



National Association
of Friendship Centres
Association nationale
des centres d'amitié

Justice and Safety for Urban Indigenous Children and Youth in Canada

National Association of Friendship Centres – Civil Society Submission

5th and 6th Review of Canada's Implementation of the Convention on the Rights of the Child

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In Friendship.

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About the NAFC and the Friendship Centre Movement

The National Association of Friendship Centres (NAFC) is a federal not-for-profit organization that represents 101 local Friendship Centres and six Provincial and Territorial Associations across Canada. For 50+ years, Friendship Centres have facilitated the transition of Indigenous¹ people from rural, remote, and reserve life to urban environments. Increasingly, these community hubs are a first point of contact for a range of supports, referrals, and services, including child care, health services, criminal justice support, and securing employment.

Friendship Centres provide services to all members of their respective communities, regardless of their legal status as an Indigenous person, and have done so since their inception. As community-driven, grassroots organizations guided by volunteers, they serve as sites of reconciliation and see over 2.3 million client contacts per year. Providing over 1,800 different programs and services in the areas of health, housing, education, recreation, language, justice, employment, economic development, culture and community wellness, Friendship centres are known within urban Indigenous communities for creating much-needed support structures that are not available anywhere else.

Indigenous people in Canada report that “maintaining strong cultural ties is an integral part of how they managed the transition into city life”.² Friendship Centres offer a wide variety of services for families and are seen as “‘key resources’ for urban Aboriginal families when accessing child welfare services”.³

Summary + Urban Indigenous Context(s)

Although urban Indigenous people make up a majority of the Indigenous population in Canada, policies, programs and legislation geared to Indigenous children and young people are not adequately considering urban-specific realities. Urban-based Indigenous children are doubly marginalized due to being left out from both mainstream Canadian programming and

¹ For this report, Indigenous people are inclusive of the Aboriginal peoples of Canada – First Nations, Inuit, and Métis.

² Tungasuvvingat Inuit, “National Urban Inuit Community Dialogue” (2016), online: <<http://tungasuvvingatinuit.ca/wp-content/uploads/2017/06/National-Urban-Inuit-Community-Dialogue-EN.pdf>> at 3 [National Urban Inuit Community Dialogue].

³ Patsy McKinney et al. (2018) Urban Aboriginal Families with Children in Care: Understanding the Experiences and Needs of Parents Living in Fredericton and Halifax. UAKN final report November 2018. Online: <https://uakn.org/wp-content/uploads/2015/05/UAKN-Atlantic-Final-Paper_Urban-Aboriginal-Families-with-Children-in-Care_2018.pdf> at 6 [Urban Aboriginal Families with Children in Care].

Indigenous-specific programming that is often focused on-reserve (for First Nations children), on Métis settlements, or in the northern territories (for Inuit children). Indigenous children in urban settings also face additional barriers with access to culturally-relevant programs and services free from racism, ageism, and sexism.

The report will first provide an overview of the population and family makeup of urban Indigenous children and youth, before briefly discussing early learning, education, health, culture and language, and child welfare. Finally, the report will provide some final comments on Canada's fifth and sixth reports on the convention on the Rights of the child before providing recommendations about policy and legal avenues to address inequalities for urban Indigenous children and youth in Canada.

A note on language: This report will discuss the status of urban Indigenous children and youth in Canada, where there are hundreds of First Nations, over fifty Inuit communities, and a large and diverse Métis population. The communities across these populations have distinct cultures, languages, and traditions. This report will endeavour to respect the individuality of communities while succinctly discussing the overall situation(s) of the urban Indigenous population. Where possible, specific communities or identities are noted, but this disaggregated data is not always readily accessible.

Demographics

Indigenous people make up 4.9% of the total population in Canada, a number that is steadily increasing year-over-year. The average age of Indigenous people living in Canada is younger than that of the general population,⁴ a fact that has been attributed to both high fertility and high mortality rates, resulting in a large proportion of Indigenous children and youth living in Canada.⁵ Children make up 33% of the Inuit population, 29.2% of the First Nations population, and 22.3% of the Métis population. One in four of these children are under the age of 15.⁶

Further, the urban Indigenous population continues to grow. Across Canada, 55.8% of First Nations people with registered or treaty Indian status live off-reserve,⁷ while 62.6% of Métis

⁴ Statistics Canada, "National Indigenous Peoples Day...by the numbers" (2018) online: <https://www.statcan.gc.ca/eng/dai/smr08/2018/smr08_225_2018> at "population" [National Indigenous Peoples Day].

⁵ National Indigenous Peoples Day, *supra* note 4, at "population" and "what's next"

⁶ National Indigenous Peoples Day, *supra* note 4, at "children and youth".

⁷ Statistics Canada, "Census in Brief: The housing conditions of Aboriginal people in Canada" (October 2017), online: <<https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016021/98-200-x2016021-eng.cfm>> [Housing conditions].

live in a metropolitan area with a population greater than 30,000,⁸ and 27% of Inuit live outside of Inuit Nunangat.^{9,10} Depending on the city, province, or territory, these figures can be much higher; for example, in British Columbia, the figure is around 78%¹¹ while in Ontario, 85.5% of First Nation, Metis, and Inuit people live in urban or rural areas.¹² Given this, there is a clear need to ensure that policy and legislation reflects urban-specific approaches.

There are many socio-economic indicators that influence an Indigenous person's ability to remain in their community, including poor housing conditions in on-reserve, rural and northern environments, food insecurity, lack of educational and economic opportunities, and poor access to medical care.¹³ Child welfare systems that remove Indigenous children from their communities and move them within their territories and sometimes into urban settings. Violence, lack of acceptance for Two-Spirit and LGBTQ+ individuals, as well as decades of legislated violence against Indigenous women have also resulted in many Indigenous people forced to move to urban areas. Increasingly, we are also finding that Indigenous families are born and raised in urban settings.

"Two-Spirit" is a translation of the Anishinaabemowin term *niizh manidoowag*. Though not every LGBTQ+ Indigenous person identifies with the term, some use it rather than or in addition to identifying as LGBTQ+.

