Child and Youth Rights in BC: A Closer Look

NGO Report to the UN Committee on the Rights of the Child

Regarding the progress of Canada in implementation and realization of the UN Convention on the Rights of the Child

By the Society for Children and Youth of BC, with support from:

Adoptive Families Association of BC

BC Civil Liberties Association

BC Society of Transition Houses

Developmental Disabilities Association

The Elizabeth Fry Society of Greater Vancouver

Family Services of Greater Vancouver

Galen Hutcheson on behalf of The Parent Advocacy Network for Public Education (PAN)

Inclusion BC

Katherine Moore Consulting

Office of the Representative for Children and Youth

Pivot Legal Society

West Coast LEAF

And individual experts off-the-record

Submitted February 28, 2020

For Contact:

Stephanie Howell, Executive Director, Society for Children and Youth of BC

778-657-5544 or Stephanie@scyofbc.org

SOCIETY FOR children and youth OF BC

Authors

Project Lead and Lead Author:

- Margie Sanderson, Society for Children and Youth of BC

Contributing Authors:

- Alyssa Collins, Society for Children and Youth of BC
- Blair Mitchell, Office of the Representative for Children and Youth
- Elba Bendo, West Coast LEAF
- Galen Hutcheson, on behalf of the Parent Advocacy Network for Public Education
- Katherine Moore, Katherine Moore Consulting
- Konrad Spurek, BC Civil Liberties Association
- Latoya Farrell, BC Civil Liberties Association
- Shawn Bayes, the Elizabeth Fry Society of Greater Vancouver

Translation Services:

- Sierra Allen (Spanish translation of the Full List of Recommendations)

Table of Contents

INTRODUCTION 4

GENERAL MEASURES OF IMPLEMENTATION 5

RECOMMENDATIONS 7

GENERAL PRINCIPLES 7

NON-DISCRIMINATION 7
BEST INTERESTS OF THE CHILD 8
RESPECT FOR VIEWS OF THE CHILD 8
RECOMMENDATIONS 9

CIVIL RIGHTS AND FREEDOMS 10

DIGITAL RIGHTS 10
GENDER INCLUSIVITY 10
INDIGENOUS STATUS 10
RECOMMENDATIONS 11

VIOLENCE AGAINST CHILDREN 11

CORPORAL PUNISHMENT 11
INDIGENOUS GIRLS 12
EXPLOITATION AND ABUSE 12
SURVIVAL RAPE AND SEXUAL EXPLOITATION 13
RECOMMENDATIONS 13

FAMILY ENVIRONMENT AND ALTERNATIVE CARE 14

SUPPORTS FOR VULNERABLE FAMILIES 14
INDIGENOUS CHILDREN IN CARE 15
DOMESTIC VIOLENCE 16
ACCESS TO SERVICES 16
HOMELESS YOUTH 17
RECOMMENDATIONS 17

DISABILITY, BASIC HEALTH AND WELFARE 18

DISABILITY AND INCLUSION 18
POVERTY 18
MENTAL HEALTH 20
PHYSICAL HEALTH 21
BC'S OPIOID CRISIS AFFECTING YOUTH 22
THE CLIMATE CRISIS 23
RECOMMENDATIONS 23

EDUCATION, LEISURE AND CULTURAL ACTIVITIES 24

EDUCATION 24
LEISURE 26
ACCESS TO CULTURE 27
RECOMMENDATIONS 28

SPECIAL PROTECTION MEASURES 29

ASYLUM SEEKING, REFUGEE, AND NEWCOMER CHILDREN 29
CHILD LABOUR 31
ADMINISTRATION OF JUVENILE JUSTICE 33
RECOMMENDATIONS 34

ANNEX 1: FULL LIST OF RECOMMENDATIONS 36

ANNEX 2: STATISTICS ON CHILDREN AND YOUTH IN CARE 40

ANNEX 3: FREEDOM OF INFORMATION REQUEST REGARDING IMMIGRATION APPLICATIONS ON BEHALF OF CHILDREN AND YOUTH IN CARE 42

ANNEX 4: SPANISH TRANSLATION OF FULL LIST OF RECOMMENDATIONS / LISTA COMPLETA DE RECOMENDACIONES 44

ENDNOTES 49

Introduction

To begin we wish to acknowledge that the workshops and interviews informing, as well as the writing of, this report took place in Vancouver, British Columbia on the unceded territory of the xʷməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and Sə̓lílwətaʔ/Selilwitulh (Tsleil-Waututh) Nations. We are indebted to the First Nations stewards that have looked after this land since time immemorial, and grateful for the opportunity to make our lives here.

This report was researched and written by the Society for Children and Youth of BC (SCY), a BC based children's rights NGO, with contributions from many other individuals and organizations with expertise related to different areas of children's rights in BC. While our report covers many issues of national concern, we are primarily focused on the current state of children's rights here in BC. About 25 different organizations were represented at our Child Rights Review Roundtable, hosted in partnership with First Call: BC Child and Youth Advocacy Coalition. Discussion from this event, as well as individual off-the-record interviews with specific experts, informed the writing of this report. Following our Roundtable, individual authors took on research and writing on different topics within this report. Results from a 2-hour workshop with a small group of home-learner youth ages 12-18 conducted by SCY have additionally informed this report and our prioritization of issues.

We are happy to have included many perspectives in this report; however, it is important to note that not all views expressed herein are the views of every contributing individual or organization. The report represents a variety of views, observations and concerns and ultimately the voice is that of the Society for Children and Youth of BC.

The development of this report also centres leadership of youth, as defined by the United Nations for statistical purposes as people between the ages of 15 and 24. The report's leading author is 24 at the time of writing, and numerous informants to the report's writing are young adults as well. We note these facts because we believe this makes our report unique from others, and we hope to ensure the *Committee* has as full a picture as possible while reviewing.

We recognize that this report is not comprehensive, and that the issues facing our children and youth are too numerous and complex to summarize in the space allotted. We have focused our efforts in the areas that we recognize as urgent and where we have some level of expertise. The personal identities and lived experiences of each contributor have informed what issues we have chosen to focus on. While we have worked hard to hear from a diversity of perspectives, we acknowledge there are some we have been unable to include.

We note that the use of the terms "child" "children" "youth" and "young people" throughout this report from this point forward all refer generally to people between the ages of 0-18 except where otherwise specified. We recognize the term "youth" as often referring to both teens and young adults (as in the UN definition); within this report we are focusing on teens.

Should the *Committee* desire further comments regarding our report, we are happy to correspond digitally, and will do our best to make delegates available to attend the pre-session in June. If we are extended an invitation to the pre-session, it would be helpful to know what specific areas the *Committee* is interested in so we can best select delegates.

General Measures of Implementation

Though it has been 30 years since Canada ratified the United Nations Convention on the Rights of the Child *(Convention*), the *Convention* has yet to be comprehensively implemented into law or practice. **We echo the UN Committee on the Rights of the Child's *(Committee's)* previous recommendation that Canada adopt a national strategy for comprehensive implementation of the *Convention* at the Federal, Provincial and Territorial levels of government.** Lack of coordination and funding between governments continues to result in little accountability and inconsistent application of the principles of the *Convention*. An additional side effect of patchwork and unstable funding systems is that some organizations do not feel empowered to speak out against government policies or practices due to the risk this can pose to their funding streams. In the research period informing writing of this report, some interview sessions were conducted off the record with experts who were uncomfortable voicing their concerns more publicly. This does not speak well of the state of advocacy for Canada. **If organizations could rely on adequate, ongoing funding, it could bring to the surface expertise in some areas that is not currently being heard. To see robust and consistent implementation of the *Convention,* Canada needs a national strategy backed with strong leadership and funding at the federal level.**

Along with a more coordinated strategy for implementation, Canada also needs a coordinated mechanism for monitoring children's rights. There remains no independent national office in Canada responsible for the promotion and monitoring of children's rights, despite the *Committee's* previous recommendation that Canada adopt a federal, independent Ombudsperson for Children. A federal Ombudsperson for Children would play an important role as a child rights watch dog, supporting implementation of children's rights as well as monitoring progress and assisting with complaints. It is essential that this office be dedicated specifically to children's rights, rather than lumped in with a larger human rights mandate, as accessibility of this office to children is compromised by an adult-oriented approach. Canada's comments in its 5th/6th periodic report to the *Committee* suggest it may be satisfied

with this work being done at the provincial and territorial levels rather than federally. Leaving this role in the hands of provincial and territorial jurisdiction in fact results in a more patchwork system with significant differences between locations, making it both difficult for young people to navigate as well as more vulnerable to shifting leadership within each province or territory. In addition to their role as a child rights watch dog, we hope a national Ombudsperson for Children may help **collect and coordinate data and move Canada towards a comprehensive data collection system**, as recommended by the *Committee* in their 2012 Concluding Observations. Incomplete, inconsistent, and/or wholly unavailable data is a critical issue that prevents NGOs, the public, and even the government from fully understanding the state of children's rights. Lack of data was a constant theme at our Roundtable discussion and a significant impediment to reporting in certain areas, such as administration of juvenile justice. **We understand the *Committee* has reiterated its recommendation to Canada that an independent institution be established in their Concluding Observations from 1995[1], 2003[2], and 2012[3] and regret that the work is not yet done. Canada must provide federal leadership and funding to address these concerns and create a more coordinated approach.**

We remain concerned about the lack of awareness of the *Convention* specifically as well as the concept of children's rights generally. Opportunities for training and education are needed for all professionals working or involved with children, as well as for children themselves. The benefits for children of interacting with professionals who are aware of children's rights cannot be overstated. A judge that upholds a child's right to be heard, a Canadian Border Services Agency officer acting in accordance with the Best Interests of the Child principle, a teacher promoting rights in the classroom- these interactions make a lasting difference in the lives of children. High quality training tools have been developed by various NGOs- including workshops, school curriculums and written reports- however; it is extremely difficult to secure funding and governmental support for implementation and expansion of these resources. Without support, it's difficult to see this as a government priority. **In short, significant work has been done to support systematic children's rights training for professionals as previously recommended by the *Committee,* but government support is now required to make these trainings more widely available. In addition to professional training, we urge the *Committee's* support in encouraging a well-funded national public awareness campaign on children's rights issues and the *Convention.*** Public awareness of children's rights remains a barrier to implementation, as much of the public have never heard of this concept, much less the *Convention.* Nationally, we do not have the shared conceptual awareness of children's rights that would make advocacy and legislation significantly easier.

The ongoing disparities between children's rights on paper and their rights in reality make it difficult for meaningful rights education to take place. We recognize a cyclical situation wherein lack of awareness leads to violations, actions are not taken to address these violations, and therefore public awareness is not gained. We feel it is extremely important to educate children and youth about their rights; however, it is difficult to overpower adult lack of knowledge with youth awareness especially on this particular issue. As young people are largely silenced and minimized by adults, we cannot put the burden on them alone to improve adult awareness of their rights. This is one reason we feel a national public awareness campaign, as well as systematic training for professionals, is of pressing importance.

We would also like to draw attention to the comment by Canada in paragraph 12 of their 5th/6th periodic report, "In line with its vision of reconciliation and a renewed nation-to-nation relationship with Indigenous Peoples, the Government of Canada has been coordinating its efforts with the National Indigenous Organizations and Indigenous leadership, as well as other stakeholders, on a number of fronts discussed throughout this report.[4]" We welcome the national progress that has been made, such as the production of the Truth and Reconciliation Commission of Canada: Calls to Action (2015);

however, we also recognize that the paths towards reconciliation laid out in reports like these are not being translated into action. The inequitable state of rights for Indigenous children will be a theme throughout our report. The writing of this report is taking place at a historic moment for Canada as the Royal Canadian Mounted Police are forcibly removing First Nations peoples, including Matriarchs and youth, from their land in the Wet'suwet'en territory of northern BC to enforce a judicial injunction and move forward the installation of a pipeline. Youth activist Ta'kaiya Blaney, a spokesperson for the group Indigenous Youth for Wet'suwet'en, shared at a press conference earlier this month "Reconciliation is dead, but our resilience, our land, our waters, our people and our resolve to protect them is very much alive."[5] We recognize this as a pivotal moment for Canada, and urge the Canadian government to consider the lasting impact of these actions.

Recommendations

Better coordination between governments, including Indigenous governments, is needed for children's rights to be fully realized in Canada. Federal leadership is needed to coordinate responsibilities and ensure adequate funding is available for full implementation of the *Convention.* As politicians debate whether any given thing is the responsibility of the municipality, the province, or the federal government, individual children are falling through the jurisdictional cracks. This is illustrated in the Representative for Children and Youth's November 2019 report Caught in the Middle, which examines the events leading up to the death of Romain, a child in government care in Alberta and British Columbia. While this report examines child welfare legislation specifically, it is a tragic example of the kind of chaos created by poor intergovernmental coordination. We recommend Canada:

- Improve public systems for collection and coordination of data, moving Canada towards a comprehensive data collection system
- Create a national strategy for implementation of the *Convention,* with strong leadership and funding at the federal level
- Create a federal Ombudsperson for Children to act as a child rights watchdog and provide independent monitoring as well as hear grievances from children
- Provide federal government leadership with the goal of eliminating precarious funding systems for essential social services, and the creation of explicit policies that ensure NGOs with government funding can speak out against government practices at no risk to their funding streams
- Provide funding for systematic child rights training for all professionals working with or for children
- Provide funding and support for a national public awareness campaign about children's rights and the *Convention*
- Renew and strengthen the national commitment to reconciliation

General Principles

Non-Discrimination

Canada must take urgent action to better implement the principle of non-discrimination into the lives of Canadian children and youth. Interconnected, intersecting systems of oppression are clearly shaping the lives of vulnerable and at risk children in BC. These systems include colonialism, poverty, insecure housing and disproportionate child welfare involvement in the lives of Indigenous families[6]. While claiming in its 5th/6th periodic report "Canada recognizes that Indigenous and Black Canadian children are vastly overrepresented in the child welfare system. Addressing the root causes of this

overrepresentation is a priority.[7]" lack of government action suggests this may not be a priority at all. In BC, the McCreary Centre Society's 2015 report on street-involved and homeless youth found that 53% of survey respondents identified as Aboriginal[8] (whereas only 7% of respondents to the Society's broader BC Adolescent Health Survey identified this way). In addition to this significant overrepresentation of Aboriginal youth, the same street-involved and homeless youth survey also found 38% of respondents identified with a sexual orientation other than "completely straight". Despite progress, rampant discrimination continues against LGBTQ2S+ youth in our communities as well.

Best Interests of the Child

We share the *Committee's* previously expressed concern that the principle of Best Interests of the Child is not widely known, appropriately integrated or consistently applied. We are happy to see new changes to BC's Family Law Act and Child, Family and Community Service Act that do enshrine that decisions be made in the child's best interests. However, determination of best interests is subjective and while matters for consideration are laid out in both acts, individuals consider and weigh them differently which results in inconsistency. We will discuss in greater detail throughout this report the many policies and realities in Canada that do not uphold children's best interests, signs of positive progress, and our recommendations of what more can be done.

Respect for Views of the Child

We share the previous recommendation of the *Committee* that hearing the views of the child become a requirement for all decision-making processes related to children including custody cases, child welfare decisions, criminal justice, immigration, and the environment. While some strides have been made in this direction much work remains. We appreciate the commentary given by 12-year-old Roman Wolfli in this statement from Children First Canada:[9]

> "People like to say that 'children are our future' but we are also the present. We are Canadian citizens. If we could vote, perhaps the issues we face would be a greater focus. Listen to our voices and take action to support children. We are citizens of this country, present and future, disempowered, but as important as any adult. 18 is just a number."

Expanding enfranchisement to include young people creates an opportunity for them to participate more meaningfully in society, with significant evidence demonstrating the readiness of youth to vote and the societal benefits of youth voting.[10] Enfranchisement should be expanded not only because of the potential societal benefits, but because it is a right. We cannot carry on believing the notion that voting is a right of all citizens while ignoring our nation's nearly 8 million children. We appreciate the openness to a lower voting age that has been demonstrated by some politicians and political parties and look forward to this movement gaining momentum. **We urge the *Committee* to encourage Canada in this direction.**

Within our child welfare system, under BC's Child, Family and Community Service Act, children only gain the right to have their views heard regarding their care and permanency plans when they reach the age of 12. **There is an urgent need to update the Act to recognize the humanity of young children and the importance of their voices being brought to the table in all matters affecting them, regardless of their cognitive abilities.**

In the February 2020 report From Marginalized to Magnified[11], which heard from over 200 youth across BC with current or former experiences of homelessness, lack of respect for views of the child was cited as a leading factor in youth homelessness. The report states:

> We want to highlight that youth are not being listened to and that this is a primary factor in creating their pathway onto the street. We feel that people listen to the parents more than the youth and it often feels as if kids are supposed to be seen and not heard. We are here to change that. If we, as youth, don't feel listened to and supported, how are we supposed to trust adults? Our life experiences have already taught us that we can't trust adults, which is why we have had to become independent too soon.

Positively, we note the (non-governmental) funding of our own program, the *Child and Youth Legal Centre*, which provides previously unavailable free legal services directly to children in BC. We appreciate the funding of our program as a significant step towards access to justice for children. However, we are a small office and do not presently have the capacity to assist all children throughout the entirety of the province. In the last year we expanded to 3 in-house lawyers, a growing lawyer roster, and served over 700 young people. The demand is clear, and we would love to see more services like ours become available in BC. Instead, we have seen opposition to independent legal counsel for children. We sometimes face difficulty in having counsel appointed for a young person in family law cases, which is a significant barrier to justice for children. S.203 of the Family Law Act states that the court may appoint a children's lawyer to represent the interests of the child if "the degree of conflict between the parties is so severe that it significantly impairs the capacity of the parties to act in the best interests of the child, and it is necessary to protect the best interests of the child."[12] We see this as an unnecessarily high bar that creates an unjust restriction on children's right to access justice and to have their voices heard, and urge the Act be amended such that a Judge may appoint a children's lawyer at their discretion, provided it is not contrary to the child's best interests.

