

FULFILLING THE RIGHTS OF ABORIGINAL CHILDREN

Introduction

Improving the situation of Aboriginal children in Canada is a top priority. There is ample documentation of their situation and a high level of consensus in the analysis and recommendations for action. Recent reports and recommendations have been made by the Auditor General of Canada, the Canadian Council of Child and Youth Advocates, the Senate Standing Committee on Human Rights, UNICEF Canada, and Aboriginal organizations.¹ The UN Committee on the Rights of the Child has twice asked Canada to take action to address the gap between Aboriginal and non-Aboriginal children in basic areas for child development, such as health, education, child protection, and poverty. The findings in all these reports are similar.

The response continues to be inadequate. While the Government of Canada made an official apology for past treatment in residential schools in 2008 and recently ratified the UN Declaration on the Rights of Indigenous Peoples, the current situation is still best described as continuing neglect.

First Nations, Métis, and Inuit children (collectively Aboriginal children) live in all provinces and territories. They are a growing percentage of the total population of children. Enabling them to develop their full potential is a shared responsibility and would be a benefit for all Canadians. The federal government has the lead responsibility, but other levels of government and Canadian civil society can also take steps to ensure that serious violations of their rights are resolved and that they have an equal opportunity to develop their potential and contribute to Canadian society.

Some of the major concerns and recommendations for change are listed below. The seriousness of this situation warrants consideration of separate reports from Aboriginal communities by the UN Committee on the Rights of the Child and further investigation.

Indicators of the Need for Special Attention

- Aboriginal children disproportionately live in poverty, on and off reserves. While statistics vary in the different reports, there is consensus that the extent and depth of poverty is a major barrier to developing the full potential of Aboriginal children.
- While Aboriginal children comprise about 5 % of the total population of children, they account for approximately 25% of the children in government care. Of particular concern is the high number of Aboriginal children who leave the child welfare system at age 16 or 18 without any meaningful attachment to a supportive family or their culture.
- Lower levels of educational achievement have life-long implications for income, well-being, and full participation in Canadian society.
- Injury and death rates are disproportionately high for Aboriginal children, compared to all children. Aboriginal children face greater health risks than non-Aboriginal children due to poor living conditions. Poor nutrition, substandard housing, poor water quality, and limited access to culturally appropriate health care contribute to higher rates of infant mortality, low birth weights, respiratory illnesses, diabetes among children, and developmental disabilities. Higher rates of teen suicide and mental illnesses have also

been documented. The suicide rate for Aboriginal girls in Canada is among the highest in the world.

- For Aboriginal children and youth in Canada, there is a greater likelihood of involvement in the criminal justice system – including detention in a youth custody facility – than there is of high school graduation.²

Inequitable Treatment in Child Welfare, Education, and Health

- In 2008, the Auditor General of Canada documented that funding for First Nations child welfare services on-reserve was 22% less than similar services for non-Aboriginal children. Instead of resolving the substantive issues, the federal government has blocked every effort at redress. Of particular concern for children's rights is the federal government's argument that federal services cannot be compared with provincial services. This violates the Convention right to equitable treatment for all children in Canada.
- Several reports have documented inadequate and inequitable funding for the education of Aboriginal children, compared to that for non-Aboriginal children. Current estimates are that Aboriginal children receive \$2,000 - \$3,000 less per student than non-Aboriginal children. This matter has been raised in Parliament, but it has not been addressed. Canada's combined Third and Fourth Reports on children's rights cites new programs in Aboriginal education, but it does not address the question of equitable treatment, as requested in the second review. Equitable treatment will include secure and sustainable funding for capital expenses and support for the development, organization and delivery of culturally appropriate education to every school-age child, according to standards for which government is accountable.
- The combined Third and Fourth Reports cites continuation of the Aboriginal Headstart program as a response to the need for of early childhood education, but it does not report that only about 10% of Aboriginal children off-reserve have access to such programs.
- In 2003, the UN Committee on the Rights of the Child asked Canada to address inequitable access to health care for Aboriginal children, with particular attention to remote communities. The combined Third and Fourth Reports cites more programs, but does not address the question of equitable treatment or provide evidence to show that disparities in the health status of Aboriginal children will be reduced.
- In 2007, Parliament adopted Jordan's Principle to reduce jurisdictional disputes in the provision of services for Aboriginal children. This was a response to an awareness campaign that linked the story of Jordan, a First Nations child, with the Convention principle of the 'best interests of the child.' Jordan's Principle states that necessary health care and other children's services will be provided to an Aboriginal child in need without delay, and disputes about which government agency is responsible for funding that care will be decided afterward. Although approved by Parliament, Jordan's Principle is not being consistently implemented. Many Aboriginal children continue to be placed into child welfare in order to receive appropriate medical care and services.³ In some jurisdictions, Jordan's Principle is applied only to the most complex health care cases, instead of broad application, as would be consistent with Canada's obligations under the Convention.