In terms of family structure, Indigenous children often live with larger families than do non-Indigenous children and they are more likely to live with a single parent or in foster care.¹⁴ The family home often includes grandparents or other extended family members in addition to

⁸ Statistics Canada, "Census in Brief: The housing conditions of Aboriginal people in Canada" (October 2017), online: <<https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016021/98-200-x2016021-eng.cfm>> [[Housing conditions](#)].

⁹ *Inuit Nunangat* refers to traditional Inuit lands that include Nunavut, Nunavik, Nunatsiavut, and the Inuvialuit Settlement Region of the Northwest Territories.

¹⁰ Statistics Canada, "Census in Brief: The housing conditions of Aboriginal people in Canada" (October 2017), online: <<https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016021/98-200-x2016021-eng.cfm>> [[Housing conditions](#)].

¹¹ Government of British Columbia, "Urban and Off-Reserve Indigenous People", online: <<https://www2.gov.bc.ca/gov/content/governments/indigenous-people/supporting-communities/urban-off-reserve-aboriginal-people>>

¹² Government of Ontario, "The Urban Indigenous Action Plan" (April 2018), online: <<https://www.ontario.ca/page/urban-indigenous-action-plan>>

¹³ National Urban Inuit Community Dialogue, *supra* note **Error! Bookmark not defined.** at 3.

¹⁴ Regine Halseth and Margo Greenwood, "Indigenous Early Childhood Development in Canada: Current state of knowledge and future directions" (2019) National Collaborating Centre for Aboriginal Health, online: <<https://www.nccah-ccnsa.ca/docs/health/RPT-ECD-PHAC-Greenwood-Halseth-EN.pdf>> at 12 [Indigenous Early Childhood Development].

siblings and parents. 34% of Indigenous children under the age of five live in a single-parent home, compared with 13% of the non-Indigenous population. First Nations children are more likely (38.9%) than Inuit (26.5%) or Métis (25.5%) children to live with a lone parent.¹⁵

Due to systemic discrimination and the legacy of colonialism, Indigenous people are more likely to live in substandard housing, which can pose different risks to children's health in terms of susceptibility to "a number of physical illnesses and mental health issues".¹⁶ 14.4% of First Nations off-reserve, 27% of Inuit, and 11.9% of Métis children under the age of 15 live in homes that require major repairs. Only 6.6% of non-Indigenous children live in the same conditions.¹⁷ Further, nearly one third of First Nations (31.1%), half of Inuit (49.2%), and over 10% of Métis (12.3%) children under 15 do not live in adequately-sized homes for the size and composition of the family.¹⁸

The urban Indigenous population is growing four times faster than the non-Indigenous urban population (43% between 2006 and 2016 compared with 5% of the general population), and is younger than the general population¹

The Friendship Centre Movement formed to respond to these realities, and to support urban Indigenous people who may otherwise lack community connection and support, as well as to provide culturally-safe supports to those generally afflicted by unemployment, homelessness, violence, and the criminal justice system. Within mainstream society, urban Indigenous people experience racism and discrimination, particularly within these

systems which are often culturally unsafe for Indigenous people.¹⁹ Equitable outcomes "require both acknowledging and addressing ongoing institutional racism and marginalization and investing in meaningful engagement of Aboriginal people in developing educational policy and programming".²⁰

The CRC and Urban Indigenous Children Today

Despite Indigenous people being the fastest growing segment of the Canadian population and Indigenous children comprising more than half of the Indigenous population in Canada, there

¹⁵ Ibid at 12.

¹⁶ Indigenous Early Childhood Development, *supra* note 10 at 14.

¹⁷ Indigenous Early Childhood Development, *supra* note 10 at 14.

¹⁸ Indigenous Early Childhood Development, *supra* note 10 at 14.

¹⁹ Urban Aboriginal Families with Children in Care, *supra* note 2.

²⁰ Maximizing the Potential, *supra* note **Error! Bookmark not defined.**2 at 7.

is currently no national program or policy that adequately considers or appropriately benefits urban Indigenous children.

Canada ratified the Convention on the Rights of the Child (CRC) in 1991, and while the overarching priority of the Convention is the safety and well-being of all children as individuals and collectively within their communities, the Committee on the Rights of the Child has specified that Indigenous children's rights have often been "obscured by other issues of broader concern to Indigenous peoples".²¹ As such, the Committee asserted that special attention must be given to ensure that the best interests of the child are not neglected in favour of the best interests of the group.²²

Access to quality education, health, and child welfare systems for Indigenous children and families increases healthy child development but such systems are often underfunded, inadequate, or non-existent.²³ Racism and discrimination within systems also contribute to a lack of access to essential services for urban Indigenous populations.²⁴ There have been multiple policies, directives, and laws introduced since the UNCRC was ratified, but despite this, many of the commitments outlined in the UNCRC and other legally binding documents are not met for urban Indigenous children in Canada today.

Canada's Fifth and Sixth Reports on the Convention on the Rights of the Child + Urban Indigenous Children

Notably, Canada's fifth and sixth reports on the Convention make no mention of urban Indigenous children's needs and barriers. This is emblematic of how Canada's current approach to Indigenous rights and issues in Canada often elides the lived experiences of Indigenous people living in urban contexts. Canada cites consultation with "select civil society organizations and Indigenous groups"²⁵ in drafting the reports, but NAFC was not included in any of these conversations. Further, much of Canada's reports for this review rely on provincial initiatives rather than the work being done at the federal level. No substantive socio-economic indicators for children are listed.

²¹ Committee on the Rights of the Child 'General Comment 11' (2009), CRC/C/GC/11 at 1 [General Comment 11].

²² *Ibid.*

²³ Regine Halseth and Margo Greenwood, "Indigenous Early Childhood Development in Canada: Current state of knowledge and future directions" (2019) National Collaborating Centre for Aboriginal Health, online: <<https://www.nccah-ccnsa.ca/docs/health/RPT-ECD-PHAC-Greenwood-Halseth-EN.pdf>> at 18 [Indigenous Early Childhood Development].