Recommendations

Implementation of the General Principles of the *Convention* is progressing, though slowly and with urgent work remaining. We recognize that these General Principles represent significant goals for a reimagined society that will take years of hard work and advocacy to implement. 30 years after ratification of the *Convention,* however, we are unsatisfied with how far Canada has come. We recommend Canada:

- Take urgent action to better implement the principle of non-discrimination into the lives of children and youth through systematic anti-racism training, review of funding schemes, compliance with all current and future orders for reparations due to past discrimination, and consultation directly with marginalized youth
- Make hearing the views of the child a requirement for decision making in all matters affecting children including custody cases, child-welfare decisions, criminal justice, immigration and the environment
- Expand enfranchisement to include more children and youth, conducting a thorough consultation with stakeholders, including primarily children directly, to set a new minimum age or system
- Amend the BC Child, Family and Community Service Act such that children have the right to have their views heard at any age that they lay claim to such right, and that they must be informed of this right by professionals working with them at every step of the way
- Amend the BC Family Law Act to allow for the appointment of a children's lawyer at the judge's discretion with no further requirements
- Increase access to justice for children and youth by ensuring they each are entitled to a lawyer in all cases

Civil Rights and Freedoms

Digital Rights

Children's privacy rights and the need for a "right to be forgotten" are of increasing concern. Canada has yet to recognize a right to be forgotten digitally, an issue we feel is in violation with children's privacy rights under Article 16 of the *Convention.* It is still a new phenomenon to grow up online, both in terms of content posted directly by children themselves and what is posted of them by parents and caregivers, often without their consent or knowledge. Digital tools are also used in schools, with software like FreshGrade being used province wide and children having little to no option to opt out of these tools. Laws and rights have in large part not yet caught up to the new realities of a digital age and issues like "Sharenting[13]" are just beginning to appear before courts. **We urge Canada to take proactive measures to better protect children's digital privacy and shift accountability towards corporations and away from individual citizens.**

Gender Inclusivity

We welcome Canada's progress regarding trans and non-binary inclusivity. Positive strides include the removal of the requirement for surgery in order to change gender designation on birth certificates in BC in 2014, SOGI (sexual orientation and gender identity) Policy being introduced in BC schools in 2017, and a BC child becoming the first in the world to receive a health card with the gender-neutral "U" designation.[14] We are proud of these landmarks for inclusivity. We also appreciate the recent ruling by the BC Court of Appeal affirming a transgender teen's right to undergo hormone therapy regardless of the opinion of his father[15]. However this same decision overturned a lower court's ban on the father's public misgendering of his son. The decision did not find the father's continuous misgendering of his child to be an act of family violence, revealing a possible lack of understanding about the impacts of this kind of verbal abuse. Public misgendering ties in with the discussion of privacy and a right to be forgotten above, as the father has been making public comment and interviews in which he misgenders his child. With knowledge of the detrimental effects that being "outed" as transgender can have in our present discriminatory society, gender misidentification or transgender "outing" are specific examples of information a child should have the right to be de-indexed from Internet searches in the future.

Indigenous Status

We have not had the time and resources to engage in as thorough an exploration of this topic as we would have hoped. However, given that it was a topic specifically raised by participants at our youth workshop as a significant issue for children in Canada, we do want to mention it. We are aware both of injustices inherent in the existence of a "status" system, and of bureaucratic access issues within the existing system. The system itself reinforces Canada's self-imposed authority in defining who is "Indian" or not, relying on notions of race-based definitions based on blood quanta of individual Indigenous people. Canada, itself, defines its citizens based on acceptance into its systems, not on their race. Withholding a similar definition from Indigenous nations speaks to discrimination on a socio-political order. It allows Canada to act on a nation-to-individual level rather than on a nation-to-nation level. Self-determining nations choose their own citizens. The construct of "status" is problematic in that services and benefits can be denied based on who fits into the accepted category. For example, persons without status do not have a legally recognized right to be consulted on resource extraction projects, a right held by "status Indians." This is another way that Indigenous children can be marginalized and separated from their nations.

One example of the bureaucratic difficulties within this system is the fact that to apply to become a "status Indian" as a child your application must be signed by all parents listed on your birth certificate,

and a parent or guardian with authority to act for you in legal and financial matters must submit the application on your behalf[16]. These are significant barriers, especially for youth who do not have access to their biological parents- who are disproportionately Indigenous. **We urge Canada to follow Indigenous leadership on removal of or reforms to the Status system.**

Recommendations

It is difficult to discuss children's civil rights and freedoms without turning our attention towards enfranchisement, a landmark civil right that children lack across the board and that could aid them in holding the government accountable to uphold their rights. Enfranchisement is a critical issue, which may help address other violations to children's civil rights and freedoms. We reiterate our recommendation that Canada expand enfranchisement, and additionally recommend Canada:

- Enact a national "right to be forgotten" and stronger policies around digital privacy for children
- Expand the role of the Office of the Privacy Commissioner of Canada to address digital privacy generally and for children specifically
- Provide education and training to legal professionals regarding LGBTQ2S+ inclusivity and the negative impacts, especially for children, of discriminatory and identity-erasing practices such as intentional misgendering
- Uphold the rights of all Indigenous peoples to be consulted on resource extraction projects on their ancestral homelands
- Follow Indigenous leadership on removal of or reforms to the status system

Violence Against Children

Corporal Punishment

Canada must do better to protect children from unnecessarily harmful and degrading behaviour. The research consistently shows that corporal punishment is a practice that perpetuates the behaviour intended to be corrected, while also increasing the likelihood of engaging in more violent and aggressive behaviour in the future. It is compromising to a child's emotional, mental, physical, and social well-being both immediately and in the long term. At best it is an entirely unnecessary practice with no practical value. **Canada must immediately repeal S. 43 of the criminal code,** and more resources must be allocated to family and child support services to educate families and the community on more appropriate and effective behaviour correction practices and the risks of physical discipline. Ideal implementation of these strategies should begin as early as birth and continue at every point of opportunity within early childhood. Since it has been effectively shown that being subjected to violent and aggressive behaviour makes an individual more likely to engage in violent and aggressive behaviour themselves, there should be significant motivation to intervene as early as possible in this cycle in the interest of public safety as well. Violence should never be an acceptable tool utilized against another individual, let alone against children. Eliminating this practice would be a successful protective factor in decreasing violent offences and overall crime rates. A 2018 survey by Statistics Canada found 64% of Canadians had experienced harsh parenting, the most common form of which was spanking or slapping[17]. The distinction between state condoned violence against children (e.g. spanking) and condemned violence (e.g. abuse) is arbitrary and unjust. We are confused by Canada's statement in its 5th/6th periodic report to the *Committee* that "The *Criminal Code* and PT child protection laws provide comprehensive protection to children against violence[18]" when this is clearly not the case.

Corporal punishment is a distinctly colonial practice. Indigenous cultures traditionally place more value on respect for and autonomy of the children in their communities[19], while euro-religious practices are the ones that emphasize the necessity of using a rod of correction to address sinful behaviour[20]. The use of corporal punishment in Canada's residential schools (which closed only in 1996) to "beat the Indian out of the child" cannot be overemphasized in its contribution to ongoing intergenerational trauma, and its elimination is a necessary step in our efforts for reconciliation and addressing the wrongs committed against Indigenous communities across Canada. Repealing S. 43 of the criminal code is the 6th call to action in the Truth and Reconciliation Commission of Canada's 2015 report[21]. Prime Minister Justin Trudeau said in 2015 "And we will, in partnership with Indigenous communities, the provinces, territories, and other vital partners, fully implement the Calls to Action of the Truth and Reconciliation Commission..."[22]. We therefore look forward to the repeal of S. 43 of the criminal code in the imminent future, despite the 5 years of inaction since Prime Minister Trudeau's 2015 promise.

Indigenous Girls

Centuries of systemic discrimination against Indigenous peoples culminate in the heightened risk of abuse, neglect and violence against Indigenous girls. As said in Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls

> "In speaking about the ways in which Indigenous women and girls were targeted within colonial systems, a number of witnesses described how the Indian Act and its denial of Status was not only a denial of home, but also a denial of connection to culture, family, community, and their attendant supports. For disenfranchised First Nations women and their children seeking the safety of home – both cultural and physical – the intergenerational and multigenerational effects of the Indian Act have erected barriers to their cultural and physical safety"[23].

While Canada is currently working to develop a National Action Plan on Violence Against Indigenous Women, Girls and Two-Spirit People there are significant concerns about the process by which it is being developed. These concerns are outlined thoroughly in the recent letter on this topic from the Coalition on Missing and Murdered Indigenous Women and Girls in BC[24], issued February 13th 2020, and include the need for representative leadership.

Strengthening Canada's commitment to reconciliation, increasing funding and support for culturally appropriate resources and dismantling discriminatory practices and policies within government systems would go a long way in decreasing violence against Indigenous girls.

Exploitation and Abuse

1 in 3 Canadians experience some form of child abuse. Child abuse and neglect cost Canada an estimated $21.5 billion annually in costs to healthcare, social services, and so on[25]. Between 2017 and 2018, Canada saw a 7% *increase* in family violence against children[26], and it is important to note this statistic only represents abuse that is police-reported, which is likely to be only a small minority of the cases. We believe a significant reduction in abuse rates could be achieved with just a small fraction of the annual $21.5 billion spent on preventative services and supports, including parenting programs and poverty reduction.

The sexual exploitation and abuse of children is a major concern with ongoing technological advancements and threats associated with Internet usage and data collection. Expanding the Canadian Centre for Child Protection's "Commit to Kids" program, creating more comprehensive sex education classes to include safe internet and app usage, as well as launching more awareness campaigns around cyber safety are all protective factors the Canadian government should implement to address the risk of

abuse and sexual exploitation against children. The responsibility for safety in consumer data collection needs to lie with corporations rather than consumers, especially when sites and apps target minors.

Survival Rape and Sexual Exploitation

We take the term "survival rape" from the 2020 report From Marginalized to Magnified, which examines youth homelessness in BC[27]. This term was coined by youth with direct experience of homelessness to describe the situation some find themselves in whereby they engage in sexual activity in exchange for some form of protection or a place to sleep at night. Youth also described their desire for a sense of community and connection forcing them into exploitive living situations. One young person shared, "Youth are forced into prostitution. [Sometimes] they are taken in by a mom in a house."[28] Without moralizing about sex work broadly, we can see that this situation represents a heartbreaking failure on the part of our child protection systems.

Experts we spoke to who have done significant work with the adult homeless population in and around Vancouver also identified this issue, and addressed the nuance with which we must approach it. We hypothesize that criminalizing this behaviour is unlikely to provide much help to the young people who are engaging in it. Simply shutting down these "houses" will not mean that these youth are no longer being exploited, but rather that these exploitive practices go further underground. These young people are searching for a way to have their basic needs met, and we must address this issue by meeting those needs. Taking a paternalistic approach to this issue may cost us the collaboration of the actual young people involved, who have often been treated unjustly by child welfare systems before. Rather, we need to hear from, listen to, and work with the young people involved to identify solutions. **Family support services, a more responsive foster care system, and improved opportunities for youth voices to be heard and listened to** are all required interventions to prevent more young people from falling into this unjust situation.

Recommendations

We recommend Canada:

- Repeal S.43 of the Criminal Code immediately and, at the same time, enact parenting programs to assist families in understanding the negative impacts of physical discipline and positive alternative measures
- Increase government funding for programs specific to preventing violence and discrimination against Indigenous girls, and promote Indigenous leadership of these programs
- Expand the Canadian Centre for Child Protection's "Commit to Kids" program
- Create and implement comprehensive sex education classes that address digital concerns, LGBTQ2S+ issues, exploitation, as well as positive aspects of sexuality
- Investigate data mining of Canadian children through apps and online, and develop new legislation to address these concerns
- Expand family support services
- Increase opportunities for youth voices to be heard and listened to by government, including in the foster care system

Family Environment and Alternative Care

Supports for Vulnerable Families

The Government of Canada is not following through on its responsibility and commitments made to ensure all children receive the support and assistance they need to thrive. Much of the responsibility for children is delegated to provinces, but not all. There are provisions for which the Government of Canada is solely responsible regarding the *Convention* specifically as they relate to those affected by homelessness, parental addiction, and parental involvement in the Criminal Justice System.

Significant numbers of children are affected within these groups. In the decade between the 2006 and 2016 Census, the population of homeless children within the overall sheltered homeless population (22,190 individuals) doubled[29] to 19.03%. Large numbers of children have experienced parental incarceration. It is difficult to find reliable and accurate numbers, as the parental status of inmates is not systemically tracked in Canada, but we believe this issue to be affecting tens of thousands of children[30]. The Cambridge Longitudinal Study estimates children with an incarcerated parent are 3.3 times more likely than other children to face significant adverse events and enter the justice system. The Canadian Centre for Disease Control[31] reports substance use by Canadian pregnant women as 11% for alcohol and 5% for illicit drugs. Children affected by homelessness, parental incarceration or substance use all have high rates of informal and alternate care, parental involvement in the legal system and use of social programs.

The Canada Child Benefit and Canada Learning Bond (CLB) are both positive programs that reduce poverty. Unfortunately, the way they are administered disadvantages poor children disproportionately. Rules for both require the adult and child's identification, which is difficult for informal caregivers without legal custody and for children in alternate care agreements, given identity controls, costs involved in obtaining identification, and variances in identification names. Proof of child custody and residency is additionally difficult for individuals living in the grey economy or who are socially isolated (copies of rental leases, day care enrollment or school attendance for young children for example). Entitlement to the Child Benefit is determined through Revenue Canada tax filings. The algorithm used to screen for tax reviews screens for disparate child-caregiver age ranges, changes in child custody, and changes in income. Children in alternate or informal care often fall within these groups, particularly Indigenous children. There is virtually no help available to individuals with their taxes under review that is not purchased, and benefits are often stopped while an individual is reviewed. To receive the CLB, a child must have an investment vehicle such as a Registered Educational Savings Plan (RESP) with a financial institution, which requires the opener to be the child's primary caregiver. Banking institutions have high thresholds for proof of identity and residency for the caregiver and child, which precludes those without such. There are also world-views and religions that preclude the acceptance of interest on money thereby eliminating the ability of the child to access the government funds. Lastly, the subscriber to the RESP must be an adult, which eliminates mothers who are minors from opening an account for their children until they become an adult – and the child loses the benefit of the compounding interest for their educational entitlement. **We hope to see updated program rules and regulations, changes to the Revenue Canada algorithm, and for the method of payment of CLB to mirror that of other benefits like the Canada Pension Plan.**

The arrest of a parent can have a significant negative impact on a child, and their best interests must be considered throughout this process. Neither the Royal Canadian Mounted Police, nor the Canadian Border Services Agency, have explicit policy on how to safeguard children from unintended trauma or events when witnessing arrest. The International Police Chiefs Association developed in 2014 a Model Policy entitled Safeguarding the Children of Arrested Parents for use as a template for agencies to

develop such policy and incorporate it into policing practices, by identifying the most promising practices and law enforcement training to address issues involving children of arrested parents. Children have a right to contact with their parents. In prison, parents are responsible for paying for their child's access to contact through the toll phone system. The phone system is based upon a time and toll system which exponentially increases costs for those incarcerated furthest from family, disproportionately affecting individuals living in Northern communities, which are predominantly Indigenous. Low-income levels are also strongly correlated to Indigeneity. Thus, low income and Indigenous children are disproportionately affected relative to other children. **We urge updates to the RCMP and Corrections Canada policies and procedures, and new processes to better facilitate parent-child prison contact.**

The government sets standards for health services to provinces. However, it does not set standards related to neonatal care and Strong Start programming. Provinces determine which groups of disadvantaged children to target. There are no national standards for public health post-natal visits and for children such as those with low Apgar score to receive additional support. Provinces can and do choose which groups of children to support. Some support children who are identified fragile at birth, but a low Apgar score, strongly correlated to disability, is not a standard all use. Rather, it is left to the parent, family practitioner, or schoolteacher to identify. However, those living in the deepest material deprivation are those most likely not to receive it and supports for them vary by province. Poor children frequently do not have dedicated doctors but rather access walk-in or emergency health services, and the environmental constraints often result in delays not being identified. The strongest window to capture a child's potential is in their first two years. If not supported in these initial years, a child's best opportunity to use brain plasticity and build neuron capacity has been lost. We recommend Canada **set standards to ensure that very vulnerable children receive support funded through Social Transfers to maximize their development.**

Indigenous Children in Care

Indigenous children and youth remain overrepresented in government care, an issue that has persisted since colonization. The root causes for this are to do primarily with systemic racism and colonization and cannot be addressed with simple changes to legislation or the development of new funding streams. As stated under the General Measures section of our report, we call on Canada to make good on its promise of renewed nation-to-nation relationships and reconciliation. We provide the below analysis with the understanding that all these recommendations fall short of the vision of true justice for First Nations and Indigenous peoples.

