levers to improve all of these factors on reserves via its various housing, economic development, substance misuse and First Nations child and family services programs. First

Nations child and family service agencies operate on reserves and are funded by the federal government and the federal government insists that First Nations agencies use provincial/territorial child welfare laws. The Concluding Remarks of the UNCRC cited First Nations child and family service agencies as a positive practice in Canada's second periodic review in 2003. There have been longstanding concerns about the under-funding of these agencies especially the lack of services to help families safely care for their children at home. First Nations child and family service agencies and leadership worked with the Federal Government for over ten years on two reports documenting the inequalities in First Nations

I went to the Tribunal Hearing because I realized that what is happening isn't right and it's just more assimilation. By being there, it shows that I care and that young people care and take an interest. The government lawyer just talked around the issue. He just said so much stuff that was useless and not worth being said. I felt he was trying to somehow trick people into thinking the issue is just not theirs to worry about. Basically, I felt he was trying to get Canada out of something and that's just not right.

—From: Jon Dundas, Elizabeth Wyn Wood student, June 2, 2010, Ottawa. John was one of several non-Aboriginal youth who have pledged to come to the tribunal hearings and report their views.

child and family service funding and proposing solutions to deal with the problem but the Canadian government failed to fully implement either option. In 2007, the Assembly of First Nations (the political organization representing all First Nations in Canada) and the First Nations Child and Family Caring Society (a national NGO for Aboriginal children) filed a human rights complaint against the Government of Canada alleging that the Federal Government's failure to provide equitable and culturally based services to First Nations children on reserve amounted to discrimination on the basis of race and national ethnic origin. This historic case marks the first time in history that Canada will be held to account for its current treatment of First Nations children before a body with the power to make enforceable orders. Thousands are following the case, particularly children and youth, in the "I am a witness" campaign that invites caring individuals and organization to follow the case (see [www.fnwitness.ca](http://www.fnwitness.ca)). Thanks to many caring Canadians, the Canadian Human Rights Tribunal on First Nations Child Welfare is now the most formally watched legal case in Canadian history.

Canada is not fighting the case on the merits, it is trying to escape a full hearing on the merits by arguing that it does not directly deliver child and family services (First Nations child welfare agencies do) and thus the Federal Government should not be held accountable for its role in First Nations child and family services, including inequitable funding levels. This is splitting hairs as it is obviously impossible for First Nations child and family service agencies to deliver a service if there is no money to do so or if the money is structured in ways that are not responsive to community needs. If successful with this argument, Canada effectively off loads its responsibility for discrimination against children arising from its policies and practices onto First Nations agencies that have no power to remedy the discrimination. Canada has tried to get the

case dismissed at Federal Court on two occasions and was unsuccessful. It then brought a motion to the Canadian Human Rights Tribunal itself to get dismissed on these same grounds and we are currently awaiting the decision. Canada has also opposed measures to broadcast tribunal hearings so that First Nations children can watch the tribunal from their homes across Canada (in keeping with Article 12 of the Convention). All other parties to the Tribunal case are in support of ensuring full public, and particularly child participation, in the tribunal including the broadcasting of the proceedings. Canada's substantial efforts to avoid a full and public hearing on the facts should raise significant concerns among all Canadians and the international community. What are they hiding?

Canada currently uses three main funding policies for First Nations child and family services. Directive 20-1 (used in BC and New Brunswick) and generally thought to be the most inequitable, the 1965 Indian Welfare Agreement applied in Ontario which has not been updated or reviewed in 46 years and the enhanced funding arrangement applied in Alberta, Saskatchewan, Manitoba, Nova Scotia and Quebec. The latter arrangement is one that the Government of Canada showcases as its primary response to the longstanding inequities affecting First Nations children in foster care. All have been found by independent reports to be flawed and inequitable.