²⁴ Regine Halseth and Margo Greenwood, "Indigenous Early Childhood Development in Canada: Current state of knowledge and future directions" (2019) National Collaborating Centre for Aboriginal Health, online: <<https://www.nccah-ccnsa.ca/docs/health/RPT-ECD-PHAC-Greenwood-Halseth-EN.pdf>> at 18 [Indigenous Early Childhood Development].

²⁵ Canada, *Canada's Fifth and Sixth Reports on the Convention on the Rights of the Child* (CRC/C/CAN/5-6/6640), para. 3 at 1

Though Canada cites FPT governments implementing strategies on a range of socio-economic issues (such as gender-based violence, housing and homelessness, poverty reduction and early learning and childcare),²⁶ there is currently no comprehensive national strategy with a focus on the needs and experiences of urban Indigenous children. There is also no urban Indigenous focus for early learning and childcare, something that is sorely needed and not alluded to in the section of Canada's report on Early Childhood Education and Care.²⁷ However, NAFC is being funded by the Government of Canada to develop a GBA+ tool, and an urban Indigenous housing strategy has been proposed.

Not included in the child welfare section of Canada's reports²⁸ is the recently enacted Bill C-92 (*An Act Respecting First Nations First Nations, Inuit and Métis children, youth and families*), which does not contain urban-specific considerations and is without data collection provisions. Additionally omitted from Canada's account related to "independent monitoring and child-friendly reporting mechanisms"²⁹ is that the province of Ontario recently dissolved its office of the child advocate, and those services are now provided by an ombudsman with a significantly reduced mandate and no investigative powers.

Glaringly, the report contains no acknowledgement of the Canadian Human Rights Tribunal's September 2019 ruling that the Government of Canada is currently fighting in court. The ruling found that Canada "willfully and recklessly discriminated against First Nations children",³⁰ and ordered Canada to compensate those harmed by the child welfare system. Since then, the Government of Canada has requested for the order to be stayed (which was dismissed) and has continued to spend millions of dollars³¹ to fight families and survivors impacted in courts.³²

²⁶ Ibid. para. 7 at 2.

²⁷ Ibid. para. 155 at p. 37

²⁸ Ibid. at 6

²⁹ Ibid at 7

³⁰ First Nations Caring Society, "Victory for First Nations Children and Families: Canadian Human Rights Tribunal Orders Compensation – 2019 CHRT 39" (2019), online: https://fncaringociety.com/sites/default/files/2019_chrt_39_info_sheet_final.pdf

³¹ Kenneth Jackson, "Documents suggest Canada paid millions more than admitted to fight Cindy Blackstock" (2020) *APTN National News*, online: <https://aptnnews.ca/2020/02/05/documents-suggest-canada-paid-millions-more-than-admitted-to-fight-cindy-blackstock>

³² Kenneth Jackson, "'Cynical ploy': Trudeau government flip-flops, now plans to fight child welfare class-action" (2020) online: <https://aptnnews.ca/2020/01/27/cynical-loy-trudeau-government-flip-flops-now-plans-to-fight-child-welfare-class-action/>

Most recently, the Assembly of First Nations has launched a class-action lawsuit to build on the Tribunal's ruling, seeking "damages and justice for the thousands of First Nations children and families that have been discriminated against by Canada's child welfare system that incentivized the removal of First Nations children from their families and Nations".³³ The trauma inflicted by the child welfare system's many predatory and discriminatory processes ripples out to all Indigenous families, including those living in urban areas.

Indigenous people, communities, and non-governmental bodies continue to call on the Government of Canada to address these inequalities. In 2015, 238 local hearings in 77 communities culminated in the Truth and Reconciliation Commission of Canada's 95 Calls to Action. In total, the Commission collected nearly 7,000 statements from survivors, families and communities about the Indian Residential School System.³⁴ which the Canadian Government has committed to implementing. This includes five child welfare-focused Calls (see Appendix A), nearly all of which have yet to see progress.³⁵

Notably, the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls was released in June 2019, and calls on the government to meaningfully address its ongoing colonial understandings, for recognizing inherent rights, and respect for Indigenous values, philosophies, and knowledge systems. Emotional, physical, and cultural safety for children, at all stages of their development, was foregrounded as a huge part of ending the perpetuation of violence against Indigenous women and Two-Spirit people in Canada.

Family Environment and Alternative Care {Arts 5, 9, 10, 11, 18, 20, 21, 25, 27.4, 39}

³³ Assembly of First Nations, "AFN's Federal Class Action Lawsuit Will Fight for Justice and Fairness for Victims of First Nations Child Welfare System" (2020), online: <<https://www.afn.ca/afns-federal-class-action-lawsuit-will-fight-for-justice-and-fairness-for-victims-of-first-nations-child-welfare-system/>>

³⁴ The Indian Residential School System was an assimilationist institution implemented by the Government of Canada in 1876 and saw approximately 30% of Indigenous children forcibly removed from their families and communities and placed in the schools, which were administered by Christian churches. Within the system, abuse, torture, starvation, assault, and death were commonplace; families were not permitted to visit; and generations were not able to learn their language and cultural teachings. The system is recognized as the root of many issues still impacting Indigenous communities today, including alcoholism and substance abuse, PTSD, and suicide.

³⁵ Ian Mosby, "Truth and Reconciliation Commission Calls to Action: A 2019 Status Update" (December 2019) Yellowhead Institute, online: <<https://yellowheadinstitute.org/wp-content/uploads/2019/12/trc-2019-calls-to-action-status-update-final.pdf>>

Convention on the Rights of the Child, 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.