While we appreciate that the overall number of children and youth in care is decreasing for both Indigenous and non-Indigenous populations, the percentage of the in-care population for Indigenous children and youth has been slowly growing during the past few years (see Annex 2). A critical issue here is the lack of support available for families and caregivers, with more supports often available to a foster parent after apprehension than to a child's own family. Many Indigenous children come into government care with complex needs and suffer from individual and intergenerational trauma. Especially in the case of intergenerational trauma, caregivers face a difficult situation having to both heal from and manage their own traumas while also nurturing a young person. They *must* be provided with robust, well funded, and easy to access support systems. There is the additional barrier that Indigenous families, and mothers in particular, sometimes harbour understandable mistrust of the child welfare system that has failed them for generations. This can create hesitancy to reach out for support when needed, as there is reluctance to involve social workers, the Ministry of Child and Family Development (MCFD) or a Designated Aboriginal Agency (DAA) for fear of losing custody. **Culturally safe support systems, provided by agencies not empowered to remove children, are needed.**

We applaud MCFD and DAA prioritization of family and kinship care placements for Indigenous children. As of 2016 there were approximately 13,000 children in BC living in kinship care[32]. However, these families are not provided with enough supports to adequately care for the children in their care. Many families face barriers themselves, such as poverty and intergenerational trauma, and supports to address these barriers are not available. Moreover, following temporary placement, MCFD and DAAs push families to pursue permanent guardianship of the children in their care through section 54.01 of the Child, Family and Community Service Act, or the Family Law Act (FLA). The FLA is a colonial act, which Indigenous families are encouraged to use in pursuit of guardianship when they may have family history that prevents them from "passing" safe home studies carried out by MCFD or DAAs to assess placement, evidence of a discriminatory and systemically racist system. If pursuing through the FLA, there are no ongoing supports, leaving families to struggle with the challenges of parenting and childcare alone. Through S. 54.01 there is some financial support available, but no other supports like Post Adoption Assistance Programs. Essentially these systems de-incentivize families from adoption, and in fact it is popular perception that social workers do not even put effort into seeking permanent placements for children in care in their teen years.

The Federal government has recently passed exciting new child welfare legislation in the form of Bill C-92, An Act Respecting First Nations, Inuit and Métis children, youth and families. The Act came into force on January 1st, 2020, so results of its enactment have yet to be seen. However, we do note with hopefulness some positive changes included within it, especially the change that social workers will no longer be allowed to remove children for problems related specifically to poverty, housing conditions, or health of the caregiver[33]. Unfortunately, the federal government has introduced this legislation with no known associated funding. To enable this legislation, Indigenous Governing Bodies (as defined in the Act) will require funding.

Domestic Violence

Children continue to be impacted by domestic violence. There is no single coordinator, office, or point person in the province that takes responsibility for this issue. The Provincial Office of Domestic Violence in BC was established in 2014 with a mandate to ensure government policies; programs and services were effective and delivered in a unified way across government. The office was disbanded in 2017. This speaks again to the issues covered earlier in the General Measures of Implementation section relating to government coordination and better systems being needed to ensure children are not falling through the cracks. Government policies and systems are difficult for anyone to track and understand, including children. Better efforts must be made to make these processes straightforward and accessible.

Access to Services

There are known and ongoing disparities in access to services for remote and rural communities in British Columbia, a trend seen nationwide. All service areas are impacted by these disparities- mental health and wellness, addiction and treatment services, speech and language pathology, occupational therapy, medical services, etc. As social workers in these communities are overstretched and underfunded, they are working from crisis to crisis and unable to respond to families when they do request earlier intervention. We happily note that there is a move in some service areas towards putting more resources into family visitation and homemaker support, which are positive steps towards family reunification. An example of these services is the Immediate Response Program, which is a short-term wraparound program for families offering counselling and homemaker supports. In the child welfare context disparities in access play out when there are not enough foster homes or family options in a community and children are removed from families and communities, placed in larger urban centres. Some are moved many hundreds of miles away to the Lower Mainland and end up in multiple foster

placements, group homes, residential care and custody centres. These young people then age out of care disconnected from community and often homeless.

Homeless Youth

It is difficult to estimate the number of youth who are homeless in BC or nationwide. Homelessness is a stigmatized issue, which many young people are afraid to speak out about. There are also many who couch-surf, going from place to place with no real home but not necessarily meeting the qualifications of homelessness to access services or be captured in data. The data captured in "point-in-time" counts, where volunteers survey people who appear homeless on the street or in shelters over a 24-hour period, is likely to be significantly lower than the true number.[34]

In a recent report on youth homelessness in BC, drawing on consultation with over 200 youth with homelessness experience, 5 interconnected pathways into youth homelessness were identified: unsafe family home experiences, unsafe and non-responsive foster system, addiction and/or mental health issues, affordability crisis and lack of affordable housing, and discrimination and stigma.[35] A young person quoted in their report says, "What are we doing to support families before apprehension? Instead of paying for foster homes, help families heal together. Youth in care end up homeless because [they are] in [an] unsafe foster home … [They] end up on the street because [they] don't feel safe. This could be prevented.[36]" As stated earlier, **adequate family supports are needed to aid vulnerable parents in supporting their children to thrive.**

When young people in government care turn 19, they become an adult and are no longer eligible for support services by MCFD under the Child, Family and Community Service Act. This abrupt change cannot even be called a transition, and contributes to high rates of homelessness for former youth in care. It runs counter to Western understandings of human development as well as many cultural practices around the transition from childhood to adulthood. "Life skills" style courses have been removed to make way for more academics in our school curriculum, but this assumes children have a home environment in which they can learn these things and excludes the large portion of our youth population that for varying reasons do not. MCFD's aftercare program, Agreements with Young Adults (AYA), is not working. AYA is not a universal program that every youth aged out of care is entitled to but rather a paternalistic system that provides support only to youth doing MCFD approved activities-enrolling in post-secondary, vocational, or approved life skills training.[37] We need a system that supports *all* who age out of care, recognizing the inherent dignity and deservedness of each young person regardless of the behaviours they are or are not engaged in. **We call on Canada to ensure youth aging out of care are provided with universal supports for their transition to adulthood into their early-to-mid-20s.**

Recommendations

Overall, we see an urgent need for improved family supports and a more holistic and child rights-based approach to the child welfare system. We recommend Canada:

- Increase government support for culturally appropriate and safe, Indigenous led, whole family treatment options
- Create a period of continued practical support as well as appropriate, including culturally appropriate, grief and loss support when a child is returned home, to deal with the trauma of coming into care
- Create opportunities for Indigenous Governing Bodies to assume jurisdiction over child welfare through the Act Respecting First Nations, Inuit and Métis children, youth and families, and ensure appropriate funding is available to make this happen

- Increase incentives to work in remote and rural areas, thereby increasing the levels of service that can be provided there
- Create all policies with a full appreciation of child development and child rights, write them in child-friendly language, and offer children proper support to understand policies affecting them
- Identify and build up successful early intervention programming in the province
- Implement the *Committee's* 2011 recommendation that individuals with dependent children be given preference in alternatives to prison
- Update rules and regulations of CLB program to remove or reduce barriers to access
- Update the Revenue Canada algorithm for tax review so that it is not disproportionately targeting vulnerable families and costing them their Child Benefit or Post-Adoption Assistance while they are under review
- Update the method of payment of CLB to mirror that of other benefits, like the Canada Pension Plan

Disability, Basic Health and Welfare

Disability and Inclusion

Children with complex needs and disabilities are routinely excluded and stigmatized across BC, in and out of schools. The grassroots organization BCEdAccess has started an initiative called the "Exclusion Tracker" in which parents self-report incidents of exclusion. Their 2018-19 final report showed reports of exclusion from every school district in BC, with a total of 3610 incidents of exclusion ranging from parents being asked not to send their children to school unless an Education Assistant (EA) is present to children only being allowed to attend for 2 hours per day or not being allowed to participate in any extracurricular activities[38]. This issue is additionally covered in the Education section of our report but falls squarely into both categories.

To promote the inclusion of all children, and primarily those with disabilities, **communities need to create inclusive and welcoming environments at community centres, libraries, parks, etc**. More places for play and connection in the community would additionally help combat isolation felt by many children and families with disabilities. We welcome the opening of an Inclusive Playground in Surrey, BC where children of all abilities can spend time together[39], and hope to see more similar spaces opening throughout the province and nation. As it stands, there are still public buildings and spaces that are physically inaccessible for children with disabilities.

Family support is another significant issue for parents of children with special needs. Families caring for children with special needs need additional practical and emotional support. For example, a child's sibling may need mental health support, or the parent may need respite care. On a practical level, families are also in need of funds to support their special needs children, and the government has an obligation to ensure families have enough funds to nurture their children. This issue especially affects families in rural and remote communities, as services are less available to these communities and therefore often cost significantly more. **We need to increase access to services for all, especially those living in remote communities.**

Poverty

This section authored by First Call: BC Child and Youth Advocacy Coalition

November 24, 2019 marked 30 years since the all-party House of Commons resolution to end child poverty by the year 2000 was passed unanimously. Unfortunately, three decades later, child and family

poverty persists. First Call: BC Child and Youth Advocacy Coalition has published the Child Poverty Report Card annually for twenty-three years. In 2017, the most recent year for which data is available, the Child Poverty Report Card[40] found one in five children in BC were growing up in poverty. Using the Census Family Low Income Measure – After Tax (CFLIM) 163,730 children including 51,760 under the age of six were poor. This is down slightly from 2016, with 172,550 children and a poverty rate of 20.3%.

Overall, BC had the 8th highest child poverty rate out of all the provinces and territories and was slightly higher than Canada's child poverty rate of 18.6%. At 19.1%, child poverty in BC was higher than the 18.4% poverty rate for people of all ages. And without government transfers there would have been 76,450 more children living in poverty in 2017. Child poverty rates across British Columbia's regional districts varied from 15.3% in the East Kootenay Regional District to 42.5% in the Central Coast Regional District. Many of the regional districts with the highest child poverty rates were in coastal areas, particularly along the north and central coastal areas. Poverty rates are also significantly higher for recent immigrant (44.9%), Aboriginal (off-reserve 30.9%), and racialized (23%) children, using 2016 Census data. Children with disabilities also have higher rates.

Most poor children in BC are growing up in households where one or more parent is working. A lone parent working full-time at minimum wage in 2017 would have earned only $20,010. Two parents working full-time at minimum wages would have earned an annual combined income of $40,019. These incomes were much too low to lift families with children out of poverty and with the minimum wage now at $13.85 per hour, a lone working parent with one child would still be below the 2017 poverty line. This issue is exaggerated by the fact that 53% of poor children are living in lone-parent families and, for the first time since 2009, the number of poor children in lone-parent families has increased, from 81,960 in 2016 to 86,690 in 2017. This is the first time children in lone-parent families have made up over half of BC's poor children. The gender inequality gap persisted with the median income for female lone parent households at $44,960, just 72% of the $62,550 median income for male lone-parent households. Cost pressures continue to increase, putting more strain on a family's income. Housing, the single largest expense for most people, is increasingly unaffordable. Conservatively, 33% of lone-parent households in Canada are in core housing need (meaning the cost of housing exceeds 30% of their income).

It is a major struggle for families on welfare in British Columbia to meet their basic needs. The median monthly cost of childcare is $1,325 in Vancouver- up by 35% since 2007. The cost of food is rising and year-over-year food banks report that 30% of their users are children and youth. The BC government estimates that a family of four needs to spend $11,900 a year for nutritious food. Welfare benefits and government transfers from the federal and provincial governments provided just $19,795 in total income for a lone parent with one child in BC in 2016, which was only 66% of the $29,891 poverty line for this family type. This family's total welfare income left them $10,234 below the poverty line. For a couple with two children on welfare in 2017, their total income was $25,976 which was 61% of the $42,272 poverty line, leaving a poverty gap of $16,296. B.C. ranked 8th among the provinces for welfare incomes for lone parents with one child and had the lowest annual 2017 welfare income for couples with two children.

In 2017, there was an average of 38,044 children and youth in families receiving welfare in BC. This is an increase from the 2016 yearly average by over 1,900 children. For most of these families (66%), working is not an option. These families do not fall under the "expected to work" category and have medical conditions, multiple barriers, disabilities and other challenges that prevent them from working. Low welfare incomes are especially tough on lone-parent families, who make up 84% of the families with children on welfare.

In recent years, both the federal and BC provincial governments introduced poverty reduction strategies including legislated targets and timelines. While this is a good start, many of the initiatives have yet to be implemented and there are some important questions to be raised about whether they will continue to be a priority for the federal government in light of new cabinet priorities focused on the middle class. In 2019 the BC government announced a greatly improved child benefit that will be available to families beginning in the fall of 2020. At the same time, government aims to reduce child poverty by 50% by 2024. Although there has been an incremental reduction in family poverty in recent years attributable to market incomes, government transfers are critical to lifting children and their families out of poverty. While new initiatives are welcome, the government is not moving fast enough to ensure a new generation of children doesn't grow up in poverty.

Mental Health

Mental health is a rising area of concern for Canada's youth. In the youth workshop conducted to inform this report, participants were clear that they felt children's physical health was being looked after much better than their mental health. Many of them suffered from mental health difficulties personally or knew another young person who did. Data from the Canadian Institute for Health Information show 2,500 youth ages 10-17 are hospitalized annually for self-harm related injury, 80% of them girls[41]. The number of girls hospitalized for self-harm by sharp objects ("cutting") has seen a 90% increase over the 5 years prior to the preparation of their report[42] (November 2014). This aligns with BC trends documented in the McCreary Centre Society's 2018 BC Adolescent Health Survey, which saw a decrease in youth identifying their mental health as "excellent" and an increase in youth identifying their mental health as "fair" or "poor" between their 2013 and 2018 surveys[43]. Their survey also shows lower rates of self-reported excellent mental health for girls than boys, and a growing gap in this disparity[44]. Vulnerable children, including children in government care and Indigenous children, are additionally more likely to suffer from poor mental health.

We have seen an increase in suicides for children ages 10-14[45], with rates for children 15-19 remaining about steady at between 9-10 per 100,000 in the years 2014-2018[46]. As with many other indicators of vulnerability and marginalization in Canada, there are significant geographic disparities. The rate of youth suicide in rural areas is higher than the national average[47]. We are appreciative of the promises made towards more funding for mental health supports in the 2020 Throne Speech[48], and look forward to the government making good on its word in this area.

We believe some increases in poor mental health amongst our nation's youth have to do with the growing climate crisis and young people's feeling of despair and uncertainty about their future. As children have a right to survive and thrive, we believe Canada must take urgent action to address the climate emergency.

Popular consensus amongst youth workshop participants was that if you're doing "ok", support systems go away. This aligns with the trends we see. In order to receive psychological support covered by BC's Medical Services Plan (MSP), a patient must demonstrate a critical and urgent need to a physician who can make a referral. This can take the form of suicidal ideation, an unsuccessful attempt to take one's life or another psychological crisis resulting in hospitalization. Even then, wait times to see psychiatrists who are covered by MSP range from 6 months to 1 year, and long-term support is difficult to attain. Wait times are even more significant in rural and remote areas with fewer practitioners. To amend this gap, we recommend that the government implement incentive programs for professionals to practice in these communities, such as relocation grants or loan forgiveness programs. Individuals needing mental health support that do not receive a referral from their physician must pay $120+/h to see a private practitioner—who can also have month long wait times. For the many Canadians who cannot afford

these fees, services are still more limited. Even families lucky enough to access complimentary counselling through an Employee & Family Assistance Program are limited to only 3-8 visits to a professional per issue. Sliding scale fees—a discount on regular rates ranging from $50-110/h—are available, but are still unattainable for many. On the positive side, we do want to highlight the Foundry model being used in BC as an excellent form of community-based support. Foundry is a provincial network of centres that provide both social and health services to youth ages 12-24 free of cost, and is government supported. **We would like to see the Foundry model expanded and upheld as a national standard of care.**

Canada's preferred method of addressing childhood mental health struggles seems to be pharmaceutical interventions. According to data from the Canadian Institute for Health Information, 10-20% of children and youth may develop a mental health disorder, and 9.3% of BC youth were dispensed a mood, anxiety, or antipsychotic medication in the 2017-18 year[49]. These data suggest a high rate of medication, a concern echoed by youth workshop participants and adult mental health practitioners alike. Of additional concern is the fact that BC does not presently have a universal coverage plan for pharmaceuticals and therefore many are left to pay for these interventions out of pocket. Our nation's kids are being overmedicated and under supported.

School mental health support systems were also an area of significant concern for the youth we spoke to, as well as to participants at our Roundtable event. School counsellors are in short supply and inaccessible for many students. Even the physical structure of schools can be a deterrent to providing adequate support; anecdotal evidence at our Roundtable revealed school counsellors that are operating out of janitor's closets because their schools do not have any other private spaces. The mental health services that are available to students follow a short-term and crisis response focused approach, with students seeing a counsellor only a handful of times to address an acute issue. This goes against best practices focused on addressing root and underlying causes rather than simply putting out fires. Additional and specific resources are needed to care for the mental health of trans, non-binary, and LGBTQ2S+ youth. All service providers should be trained in specific issues relating to LGBTQ2S+ youth and follow gender-affirming practices. Chronic underfunding has left our education system in a state of constant stress, and this stress is felt at all levels. Teachers are overwhelmed with the amount of work that is placed on them. Without mental health professionals to support students, they are left to navigate difficult situations that they aren't trained for on top of creating education plans and running a classroom. Furthermore, BC teacher salaries are some of the lowest in the country[50]. This coupled with high costs of accommodation puts added stress on these professionals' lives.

We need a coordinated mental health system where schools and community services work together in support of collaborative goals. We recommend mental health representatives be present in all departments of government to ensure this lens is applied to all the government's work. Intergovernmental collaboration is paramount in order to tackle this notoriously intersectional issue.

Physical Health

In 2016, BC's Office of the Provincial Health Officer released a baseline report[51] on the health and wellbeing of children and youth in BC using a suite of 51 indicators. A key concern from this report is the geographic disparities in health among different regions in BC. As has been a theme in many sections of our report, remote, rural, and northern BC communities are not being adequately supported. For example, there were stark regional differences in breastfeeding rates, with a 20% difference across health authorities for the rate of exclusive breastfeeding for the first 6 months of a child's life- Vancouver Coastal Health had the highest rate at 49%, and Northern Health had the lowest, just 29%.

Both of these rates are surprisingly low for a nation as wealthy and well resourced as Canada, but the regional differences are additionally striking.

BC has recently undergone a study on the efficacy of the Nurse Family Partnership program, which provides help to young, first time mothers under the age of 24 vulnerable to socioeconomic disadvantage. This program has already been shown to provide significant long-term benefits to the health outcomes of children in 3 randomized control trials in the United States, and to be an overall cost saver as participant families have ended up utilizing social programs less in the future. The primary focus of the program is preventative intervention, with regular home visits by public health nurses beginning before the 28th week of gestation and continuing up to the age of two years.