Recommendations	
Actions	Actors (Lead and Main Actors)
Immediately provide equitable funding for First Nations child welfare and Aboriginal education and publicly table detailed reports to	Aboriginal Affairs and Northern Development Canada Canadian Heritage

<p>demonstrate how current policy complies with the principle of equitable treatment. These reports should also be provided to the UN Committee on the Rights of the Child as a supplement to the combined Third and Fourth Reports.</p>	
<p>Immediately convene a meeting of provincial and territorial governments and Aboriginal leaders, focused specifically on the situation of Aboriginal children on and off-reserves, to agree on a coordinated plan of action with targets, timelines, resources, and public accountability for resource allocation and use.</p>	<p>Aboriginal Affairs and Northern Development Canada</p>
<p>Ensure that earlier recommendations with regard to equitable treatment of Aboriginal children in Canada are being seriously addressed, including evidence of genuine improvements for the affected children, and, if necessary, undertake an independent investigation of the situation.</p>	<p>UN Committee on the Rights of the Child, in cooperation with the UN Special Rapporteur on the Rights of Indigenous Peoples and the UN Permanent Forum on Indigenous Issues.</p>

¹ The following reports are illustrative of the many authoritative reports on the situation of Aboriginal children in Canada: The Office of the Auditor General of Canada. “*First Nations Child and Family Services Program – Indian and Northern Affairs Canada*,” Chapter 4, May 2008 Report of the Auditor General of Canada, c. 2008. Available on website: www.oag-bvg.gc.ca. Office of the Auditor General of Canada, “*Indian and Northern Affairs Canada – Education and Post-secondary Student Support*,” Chapter 5, November 2004 Report of the Auditor General of Canada, 2004. Available on website: www.oag-bvg.gc.ca. Canadian Council of Provincial Child and Youth Advocates, “Aboriginal Children and Youth in Canada: Canada Must Do Better,” Position Paper released June 23, 2010. Available through the offices of individual provincial children’s advocates. Standing Senate Committee on Human Rights, “Aboriginal Children,” in “*Children: The Silenced Citizens: Effective Implementation of Canada’s Obligations with Respect to the Rights of Children*,” Chapter 16, pp. 169-190, April, 2007. UNICEF Canada, “*Aboriginal Children’s Health: Leaving No Child Behind*,” Canadian Supplement to the 2009 State of the World’s Children Report, 2009. Available from UNICEF Canada. First Nations Child and Family Caring Society of Canada, “*Jordan and Shannen: First Nations Children Demand that the Canadian Government Stop Racial Discrimination Against Them*,” Submission to the UN Committee on the Rights of the Child, January 28, 2011. Available, along with other reports on Aboriginal child welfare and education at: www.fncaringsociety.com.

² Canadian Council of Provincial Child and Youth Advocates. “*Aboriginal Children and Youth in Canada: Canada Must Do Better*,” Position paper released June 23, 2010, p. 6.

³ Lavallee, Trudy L., ‘Honouring Jordan: Putting First Nations children first and funding fights second’, *Paediatrics and Child Health*, Vol 10, No. 9, November 2005, p.527.