The Convention on the Rights of the Child states unequivocally that “the best interests of the child shall be a primary consideration” in all actions concerning children.³⁶ States, respecting and accounting for the rights and duties of parents or guardians, are to ensure that children have protection and necessary care for their well-being.³⁷

In Canada, 3% of Indigenous children under the age of five live in foster care compared with only 0.2% of non-Indigenous children. First Nations children are more likely (3.8%) than Inuit (2.2%) and Métis (1.3%) children to live in foster care, and Indigenous children overall account for one half of all children in foster care up to age four. In some provinces the overrepresentation is worse with Indigenous children exceeding 80% of all children in care for this age range. Importantly, the majority (66%) of Indigenous children in foster care do not live with an Indigenous foster family.³⁸ In this way, the child welfare system in Canada has been likened to the Indian Residential School System, as it causes children to become disconnected from their culture, internalize stigma, and cultivates trauma.

Indigenous families, no matter where they live, have been continually harmed by child welfare laws and practices. Child welfare practices have been described as “intrusive” and “culturally inappropriate” because of fundamentally incongruent ideas between Indigenous and Canadian child welfare practices.³⁹ The Canadian Human Rights Tribunal found in 2016 that the federal government discriminates against First Nations children contrary to the *Canadian Human Rights Act* by underfunding child welfare services. The Tribunal stated that child welfare services should focus on reunifying families and protecting children’s well-being by preventing family separation. Since then, Canada has been issued several non-compliance

³⁶ United Nations Convention on the Rights of the Child, 20 November 1989, UNTS vol 1577, p 3 at Art 3(1) (entered into force 2 September 1990) [UNCRC]

³⁷ Ibid. at Art 3(2).

³⁸ Indigenous Early Childhood Development, *supra* note 10 at 12.

³⁹ Estelle Simard, “Culturally Restorative Child Welfare Practice: A Special Emphasis on Cultural Attachment Theory” (2009), *First People Child and Family Review* 4(2) 44-61 at 45.

orders by the Tribunal, none of which are mentioned in Canada's 5th and 6th reports to this Committee.⁴⁰

Also missing from Canada's reports is a commitment to address the issue of children and youth experiencing violence or committing suicide while in the care of child welfare agencies, after being removed from their homes, families, and communities.⁴¹ Despite its stated intentions and interest in reconciliation, Canada has consistently fought those mechanisms that would make it accountable for the harms Indigenous children and youth face within its institutions.

On June 21, 2019, Bill C-92: An Act Respecting First Nations, Inuit, and Métis Children, Youth and Families came into force. This is the first time that the federal government has legislated on Indigenous child welfare, and the new law represents a necessary shift in child welfare in Canada. The stated purpose of the Bill is to "recognize Indigenous People's jurisdiction over child and family services, as part of an inherent and Aboriginal right to self-governance; to establish national standards in this area".⁴² However, C-92 was criticized for failing to allocate funding, not addressing possible jurisdictional uncertainties, failing to include mandatory data collection measures, among other things.⁴³

Within NAFC's testimony to the House of Commons Standing Committee on Indigenous and Northern Affairs on the Bill, we summarized the many ways in which friendship centres engage with child and family services on a day to day basis, both by offering prevention programming and supports to help families stay together, as well as being the sites of supervised visits and occasionally of apprehensions, and providing interventions services on behalf of child and family service agencies or court supports to indigenous children, youth and families. Despite this, we found no explicit consideration for urban and rural-based Indigenous children, youth, families and communities within Bill C-92.

⁴⁰ A timeline of the Canadian Human Rights Tribunal Case, including supporting documentation, can be found at; First Nations Child & Family Caring Society, "I am a Witness: Tribunal Timeline and Documents" online: <<https://fncaringsociety.com/i-am-witness-tribunal-timeline-and-documents>>

⁴¹ See Kristy Kirkup, "Ontario teen's suicide raises hard questions about child welfare and Indigenous youth" (2020) *The Globe and Mail* online: <https://www.theglobeandmail.com/politics/article-how-devon-freeman-died-an-ontario-teens-suicide-raises-hard/>; <https://aptnnews.ca/2019/09/25/inside-a-child-welfare-system-where-102-indigenous-kids-died-over-5-years/>

⁴² Yellowhead Institute, "Factsheet: An Act Respecting First Nations, Inuit, and Métis Children, Youth and Families: Bill C-92 Implementation Strategies" (2019), online: < <https://yellowheadinstitute.org/wp-content/uploads/2019/07/post-c-92-community-implementation-strategies-factsheet.pdf>> at 1 [Implementation Strategies].

⁴³ Yellowhead Institute, "The Promise and Pitfalls of C-92: An Act respecting First Nations, Inuit, and Métis Children, Youth and Families " (2019) *Yellowhead Institute* online: <<https://yellowheadinstitute.org/wp-content/uploads/2019/07/the-promise-and-pitfalls-of-c-92-report.pdf>>

We further had concerns regarding the realities of implementing jurisdiction regarding indigenous children who live in urban settings, and called for more clarity on the expression and extent of jurisdiction amongst and between different first nations, Métis and Inuit governments; provincial, territorial and federal governments; and the roles of civil society and non-political, yet indigenous-owned and operated, entities such as friendship centres. In urban spaces, these jurisdictions will often overlap, and without collaboration and coordination on how that overlap will occur, it is the children who will suffer by not being the center of discussions on their care.

Though the bill came into effect on January 1, 2020, it is unclear how the government will implement the new standards created by the legislation within its own systems and agencies, let alone enforce it.

Education, leisure and Cultural Activities {Arts 28, 29, 31}

The Convention on the Rights of the Child specifically protects the right of Indigenous children, in conjunction with their communities, to “enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language”.⁴⁴ This right is understood to be both an individually-held right as well as a communal right, recognizing the importance of collective values and traditions in Indigenous cultures. The committee on the Rights of the Child “notes that the right to exercise cultural rights among Indigenous peoples may be closely associated with the use of traditional territory and the use of its resources”. Importantly, Article 30 is recognized to be a positive-rights framework, therefore Canada is obligated to ensure that Indigenous children’s right to culture, religion, and language is protected and allowed to flourish.⁴⁵ The practice and use of Indigenous culture and language contributes to a positive self-identity, as well as the revitalization of culture and languages to future generations. Some scholars report that deepening traditional knowledge helps youth become “a whole human being”.⁴⁶

⁴⁴ UNCRC, *supra* note 2657 at Art 30.