The program is currently being evaluated via randomized trial through the BC Healthy Connections Project, with data from over 730 participants used. 49% of participants are between the ages of 14-19. Initial findings published in 2019 found data demonstrating that 74% of the program participants were coping with mental or physical problems affecting their daily life, 53% had not yet completed high school, and 42% were living on $5,000 or less per year, among other indicators."[52] We are hopeful of seeing positive outcomes from this program once the trial is complete in 2021 and urge the Federal government to closely watch for those findings, and **implement the program nationwide if demonstrated outcomes are positive.**

The McCreary Centre Society's 2018 BC Adolescent Health Survey found that 81% of students rated their health as good or excellent[53], a positive landmark. Participants in our youth workshop conducted to inform this report also felt their physical health was generally being well taken care of. However, physical activity and sleep are both areas of significant concern. While the Canadian Physical Activity and Sedentary Behaviour Guidelines state children 5-17 should participate in at least 60 minutes of moderate to vigorous exercise every day, only 18% of the 12-17-year-old students responding to the survey had met these recommendations in the week prior[54]. The night before completion of the survey, only 48% of respondents had gotten 8 or more hours of sleep- a decrease from 52% in 2013[55]. It was also exactly 48% of students who felt they had woken up the morning of the survey feeling like they'd had enough rest the night prior.

We would like to see implementation of Universal Pharmacare and Dental care in BC. While we are appreciative of the positive landmark of the elimination of deductibles for prescription drugs for low-income families in BC as of January 1, 2019, this falls short of the Universal program and therefore still leaves out some families in need- be they not meeting of the income requirements for Fair PharmaCare or simply without the resources to complete the required registration process for the program.

Finally, we are aware of the significant issue of the Medical Services Plan (MSP) waiting period for newcomers in BC. This waiting period leaves families without access to medical services for their first 3 months in Canada. We will address this issue in more depth in the Special Protection Measures section of this report but also note it here as this waiting period can have detrimental effects on the health of children new to Canada or returning from abroad.

BC's Opioid Crisis Affecting Youth

The drug policy crisis we are currently facing in BC affects young people as well as adults. Since 2016 the province has been in a public health emergency.[56] Data from the BC Coroners Service on illicit drug overdose deaths show a general upward trend in the number of children dying from overdose, with the total number having been 6 or fewer every year between 2009 – 2015 and 12 or higher every year since 2016.[57] Of specific concern is the introduction of fentanyl to the drug supply. The majority of these deaths every year since 2016 have involved fentanyl (a total of 52 deaths 2016-2019),[58] a stark

departure from trends between 2012-2015 during which a total of 3 children died of overdose involving fentanyl. Many youth facing substance-related critical injury or death are also in some form of government care or homeless.

Dr. Jennifer Charlesworth, BC's Representative for Children and Youth, has called for the **development of supervised consumption spaces specifically for people under 18**[59] **as a harm reduction strategy**, and we echo this recommendation. While some safe consumption sites in BC do allow youth over the age of 16, there are none that are youth specific[60]. As is the case for so many child protection programs, a paternalistic approach does not make sense here. We must recognize young people's agency and guide their ability to make safe choices. As is stated in the Representative for Children and Youth's 2018 report Time to Listen: Youth Voices on Substance Use "Supporting youth agency is about recognizing that youth have a right to make choices and decisions, including decisions regarding substance use."[61] A 2018 study by Slemon et al. determined that "Zero-tolerance approaches were identified as unhelpful and unresponsive, while approaches that were aligned with harm reduction principles were viewed as relevant and supportive."[62] When we ignore youth substance use because it is uncomfortable or incongruent with a vision of innocent childhood, it is marginalized youth who are erased. Again the Time to Listen 2018 report illuminates, "Participants with experience living in foster homes and group homes talked about a fear of negative reactions from foster parents or care workers as a barrier to taking steps to reduce harm from their substance use. Youth noted the importance of being able to speak with their caregivers, without judgment.[63]" **Foster parents and care home staff need to be appropriately trained and supported to provide harm reduction assistance to the young people in their care.**

The Climate Crisis

The World Health Organization asserts that climate change is the biggest threat to global health of the 21st century, and that of course includes children. We are disappointed to see no mention of climate change in Canada's 5th/6th periodic report to the *Committee,* which was written in 2019 when this issue was fully in public view. This is especially distressing considering the climate crisis is so regularly brought to our attention by children and youth, who are taking leadership to keep this crisis in the public eye.

Children are especially vulnerable to the effects of the climate crisis, both immediately and because they likely have longer futures ahead of them on this planet than adults. An example of children's vulnerabilities can be seen in the topic of air pollution. Here in BC and globally, as the climate crisis intensifies we are seeing an increase in air pollution- in BC a leading cause of this is wildfires.[64] The Canadian Paediatric Society states in their recent report on the impacts of climate change for children, "Children's higher respiratory rates, immature lungs, and time spent outside, make them more susceptible than adults to poor air quality. Prenatal and early life exposures to air pollution are particularly hazardous"[65]

As children are both especially vulnerable to and vocal about the climate crisis, it is insulting that the government not take further action to protect against climate change and implement their suggestions. We would like to see a **youth-led climate steering committee** developed at the Federal level to assist the government in moving towards sustainability.

Recommendations

We recommend Canada:

- Fully implement the $10-a-day childcare plan in BC, including its recommendations of increased wages for early childhood educators, an increase in licensed spaces, and a reduction in fees

- As BC is currently in the process of developing provincial accessibility legislation, we urge the centering of child-friendliness as well as the 3 guiding principles developed by Inclusion BC- accessibility as a human right, recognition of disabled people as full citizens, and establishment of a culture of inclusion- throughout this process and throughout any similar processes at the Federal level
- We echo Inclusion BC's recommendation to eliminate assessment wait times for children by increasing funding for services and regionalizing assessment centres, among other things
- Increase funding for wraparound services for families affected by disability, especially in rural and remote communities
- Increase welfare rates such that they do not leave people still living below the poverty line
- Continue implementation and prioritization of initiatives laid out in existing provincial and federal government poverty reduction strategies
- Implement Universal Pharmacare nationwide
- Adhere to the *Committee's* previous recommendation around promotion of breastfeeding to ensure more families have the tools and resources to uphold the World Health Organization's minimum standards
- Undergo a critical examination of factors impacting children's sleep, including school start times and homework loads, and issue national guidelines around these topics
- Provide additional funding to help address geographic disparities in health, in BC and nationwide
- Remove the MSP waiting period, and amend the Canada Health Act to forbid such a waiting period, bringing the Act in line with the *Convention*
- Develop youth-specific safe consumption sites for drug use
- Implement Universal Pharmacare and Dental care
- Implement incentive programs for mental health professionals to practice in under-served areas, such as relocation grants and loan forgiveness programs

Education, Leisure and Cultural Activities

Education

Education in Canada is not free, but rather depends on Parent Advisory Committees (PACs) with privilege and volunteer capacity within each school district to fundraise and advocate for their children's equitable right to education. Almost all schools that have a PAC focus on the exhausting and all-consuming priority of fundraising rather than providing supports to parents and families because they see the deprivation and neglect in a system that has been chronically underfunded. When we depend on PACs, we perpetuate a growing divide between have and have-not schools. People with privilege outsource arts education, STEAM (science, technology, engineering, arts, and mathematics), sports, extracurricular activities and so much more, and then don't feel the impact of the leftovers in a broken school system. Therefore, it is the families already struggling with the impacts of poverty and discrimination who are denied their right to a robust and free public education to support their child's development. Schools in vulnerable neighbourhoods may not even have PACs; if they do, they often cannot raise significant funds to keep their school afloat. This significantly impacts Indigenous and First Nations children, with significant differences persisting between funding of education and services available on and off reserves and a funding formula that is not working for small and rural communities. Underfunding and disparities in funding continue to be key detriments to our education system, with the system **in need of a bigger funding pool to draw from, not just redistribution of too little money**

into different categories. **There should be targeted funding for Indigenous youth, inclusive education, and trauma informed educational practice.**

For children with special needs, chronic systemic underfunding is just one of the issues perpetuating an inequitable and discriminatory education experience. Underfunding leads to unequal access to assessments and designations, on top of the fact that only limited designations come with any clear targeted funding. It's excellent that Autism Spectrum Disorder (ASD) funding helps support children, but that came from parent advocacy and parents banding together to win a legal battle[66]- again demonstrating the inequitable privilege given to children of families with means in our systems. Parents also may delay assessment, sometimes in violation of their children's rights, for a multitude of reasons not limited to stigma and shame, denial, or logistical difficulties like transportation and childcare. Frequently, children cannot access certain services or support because they do not fit in diagnosis-specific criteria, sometimes simply because the child is on the waitlist for assessment.

Young people with complex needs struggle daily in the school system and have few supports. Available services routinely have waiting lists that are months or even years long[67], in violation of these families right to timely access to services. This impacts all students, families and teachers as the suffering grows and teachers are overwhelmed, under resourced and not trained to deal with emergent best practices and skill development. There have been increasing reports of incidents labeled "violence" in the classroom related to children who have complex needs, as a result of neither the student nor the educator being well supported. The lack of support results in children being excluded and stigmatized. It is likely these conditions that lead to the ongoing use of restraint and seclusion in schools[68], practices that must be abolished immediately. The Evergreen Certificate, an alternative-to-graduation certificate for special needs youth in BC, demonstrates a low standard of expectation for these young people in our school system, who may be expected simply to get by rather than thrive in their school experience. All classrooms should have access to a functional behavioural assessment specialist who can plan for and solve problems in real time and support teachers to do the same. It is fundamental to have properly funded education that meets the needs of all the students in public schools. For children with disabilities and complex needs, this translates to having **access to teachers and educational assistants that understand their needs and meet them in the regular classroom.**

Children with disabilities or complex behaviours are also denied education when they are put on reduced hours and not attending school full time like their peers. This issue is primarily related to the lack of adequate supports for the student and teacher. As a result students sometimes do not meet the minimum hours of instruction as established in the BC School Act.

Access to education is similarly difficult for children of undocumented parents in Canada. BC has only one school district, New Westminster, with a Sanctuary Schools Policy[69] ensuring undocumented children do not face additional barriers to accessing schools. Families have described fear and hesitancy in registering their children in school due to the risk of deportation or, sometimes worse, family separation. The long-term social consequences of this kind of trauma are significant, not to mention the fact that these practices go against children's best interests, their rights to education and development, and to adequate protection from harm. **We call on Canada to make all schools Sanctuary Schools as soon as possible.**

More than 40 years of research proves that inclusion is better for both typical and atypical students in reading, writing, project based learning and social emotional development. However, adequate supports are required for *all* students to set the learning community up for success. At present inequities and trauma grow as supports are not funded and students are set up to fail. Consequently, maladaptive behaviours increase as the root causes of trauma go unaddressed and are amplified by educational

trauma. Special needs students, complex learners, students impacted by intersectional discrimination, the legacy of residential schools, epigenetics and racialized trauma, mental health challenges or those who have experienced multiple Adverse Childhood Experiences (ACE) are undermined and marginalized by an inadequate response to their very real needs and rights. They are increasingly stigmatized and often suspended or expelled because they are labeled 'too complex'. In fact, it is the anemic underfunded system, under resourced across multiple domains, that perpetuates this human rights failure. When students in need are denied equitable access to education, it falls to their parents or primary caregivers to navigate their needs and education. This overwhelming and complex task creates increased instability and leads to parents, primarily mothers, being unable to keep full time employment or return to work. Parents may need to be available at a moment's notice to pick up their child from school when the system fails them. This gendered paradigm is a gateway for poverty and increased mental and physical health consequences for the student, their family and the community and keeps families in deep poverty.

Teachers and Educational Assistants should be understood to be front line workers and paid and trained accordingly. All adults working in education need deep and rich trauma informed practice. Their data also show students are arriving at school with more vulnerabilities than ever before[70] and teachers are expected to cope without training, time, or supports. These deficits undermine everyone's ability to be successful. If adequate resources are deployed there is real possibility for implementing early intervention strategies that could change the trajectory of numerous negative mental, emotional and physical health outcomes. Young people are not able to learn if they are not socially and emotionally regulated and teachers and students need access to the skills that help teach this capacity. Children cannot be expected to focus on learning their timetables while grieving a grandmother's death, having been removed from a foster family, or separated from siblings. Nor can they when they are hungry, tired, isolated or stressed. **Research tells us more children than ever before are walking in the doors carrying huge complex worries; therefore, additional training and funds for teachers are increasingly necessary.**

Finally, we raise the concern of student participation in the development of school systems and structures. Our schools remain adult controlled and dictated spaces, with children themselves not making decisions around curriculum, staffing, budgets, school rules and disciplinary measures, and so forth. Why should students not be leading actors in all these areas? As most children spend the majority of their waking hours in school, a school environment that supports their rights is important to the development of a culture that does so. In the consultation period prior to the writing of this report we spoke to youth whose school, Windsor House, had been closed the year prior. Windsor House was BC's only democratic school and while it served a small population of students, we wish to highlight it here because of the model of meaningful student engagement it represented. While this school is just one example, there are many hundreds of students that attend specialized, public programs like this one, such as Mini Schools, that often come under threat of closure. **We hope to see the development of more systems in all school environments that support democratic participation and realization of children's rights.**

Leisure

Article 31 of the *Convention* outlines children's rights to play, stating

> 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.

We note that in the entirety Canada's 5th/6th Periodic Report to the *Committee,* the words play, leisure, and relaxation do not appear at all. Play is a powerful and essential need for children, and lack of time for play contributes to a decline in children's physical activity levels, physical health, and mental health. In the youth workshop we conducted informing this report, responding to the statement "I usually have enough free time to relax, hang out, and play" participants were quite mixed, with only the youngest answering a firm yes. Participants commented that even when they did have time to relax, they felt pressure to be doing other things that made it difficult to enjoy the opportunity.

In Vancouver, the beginning of the 2019-20 school year saw students, parents and educators displeased about the reduction in recess time from 20 minutes to 15 minutes across the district[71]. The CBC reported,

> Max Barkley, 9, was part of a lunchtime protest at the school that had dozens of kids chanting for more recess and lunch. He and a friend also started a petition at the school for more break time that has already garnered 200 signatures. "It's important for me, because we can't get only 15 minutes and get all of our energy out. It doesn't really work for me and my friends like that," Barkley said.

Recess time is a key indicator of how seriously we are taking children's right to play- and this reduction indicates the answer is "not very." **We do not fault individual school boards or classroom teachers for this change, but rather call for national leadership in reforming school curriculums to value free, unstructured play.**

Outside of school time, a barrier to leisure activities for some children is their ability to travel. Children cannot drive; therefore, when we orient our communities to the private automobile we disadvantage any child, and especially one who doesn't have a parent with the time and resources to drive them around. Even in major urban centres like Vancouver where extensive transit systems exist, parents have come under fire from MCFD for allowing their children to ride without an adult,[72] and children struggle to afford transit fare- an issue raised at the youth workshop we conducted to inform this report. We support the local #AllOnBoard campaign to make transit free for children, and urge Canada to consider **implementing federal free transit for children**, a move that would support children's rights as well as sustainable transportation and action to divert the climate crisis. When transit is made free for children, districts can save significant costs on school bussing which is often inefficient.

Access to Culture

In the last few years, there has been a strong push for children to be able to maintain their connection to family, culture and community. There have been important legislative changes in BC recognizing the State's obligation to ensure children in government care maintain these important relations. However, the goal of these amendments has not been achieved. The limitations within current approaches to maintaining community, family and cultural connections are numerous. Foster families do not often support children in these areas. This is true for Indigenous and non-Indigenous youth, and for youth who hold connections to multiple cultures. Current technology could allow children to connect with their communities virtually when physical travel is not possible or practical. Canada must **support foster families in assisting their child's pursuit of cultural continuity by connecting them with cultural**

resources, encouraging more Indigenous people to become foster parents, and connecting First Nations children directly to their Nation.

A major part of culture is family, and for children in care or who are newcomers to Canada, access to family is often very limited. Children in care need to have regular access to their siblings and ideally to be placed together in one home. Often MCFD cites resource implications as preventing this from happening- there are no spaces for families to meet, or a lack of supervisors, etc. We need to recognize the critical importance of access to these relationships for children and do better to uphold them. In foster and adoptive families, it is also important to have conversations about what it means to be a family, and the values and differences between biological, chosen, and other forms of family. Support programs around these concepts would be welcome.

Land connection is an identified social determinant of health by Indigenous youth[73] that is often overlooked in our Western health systems. Programs where there is a relationship to land, and stewardship over the land, have been shown to be meaningful for supporting Indigenous youth.[74] The report The Mental Health of Aboriginal Peoples: Transformations of Identity and Community by Laurence J Kirmayer, MD, Gregory M Brass, MA, Caroline L Tait, MA asserts:

> "...the widespread destruction of the environment motivated by commercial interests must be understood as losses to Aboriginal individuals and communities that are equivalent in seriousness to the loss of social role and status in a large-scale urban society."[75]

We see this as a reality for Indigenous children in Canada today, where ongoing environmental destruction has taxing impacts on the health of many. We must stop thinking of resource extraction and related issues as solely environmental and economic topics and start looking more holistically. Land destruction can cause the recreation of traumas Indigenous people have seen since the founding of our nation.

