



**Submission by Human Rights Watch to the Committee on the Rights of the Child's
review of Canada's periodic report for the 87th pre-sessional.**

March 2020

We write in advance of the 87th pre-session of the Committee on the Rights of the Child relating to Canada's compliance with the Convention on the Rights of the Child. This submission is primarily based on research conducted between July 2015 and April 2016, and focuses on the water crisis in First Nation communities and the protection of education during armed conflict.

Water Crisis in First Nation Communities (articles 24, 27, and 29)

The water supplied to many First Nations communities on lands known as reserves is contaminated, hard to access, or at risk due to faulty treatment systems.¹

The poor water and sanitation conditions has a disparate and negative impact on at-risk populations including children. Human Rights Watch research found that while the most severe public health concerns—water-borne illnesses and related deaths—have mostly been avoided through water advisories, the social costs and human rights impact of the crisis are considerable. In communities like Neskantaga and Shoal Lake 40 First Nations, a whole generation of children grew up unable to drink the water from the taps.

Many households surveyed by Human Rights Watch in 2016 reported problems related to skin infections, eczema, psoriasis, or other skin problems that they thought either were related to or exacerbated by the water conditions in their home. Many also reported changing hygiene habits, including limiting baths or showers for children, because of

¹ "Make it Safe: Canada's Obligation to End the First Nations Water Crisis," Human Rights Watch, June 7, 2016, <https://www.hrw.org/report/2016/06/07/make-it-safe/canadas-obligation-end-first-nations-water-crisis>

concerns about water quality. Limiting baths can have a direct impact on hygiene, and therefore on health.²

Lower-income or financially struggling families on First Nations reserves feel the water crisis intensely, and struggle with the cost of coping. Caregivers of children told Human Rights Watch that the poor water conditions in their communities made their care work more burdensome, time-consuming, and increased their worry. Some for example, expressed concern about the children swallowing water while bathing. “My son has a baby, he was a newborn at the time [we learned we had uranium in our water],” said one woman. “So I bathed that baby in bottled water because their skin is so sensitive and you don’t know if it will get in the mouth. We are told not to brush our teeth with that water, and you can’t boil it out... It’s a huge problem.”³

Poor quality water can add hours to simple caregiving tasks. A mother in Neskantaga First Nation described the hour-long daily process to wash bottles for her 4-month-old infant with a rare heart condition. She bathes him in water that she or her partner collects from the community’s reverse osmosis machine at the water treatment plant. To bathe the baby, every two days she boils the water then lets it cool in a small tub. This takes about two hours. To wash her baby’s bottles, she first rinses the milk out with tap water. Then she boils water from the reverse osmosis machine with the bottles. She then washes them in the sink, again with the treated plant water. This takes an hour. “It makes me feel tired, exhausted. It’s stressful,” she said.⁴

The crisis also impacts the cultural rights of First Nations communities. First Nations people in Ontario consider water sacred: water purifies, cleanses, and gives life to the environment and all living things. Likewise, many recognize a relationship with and responsibility to care for water. They have ceremonies, knowledge, customary laws, and ways of teaching children about their special relationship with water.⁵

Since Human Rights Watch’s research was published in 2016, the federal government has taken steps to increase transparency in situations in which First Nations communities have long been without a safe water supply and to work more closely with the

² Human Rights Watch, *Make it Safe*, p. 40.

³ Human Rights Watch interview with Geraldine S., Batchewana First Nation, October 6, 2015.

⁴ Human Rights Watch interview with Roxanne M., Neskantaga First Nation, October 20, 2015.