⁴⁵ Committee on the Rights of the Child ‘General Comment 11’ (2009), CRC/C/GC/11 at 4 [General Comment 11].

⁴⁶ Angela Mashford-Pringle, “Early Learning for Aboriginal Children: Past, Present and Future and an Exploration of the Aboriginal Head Start Urban and Northern Communities Program in Ontario” (2012) *First Peoples Child and Family Review* 7(1) 127-140 at 136 [Early Learning for Aboriginal Children].

Language

Indigenous people living in urban settings must navigate Western systems and institutions while working to build and maintain cultural connections, including through language learning and transmission. Unfortunately, two-thirds of the approximately 90 Indigenous languages used in Canada are endangered, severely endangered, or critically endangered. This is a direct result of intentional language erasure through the Indian Residential School System and other assimilationist policies and legislation, which have impacted Inuit, Métis, and First Nations communities in distinct ways.

NAFC advocates for language use and revitalization to exist everywhere people are living— including in Canada's urban landscape.

Currently, over half of Inuit children between up to age 14 could carry on a conversation in an Indigenous language, compared with only 15.8% of similarly aged First Nations children and 1% of Métis children.⁴⁷ Despite this, more than 90% of families report a desire to “learn and use the culture and language that [was] taught in their homes”.⁴⁸ Parents do not always speak an Indigenous language which can make cultural knowledge transfers more challenging. Additionally, families living in poverty may have greater difficulties accessing materials, experiences, and services that promote healthy child development.⁴⁹

“Languages contain the cultures, ways of being and worldview of Indigenous peoples.” (NAFC Language Report, “Our Languages, Our Stories”)

Between 2017 and 2020, the federal government committed nearly \$90 million dollars to Indigenous language revitalization, as well as a further \$334 million over five years on “‘preserving, promoting, and revitalizing’ Indigenous languages”.⁵⁰ However, this funding and the

accompanying legislation (Bill C-91, now ascended to law) was criticized for not adequately addressing Inuit-specific needs,⁵¹ for not dedicating specific funding for community-led initiatives for language recovery and revitalization, and for failing to create accountability

⁴⁷ Indigenous Early Childhood Development, *supra* note 10 at 15.

⁴⁸ Early Learning for Aboriginal Children, *supra* note 36 at 136.

⁴⁹ Indigenous Early Childhood Development, *supra* note 10 at 15.

⁵⁰ Chantelle Bellrichard, “Budget’s Indigenous languages funding ‘insufficient’ to support revitalization work, says B.C. advocate”, (March 2019), online: < <https://www.cbc.ca/news/indigenous/indigenous-languages-budget-funding-1.5066806>>.

⁵¹ Justin Brake, “Canada unveils Indigenous Languages bill to fanfare, criticism” (2019) APTN National News, online <https://aptnnews.ca/2019/02/05/canada-unveils-indigenous-languages-bill-to-fanfare-criticism/>

measures for Indigenous people.⁵² It is unclear the extent to which urban-based Indigenous people and organizations were engaged to draft the legislation. NAFC provided testimony and submitted a proposal to provide urban-specific input, but this has not yet occurred.

In Canada's 5th and 6th report to the Committee, they refer to their third Universal Periodic Review report for updates on federal, provincial, and territorial efforts to preserve, revitalize, and promote Indigenous languages.⁵³ Within the section of the UPR report that refers to languages,⁵⁴ the Government of Canada points to Bill C-91, and four provincial initiatives (in Ontario, New Brunswick, Saskatchewan, and Manitoba) as evidence of its language work. For the scope of work that needs to be done, and for the diverse range of needs that need to be met. The National Inquiry on Missing and Murdered Indigenous Women and Girls included several Calls to Justice related to culture and language preservation, establishing cultural safety as both a right and a necessary component to ending violence against Indigenous women, girls, and Two-Spirit individuals.⁵⁵

For urban Indigenous people, the importance of language transmission cannot be overstated; in NAFC's own discussion paper on the topic, participants stated that it must be incorporated into every aspect of people's lives in a holistic way, and there must be opportunity to speak the language at every age through life.⁵⁶

Barriers to Education

The Convention on the Rights of the Child provides that children have equal rights to education and that States Parties should therefore make primary education compulsory and freely available to all.⁵⁷ The CRC also encourages the development of "different forms of secondary education" and the provision of free education and/or financial assistance in case of need.⁵⁸ Further, education shall be directed to the child's cultural identity, language, and values.⁵⁹ Despite this, the gap in educational outcomes between Indigenous youth and the

⁵² Karihwakeron Tim Thompson, "Strengthening The Indigenous Languages Act – Bill C-91" (2019) *Yellowhead Institute*, online: <https://yellowheadinstitute.org/2019/02/27/strengthening-the-billc-61/#1543339751407-745e47e8-6d44>

⁵³ Canada, *Canada's Fifth and Sixth Reports on the Convention on the Rights of the Child* (CRC/C/CAN/5-6/6640), para. 66 p. 16

⁵⁴ Canada's Third Universal Periodic Review, para. 35-36

⁵⁵ National Inquiry into Missing and Murdered Indigenous Women and Girls, "Calls to Justice", online: <<https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Calls-Web-Version-EN.docx>> at 2.2-2.4 [Calls to Justice].

⁵⁶ Senate of Canada – Evidence – Proceedings of the Standing Senate Committee on Aboriginal Peoples (2019) Iss. 50, online <https://sencanada.ca/en/Content/Sen/Committee/421/APPA/50ev-54598-e>

⁵⁷ United Nations Convention on the Rights of the Child, 20 November 1989, UNTS vol 1577, p 3 at Art 28.1(a) (entered into force 2 September 1990) [UNCRC].

⁵⁸ UNCRC, *supra* note 2657 at Art 28.1(b).