Recommendations

We recommend Canada:

- Develop training and support resources for foster parents and care home staff to assist the young people in their care with harm-reduction measures around substance use
- Develop a youth-led climate steering committee at the Federal level to assist the government in moving towards sustainability and slowing the climate crisis
- Support foster families to assist their child's pursuit of cultural continuity through connection to resources, connection of First Nations children directly to their Nation, support for Indigenous people to become foster parents, and secure funding
- Support all children in government care to visit their land at least once per year, as applicable
- Conduct a thorough examination of the impacts of resource-extraction and land destruction on the physical and mental health of all Indigenous peoples, especially Indigenous children and youth
- Ensure that the supports developed be community led, building on partnerships with existing organizations rather than taking a more expensive top-down approach
- Enact legislation to make transit free for children on all systems nationwide, or at least provide incentives for regional transit companies to provide free passes for children
- Better support free play in school curriculum and mandate recess time in all schools
- Develop more systems in all school environments that support democratic participation and realization of children's rights

- Increase funding available to schools, with additional targeted funding for Indigenous youth, inclusive education, and trauma informed educational practice
- Ensure all students with special needs have access to teachers and educational assistants that understand their needs and meet them in the regular classroom
- Make all schools Sanctuary Schools as soon as possible
- Provide additional training and funds for teachers to better respect them as frontline workers and aid them in addressing the complex needs of students in their care

Special Protection Measures

Asylum Seeking, Refugee, and Newcomer Children

It has been more than 2 years since the Canadian Border Services Agency's (CBSA) own commitment to keep children out of detention and families together "as much as humanly possible"[76] in 2017. It is humanly possible to keep children out of detention 100% of the time and yet government statistics show 118 children were detained or "housed" in detention centres during the 2018-19 fiscal year;[77] 56 of these children were 5 years old or younger[78]. Please note we are keeping the term "housed" in quotations because we cannot condone the idea that one can find a home in an immigration detention centre. When a child is "housed" in a detention centre with their parent, they are not technically being detained but in fact this means they have fewer rights, as they are no longer entitled to regular reviews via Refugee Board Hearings. **If children are going to be required to live with a parent in an immigration detention centre, they must be entitled to the same review rights as they would if they were being formally detained there.**

While 118 children is a decrease from past years, it is still 118 children too many. Average length of detention has also increased, up to 18.6 days- a five year high[79]. For children "housed" in detention with a parent or guardian, the reason for detention was suspected serious criminality, criminality, or organized crime in only 1 case.[80] Other cases were primarily to do with identity verification or assessed flight risk, neither of which pose a risk to the public. Child detention is not a significant issue on the west coast, with 0 children detained or "housed" in detention facilities in Canada's Pacific region in the last year.[81] Most detentions occurred in Montreal. Nevertheless, we are concerned the practice is still being used anywhere in Canada and do not understand the need for ambiguous and permissive language in our guidelines. We are also aware that construction of a new detention centre in Surrey, BC is currently underway and plans include facilities for families as well as school and play spaces for children. We urge Canada to **commit to never detaining or "housing" children in detention centres, and keeping families together in all circumstances unless shown to be against the child's best interests.**

We share the *Committee's* previously expressed concern that the Best Interests of the Child (BIOC) principle is not widely known, appropriately integrated, or consistently applied and that this is of concern particularly with regards to refugee and asylum-seeking children. While the CBSA's National Directive for the Detention or Housing of Minors does include mention of the BIOC principle and requires its consideration, this is not always true in practice and best interests regularly go unmentioned and unconsidered. For further information on this and all topics to do with detention of refugee children in Canada, we urge the *Committee* to review the Canadian Council for Refugee's 2019 report Immigration, Detention and Children: Rights still ignored, two years later. **We support the Canadian Council for Refugee's recommendation "...that it is urgent that CBSA be overseen by an independent accountability mechanism that could receive complaints about non-compliance with the directives on detention of minors."[82]**

An additional issue for newcomer children in government care is their immigration status. Numerous children arriving in Canada are placed into government care. When they age out of care, they have been left to figure out the Citizenship application process on their own and without support, and some face negative consequences including the threat of deportation when they have not completed the process. In 2017, MCFD introduced the new Immigration and Refugee Practice Guidelines and Checklist for Assisting Children in Care[83] as an effort to address this issue. Page 7 of these guidelines states "The number of children and youth in care who do not have permanent resident status or Canadian citizenship is unknown. Therefore, it is important to inquire about every child's immigration status as soon as they come into care.[84]" However, we know this is not being practiced and can therefore infer that other practices outlined in the guidelines may be being ignored as well. In a Freedom of Information and Protection of Privacy Act (FOIPPA) request made by a local advocate in August 2019, the requester was met with the following reply from MCFD:

> "With regard to "the number of children in care by immigration status…" the ministry advises that while the Integrated Case Management (ICM) system does contain this field, it is rarely used by staff and therefore the ministry is unable to provide reliable data in response to this portion of your request."

A similar FOIPPA request made to the Attorney General of BC found that between May 1, 2017 and August 10, 2019 the Legal Services Branch had completed immigration applications for a total of 34 youth in care- and only 9 of these applications were for citizenship. We will provide copies of both of these FOIPPA requests in confidential annexes to this report, to protect the privacy of advocates involved. The fact of the matter is, immigration processes in Canada are taxing, complex, and costly. Not only that, but for children who are permanent wards of the state, MCFD is their legal guardian and therefore the only body who can legally apply for citizenship on their behalf- the application cannot be made by a non-guardian family member. **The responsibility should lie with the state to support children in care through the process and waive their application fees.**

Of additional pressing concern is the Medical Services Plan (MSP) waiting period. This waiting period requires new or returning BC residents coming from outside of Canada to wait 3 months before receiving MSP benefits. It is squarely within the power of the BC Medical Services Commission to remove this waiting period, though this period is in part authorized from S. 11(1)(a) of the Canada Health Act, which allows for, but does not mandate, such a waiting period. **We call on the BC Medical Services Commission to remove this waiting period, and on the Federal government to amend the Canada Health Act to forbid such a waiting period, bringing the Act in line with *Convention* rights.** As it stands, the MSP waiting period violates children's rights under Article 24 of the *Convention,* and specifically violates the rights of refugee children laid out in Article 22. Often cited as a rationale for this waiting period are concerns about so-called medical tourism. These concerns are widely unfounded, but especially so in relation to children. Canada has been publicly condemned by the UN for denying essential healthcare services on the basis of immigration status before, such as the recent comments by the UN Human Rights Committee regarding the case of Nell Toussaint.[85] We hope that the *Committee* will similarly urge Canada to rectify this violation of children's rights at once.

Part 7 of West Coast LEAF's 2016 report High Stakes: The impacts of child care on the human rights of women and children looks at access to childcare for women without immigration status in Canada. For women applying for status, a consideration of their application will be their establishment in Canada, a negative factor of which is reliance on public supports even if the applicant is employed and even in cases where the woman is fleeing family violence[86]. As the report explains,

> "This policy can place single mothers without status, and particularly those who have left a violent relationship, in an impossible situation. They need to show that they are financially independent to strengthen their case to stay in Canada, but they have not had and do not have access to the child care supports they require to be able to do that.[87]"

Canada's obligations under the *Convention* require it to render appropriate assistance to parents and legal guardians with child-rearing responsibilities, to develop institutions, facilities and services for the care of children, and to ensure that working parents benefit from childcare services. While we know of individuals who have successfully gained support from MLAs to access the Affordable Child Care Benefit through this rationale, these cases were exceptions to the rule and are unlikely to be achieved by mothers in this situation without both a sympathetic local MLA and an advocate with expertise. But if an exception to the rule can be made in these cases, why not in all? **We want to see Affordable Child Care Benefits made available without regard to immigration status.**

Lastly, we encourage Canada to **abolish the Safe Third Country Agreement with the United States**. Under this agreement, refugee claimants are required to request protection at the first of these countries to which they arrive. Essentially this means that Canada accepts the judgement of the United States of America with regards to a refugee claim and if an individual is denied a claim there they will not be eligible to try again in Canada. In fact, even individuals who did not make a refugee claim in the USA will be denied the ability to make a claim in Canada if they arrived to the USA first.[88] Exceptions are made for children only if they are traveling unaccompanied, have no parents or guardians in Canada or the United States, and have no spouse or common-law partner.[89] Canada claims that the United States continues to meet the requirements to be called a safe country for refugee claimants, including meeting a high standard with respect to protection of human rights.[90] The United Nations' own global study on children deprived of liberty found that the United States held over 13,000 unaccompanied children in immigration detention as of the fall of 2018, and over 3,000 children with families. As detention of immigrant children is a violation of their *Convention* rights we find it objectionable that Canada continue to uphold the United States as a safe third country.

Child Labour

This section authored by First Call: BC Child and Youth Advocacy Coalition

Currently, there are few protections for children over the age of 12 in B.C.'s Employment Standards Act and research shows children and adolescents are experiencing injuries and exploitation doing jobs meant for adults. In 2003, the government's permit system for the employment of children 12 – 14 was replaced with minimal legislation and regulation that did not include prohibited occupations, tasks, worksites or times of day.

To suggest, as Canada did in its 5th/6th periodic report, that the minimum age to work is a "de facto 16" is simply wrong. During non-school days, children 12 to 14 years old are currently allowed to work seven hours a day, up to 35 hours a week (with no restrictions on the time of day), under the supervision of an adult over the age of 19 and with a letter of permission from one parent. This has been the case since that law came into force in 2004.

While BC's Employment Standards Act sets out conditions for the employment of children under 12 that includes both government oversight (through a permitting process) and conditions that meet the basic requirements of child protection principles, the responsibility for ensuring working conditions are safe and appropriate for children over the age of 12 is left to their parents. In fact, the state has a legal duty to protect the interests of children and youth.

Parents are often not equipped to determine whether a work situation is safe and do not have authority to compel compliance with safety standards. The potentially competing economic interests of parent and child make it particularly important for the state to play an active role in setting clear and enforceable rules to protect children. Additionally, the law should not assume that all minors live in the care of a parent or guardian. Protections must recognize the rights of children as separate and distinct from their parents.

Not all forms of work should be off limits to adolescents. Age appropriate and safe work experience can be beneficial, but with few rules in BC, too many children and adolescents are being injured at work. We must act to protect children from experiencing needless work-related injuries and from employers who exercise poor judgment.

Many youth at the workshop SCY conducted spoke to the benefits they have experienced from having an appropriate job and earning some money. There was also agreement amongst youth workshop participants that children should not be working in unsafe jobs or conditions.

12-year-olds can work in most industries, the most common being food services and accommodation, but many are working in construction, manufacturing and resource-based jobs.

We know where they are working not because the government is monitoring but because this is where they are getting injured. Every single year over the past decade, children under 15 were injured on the job seriously enough for WorkSafeBC to pay out tens of thousands of dollars in injury claims, not including healthcare only claims[91]. In some cases, children have sustained life-altering injuries as evidenced by the size of individual claims. Over that same period over 2,000 children under the age of 15 claimed work-related health costs.

BC is the only province that does not place restrictions on the occupations, tasks or time of day that a child can work. Without a doubt, BC has the lowest child-employment standards in North America, a fact that was recently re-stated by a cross-sector panel of advisors at the Law Institute of BC in its review of the Employment Standards Act[92]. That review concluded:

> "British Columbia's legislation and regulations dealing with employment of children diverge in important respects from Canadian and international norms with regard to the minimum age for employment and the forms of work in which children may be employed. The jobs that 12-to-15-year-olds in British Columbia are permitted to do extend to potentially hazardous forms of work such as construction, from which they are barred in neighbouring provinces and most of North America.[93]"

While they did not reach consensus on the mechanism for government oversight, The Law Institute of BC's Project Committee recommended changes:

> "The Project Committee believes that the uppermost public policy concern in relation to child employment is the health and safety of employed youth and non-impairment of their education. To those ends, the Project Committee believes that the employment of persons under 16 in certain industries and forms of work should be entirely prohibited."

In 2016, the Canadian Government ratified the International Labour Organization's Convention 138 on the minimum age for employment. Countries that ratify the convention must set a minimum age for employment. Canada committed to 16 years of age and agreed to prohibit hazardous work for those under the age of 18.

In June, First Call: BC Child and Youth Advocacy Coalition commissioned the Mustel Group to conduct an opinion survey[94]. Only six per cent of British Columbians could correctly identify the age at which a child can be formally employed without the need for a government permit in BC. Researchers asked what participants thought the work-start age should be and more than 50% said it should be 15 or 16 – ages that support international standards and Canada's commitment to 16. Researchers also found that the great majority (78%) of BC residents would support the introduction of legislation to provide greater regulation of the employment of children aged 12 to 14 years, including almost half (47%) who would strongly support it. Of those who opposed the idea of new legislation, 15% did so because they said children of this age should not be working at all.

Advocates, led by First Call: BC Child and Youth Advocacy Coalition, have called on the provincial government for over fifteen years to protect children by complying with international conventions to which Canada is a signatory. They have recommended that government raise the formal employment age to 16 and oversee appropriate casual work opportunities for children aged 12 – 15 through a permit system that sets out reasonable hours and places of work, and suitable tasks. Government must also prohibit all those under 18 from working in potentially hazardous workplaces.

On April 29th, 2019 BC's Minister of Labour introduced Bill 8[95] in the legislature that amended the Employment Standards Act to provide better protections for children and adolescents who are working. This Bill aimed to modernize employment laws and bring BC into compliance with international standards.

While these legislative changes set a direction that would greatly improve protections for working children and adolescents, to date, the Ministry has failed to enact regulations. In the absence of new regulations, as of February 2020, the situation remains the same as it was in 2003 with few rules protecting children and youth from injury and exploitation in workplaces meant for adults[96].

Administration of Juvenile Justice

We are proud of the fact that the rate of youth incarceration has been falling steadily in BC, and BC has the lowest rate of child incarceration of the provinces and territories reporting data (excludes Quebec and Yukon), with a rate of 2 per 10,000 youth incarcerated as of the 2017/18 year. As an aside, **we note the importance of this data being available from every province and territory and urge Canada to rectify this significant data gap immediately.**

However, at the same time as overall youth incarceration rates are falling, the proportion of Aboriginal youth admissions to correctional services has risen- up from 26% in 2007-08 to 43% in 2017-18.[97] Nationally, 8% of youth are Aboriginal and yet they made up 48% of youth incarcerated in 2017/18[98]. We must stress that this is not due to any inherent criminality but rather to systemic racism and the lasting effects of colonization. **Canada must take more steps to address the overrepresentation of Indigenous youth in the criminal justice system- including implementation of more preventative supports for at-risk youth but also through increased training and accountability measures for law enforcement of justice system professionals regarding implicit bias, racism, and the intergenerational effects of colonization.**

The practice of solitary confinement has been criticized since it got its start, first coming under fire in the United States Supreme Court in 1890.[99] The use of solitary confinement (called segregation) in youth facilities in BC is particularly concerning because young people are still in the early stage of cognitive development. Segregation can lead to the rewiring of their brains, which may negatively influence their ability to successfully reintegrate into society.[100] Studies have shown that isolation in incarcerated youth is correlated with high rates of suicide as well as PTSD, depression, and future criminal activity.[101]

Prolonged solitary confinement, defined as solitary confinement that lasts 15 days or longer, has been shown to constitute cruel, inhumane, or degrading treatment causing lasting psychological harm.[102] An important study estimated that approximately 1/3rd of individuals in solitary confinement live with a mental illness[103]. In the Manitoba Youth Advocate's 2019 Report, of the small sample of segregated youth investigated, 100% of those surveyed were diagnosed with a mental illness or cognitive vulnerability[104]. Their illnesses included Attention Deficit Hyperactivity Disorder, Oppositional Defiance Disorder, and Fetal Alcohol Spectrum Disorder (FASD).[105] FASD is a particularly prevalent disease in youth facilities. One study estimates the percentage of Canadian youth in custody diagnosed with FASD to be as high as 22.3 percent[106]. Due to the vulnerabilities of isolation during adolescence and the fact that their brains are still developing, youth placed in segregation are at a greater risk for comprehensive and lasting psychological and physical harm[107].

The *Committee's* General Comment No. 24, replacing General Comment No. 10 (2007), advocates that any "disciplinary measures must be consistent with upholding the inherent dignity of the child and the fundamental objectives of institutional care" and strictly forbids disciplinary measures including "…placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health or well-being of the child concerned."[108]

In BC, segregation or separate confinement is regulated under s. 15.1 of the *Youth Custody Regulation.*[109] While the regulation calls for confining youth separately only when "all other means" have been exhausted, it does authorize a youth to be separately confined, initially for up to 8 hours. Subsequent to that, with the written approval of a different person in charge, the youth can be confined for an additional 40 hours. Finally, it authorizes additional consecutive period of up to 72 hours with the provincial director's written approval. This provides for a possible total of 5 days in separate confinement. The provincial director can authorize additional 72 hour periods provided written approval is obtained separately for each additional consecutive period. There is no cap on duration of separate confinement, and as such, the practice can be administered indefinitely.

In 2017, a BC teen inmate filed a notice of civil claim against the provincial government that claimed he was held in solitary confinement for 4 months.[110] The lawsuit claimed the teen suffered from both an intellectual impairment and a severe behavioral disorder. He was subject to solitary confinement after an altercation with a correctional officer. Being placed in solitary confinement only exacerbated his condition.