Canada's own documents demonstrate that it not only knows about the inequality but it is also aware that the inequality is driving First Nations children into foster care because family support services available to other families are not available. Quoting the Canadian Government (as represented by the Department of Indian and Northern Affairs Canada) directly:

**"Lack of in-home family support for children at risk and inequitable access to services have been identified by First Nations Child and Family Services Agencies, and INAC, as important contributing factors to the over representation of Aboriginal children in the Canadian child welfare system... provincial governments have written to Ministers of INAC and intergovernmental affairs indicating that INAC is not providing sufficient funding to permit First Nations child and family services agencies to meet their statutory obligations under provincial legislation."**

—INAC internal document dated 2004 obtained under access to information (Document number 2372)

Another INAC document described the impacts of the Directive 20-1 which is currently applied to thousands of children in BC and New Brunswick in this way:

**“Circumstances are dire. Inadequate resources may force individual agencies to close down if their mandates are withdrawn, or not extended, by the provinces. This would result in the provinces taking over responsibility for child welfare, likely at a higher cost to Indian and Northern Affairs Canada (INAC)”**

This view was shared by the Auditor General of Canada in her thorough review of Canada’s First Nations child and family services program. The Auditor General (2008) found that all funding formulas, including the enhanced approach that Canada continues to advance as the exclusive option to deal with the inequities, are flawed and inequitable. Quoting the Auditor General of Canada directly:

**“4.64 However, we also found that the new formula does not address the inequities we have noted under the current formula. It still assumes that a fixed percentage of First Nations children and families in all the First Nations served by an agency need child welfare services. Consequently, in our view, the new formula will not address differing needs among First Nations. Pressures on INAC to fund exceptions will likely continue to exist under the new formula.”**

*—Auditor General of Canada (May, 2008)*

A year later, the Standing Committee on Public Accounts (2009) found that despite the Auditor General citing significant flaws in the enhanced approach being cited by the Government as the solution to the problem, there was no evidence that Canada had addressed the problem.

INAC also undertook an internal evaluation of the implementation of the Enhanced Funding Formula in Alberta and summarizes the findings in a presentation deck entitled *Implementation Evaluation of the Enhanced Prevention Focused Approach (EPFA) in Alberta: preliminary findings, May 14, 2010*. The findings of this INAC commissioned study are summarized on presentation slides 18 and 19 include the following passages:

**“75% of DFNA [First Nations child and family service agencies in Alberta] interviewees reported not enough funds for full implementation”**

*—INAC internal document obtained under Access to Information (document number 2365)*

Clearly, this evaluation demonstrates some significant shortcomings in the enhanced prevention based approach. INAC, however, continues to offer the enhanced approach with all of its flaws as the exclusive funding alternative to the Directive 20-1.

It does not appear that INAC has taken any meaningful steps to redress the flaws of the enhanced approach identified by the Auditor General in 2008. It continues to fight against having a full and public hearing on the merits at the Tribunal.

We requested in writing, that the Government of Canada respond to these issues in their country report submitted to the UN Committee on the Rights of the Child on the occasion of their third and fourth periodic reports but Canada substantively failed to do so. Canada’s country report does mention its First Nations child and family services program and its efforts to roll out the enhanced approach. However, the report fails to mention that the enhanced approach has been ruled inequitable and that Canada is subject to a Canadian Human Rights complaint brought by First Nations alleging that Canada is discriminating against First Nations children by providing inequitable child welfare services on reserves. Canada’s failure to mention the human rights tribunal on First Nations child and family services raises concerns about how complete and accurate Canada’s country report is.

First Nations agencies were recognized as in the United Nations Committee on the Rights of the Child as being a marker of best practice by Canada. They received numerous awards of excellence for their culturally base services despite the dramatic under-funding. First Nations want to do better for First Nations children. The outstanding question is whether the Canadian Government is prepared to do its part and immediately ensure full and proper culturally based equity in children’s services on reserve. While Canada tries to derail a hearing on the merits at the tribunal and rationalizes ongoing inequities to children, the number of First Nations children being removed from their families, often being placed outside of their culture and away from their community, continues to climb at record levels.