⁵⁹ UNCRC, *supra* note 57 at Art 29.1(c).

general youth population in Canada persists. While an increasing number of Indigenous people complete high school, more than one-third of Indigenous people in Canada still do not hold a high school diploma.⁶⁰ Less than half of the Inuit population in Canada completes high school, and only 40% of youth living on-reserve finish grade 12.⁶¹

In terms of higher education, in 2016 only 11% of Indigenous people living in Canada between 25 and 64 had a bachelor's degree or higher, compared to 54% of the general population.⁶² A more equivalent comparison can be seen between college diploma holders: 23% of Indigenous people living in Canada hold a college diploma or higher compared with 22% of the general population. The overall inequalities are cause for concern, however. The gap has been attributed to the federal government's failure to adjust the way that education is funded and delivered in order to achieve equitable access to education for all youth.⁶³ Youth facing barriers in early life are not likely to continue on to higher education. For example, Indigenous children in Saskatoon benefit the least from publicly funded education, despite making up the fastest-growing demographic within Saskatoon schools.⁶⁴ With multiple barriers to equal access to education for Indigenous youth living in Canada, the Office of the Auditor General estimated that it would take 28 years for Indigenous children to catch up to the general Canadian population if current funding and service delivery disparities continue.⁶⁵

Indigenous children and youth experience a number of barriers to success in educational environments. The gap in educational attainment is the result of generational poverty, historical trauma, and systemic racism,⁶⁶ in addition to Indigenous students consistently experiencing racism in their educational environments. Many students in post-secondary education also experience direct discriminatory actions and disparaging attitudes from the general student population.⁶⁷ Often, students do not know where to receive support for their negative experiences and feel frustrated. For example, one student felt "like people are thinking I'm making excuses. But I just need them to understand that they need to teach me differently."⁶⁸

⁶⁰ Early Learning for Aboriginal Children, *supra* note 36 at 127.

⁶¹ Indspire, "Six Facts About Indigenous Education in Canada" (2019), online: <<https://indspire.ca/about-indspire/indigenous-education-facts/>>.

⁶² Statistics Canada, "Education in Canada: key results from the 2016 Census" (November 2017), online: <<https://www150.statcan.gc.ca/n1/en/daily-quotidien/171129/dq171129a-eng.pdf?st=fj2Chzjx>>.

⁶³ *Maximizing the Potential*, *supra* note **Error! Bookmark not defined.**2 at 4.

⁶⁴ *Culturally Responsive School Governance*, *supra* note **Error! Bookmark not defined.** at 2.

⁶⁵ *Maximizing the Potential*, *supra* note **Error! Bookmark not defined.** at 5.

⁶⁶ Special Rapporteur, *supra* note **Error! Bookmark not defined.** at 17.

⁶⁷ *Maximizing the Potential*, *supra* note **Error! Bookmark not defined.**2 at 27.

⁶⁸ *Maximizing the Potential*, *supra* note **Error! Bookmark not defined.**2 at 29.

Many scholars argue that culturally-appropriate education is a way to empower Indigenous youth and move Indigenous peoples and communities toward self-determination and self-governance.⁶⁹ For example, a Cree Bilingual program has been established at St. Frances School in Saskatoon, and an Elder from the Saskatoon Tribal Council reported that hearing the teachers and children speaking their language made them feel that the “language is respected and valued, not just as a means of communication but as a source of knowledge and wisdom...[t]his, to me, is what reconciliation is all about.”⁷⁰

The need for culture to be folded into children and youth’s educational experiences as a matter of rights and safety is affirmed within several of the Committee’s concluding observations from Canada’s last review.⁷¹ However, within Canada’s 5th-6th reports, most education initiatives reflect provincial and territorial commitments rather than federal ones, and Canada does not indicate any intent to shift resources or develop policies that would facilitate the necessary changes as noted above.⁷² While the Aboriginal Headstart program has been marked as a highly successful early learning childhood education program, there is an extremely limited number of program sites offered off-reserve and in urban areas. Urban/off-reserve spaces are in extremely high demand, given the number of Indigenous people in urban spaces, but those spaces are very limited. There is a considerable need for investment and support for increased urban Aboriginal Headstart spaces.

Basic Health and Welfare {Arts 18, 23, 24, 26, 27}

Health

Article 24.1 of the Convention provides that children have the right to enjoy “the highest attainable standard of health”, and that State Parties are to “ensure that no child is deprived of his or her right of access to such health care services.”⁷³ States Parties should also “ensure the provision of necessary medical assistance and health care to all children”, “diminish infant and child mortality”, and “combat disease and malnutrition” by providing adequate nutritious food and clean drinking water.⁷⁴ The UNCRC also protects the rights of children with disabilities.⁷⁵

⁶⁹ Early Learning for Aboriginal Children, *supra* note 36 **Error! Bookmark not defined.** at 128.

⁷⁰ Culturally Responsive School Governance, *supra* note **Error! Bookmark not defined.** at 27.

⁷¹ UN CRC Concluding Observations (2012) at para 43 and para 56,

⁷² Canada’s 5th-6th reports, para. 144-149

⁷³ UNCRC, *supra* note 2657 at Art 24.1.

⁷⁴ UNCRC, *supra* note 26 at Art 24.2 (a) to (d).

⁷⁵ UNCRC, *supra* note 2657 at Art 23.

For many Indigenous people, health and wellness is viewed through a holistic lens, including physical, intellectual, social/emotional, and spiritual components.⁷⁶ The health of Indigenous children is inextricably tied to the health of their families and communities, and therefore tied closely to socioeconomic status. Poverty leads to untreated infections and contributes to respiratory infections like pneumonia and tuberculosis, especially among those living in the North.⁷⁷ The correlation is seen in chronic disease as well: as family income increases, the number of diabetes cases decreases.⁷⁸ Structural injustices including stigma, stereotyping, and discrimination are barriers to accessing health services for Indigenous people living in Canada.⁷⁹ An additional barrier to accessing health services is historic and ongoing predatory apprehension practices in child and welfare services fields, many families are fearful of going to the doctor or bringing their children to the doctor.⁸⁰

Within urban settings, many Friendship Centres offer direct health services to foster awareness, prevention, and treatment of acute and chronic conditions in a safe setting. There is a need for more support in urban spaces for Indigenous-specific health care, medical transportation, and culturally appropriate care and after-care, including long-term and palliative care for urban Indigenous children. Navigation supports are also sorely needed, to help urban Indigenous children and families determine what wraparound supports are available and how to access them.