Also in 2017, Ivan Zinger, then Federal Prisons Ombudsman, and Irwin Elman, Ontario's Advocate for Children and Youth (office now closed), made recommendations in a joint report submitted to Correctional Service Canada calling for a ban on the use of solitary confinement for young prison inmates in their teens and early 20s.[111] The harms of solitary confinement have been well documented. **We must abolish this inhumane, out-of-date, and frankly embarrassing practice at once.**

Recommendations

We recommend Canada:

- Ban solitary confinement for youth. Until such a ban is implemented, cap the duration of solitary confinement in youth correctional facilities at 24 hours, enhance restrictions and monitoring of the practice, and ensure better record keeping and making of said data publicly available
- Implement evidence-based, culturally safe therapeutic behavioural management alternatives to solitary confinement and pepper spray, in recognition of the profound trauma histories, cognitive disabilities, and mental illnesses that many youth in custody are living with

- Enhance evidence-based health care programming for youth with mental illnesses or cognitive vulnerabilities
- Take immediate steps to address the overrepresentation of Indigenous youth in the criminal justice system- including implementation of more preventative supports for at-risk youth but also through increased training and accountability measures for law enforcement of justice system professionals regarding implicit bias, racism, and the intergenerational effects of colonization
- Increase data collection and availability regarding the number and demographics of incarcerated youth in every province and territory
- Repeal the Safe Third Country Agreement between Canada and the United States
- Ensure all children "housed" in detention facilities are entitled to the same review rights they would if they were being formally detained there
- Commit to never detaining or "housing" children in detention centres, and keeping families together in all circumstances unless shown to be against the child's best interests
- We echo the Canadian Council for Refugee's recommendation "...that it is urgent that CBSA be overseen by an independent accountability mechanism that could receive complaints about non-compliance with the directives on detention of minors."
- Ensure that all children in government care without status, or with temporary status or non-citizenship in Canada, are tracked and supported practically and financially with the citizenship application processes
- BC Medical Services Commission must remove the MSP waiting period, and the Federal government amend the Canada Health Act to forbid such a waiting period, bringing the Act in line with the *Convention*
- Affordable Child Care Benefits must be made available without regard to immigration status
- Urge the provincial government to develop regulations that protect children and youth from workplace injury and exploitation

Annex 1: Full List of Recommendations

This List of Recommendations is compiled from our report and came from consultation with experts in numerous subject areas. As with the report itself, it does not represent a consensus of the organizations or individuals that contributed.

General Measures of Implementation

- Improve public systems for collection and coordination of data, moving Canada towards a comprehensive data collection system
- Create a national strategy for implementation of the *Convention,* with strong leadership and funding at the federal level
- Create a federal Ombudsperson for Children to act as a child rights watchdog and provide independent monitoring as well as hear grievances from children
- Provide federal government leadership with the goal of eliminating precarious funding systems for essential social services, and the creation of explicit policies that ensure NGOs with government funding can speak out against government practices at no risk to their funding streams
- Provide funding for systematic child rights training for all professionals working with or for children
- Provide funding and support for a national public awareness campaign about children's rights and the *Convention*
- Renew and strengthen the national commitment to reconciliation

General Principles

- Take urgent action to better implement the principle of non-discrimination into the lives of children and youth through systematic anti-racism training, review of funding schemes, compliance with all current and future orders for reparations due to past discrimination, and consultation directly with marginalized youth
- Make hearing the views of the child a requirement for decision making in all matters affecting children including custody cases, child-welfare decisions, criminal justice, immigration and the environment
- Expand enfranchisement to include more children and youth, conducting a thorough consultation with stakeholders, including primarily children directly, to set a new minimum age or system
- Amend the BC Child, Family and Community Service Act such that children have the right to have their views heard at any age that they lay claim to such right, and that they must be informed of this right by professionals working with them at every step of the way
- Amend the BC Family Law Act to allow for the appointment of a children's lawyer at the judge's discretion with no further requirements
- Increase access to justice for children and youth by ensuring they each are entitled to a lawyer in all cases

Civil Rights and Freedoms

- Enact a national "right to be forgotten" and stronger policies around digital privacy for children
- Expand the role of the Office of the Privacy Commissioner of Canada to address digital privacy generally and for children specifically

- Provide education and training to legal professionals regarding LGBTQ2S+ inclusivity and the negative impacts, especially for children, of discriminatory and identity-erasing practices such as intentional misgendering
- Uphold the rights of all Indigenous peoples to be consulted on resource extraction projects on their ancestral homelands
- Follow Indigenous leadership on removal of or reforms to the Status system

Violence Against Children

- Repeal S.43 of the Criminal Code immediately and, at the same time, enact parenting programs to assist families in understanding the negative impacts of physical discipline and positive alternative measures
- Increase government funding for programs specific to preventing violence and discrimination against Indigenous girls, and promote Indigenous leadership of these programs
- Expand the Canadian Centre for Child Protection's "Commit to Kids" program
- Create and implement comprehensive sex education classes that address digital concerns, LGBTQ2S+ issues, exploitation, as well as positive aspects of sexuality
- Investigate data mining of Canadian children through apps and online, and develop new legislation to address these concerns
- Expand family support services
- Increase opportunities for youth voices to be heard and listened to by government, including in the foster care system

Family Environment and Alternative Care

- Increase government support for culturally appropriate and safe, Indigenous led, whole family treatment options
- Create a period of continued practical support as well as appropriate, including culturally appropriate, grief and loss support when a child is returned home, to deal with the trauma of coming into care
- Create opportunities for Indigenous Governing Bodies to assume jurisdiction over child welfare through the Act Respecting First Nations, Inuit and Métis children, youth and families, and ensure appropriate funding is available to make this happen
- Increase incentives to work in remote and rural areas, thereby increasing the levels of service that can be provided there
- Create all policies with a full appreciation of child development and child rights, write them in child-friendly language, and offer children proper support to understand policies affecting them
- Identify and build up successful early intervention programming in the province
- Implement the *Committee's* 2011 recommendation that individuals with dependent children be given preference in alternatives to prison
- Update rules and regulations of CLB program to remove or reduce barriers to access
- Update the Revenue Canada algorithm for tax revue so that it is not disproportionately targeting vulnerable families and costing them their Child Benefit or Post-Adoption Assistance while they are under review
- Update the method of payment of CLB to mirror that of other benefits, like the Canada Pension Plan

Disability, Basic Health and Welfare

- Fully implement the $10-a-day childcare plan in BC, including its recommendations of increased wages for early childhood educators, an increase in licensed spaces, and a reduction in fees
- As BC is currently in the process of developing provincial accessibility legislation, we urge the centering of child-friendliness as well as the 3 guiding principles developed by Inclusion BC- accessibility as a human right, recognition of disabled people as full citizens, and establishment of a culture of inclusion- throughout this process and throughout any similar processes at the Federal level
- We echo Inclusion BC's recommendation to eliminate assessment wait times for children by increasing funding for services and regionalizing assessment centres, among other things
- Increase funding for wraparound services for families affected by disability, especially in rural and remote communities
- Increase welfare rates such that they do not leave people still living below the poverty line
- Continue implementation and prioritization of initiatives laid out in existing provincial and federal government poverty reduction strategies
- Implement Universal Pharmacare nationwide
- Adhere to the *Committee's* previous recommendation around promotion of breastfeeding to ensure more families have the tools and resources to uphold the World Health Organization's minimum standards
- Undergo a critical examination of factors impacting children's sleep, including school start times and homework loads, and issue national guidelines around these topics
- Provide additional funding to help address geographic disparities in health, in BC and nationwide
- Remove the MSP waiting period, and amend the Canada Health Act to forbid such a waiting period, bringing the Act in line with the *Convention*
- Develop youth-specific safe consumption sites for drug use
- Implement Universal Pharmacare and Dental care
- Implement incentive programs for mental health professionals to practice in under-served areas, such as relocation grants and loan forgiveness programs

Education, Leisure and Cultural Activities

- Develop training and support resources for foster parents and care home staff to assist the young people in their care with harm-reduction measures around substance use
- Develop a youth-led climate steering committee at the Federal level to assist the government in moving towards sustainability and slowing the climate crisis
- Support foster families to assist their child's pursuit of cultural continuity through connection to resources, connection of First Nations children directly to their Nation, support for Indigenous people to become foster parents, and secure funding
- Support all children in government care to visit their land at least once per year, as applicable
- Conduct a thorough examination of the impacts of resource-extraction and land destruction on the physical and mental health of all Indigenous peoples, especially Indigenous children and youth
- Ensure that the supports developed be community led, building on partnerships with existing organizations rather than taking a more expensive top-down approach
- Enact legislation to make transit free for children on all systems nationwide, or at least provide incentives for regional transit companies to provide free passes for children
- Better support free play in school curriculum and mandate recess time in all schools

- Develop more systems in all school environments that support democratic participation and realization of children's rights
- Increase funding available to schools, with additional targeted funding for Indigenous youth, inclusive education, and trauma informed educational practice
- Ensure all students with special needs have access to teachers and educational assistants that understand their needs and meet them in the regular classroom
- Make all schools Sanctuary Schools as soon as possible
- Provide additional training and funds for teachers to better respect them as frontline workers and aid them in addressing the complex needs of students in their care

Special Protection Measures

- Ban solitary confinement for youth. Until such a ban is implemented, cap the duration of solitary confinement in youth correctional facilities at 24 hours, enhance restrictions and monitoring of the practice, and ensure better record keeping and making of said data publicly available
- Implement evidence-based, culturally safe therapeutic behavioural management alternatives to solitary confinement and pepper spray, in recognition of the profound trauma histories, cognitive disabilities, and mental illnesses that many youth in custody are living with
- Enhance evidence-based health care programming for youth with mental illnesses or cognitive vulnerabilities
- Take immediate steps to address the overrepresentation of Indigenous youth in the criminal justice system- including implementation of more preventative supports for at-risk youth but also through increased training and accountability measures for law enforcement of justice system professionals regarding implicit bias, racism, and the intergenerational effects of colonization
- Increase data collection and availability regarding the number and demographics of incarcerated youth in every province and territory
- Repeal the Safe Third Country Agreement between Canada and the United States
- Immediately ensure all children "housed" in detention facilities are entitled to the same review rights they would if they were being formally detained there
- Commit to never detaining or "housing" children in detention centres, and keeping families together in all circumstances unless shown to be against the child's best interests
- We echo the Canadian Council for Refugee's recommendation "...that it is urgent that CBSA be overseen by an independent accountability mechanism that could receive complaints about non-compliance with the directives on detention of minors."
- Ensure that all children in government care without status, or with temporary status or non-citizenship in Canada, are tracked and supported practically and financially with the citizenship application processes
- BC Medical Services Commission must remove the MSP waiting period, and the Federal government amend the Canada Health Act to forbid such a waiting period, bringing the Act in line with the *Convention*
- Affordable Child Care Benefits must be made available without regard to immigration status
- Urge the provincial government to develop regulations that protect children and youth from workplace injury and exploitation

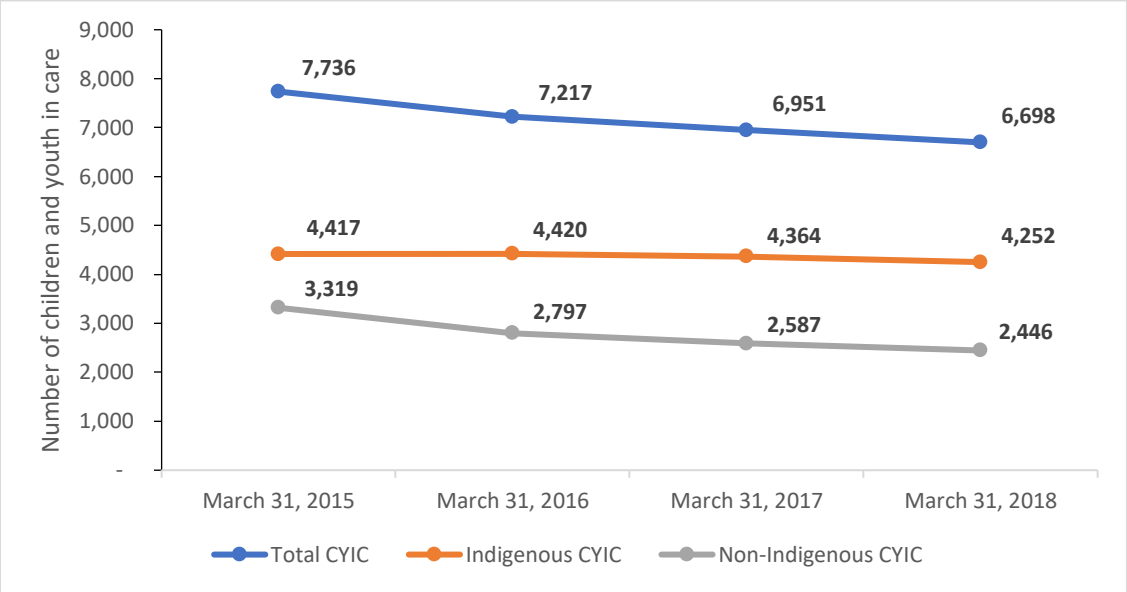
Annex 2: Statistics on Children and Youth in Care

Provided by the Office of the Representative for Children and Youth

The total number of children and youth in care In British Columbia, both Indigenous and non-indigenous, has decreased in the past four years from 7,736 in 2015 to 6,698 in 2019 at the end of each fiscal year respectively. This difference of 1,038 children and youth represents a decrease of -13.4% across those four years (see Figure 1).

However, there is a considerable difference in the magnitude of percentage change when disaggregated by Indigenous status. Between March 31, 2015 and March 31, 2018, the number of non-indigenous children and youth in care decreased by -26.3% (n=873). In contrast, the number of Indigenous children and youth in care on March 31 only slightly decreased by -3.7% (n=165).

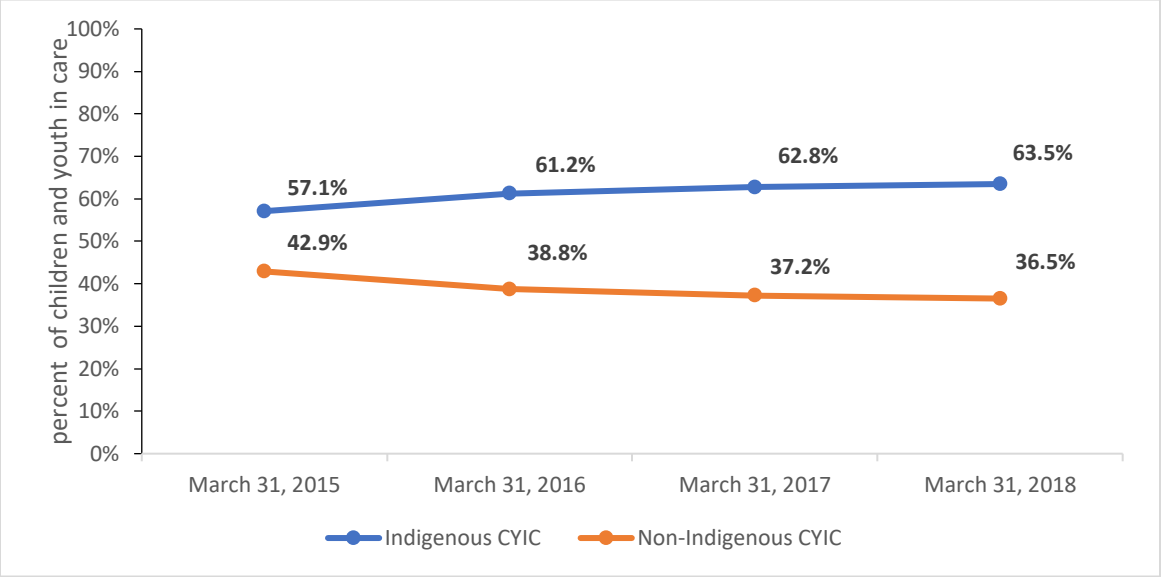
Figure 1: Total number of children and youth in care on the last day of the fiscal year by Indigenous status (2015-2018)



Source: https://mcfd.gov.bc.ca/reporting/services/child-protection/permanency-for-children-and-youth/performance-indicators/children-in-care

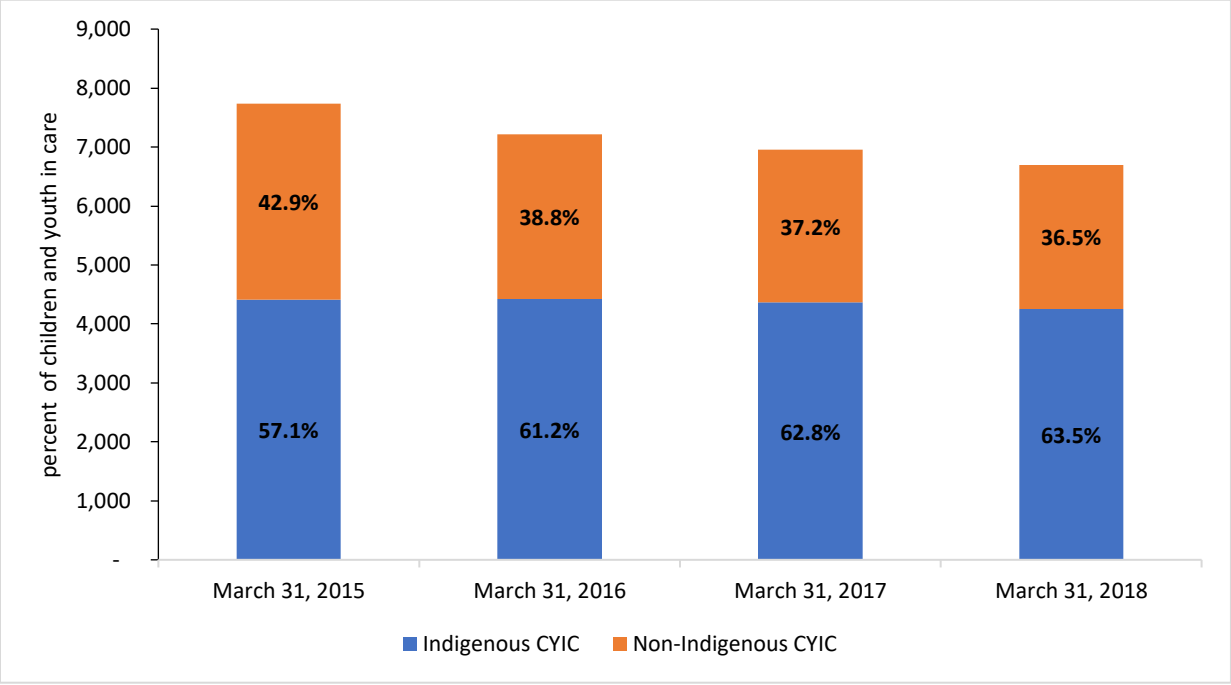
Due to the differences in reduction rates, the proportion of Indigenous versus non-indigenous children and youth in care has changed slightly in recent years. As mentioned previously, the overall number has decreased for both Indigenous and non-indigenous children and youth but more so for the latter. This has resulted in an increasing proportion of Indigenous children and youth in care growing from 57.1% to 63.5% in the last four fiscal years (see Figure 2a and Figure 2b). The proportion of non-indigenous children and youth has decreased from 42.9% to 36.5% in the same time period.