## SHANNEN'S DREAM AND CANADA'S SYSTEMIC UNDER-FUNDING OF ELEMENTARY AND SECONDARY EDUCATION ON RESERVES [www.shannensdream.ca](http://www.shannensdream.ca)

It is unacceptable in Canada that First Nations children cannot attend a safe and healthy school. It is unacceptable in Canada for First Nations education to languish with outdated laws, policies and funding practices that do not support basic standards. It is time for fairness and equity. Shannen Koostachin stood up for justice so the young people coming behind her might have an equal opportunity for a quality education in her community, just like young people have in communities throughout Canada. Now is the time for fairness, justice, and equity. Now is the time to realize Shannen's Dream.

—Shawn A-in-chut Atleo National Chief,  
Assembly of First Nations

The Auditor General of Canada has repeatedly found that the Federal Government (as represented by the Department of Indian Affairs and Northern Development [INAC]) provides insufficient and inequitable funding for proper schools and culturally based education on reserves. Quoting the Auditor General of Canada (2004) directly:

**"5.2 We remain concerned that a significant education gap exists between First Nations people living on reserves and the Canadian population as a whole and that the time estimated to close this gap has increased slightly, from about 27 to 28 years [given the Government of Canada's current approach to addressing the inequities]."**

There is little evidence to suggest that Canada is making any significant progress in addressing the gap. Current estimates are that First Nations children on reserves receive \$2000–\$3000 less per student per year for elementary and secondary education even though First Nations children are far less likely to graduate from high school. This shortfall means less funding for teachers, special education, teaching resources such as books, science and music equipment and other essentials that other children in Canada receive. There is no funding provided by INAC for basics such as libraries, computer software and teacher training, the preservation of endangered First Nations languages, culturally appropriate curriculum or school principals.

The problem is compounded by significant shortfalls in the schools themselves (termed capital expenditures). INAC is the exclusive funder of First Nations schools on reserve and the

condition of many schools is extremely poor.

For example, in 2009, the Parliamentary Budget Officer (PBO) conducted a review of INAC's funding and policies for First Nations schools across Canada. Specifically, the PBO found that INAC reports that only 49 percent of schools on reserves are in good condition, 76 percent of all First Nations schools in BC and Alberta were in poor condition and 21 percent had not been inspected for condition at all. Overall, the PBO found that all 803 First Nations schools will need replacement by 2030 but INAC does not appear to be on track to make that happen as it appears to be significantly under-estimating what it needs to provide to maintain and build proper schools. Quoting the PBO directly:

**"Thus according to the PBO projections, for FY2009-10, INAC's plans for capital expenditure are under-funded to the tune of between \$169 million in the best case, and \$189 million in the worst-case scenario annually, as depicted in the chart above. Thus, the annual INAC Planned Capital Expenditures according to its CFMP LTCP underestimates the likely expenditures compared to the PBO Best-Case and Worst-Case Projections (by more than 58%)."**

These figures fail to capture the full impacts of the poor schools and inequitable education on children. For example, a school in Manitoba had to be closed and replaced with portable trailers because it became infested with snakes. The snakes had infested the water system so that when children turned on the taps, baby snakes would come out. Another group of children in Manitoba had to start school in 2009 in tents as there was no school building available in their community. Some First Nations children go to school in shifts because the school buildings are so over-crowded that there is not enough room for all students to attend at the same time. It is routine, for many First Nations children to have to be sent away from their families and communities to go to school as there is no school in their communities.

Shannen Koostachin (1995–2010) was from Attawapiskat First Nation. Her school was contaminated by approximately 30,000 gallons of diesel fuel that leaked into the ground. The Government of Canada finally closed the school in 2000 after repeated complaints from students and staff that they were getting sick. The Government brought up portable trailers