Chronic Disease

Compared to non-Indigenous people in Canada, Indigenous people experience disproportionate rates of chronic disease including cardiovascular disease, cancer, chronic respiratory disease, and diabetes. This disproportionately impacts youth and children, with nearly one-third of Indigenous people over the age of 15 self-reporting that they live with a chronic condition, while a staggering 42.4% of children have been diagnosed with a chronic condition.⁸¹ Over half (62.3%) of First Nations children are overweight or obese, placing them

⁷⁶ Indigenous Early Childhood Development, *supra* note 10 at 11.

⁷⁷ Peter J Hotez, "Neglected Infections of Poverty among the Indigenous Peoples of the Arctic" (2010), 4:1 PLoS Negl Trop Dis [Neglected Infections].

⁷⁸ Jeff Reading, "Diabetes and the Urban Aboriginal Population" (2012) UAKN Research Paper Series, online: https://uakn.org/wp-content/uploads/2014/08/2012-UAKN-Research-Paper-Series_Diabetes-and-the-Urban-Aboriginal-Population_-Dr.-Jeff-Reading-1.pdf at 9 [Diabetes and the Urban Aboriginal Population].

⁷⁹ Brenda L Cameron et al, "Understanding Inequalities in Access to Health Care Services for Aboriginal People: A Call for Nursing Action", (2014) 37:3 Advances in Nursing Science E1.

⁸⁰ See Kyle Edwards, "Fighting foster care" (2018) Maclean's Magazine, online: <https://www.macleans.ca/first-nations-fighting-foster-care/>; Final Report of the National Inquiry Into Missing and Murdered Indigenous Women and Girls (2018), online: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf

⁸¹ Diabetes and the Urban Aboriginal Population, *supra* note 78 at 4.

at a higher risk of additional chronic disease.⁸² Inuit suffer disproportionately from high rates of smoking, obesity, and have a life expectancy that is up to 12 years shorter than non-Indigenous Canadians.⁸³ Nearly twice as many Indigenous people smoke as do non-Indigenous people living in Canada. This can worsen maternal and child development especially if coupled with poorly ventilated and overcrowded homes.⁸⁴

Mental Health

Indigenous understandings of mental health generally include a holistic understanding of wellness, including a balance of the mental, spiritual, and emotional parts of self. This can include being in balance with family, community, nature, and the environment.⁸⁵ Data specific to Indigenous children's mental health is extremely limited, especially for children living in urban environments, further underscoring the need for thorough and respectful data collection practices and benchmarks. However, available data indicates the mental health of First Nations youth living off-reserve is comparable to the rate of youth living on-reserve⁸⁶, yet suicide rates are well-documented as being above the Canadian average, especially on-reserve. Suicide rates are highest among youth and young adults (between 15 and 24 years), but much of the (dated) information looks at community-specific suicide rates. In British Columbia the province-wide rate of youth suicide is more than 5 times the national average, but more than 90% of youth suicides occurred in less than 10% of the bands.⁸⁷ Inuit youth in general experience suicide rates that are 5 to 25 times higher than the national average. Comparable data for First Nations youth off-reserve or Métis youth does not yet exist.⁸⁸ Lesbian, gay, bisexual, trans, queer, and Two-Spirit (LGBTQ2S) Indigenous children and youth are more likely to experience mental health issues including depression and anxiety, but there is also a dearth of data available about the mental health of this population.⁸⁹

⁸² Diabetes and the Urban Aboriginal Population, *supra* note 56 at 4.

⁸³ Neglected Infections, *supra* note 77.

⁸⁴ Indigenous Early Childhood Development, *supra* note 1023 at 14.

⁸⁵ National Collaborating Centre for Aboriginal Health, "Considerations for Indigenous child and youth population mental health promotion in Canada", (2017), online:

<https://nccph.ca/images/uploads/general/07_Indigenous_MentalHealth_NCCPH_2017_EN.pdf> at 1 [Considerations for Indigenous child and youth population mental health promotion].

⁸⁶ *Ibid* at 3.

⁸⁷ Michael J. Chandler & Christopher E. Lalonde, "Cultural Continuity as a moderator of Suicide Risk Among Canada's First Nations" in Laurence J. Kirmayer & Gail Guthrie Valaskakis, eds., *Healing Traditions: The Mental Health of Aboriginal People in Canada* (Vancouver: UBC Press, 2009) 221 [Cultural Continuity].

⁸⁸ Considerations for Indigenous child and youth population mental health promotion, *supra* note 7585 at 3.

⁸⁹ Considerations for Indigenous child and youth population mental health promotion, *supra* note 7585 at 4.

Use of Healthcare Services and Traditional Medicine

Indigenous people are twice as likely as non-Indigenous people to be admitted to hospital with an ambulatory-care-sensitive condition. Meanwhile, Indigenous people with severe chronic kidney disease were 43% less likely than non-Indigenous people to visit a nephrologist. Increased rates of hospital admissions for ambulatory-care-sensitive conditions and a reduced likelihood of nephrology visits suggest potential inequities in care among status Aboriginal people with chronic kidney disease.⁹⁰

In 2014, the Ontario Court of Justice recognized that Section 35 of the Constitution protects the right of Indigenous families to choose traditional medicine when making healthcare decisions for youth.⁹¹ The court also recognized that the choice to pursue traditional medicine alongside western medicine is in the best interest of the child, and reflects Article 24 of the *United Nations Declaration on the Rights of Indigenous Peoples*, which states that “Indigenous peoples have the right to their traditional medicines and to maintain their health practices”.⁹² However, urban Indigenous children may have limited access to traditional medicine, and this accessibility gap must be bridged as Canada considers the mechanics of fully implementing UNDRIP.