Figure 2a: Proportion of children and youth in care by Indigenous status (2015-2018)



Source: https://mcfd.gov.bc.ca/reporting/services/child-protection/permanency-for-children-and-youth/performance-indicators/children-in-care

Figure 2b: Proportion of children and youth in care by Indigenous status (2015-2018)



Annex 3: Freedom of Information Request Regarding Immigration Applications on behalf of Children and Youth in Care

ARCS: 292-30
File: CFD-2019-92996

August 2, 2019

Sent via email: [redacted]

Omar Chu
[redacted]

Dear Omar Chu:

Re: Request for Access to Records
***Freedom of Information and Protection of Privacy Act* (FOIPPA)**

I am writing further to your request received by the Ministry of Children and Family Development. Your request is for:

Any and all records about, in relation to or which mention the implementation of the Immigration & Refugee Practice Guidelines and Checklist for Assisting Children in Care, including but not limited to: The number of children in care by immigration status, for example, number of children in care with no status, temporary status, refugee status, permanent resident status, and citizenship status; Number of contacts to the Legal Services Branch (LSB) to request the appointment of an immigration lawyer for a child in care; Number of applications for Canadian citizenship made by the Ministry on behalf of children in care; Number of applications for Canadian permanent residence made by the Ministry on behalf of children in care; Amount in dollars and in number of cases of financial assistance for citizenship applications or to obtain counsel for immigration applications for youth in the AYA program. (Date Range for Record Search: From 05/01/2017 To 05/13/2019)

Please find enclosed a copy of the records located in response to your request. Some information has been withheld pursuant to section(s) 13 (Policy advice or recommendations), 14 (Legal advice)and 22 (Disclosure harmful to personal privacy) of FOIPPA. A complete copy of FOIPPA is available online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00

…/2

Ministry of Citizens' Services Information Access Operations
Mailing Address:
PO Box 9569 Stn Prov Govt
Victoria BC V8W 9K1
Website:
www.gov.bc.ca/freedomofinformation
Telephone: 250 387-1321
Fax: 250 387-9843

With regard to "the number of children in care by immigration status, for example, number of children in care with no status, temporary status, refugee status, permanent resident status, and citizenship status," the ministry advises that while the Integrated Case Management (ICM) system does contain this field, it is rarely used by staff and therefore the ministry is unable to provide reliable data in response to this portion of your request.

With regards to the "amount in dollars and in number of cases of financial assistance for citizenship applications or to obtain counsel for immigration applications for youth in the AYA program," the ministry advises that no responsive records were located in response to this portion of your request.

Lastly, the ministry advises that Legal Services Branch, Ministry of Attorney General may hold responsive records/information regarding the following portions of your request:

- Number of contacts to the Legal Services Branch (LSB) to request the appointment of an immigration lawyer for a child in care
- Number of applications for Canadian citizenship made by the Ministry on behalf of children in care;
- Number of applications for Canadian permanent residence made by the Ministry on behalf of children in care;

You may wish to direct these portions of your request to the Ministry of Attorney General.

Your file is now closed.

If you have any questions regarding your request, please contact Adrian Chalifour, Team Lead at 250 387-1458. This number can be reached toll-free by calling from Vancouver, 604 660-2421, or from elsewhere in BC, 1 800 663-7867 and asking to be transferred to 250 387-1458.

You have the right to ask the Information and Privacy Commissioner to review this decision. I have enclosed information on the review and complaint process.

Sincerely,

Adrian Chalifour, Team Lead
On behalf of Jamie Onciul, Manager
Social / Tech Team, Information Access Operations

Enclosures

Annex 4: Spanish Translation of Full List of Recommendations / Lista Completa de Recomendaciones

Traducido por Sierra Allen

Esta lista de recomendaciones se ha elaborado a partir de nuestro informe y procede de la consulta con expertos y expertas en numerosas áreas. En cuanto al informe en sí, no representa un consenso de las organizaciones o individuos que contribuyeron.

Medidas Generales de Aplicación

- Mejorar los sistemas públicos para la recolección y coordinación de datos, llevando Canadá hacia un sistema integral de recolección de datos
- Crear una estrategia nacional para la aplicación de la *Convención*, con un fuerte liderazgo y financiación a nivel federal
- Crear un Ombudsman federal para los Niños y Niñas que actúe como vigilante de los derechos del niño y proporcione una supervisión independiente, así como que atienda a las quejas de los niños y las niñas
- Proporcionar el liderazgo del gobierno federal con el objetivo de eliminar los sistemas de financiación precarios para los servicios sociales esenciales, y la creación de políticas explícitas que garanticen que las ONG con financiación gubernamental puedan hablar en contra de las prácticas del gobierno sin arriesgar sus flujos de financiación
- Proporcionar financiación para la capacitación sistemática de derechos del niño a todos los y las profesionales que trabajan con o para los niños y las niñas
- Proporcionar financiación y apoyo para una campaña nacional de sensibilización pública sobre los derechos de los niños y niñas y sobre la *Convención*
- Renovar y fortalecer el compromiso nacional a la reconciliación

Principios Generales

- Adoptar medidas urgentes para aplicar mejor el principio de la no-discriminación en las vidas de los niños, las niñas, los jóvenes y las jóvenes mediante una capacitación sistemática contra el racismo, un examen de los planes de financiación, el cumplimiento de todas las órdenes de reparación actuales y futuras debidas a la discriminación pasada y la consulta directa con los y las jóvenes marginados y marginadas
- Hacer que la escucha de las opiniones del niño y de la niña sea un requisito para la toma de decisiones en todos los asuntos que afecten a los niños y las niñas, incluyendo los casos de custodia, las decisiones sobre bienestar infantil, la justicia penal, la inmigración y el medio ambiente
- Ampliar el derecho de voto para incluir a más niños, niñas y jóvenes, realizando una consulta exhaustiva con los interesados, incluyendo principalmente los niños y las niñas directamente, para establecer una nueva edad mínima o un sistema nuevo
- Enmendar la BC Child, Family and Community Service Act de modo que los niños y las niñas tengan derecho a que se escuchen sus opiniones a cualquier edad en que reclaman ese derecho, y que los y las profesionales que trabajen con ellos y ellas en cada etapa les informen de ese derecho
- Enmendar la BC Family Law Act de manera que un Juez pueda nombrar un abogado de niños y niñas a su discreción, siempre y cuando no sea contrario al interés superior del niño o niña

- Aumentar el acceso a la justicia para los niños, niñas y jóvenes asegurando que cada uno de ellos y ellas tenga derecho a un abogado en todos los casos

Derechos y Libertades Civiles

- Promulgar un "derecho al olvido" nacional y políticas más fuertes sobre a la privacidad digital de los niños y las niñas
- Ampliar la función de la Oficina del Comisionado de Privacidad de Canadá (Office of the Privacy Commissioner of Canada) para que se ocupe de la privacidad digital en general y la de los niños y las niñas en particular
- Proporcionar educación y capacitación a los y las profesionales del derecho en relación con la inclusión de las personas LGBTQ2S+ y los efectos negativos, especialmente para los niños y niñas, de las prácticas discriminatorias y de la eliminación de la identidad, como la discriminación intencional por motivos de género
- Defender los derechos de todos los pueblos indígenas a ser consultados sobre los proyectos de extracción de recursos en sus tierras ancestrales

Violencia Contra Los Niños y Las Niñas

- Derogar inmediatamente el artículo 43 del Código Penal y al mismo tiempo, promulgar programas de crianza para ayudar a las familias a comprender los efectos negativos de la disciplina física y asistirlos con las medidas alternativas positivas
- Aumentar la financiación del gobierno para programas específicos de la prevención de la violencia y la discriminación contra las niñas indígenas, y promover el liderazgo indígena de estos programas
- Ampliar el programa 'Commit to Kids' del Centro Canadiense de Protección Infantil (Canadian Centre for Child Protection)
- Crear e implementar clases integrales de educación sexual que aborden las preocupaciones digitales, los temas LGBTQ2S+, la explotación, así como los aspectos positivos de la sexualidad
- Investigar la extracción de datos de los niños y las niñas canadienses a través de aplicaciones digitales y en línea, y elaborar nuevas leyes para abordar estas preocupaciones
- Ampliar los servicios de apoyo a la familia
- Aumentar las oportunidades de que las voces de los y las jóvenes sean escuchadas por el gobierno, incluso en el sistema de cuidado de crianza

Entorno Familiar y Cuidado Alternativo

- Aumentar el apoyo del gobierno a las opciones de tratamiento seguras y culturalmente apropiadas, dirigidas por las personas indígenas, para toda la familia
- Crear un período de apoyo práctico, continuo y apropiado, incluyendo culturalmente apropiado, de apoyo con el dolor y la pérdida cuando se devuelve un niño o una niña a casa, para lidiar con el trauma de entrar al servicio de cuidado
- Crear oportunidades para que los Consejos Indígenas asumen la jurisdicción sobre el bienestar de los niños y las niñas mediante la Ley con Respeto a las Primeras Naciones (Act Respecting First Nations), los niños, niñas, los y las jóvenes y las familias Inuit y Métis, y asegurar que se disponga de la financiación adecuada para ello
- Aumentar los incentivos para trabajar en zonas remotas y rurales, incrementando así los niveles de servicio que se pueden ofrecer en esas zonas
- Crear todas las políticas con una plena apreciación del desarrollo y los derechos del niño, redactarlas en un lenguaje apropiado para los niños y las niñas y ofrecerles el apoyo adecuado para que comprendan las políticas que les afectan

- Identificar y construir una programación exitosa de intervención temprana en la provincia
- Aplicar la recomendación *del Comité* del 2011 de que se dé preferencia a las personas con hijos e hijas en las alternativas a la prisión
- Actualizar las normas y reglamentos del programa 'CLB' para eliminar o reducir las barreras de acceso
- Actualizar el algoritmo de Revenue Canada para la revisión de los impuestos de manera que no se dirija desproporcionadamente a las familias vulnerables y les cueste su Child Benefit o Post-Adoption Assistance mientras están siendo examinadas
- Actualizar el método de pago del 'CLB' para que refleje el de otros subsidios, como el Canada Pension Plan

Discapacidad, Salud Básica y Bienestar

- Implementar plenamente el plan de guardería de 10 dólares diarios en BC, incluyendo sus recomendaciones de aumentar los salarios de los educadores de la primera infancia, un aumento de los espacios con licencia y una reducción de las tarifas
- Dado que BC está actualmente en el proceso de desarrollo de la legislación provincial sobre accesibilidad, instamos el enfoque en la atención a la infancia así como los 3 principios directores desarrollados por Inclusion BC - la accesibilidad como derecho humano, el reconocimiento de las personas discapacitadas como ciudadanos de pleno derecho y el establecimiento de una cultura de inclusión - en todo este proceso y en cualquier otro proceso similar a nivel Federal
- Resonamos con la recomendación de Inclusion BC de eliminar los tiempos de espera de las evaluaciones para los niños y las niñas mediante el aumento de la financiación de los servicios y la regionalización de los centros de evaluación, entre otras cosas
- Aumentar la financiación de los servicios integrales para las familias afectadas por la discapacidad, especialmente en las comunidades rurales y remotas
- Aumentar las tasas de previsión social de manera que no dejen atrás a las personas que siguen viviendo por debajo del umbral de pobreza
- Continuar la aplicación y la priorización de las iniciativas establecidas en las existentes estrategias de reducción de la pobreza de los gobiernos provinciales y federales
- Implementar la Farmacéutica Universal (Universal Pharmacare) en todo el país
- Adherirse a la recomendación anterior del *Comité* en relación con la promoción de la lactancia materna para garantizar que más familias dispongan de las herramientas y recursos necesarios para cumplir las normas mínimas de la Organización Mundial de la Salud (World Health Organization)
- Realizar a un examen crítico de los factores que afectan al sueño de los niños y las niñas, incluyendo las horas de inicio de la escuela y la carga de deberes, y publicar directrices nacionales sobre estos temas
- Proporcionar financiación adicional para ayudar a abordar las disparidades geográficas en materia de salud, en BC y en todo el país
- Eliminar el período de espera del MSP y enmendar la Canada Health Act para prohibir ese período de espera, armonizando la Canada Health Act con la *Convención*
- Desarrollar sitios seguros de consumo de drogas específicos para los y las jóvenes
- Implementar la Universal Pharmacare y Dental Care
- Implementar programas de incentivo para que los profesionales de la salud mental practiquen en áreas subatendidas, como becas de reubicación y programas de perdón de préstamos

Educación, Ocio y Actividades Culturales

- Desarrollar recursos de capacitación y apoyo para los padres de crianza y el personal del sistema de cuidado de crianza para ayudar a los y las jóvenes a su cargo con medidas de reducción de daños en torno al uso de sustancias
- Desarrollar un comité directivo del clima dirigido por jóvenes a nivel Federal para ayudar al gobierno a avanzar hacia la sostenibilidad y frenar la crisis climática
- Apoyar a las familias de cuidado de crianza para que ayuden a sus hijos e hijas a lograr la continuidad cultural mediante la conexión a los recursos, la conexión de los niños y niñas de las Primeras Naciones (First Nations) directamente con su Nación, el apoyo a los pueblos Indígenas para que se conviertan en padres de crianza y la obtención de financiación
- Apoyar a todos los niños y niñas bajo el cuidado del gobierno para que visiten su tierra al menos una vez al año, según corresponda
- Realizar un examen exhaustivo de los efectos de la extracción de recursos y la destrucción de tierras en la salud física y mental de todos los pueblos Indígenas, especialmente los niños, niñas y jóvenes Indígenas
- Asegurar que los apoyos desarrollados sean dirigidos por la comunidad, basándose en las asociaciones con las organizaciones existentes en lugar de adoptar un enfoque más costoso de arriba hacia abajo
- Promulgar legislación para que el tránsito sea gratuito para los niños y niñas en todos los sistemas de todo el país, o al menos ofrecer incentivos a las empresas regionales de tránsito para que proporcionen pases gratuitos para los niños y niñas
- Apoyar más el juego libre en planes de estudio y obligar a que haya recreo en todas las escuelas
- Desarrollar más sistemas en todos los entornos escolares que apoyen la participación democrática y la realización de los derechos de los niños y las niñas.
- Aumentar la financiación disponible para las escuelas, con fondos adicionales destinados a los y las jóvenes Indígenas, la educación inclusiva y la práctica educativa informada sobre los traumas
- Asegurar que todos los estudiantes con necesidades especiales tengan acceso a maestros, maestras y asistentes educativos que entiendan sus necesidades y las satisfagan en el aula general
- Convertir todas las escuelas en Escuelas Santuarios (Sanctuary Schools) tan pronto como sea posible
- Proporcionar capacitación y fondos adicionales a los y las maestras para que los respeten más como trabajadores de primera línea y los ayuden a atender las complejas necesidades de los estudiantes a su cargo

Medidas Especiales de Protección

- Prohibir el confinamiento en solitario para los y las jóvenes. Hasta que se aplique esa prohibición, limitar la duración del confinamiento en solitario en los establecimientos correccionales para jóvenes a 24 horas, aumentar las restricciones y la supervisión de la práctica y asegurar un mejor documentación y disponibilidad de esos datos al público
- Aplicar alternativas terapéuticas de gestión del comportamiento, culturalmente seguras y basadas en pruebas científicas, al la práctica del confinamiento solitario y el aerosol de pimienta, en reconocimiento de las profundas historias de trauma, las discapacidades cognitivas y las enfermedades mentales con que viven muchos y muchas jóvenes detenidos y detenidas
- Mejorar la programación de la atención de la salud con base empírica para los y las jóvenes con enfermedades mentales o vulnerabilidades cognitivas
- Adoptar medidas inmediatas para lidiar con la representación excesiva de los y las jóvenes Indígenas en el sistema de justicia penal, incluida la aplicación de más apoyo preventivo a los y

las jóvenes en situaciones de riesgo, pero también mediante el aumento de las medidas de capacitación y responsabilidad para profesionales del sistema de justicia encargados de hacer cumplir la ley respecto a los prejuicios implícitos, el racismo y los efectos intergeneracionales de la colonización

- Aumentar la recolección y la disponibilidad de datos sobre el número y la demografía de los y las jóvenes encarcelados y encarceladas en todas las provincias y territorios
- Derogar el Safe Third Country Agreement entre Canadá y los Estados Unidos
- Garantizar que todos los niños y niñas "alojados/alojadas" en centros de detención tengan los mismos derechos de revisión que tendrían si estuvieran formalmente detenidos allí
- Comprometerse a no detener nunca o "alojar" a los niños y niñas en centros de detención, y a mantener a las familias unidas en todas las circunstancias, a menos que sea en contra del interés superior del niño o niña
- Resonamos la recomendación del Canadian Council for Refugees "...que es urgente que la CBSA sea supervisada por un mecanismo independiente de rendición de cuentas que pueda recibir quejas sobre el incumplimiento de las directivas sobre la detención de menores"
- Garantizar que todos los niños y niñas bajo la tutela del gobierno sin estatus, o con estatus temporal o sin ciudadanía en Canadá, sean monitoreadas y apoyadas prácticamente y financieramente con los procesos de solicitud de ciudadanía
- La Comisión de Servicios Médicos de BC (BC Medical Services Commission) debe eliminar el período de espera para el MSP, y el gobierno Federal debe enmendar la Ley de Salud del Canadá (Canada Health Act) para prohibir ese período de espera, armonizando la Ley con la *Convención*
- Se deben ofrecer Beneficios de Cuidado de Niños Asequibles (Affordable Child Care Benefits) sin tener en cuenta estado de inmigración
- Instar al gobierno provincial a desarrollar regulaciones que protejan a los niños, niñas y jóvenes de los daños y la explotación en el lugar de trabajo