as a temporary measure. Ten years later the portables were extremely run down, often losing heat in the minus 40 degree temperatures, and three Ministers of INAC failed to deliver on their promises to the children of Attawapiskat to provide a new school. Shannen Koostachin, was in grade 8 at the JR Nakogee School, which was actually a series of trailers, in 2008 and had never attended a proper school. She, and other youth, organized the younger children in the community to write to the Prime Minister to demand a new school. As Shannen said "school is a time for dreams and every kid deserves this." The Government of Canada wrote back to say they could not afford a new school for the children of Attawapiskat. Upon receiving the letter saying they would not get a new school, the grade 8 class decided to cancel their graduation trip and use the money to go and see the Minister of INAC instead to ask for a new school. Shannen Koostachin and two other youth, went to see Minister Strahl in Ottawa but he said he could not afford a new school. Shannen told him she did not believe him and that she would continue to fight until every child in Canada got "safe and comfy schools" and equitable education. She engaged non-Aboriginal children to write letters to the Government of Canada demanding a proper

education for First Nations children and hundreds responded. In 2008, the Government of Canada said Attawapiskat would get a new school after all but three years later, construction has not begun and many other First Nations children across Canada continue to be denied equitable education and proper schools. Shannen was nominated for the International Children's Peace Prize given out by Kids Rights Foundation in the Netherlands in 2008. She and her family made the difficult decision to send her hundreds of miles away from her family to get a proper education off reserve. Shannen Koostachin, died in a car accident while she was away attending school. She wanted to be a lawyer to fight for the education rights of First Nations children.

Thousands of First Nations and non-Aboriginal children, youth and supporting adults are now working with Shannen's family to carry her dream of "safe and comfy schools" and culturally based and equitable education forward in a campaign called "Shannen's Dream."

The Government of Canada recently announced yet another study on First Nations education. Meanwhile, the children wait to be treated equitably and as Shannen noted "they are losing hope by grade 5 and dropping out."

## JORDAN'S PRINCIPLE: WHEN GOVERNMENTS FIGHT OVER WHO SHOULD PAY FOR SERVICES FOR FIRST NATIONS CHILDREN—THE CHILDREN LOSE OUT

[www.jordansprinciple.ca](http://www.jordansprinciple.ca)



Canada and the Provinces/territories do not always agree on which level of government is responsible for paying for services to First Nations children when that same service is available to all other children. A 2005 report identified 393 disputes between the Federal and Provincial/territorial governments impacting First Nations children in just 12 of the 108 First Nations child and family service agencies in one year alone.

Just as with the problems with short-funding child welfare and education, the impacts of government red tape are devastating for children. Jordan River Anderson of Norway House Cree Nation was born with complex medical needs and remained in hospital for the first two years of his life. When doctors said he could go to a family home, all the services he needed were available but Canada and Manitoba could not agree on which government should pay for the services since Jordan was a First Nations child whose parents lived on reserve. If Jordan was non-Aboriginal he would have been able to home and the Manitoba government would have picked up the bill. As Jordan was First Nations, Manitoba nor the Federal Government wanted to pay so government officials left Jordan

At 5:30 p.m. on December 12, 2007, members of Parliament stood in unanimous support of Private Members' Motion-296 supporting Jordan's Principle and followed with a standing ovation for the Anderson family and all those who supported Jordan's message. It was, by all accounts, a wonderful day, but, as Ernest Anderson warned, the good that was accomplished in Jordan's name that day would be little more than a victory in name only if Canada and the provinces/territories did not immediately move to implement Jordan's Principle.

—UNICEF Canada, "Leave no child behind." p. 49

in a hospital while they argued over who should pay for each item related to Jordan's care. Over two years passed, and despite numerous pleadings from Jordan's family, First Nation and medical staff at the hospital, the governments continued to put their concerns about payment before Jordan's welfare. Sadly, just before Jordan's fifth birthday he died in hospital never having spent a day in a family home. While the Anderson family buried their child, the Governments of Canada and

Manitoba continued to argue over his care, and who should pay for the care of other children.

In memory of Jordan, and in keeping with the non-discrimination provisions of the UNCRC, Jordan's Principle was created. It is a child first principle to resolving government jurisdictional disputes about payment for services to First Nations children when that same government service is customarily available to all other children. It says that where a government service is available to all other children and a jurisdictional dispute arises over which government should pay for services to a First Nations child, the government of first contact pays for the service and then resolves the dispute with the other government as a secondary matter.