Conclusion & Recommendations

Urban Indigenous children and youth face major and unique challenges across a variety of social determinants. We call on Canada to ensure that future efforts to address Indigenous children’s rights adequately and appropriately consider urban-specific perspectives and realities. Further, that Canada engages urban-based service delivery organizations such as Friendship Centres to ensure positive outcomes for urban Indigenous children.

Outcomes across many areas are unequal for Indigenous youth compared to non-Indigenous youth, often a result of funding or program availability. Other times, a lack of quality data, continuing systemic barriers, and evolving cultural dissonance may contribute

According to the 2016 census, well over half of the Indigenous population in Canada live in urban areas, and they are the youngest population in the country. Canada must take their needs into consideration when making decisions that impact them.

⁹⁰ S Gao, et al., “Access to health care among status Aboriginal people with chronic kidney disease” (2008) 197 CMAJ 1007.

⁹¹ *Hamilton Health Services Corp v DH*, 2015 ONCJ 229 at 3 [*Hamilton Health Services*].

⁹² *Hamilton Health Services Corp v DH*, 2015 ONCJ 229 at 5 [*Hamilton Health Services*].

to disparate outcomes. The concerns that face Indigenous children, youth, and families in urban areas require attention and responsiveness. With a solid majority of Indigenous people living in urban areas and as a young and fast growing population, the Government of Canada **must** learn to approach these issues with an urban specific lens in order to make effective policy, programs, and legislations.

All levels of government should be prepared to work with Friendship Centres, community leaders, and Indigenous peoples in urban settings to develop collaborative and meaningful solutions that consider the perspectives of all affected individuals and communities. It is essential that Canada actively strive toward and reach an understanding with Indigenous peoples that respect constitutional, international, and treaty rights that at all times places the best interests of the child at the forefront. This is mirrored and affirmed within the Truth and Reconciliation Calls to Action, the National Inquiry's Calls to Justice, and UNDRIP, all of which Canada has committed to implementing. Bolstering the work and findings in those works, the following is only a few recommendations aimed to make Canada more safe and just for urban Indigenous children and youth.

1 Jurisdictional Ambiguity

1. Understanding that jurisdictional ambiguity creates harm for Indigenous children and youth everywhere they live, particularly where child welfare and health care services are concerned, Canada must work actively to address jurisdictional ambiguity in ways that support and affirm Indigenous autonomy and self-determination in urban, rural, northern, remote, and reserve settings.

2 Child Welfare, Health, and Wellness

1. With Bill C-92 now in effect, Canada must clarify jurisdictional uncertainties magnified by the legislation (see recommendation 1) and develop accountability measures to ensure the effectiveness of the new standards.

3 Child Welfare, Health, and Wellness

1. The final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls includes 7 calls to action specifically related to health and wellness. All levels of Canadian government are called to recognize and protect the rights to health and wellness of Indigenous women, girls, and 2SLGBTQIA

people in particular.⁹³ Governments should provide ongoing and stable funding for Indigenous community-based, accessible, and culturally-appropriate wraparound health services,⁹⁴ and should support trauma-informed programs for survivors of trauma and violence.⁹⁵ This includes distinct reproductive, trauma, and addiction services for those impacted by exploitation, trafficking, or sex work.⁹⁶

2. Governments should additionally provide continual, accessible healing programs and support for all children of missing and murdered Indigenous women, girls, and 2SLGBTQIA people and family members.⁹⁷
3. While there is a lack of data available about the status of urban Indigenous children and youth respecting mental health, cultural continuity factors (measures that intend to mark the degree to which Indigenous communities successfully secure their cultural past) are strongly related to the prevalence of youth suicide. In one study, every community with all 6 protective factors experienced no youth suicide.⁹⁸ Access to culturally-relevant, family and community-grounded health promotion programs supports mental wellness and resilience.⁹⁹ More studies should be funded and undertaken to understand the mental health and general health conditions of urban Indigenous youth in order to inform required support services and programs.

4 Early Learning and Education

1. Governments should work with Indigenous peoples and Friendship Centres in urban settings to enhance education delivery and the cultural relevance of education curricula. Current Federal funding is insufficient to support all levels of education for Indigenous children and youth and the Government should work collaboratively with communities in all settings, foregrounding the voices of children and youth, to address these concerns.

⁹³ Calls to Justice, *supra* note 46 at page 9, 3.1.

⁹⁴ Calls to Justice, *supra* note 46 at page 9, 3.2.

⁹⁵ Calls to Justice, *supra* note 46 at page 9, 3.3.

⁹⁶ Calls to Justice, *supra* note 46 at page 9, 3.4.

⁹⁷ Calls to Justice, *supra* note **Error! Bookmark not defined.**6 at page 9, 3.7.

⁹⁸ Cultural Continuity, *supra* note 87.

⁹⁹ Considerations for Indigenous child and youth population mental health promotion, *supra* note 75 at 4.

Appendix A – TRC Calls to Action re: Child Welfare

1. We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care by:
 - i. Monitoring and assessing neglect investigations.
 - ii. Providing adequate resources to enable Aboriginal communities and child-welfare organizations to keep Aboriginal families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.
 - iii. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the history and impacts of residential schools.
 - iv. Ensuring that social workers and others who conduct child-welfare investigations are properly educated and trained about the potential for Aboriginal communities and families to provide more appropriate solutions to family healing.
 - v. Requiring that all child-welfare decision makers consider the impact of the residential school experience on children and their caregivers.
2. We call upon the federal government, in collaboration with the provinces and territories, to prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions.
3. We call upon all levels of government to fully implement Jordan's Principle.
4. We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
 - i. Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
 - ii. Require all child-welfare agencies and courts to take the residential school legacy into account in their decision making.
 - iii. Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.
5. We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families.