⁵ “Ending long-term drinking water advisories,” Government of Canada, <https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660> (accessed February 7, 2020)

communities to address the problems. The government created a webpage for ending boil water advisories and has provided up to date and easily accessible public data on progress related to ending the boil water advisories on reserves.⁶ The government announced in early 2019 new investments to support ongoing efforts to eliminate and prevent long-term drinking water advisories. However, despite visible progress, the government has failed time and again to deliver on its promises for safe drinking water in many communities.⁷

Since 2015, Canadian officials have worked to eliminate drinking water advisories in First Nations reserves, lifting 88 long-term advisories through dedicated investments. However, at least 60 drinking water advisories remain in place as of writing⁸ and the underlying systemic water and wastewater problems facing First Nations in Canada remain, including a lack of regulations to protect drinking water on reserves.⁹

The Committee on Economic, Social and Cultural Rights, during its review of Canada in 2016, urged the State party to “live up to its commitment to ensure access to safe drinking water and to sanitation for the First Nations while ensuring their active participation in water planning and management.”¹⁰

Human Rights Watch recommends that the Committee ask the government:

- What actions are being taken to lift the numerous drinking water advisories that remain in place?
- What steps are being taken to improve the lack of regulations to protect drinking water on reserves?
- What is being done to work with First Nations on solutions and to promulgate enforceable drinking water and sanitation regulations?

Human Rights Watch encourages the Committee to make the following recommendations:

⁶ “Ending long-term drinking water advisories,” Government of Canada, <https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660> (accessed February 7, 2020)

⁷ “Canada: Pressing Need to Improve First Nations’ Water Supply: On World Water Day, New Guide to Water Rights,” Human Rights Watch, March 22, 2019, <https://www.hrw.org/news/2019/03/22/canada-pressing-need-improve-first-nations-water-supply>

⁸ “Ending long-term drinking water advisories,” Government of Canada, <https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660> (accessed February 7, 2020)

⁹ “Canada: Blind Eye to First Nation Water Crisis: Neskantaga Community Needs Compensation, Assistance,” Human Rights Watch news release, October 2, 2019, <https://www.hrw.org/news/2019/10/02/canada-blind-eye-first-nation-water-crisis>

¹⁰ UN Committee on Economic, Social and Cultural Rights, “Concluding observations on the sixth periodic report of Canada,” March 23, 2016, E/C.12/CAN/CO/6, para 44.

- In collaboration with First Nations, develop a plan for addressing water and sanitation conditions on reserves that allows for long-term and sustainable solutions beyond the current five-year goal to end boil water advisories. The plan should have:
 - Quantifiable targets;
 - Sufficient and consistent budget allocations;
 - A fixed timeframe for initial implementation;
 - Commitments for ongoing operation and maintenance support;
 - A time-bound commitment not only to end long-term drinking water advisories but guarantee safe drinking water for all and reduce risk level of high-risk water and wastewater assets on reserves; and
 - Specific recommendations, funding, and measures related to private or household-level water and wastewater systems.
- Co-create with First Nations replacement legislation for the Safe Drinking Water For First Nations Act, and ensure that all legislative measures taken to address the water crisis are supported with the necessary resources and funding to secure effective implementation.
- Establish an independent First Nations water commission to monitor and evaluate government performance related to water and wastewater on First Nations, including specifically the outcomes related to government water and wastewater funding commitments. In its work, the commission should take into account Indigenous customs, laws, and practices.
- Support research to monitor skin or other hygiene-related health concerns associated with poor drinking water quality or drinking water advisories on reserves, especially targeted at groups acutely affected such as children.
- Provide greater support for the monitoring of private household drinking water systems, including wells.
- Engage First Nations on the cultural aspects of water in order to identify culturally acceptable, sustainable water policy and practical solutions on reserves.
- Develop contingency plans in the case of major infrastructure failures for First Nations reserves, particularly in remote communities, including plans for possible evacuations or other extraordinary measures to protect the health and safety of community members.

Protection of Education During Armed Conflict (article 28)

In February 2017, Canada endorsed the Safe Schools Declaration, an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict; the importance of the continuation of education during armed conflict; and the implementation of the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*.¹¹

Human Rights Watch recommends that the Committee ask the government:

- What concrete measures have the Canadian armed forces taken to deter the military use of schools in contravention of international law, including through its military manuals, policies, trainings, planning, and orders?

Human Rights Watch encourages the Committee to make the following recommendations:

- Congratulate Canada for endorsing the Safe Schools Declaration.
- Encourage Canada to share any good practices with other countries, including any including any recipients of humanitarian aid, development assistance, or military training.

¹¹ Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed November 6, 2018).