A Private Members Motion tabled by Member of Parliament, Jean Crowder, unanimously passed in the House of Commons in 2007 stating that **"in the opinion of the House the government should immediately adopt a child-first principle, based on Jordan's Principle, to resolve jurisdictional disputes involving the care of First Nations children."**

Incredibly, instead of taking immediate action to fully and properly implement Jordan's Principle across all Government services, the Canadian Government began trying to narrow

Jordan's Principle to only apply to children with complex medical needs with multiple service providers. It did so without consulting Jordan's family or First Nations.

To be fully implemented, each province and territory must also fully adopt and implement Jordan's Principle but as the Canadian Paediatric Society reported in 2009, only one province, Nova Scotia, received a good rating for implementing this fundamental principle of non-discrimination.

Reports of children on reserves being denied equitable access to services of equitable quality to those provided off reserve continue to mount. Only months after Jordan's Principle passed through the House of Commons, Canada and Manitoba argued over who should pay for feeding tubes for two chronically ill children living with their loving family on reserve. Meanwhile the family was making a heart wrenching choice—do they rewash the feeding tubes and risk infection to their children or not feed them at all? Canada has hired a person to coordinate Jordan's Principle cases and while this is encouraging—Canada continues to rely on a case by case approach which failed Jordan and is not meaningfully engaging with First Nations on the identification and response to children caught in situations that could be remedied by the full and proper implementation of Jordan's Principle.

## CONCLUSION

Canada is party to numerous international human rights conventions and takes its obligations under these and other international instruments seriously. The treaties binding on Canada as a State party include: the International Covenant on Civil and Political Rights, the International Covenant on the Elimination of Racial Discrimination and the Convention on the Rights of the Child. However, these treaties are not directly enforceable in Canadian law.

—Submissions by Canada to the  
Canadian Human Rights Tribunal (May 21, 2010)

Canada's position that the UNCRC is not directly enforceable under Canadian law raises questions as to why Canada would not want the UNCRC to directly guide its duties to children. The UNCRC and UNCRC General Comment 11 make it clear that State Parties have a duty to *ensure* the non-discrimination of children particularly within government laws, policies and practices. Non-discrimination is a fundamental principle woven through all sections of the UNCRC and yet, as demonstrated in this report, Canada is taking aggressive steps to ensure it can continue to treat First Nations children inequitably.

Further, Canada endorsed the United Nations Declaration on the Rights of Indigenous Peoples on November 12, 2010 and one month later filed this submission with the Canadian Human Rights Tribunal in the child and family services case detailing its views on the Declaration:

**"The Declaration is not a legally binding instrument. It was adopted by a non-legally binding resolution of the United Nations General Assembly. As a result of this status, it does not impose any international or domestic legal obligations upon Canada. As Canada noted in its public statement of support, the Declaration does not change Canadian laws. It represents an expression of political, not legal, commitment. Canadian laws define the bounds of Canada's engagement with the Declaration."**

—Attorney General of Canada, December 17, 2010

Clearly, Canada's acceptance of the United Nations Declaration of Indigenous Peoples is bracketed by Canada's political and legal views of the document which fail to respect the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples.

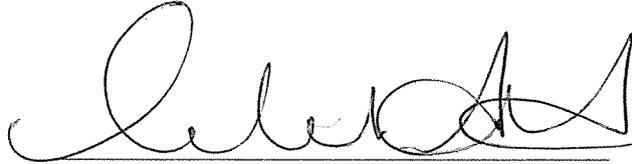
Canada is one of the richest countries in the world with every capability of fully implementing the United Nations Convention on the Rights of the Child and as such should be held to the highest standard by the United Nations Committee on the Rights of the Child. In the Concluding Remarks of the second periodic review of Canada, The United Nations Committee on the Rights of the Child repeatedly directed Canada to close the gap in life chances between Aboriginal and non-Aboriginal children and yet little progress has been made. Canada knows it is providing inequitable children's services to First Nations children on reserves, it has solutions to address the problem and resources to do it and yet Canada is choosing to resist efforts to fully address the problem. Canada will often cite how much it spends on First Nations children without drawing attention to the fact that this amount falls far short of what is required. Canada's attempts to avoid a hearing on the facts to determine whether it's service delivery is racially discriminatory or not and its failure to disclose the Canadian Human Rights Tribunal to the United Nations Committee on the Rights of the Child in its country report raise concerns about its accountability.

It is time for the International community to join with First Nations children, families and leaders and with our many non-Aboriginal allies (particularly children) in Canada to demand that Canada ensure FULL EQUITY AND CULTURALLY BASED SERVICES for First Nations children on reserves immediately. Consistent with Canada's Obligations pursuant to the United Nations Convention on the Rights of the Child and UNCRC General Comment 11, the following recommendations are respectfully made to the UNCRC in consideration of Canada's periodic review:

1. Canada immediately take measures to fully report on the CRC's concluding observations for Canada arising from the Committee's review of Canada's 1st and 2nd periodic reports with specific and detailed responses to concluding observations specifically referencing, or particularly relevant to, Aboriginal children numbered: 5, 13,15,18,19, 20, 21, 22, 23, 24, 25, 26, 34, 35, 36,37,38,41 42, 43, 44, 45, 52, 53, 58, and 59. Such responses should refer to the Charter of Rights and Freedoms and other domestic protections for child rights as well as relevant international treaty body instruments and standards with specific attention to UNCRC General Comment 11, The Declaration on the Rights of Indigenous Peoples, the Covenant on Economic, Social and Cultural Rights, and the Universal Declaration on Human Rights. Responses should be specific and measurable and include information on: 1) the involvement of affected Aboriginal peoples and their representative organizations in the design, implementation and evaluation of government actions to address the concluding remarks, impacts of these efforts and any future plans to build on previous progress or address shortcomings.
2. Given the gravity of the rights violations experienced by First Nations children in Canada and the fact that no barriers exist to Canada fully implementing the UNCRC, it is recommended that the Committee on the Rights of the Child engage a special study on Canada's implementation of the UNCRC with respect to the rights of First Nations children pursuant to section 45 (c). Such a study could be done in partnership with the United Nations Permanent Forum on Indigenous Peoples as the International Expert Group Meeting (EGM) on Indigenous Children and Youth in Detention, Custody, Foster-Care and Adoption called for in its 2010 report submitted to the Permanent Forum on Indigenous Peoples. The study would independently document cases of government sourced discrimination against First Nations children and young people and serve to encourage States in similar positions to take progressive action to ensure the full enjoyment of rights under the Convention for all children.
3. Consistent with the UNCRC paying particular attention to Articles 2, 17, 18,19,21,26 and 30 as interpreted in UNCRC General Comment 11, Canada, with the full involvement of First Nations peoples, take immediate and effective measures to allocate and structure sufficient financial, material and human resources to ensure the safety, best interests and cultural linguistic rights of First Nations children giving them every opportunity to grow up safely in their families and communities.
4. Consistent with Articles 2 and 12, Canada immediately stop all actions designed that aim to avoid or delay a full and public hearing on the facts to determine whether or not its policies and practices in First Nations child and family services amount to racial discrimination against children. Canada must also ensure the hearings are broadcast in full so that First Nations children and their families can watch the tribunal given that the proceedings directly affect them.
5. Consistent with the UNCRC paying particular attention to Articles 2, 28, 29, 30 as interpreted in UNCRC General Comment 11, Canada, in full partnership with First Nations Peoples organizations and experts, take immediate and effective measures to allocate, and structure, sufficient financial, material and human resources to ensure the full enjoyment of education, cultural and linguistic right for Indigenous children.

6. Consistent with the UNCRC paying particular attention to Articles 2, 4, 6, Canada, in full partnership with Indigenous Peoples, take immediate and effective measures, such as the full and proper adoption of Jordan's Principle, to ensure that government jurisdictional disputes in no way impede or delay First Nations children receiving government services available to all other children.
7. Consistent with Article 12, that Canada take immediate and effective measures to establish a national and independent mechanism with the power to implement reforms is available to receive, investigate and respond to reports of individual and systemic child rights violations.
8. Consistent with the UNCRC, that Canada ensures its domestic laws, government policies and practices are fully consistent with the United Nations Convention on the Rights of the Child and implements immediate and effective measures to ensure First Nations children, young people and families are aware of their rights under the Convention.

This is **Exhibit "H"** to the affidavit of  
Cindy Blackstock, sworn before me  
in SYDNEY  
this 6th day of September, 2016

A handwritten signature in black ink, appearing to be "L. Blackstock", written over a horizontal line.

Public Notary

## Human Rights Commission Complaint Form

**Your Name(s):**

Regional Chief Lawrence Joseph, Assembly of First Nations  
Cindy Blackstock, Executive Director, First Nations Child & Family Caring Society of  
Canada

**Name of Organization that your Complaint is Against:**

Indian and Northern Affairs Canada

**Summary of Complaint:**

On behalf of the Assembly of First Nations and the First Nations Child and Family Caring Society of Canada, we are writing to file a complaint pursuant to the Human Rights Act regarding the inequitable levels of child welfare funding provided to First Nations children and families on reserve pursuant to the Indian and Northern Affairs Canada (INAC) funding formula for First Nations child and family services known as Directive 20-1, Chapter 5 (hereinafter called the Directive). This formula provides funds in two primary envelopes: 1) Maintenance (costs of children in care) and 2) Operations (personnel, office space, prevention services etc.). Maintenance is paid every time a child comes into care whereas operations funding is paid on the basis of exceeding certain population thresholds of status Indian children on reserve. There is also an adjustment in the formula for remoteness. There is substantial evidence spanning over ten years that inequitable levels of funding are contributing to the over representation of Status First Nations children in child welfare care. Moreover, we invite your office to review the Wen:de series of reports which identify the scope and nature of the over representation of First Nations children in care, documents the inequality in funding, and provides a detailed evidence-based solution to redress the inequity which is within the sole jurisdiction of the federal government to implement. Ensuring a basic level of equitable child welfare service for First Nations children on reserve and thus the observance of their human rights pursuant to the Human Rights Act, the Convention on the Rights of the Child, The Covenant on Economic, Social and Cultural Rights and the Charter of Rights and Freedoms would represent an investment of 109 million dollars in year one of the proposed multi-year funding formula. This cost represents less than one percent of the current federal surplus budget estimated at over \$13 billion. As the following summary notes, the moral, economic, and social benefits of full and proper implementation of the Wen:de report recommendations are significant.

Status Indian children are drastically over represented in child welfare care. A recent report found that the 0.67% of all non Aboriginal children were in child welfare care as of May of 2005 in three sample provinces as compared to 0.31% of Métis children and 10.23% of Status Indian children. Year End Data collected by INAC (2003) indicates that 9031 status Indian children on reserve<sup>1</sup> were in child welfare care at the close of that year representing a 70% increase since 1995. Unfortunately, there is poor data on the numbers of status First Nations children in care off reserve as provinces/territories collect child welfare data differently but best estimates are that 30-40% of all children in care in Canada are Aboriginal. This represents approximately 23,000- 28,000 Aboriginal children and means that there are three times as many Aboriginal children in state care today than there was at the height of the residential school operations in the late 1940's.

First Nations child and family service agencies (FNCFSAs) have developed over the past 30 years to provide child welfare services to First Nations children on reserve in an effort to stem the mass removals of First Nations children from their communities by provincial child welfare authorities. These agencies, which have been recognized by the United Nations Committee on the Rights of the Child, operate pursuant to provincial child welfare statutes and are funded by INAC using the Directive 20-1<sup>2</sup>. FNCFSAs have long reported concerns about drastic under funding of child welfare services by the federal government particularly with regards to the statutory range of services intended to keep maltreated children safely at home known as least disruptive measures. As Directive 20-1 included an unlimited amount of funds to place children in foster care, many First

<sup>1</sup> Typically this data does not include children in care of First Nations operating under self government agreements

<sup>2</sup> With the exception of First Nations child and family FNCFSAs in Ontario which are funded under a separate funding agreement