Endnotes

[1] UN Committee on the Rights of the Child (CRC), *UN Committee on the Rights of the Child: Concluding Observations: Canada,* 20 June 1995, CRC/C/15/Add.37, at para. 9

[2] UN Committee on the Rights of the Child (CRC), *UN Committee on the Rights of the Child: Concluding Observations: Canada,* 3 October 2003, CRC/C/15/Add.21527, at para. 11

[3] UN Committee on the Rights of the Child (CRC), *UN Committee on the Rights of the Child: Concluding Observations: Canada,* 6 December 2012, CRC/C/CAN/CO/3-4, at para. 13

[4] Canada, *Canada's Fifth and Sixth Reports on the Convention on the Rights of the Child,* February 1 2019, accessible at https://fncaringsociety.com/sites/default/files/canada-crc-5-6th-report.pdf [retrieved on 20 February 2020] at para. 12

[5] Dickson, L. (2020, February 26). Legislature protesters demand that pipeline permits be revoked. Retrieved February 27, 2020, from https://www.coastreporter.net/news/local-news/legislature-protesters-demand-that-pipeline-permits-be-revoked-1.24084959

[6] Bennett, D. Larkin, D.J. (December 2018) *Project Inclusion: Confronting Anti-Homelessness and Anti-Substance User Stigma in British Columbia.* Pivot Legal Society (Vancouver, BC) Retrieved from: https://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/3297/attachments/original/1543970419/project-inclusion-digital.pdf?1543970419

[7] Supra note 4, at para. 93

[8] Smith, A., Stewart, D., Poon, C., Peled, M., Saewyc, E., and McCreary Centre Society. (2015). Our communities, our youth: The health of homeless and street-involved youth in BC. Vancouver, BC: McCreary Centre Society. At p. 15

[9] Austin, S. (2019, December 5). Child Advocates Respond to Throne Speech, Calling on Parliament to Make Kids a Higher Priority. Retrieved February 19, 2020, from https://childrenfirstcanada.org/news/2019/12/5/child-advocates-respond-to-throne-speech-calling-on-parliament-to-make-kids-a-higher-priority

[10] David Asper Centre for Constitutional Rights, 14 November 2019, Asper Centre and Justice for Children and Youth organize youth consultations for legal challenge to Canada's voting age [press release], accessible at https://aspercentre.ca/news-release-asper-centre-and-justice-for-children-and-youth-organize-youth-consultations-for-legal-challenge-to-canadas-voting-age/ [retrieved 21 February 2020]

[11] Youth First Voices and Katherine McParland, *From Marginalized to Magnified: Youth Homelessness Solutions From Those With Lived Experience,* February 2020. Accessible at https://rcybc.ca/wp-content/uploads/2020/02/Final.From-Marginalized-to-Magnified.pdf [retrieved 23 February, 2020]

[12] BC's *Family Law Act,* Retrieved 20 February 2020 from http://www.bclaws.ca/civix/document/id/complete/statreg/11025_01

[13] Sharenthood: Why We Should Think before We Talk about Our Kids Online, Plunkett, L.A. Palfrey, J., 9780262042697 https://books.google.ca/books?id=4npzvwEACAAJ, 2019, MIT Press

[14] Mangione, K. (2017, July 5). 'I do not gender my child': B.C. baby issued health card without sex designation. Retrieved February 22, 2020, from https://bc.ctvnews.ca/i-do-not-gender-my-child-b-c-baby-issued-health-card-without-sex-designation-1.3490430

[15] *A.B. v. C.D.*, 2020 BCCA 11

[16] Northern Affairs Canada. (2019, August 15). Are you applying for Indian status? Retrieved February 22, 2020, from https://www.sac-isc.gc.ca/eng/1462808207464/1572460627149#s2-2

[17] Statistics Canada. (2019, December 12). Section 1: Police-reported family violence against children and youth in Canada, 2018. Retrieved February 23, 2020, from https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00018/01-eng.htm

[18] Supra, note 4, at para. 68
[19] Muir, N., & Bohr, Y. (2019). Contemporary Practice of Traditional Aboriginal Child Rearing: A Review. *First Peoples Child & Family Review*, *14*(1), 153-165. Retrieved from https://fpcfr.com/index.php/FPCFR/article/view/378

[20] Bunge, M. J. (2015). *The child in Christian Thought*. Johanneshov: MTM.

[21] Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada: Calls to Action 2015.* Accessible at http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf [Retrieved 21 February 2020]
[22] Statement by Prime Minister on release of the Final Report of the Truth and Reconciliation Commission. (n.d.). Retrieved February 20, 2020, from https://pm.gc.ca/en/news/statements/2015/12/15/statement-prime-minister-release-final-report-truth-and-reconciliation

[23] National Inquiry Into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry Into Missing and Murdered Indigenous Women and Girls Volume 1a,* 3 June 2019. Accessible at https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf [Retrieved February 21 2020], at p.375
[24] The Coalition on MMIWG in BC letter to Ministers Bennett, Miller and Monsef regarding concerns about process to create the National Action Plan on Violence Against Indigenous Women, Girls and Two-Spirit People. Accessed at https://bccla.org/wp-content/uploads/2020/02/2020Feb3_NAPconcerns_Coalition_to_Canada.pdf [Retrieved 21 February 2020]

[25]Children First Canada, *The Kids Are Not Alright. It's Time for Canada to Measure Up!,* 2016. Accessible at https://static1.squarespace.com/static/5669d2da9cadb69fb2f8d32e/t/582e2fc13e00beacb43bde3e/1479421899329/The+kids+are+not+alright%21+Children+First+Canada+%E2%80%93+November+2016-3.pdf [Retrieved 23 February 2020]
[26] Supra, note 19
[27] Supra note 12, p.59

[28] Ibid
[29] Government of Canada Census 2006 reports that 1830 children were counted in shelters of the total 19,360 enumerated (9.3%). Available at https://www12.statcan.gc.ca/census-recensement/2006/dp-pd/tbt/Rp-eng.cfm?LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GID=0&GK=0&GRP=1&PID=93192&PRID=0&PTYPE=88971,97154&S=0&SHOWALL=0&SUB=0&Temporal=2006&THEME=69&VID=0&VNAMEE=&VNAMEF=
[30]Correctional Service of Canada, Canadian Families in Corrections (2007). Incarcerated Fathers: A Descriptive Analysis: Research Report R:186
[31] Finnegan, L. (2013). Substance abuse in Canada: Licit and illicit drug use during pregnancy: Maternal, neonatal and early childhood consequences. Ottawa, ON: Canadian Centre on Substance Abuse. © Canadian Centre on Substance Abuse 2013

[32] Parent Support Services Society of BC, *Kinship Care Service Snapshot,* 31 March 2018. Accessed at https://www.parentsupportbc.ca/wp-content/uploads/2017/08/grg-snapshot-Final-April-2018-s_Page_1.jpg [Retrieved 21 February 2020]
[33] Minister of Indigenous Services, 2019, Bill C-92 *An Act respecting First Nations, Inuit and Métis children, youth and families,* Accessed at https://www.parl.ca/DocumentViewer/en/42-1/bill/C-92/royal-assent#ID0EIOAC [Retrieved 22 February 2020], at S. 15

[34] Supra note 12, at p.13

[35] Ibid, at p.31
[36] Ibid, at p.32
[37] Government of British Columbia Agreements with Young Adults, accessed at https://www2.gov.bc.ca/gov/content/family-social-supports/youth-and-family-services/teens-in-foster-care/agreements-with-young-adults [Retrieved 22 February 2020]

[38] Tracydh. (2019, September 25). Exclusion Tracker 2018/2019 Final Report. Retrieved February 22, 2020, from https://bcedaccess.com/2019/09/04/exclusion-tracker-2018-2019-final-report/

[39] New universally accessible playground opens in Surrey, B.C. | CBC News. (2019, October 13). Retrieved February 22, 2020, from https://www.cbc.ca/news/canada/british-columbia/surrey-new-accessible-playground-1.5320087

[40] First Call: BC Child and Youth Advocacy Coalition, *2018 BC Child Poverty Report Card*. Retrieved February 20, 2020 from https://still1in5.ca/wpcontent/uploads/2020/01/First_Call_Report_Card_2019_Summary_revised_Jan_22_2020_web.pdf

[41] Canadian Institute for Health Information, November 2014, *Self-harm and assault: A closer look at children and youth.* Retrieved 19 February 2020 from https://secure.cihi.ca/free_products/Public_Summary_Intentional_Injuries_EN.PDF
[42] Ibid
[43] Smith, A., Forsyth, K., Poon, C., Peled, M., Saewyc, E., & McCreary Centre Society (2019). Balance and connection in BC: The health and well-being of our youth. Vancouver, BC: McCreary Centre Society. At p.31

[44] Ibid
[45] Statistics Canada, *Deaths and age-specific mortality rates, by selected grouped causes.* Retrieved February 20, 2020 from Table 13-10-0392-01 Deaths and age-specific mortality rates, by selected grouped causes
[46] Ibid

[47] Creighton, G. M., Oliffe, J. L., Lohan, M., Ogrodniczuk, J. S., & Palm, E. (2017). "Things I did not know": Retrospectives on a canadian rural male youth suicide using an instrumental photovoice case study. Health, 21(6), 616-632. doi:10.1177/1363459316638542

[48] CTV News. (2020, February 12). Full text: 2020 B.C. Speech from the Throne. Retrieved February 24, 2020, from https://vancouverisland.ctvnews.ca/full-text-2020-b-c-speech-from-the-throne-1.4807612

[49] Child and youth mental health in Canada - Infographic. (2019, June 13). Retrieved February 22, 2020, from https://www.cihi.ca/en/child-and-youth-mental-health-in-canada-infographic

[50] Statistics Canada, *Annual statutory teachers' salaries in public institutions, by level of education taught and teaching experience, Canadian dollars, Canada, provinces and territories, 2014/15.* Retrieved 20 February 2020 from https://www150.statcan.gc.ca/n1/pub/81-604-x/2017001/t/tbld2.1-eng.htm
[51] Office of the BC Provincial Health Officer, 2016, *Is "Good", Good Enough? The Health & Well-Being of Children & Youth In BC.* Retrieved 20 February 2020 from https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/reports-publications/annual-reports/pho-annual-report-2016.pdf

[52] Catherine, N.L.A., Lever, R., Sheehan, D. *et al.* The British Columbia Healthy Connections Project: findings on socioeconomic disadvantage in early pregnancy. *BMC Public Health* **19,** 1161 (2019). https://doi.org/10.1186/s12889-019-7479-5

[53] Supra note 45, at p.19

[54] Ibid, at p.21
[55] Ibid, at p.22
[56] "Public Health Emergency in BC." *BC Centre for Disease Control*, www.bccdc.ca/about/news-stories/stories/public-health-emergency-in-bc.

[57] BC Coroners Service, *Illicit Drug Toxicity Deaths in BC January 1, 2009 – December 31, 2019,* Retrieved February 20 2020 from https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/illicit-drug.pdf

[58] BC Coroners Service, *Fentanyl-Detected Illicit Drug Toxicity Deaths, January 1, 2012 – December 31, 2019,* Retrieved February 20 2020 from https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/statistical/fentanyl-detected-overdose.pdf

[59] Representative for Children and Youth of BC, November 2018, *Time to Listen: Youth Voices on Substance Use*. Retrieved February 22, 2020 from https://youthrex.com/wp-content/uploads/2019/11/Time-to-Listen-Youth-Voices-on-Substance-Use-2018.pdf

[60] Ibid

[61] Ibid

[62] Slemon, A., Jenkins, E.K., Haines-Saah, R.J., Daly, Z., & Jiao, S. (2019) *"You Can't Chain a Dog to a Porch": A Multisite Quantitative Analysis of Youth Narratives of Parental Approaches to Substance Use,* Harm Reduction Journal, 16(1), 26.

[63] Supra, note 62

[64] BC Lung Association, *2018 State of the Air,* Retrieved February 22, 2020 from https://bc.lung.ca/sites/default/files/media/1052-State%20Of%20The%20Air%202018_R12_web.pdf

[65] Irena Buka, Katherine M Shea, Global climate change and health in Canadian children, *Paediatrics & Child Health*, Volume 24, Issue 8, December 2019, Page 557, https://doi.org/10.1093/pch/pxz157

[66] ACT Autism Community Training, 2016, *ACT's Autism Manual for BC: Living and Working with Children and Adults,* retrieved 18 February 2020 from https://www.actcommunity.ca/files/pdf/act/manual/PM_ch4.pdf?v=2016 , at Chapter 4: MCFD Funded Services for Children with ASD, p.15

[67] Inclusion BC, June 2019 *Ending the Wait: Overcoming systemic delays in the provision of support for neuro-diverse children and youth,* Retrieved 22 February 2020 from https://inclusionbc.org/wp-content/uploads/2019/06/EndingTheWait-BriefStandingCommitteeChildrenAndYouth.pdf

[68] Inclusion BC, May 2018, *Stop Hurting Kids 2: Restraint and Seclusion in BC Schools,* Retrieved 17 February 2020 from https://inclusionbc.org/wp-content/uploads/2018/11/InclusionBC_StopHurtingKids2.pdf

[69] New Westminster School District 40 International Education Program. (n.d.). Retrieved February 18, 2020, from https://newwestschools.ca/first-in-bc-school-board-adopts-sanctuary-schools-policy/

[70] Human Early Learning Partnership. EDI BC. Early Development Instrument British Columbia, 2016-2019 Wave 7 provincial report. Vancouver, BC: University of British Columbia, Faculty of Medicine, School of Population and Public Health; 2019 Nov. Available from: http://earlylearning.ubc.ca/media/edibc_wave7_2019_provincialreport.pdf

[71] Parents, kids disgruntled about Vancouver schools' shortened recess | CBC News. (2019, September 14). Retrieved February 21, 2020, from https://www.cbc.ca/news/canada/british-columbia/shortened-recess-vancouver-1.5280326

[72] Crook v. British Columbia (Director of Child, Family and Community Service), 2019 BCSC 1954

[73]Lines, L., Jardine, C.G. Connection to the land as a youth-identified social determinant of Indigenous Peoples' health. *BMC Public Health* 19, 176 (2019). https://doi.org/10.1186/s12889-018-6383-8

[74] Walsh, R., Danto, D. & Sommerfeld, J. Land-Based Intervention: a Qualitative Study of the Knowledge and Practices Associated with One Approach to Mental Health in a Cree Community. *Int J Ment Health Addiction* **18,** 207–221 (2020). https://doi.org/10.1007/s11469-018-9996-3

[75] Kirmayer, L. J., Brass, G. M., & Tait, C. L. (2000). The Mental Health of Aboriginal Peoples: Transformations of Identity and Community. *The Canadian Journal of Psychiatry*, *45*(7), 607–616. doi: 10.1177/070674370004500702

[76] Canada Border Services Agency. "Minister Goodale Issues New Direction on Keeping Children out of Canada's Immigration Detention System and Keeping Families Together." *Minister Goodale Issues New Direction on Keeping Children out of Canada's Immigration Detention System and Keeping Families Together*, 21 Dec. 2018,

www.newswire.ca/news-releases/minister-goodale-issues-new-direction-on-keeping-children-out-of-canadas-immigration-detention-system-and-keeping-families-together-655621173.html.

[77] Canadian Council for Refugees (November 2019) *Immigration detention and children: Rights still ignored, two years later* Retrieved 22 February 2020 from https://ccrweb.ca/sites/ccrweb.ca/files/children-detention-nov-2019.pdf, at p.3

[78]Canadian Border Services Agency *Annual Detention Statistics 2012-2019,* retrieved 19 February 2020 from https://www.cbsa-asfc.gc.ca/security-securite/detent/stat-2012-2019-eng.html

[79] Supra, note 81, at p.3

[80] Supra, note 82

[81] Ibid

[82] Supra, note 81, at p.10

[83] Ministry of Children and Family Development (May 2017), *Immigration & Refugee Practice Guidelines and Checklist for Assisting Children in Care,* Retrieved 23 February 2020 from file:///Users/SCY/Downloads/Immigration%20&%20Refugee%20Practice%20Guidelines%20and%20Checklist%20for%20Assisting%20Children%20in%20Care%20-%20May%202017.pdf

[84] Ibid

[85] UN International Covenant on Civil and Political Rights, *Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2348/2014*, CCPR/C/123/D/2348/2014, Retrieved 22 February 2020 from http://www.socialrights.ca/2018/D2348.pdf

[86] Kendra Milne (July 2016), *High Stakes: The impacts of child care on the human rights of women and children,* Retrieved 22 February 2020 from http://www.westcoastleaf.org/wp-content/uploads/2016/07/High-Stakes-low-res-for-web.pdf, at p. 37

[87] Ibid, at p. 37

[88] Immigration Legal Committee of the Law Union of Ontario and No One Is Illegal, *Border Rights for Refugees,* Retrieved 22 February 2020 from https://noii-van.resist.ca/wp-content/uploads/2017/03/Know-Your-Rights-3.0.pdf

[89] Citizenship Canada. "Government of Canada." *Canada.ca*, Government of Canada, 23 June 2016, www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement.html.

[90] Ibid

[91] Worksafe BC Claims cost statistics for ages 15 & under, by sector, 2007-2017 https://firstcallbc.org/wordpress/wp-content/uploads/2018/07/claim_costs_ages_15__under_bysector_2007-2017_25APR18.pdf

[92] Law Institute of BC Employment Standards Act Reform Project Consultation Paper, June 2018, "Employment of Children" (pages 203-213) https://www.bcli.org/project/employment-standards-act-reform-project

[93] Ibid

[94] Mustel Group, Child Labour Survey, June 2018 https://firstcallbc.org/wordpress/wp-content/uploads/2015/06/B933-First-Call-Child-Labour-Survey-2018-June15.pdf

[95] BC Government Website, BILL 8 – 2019: Employment Standards Amendment Act, 2019 https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/first-reading/gov08-1

[96] Ministry of Labour Webpage, Hiring Young People, as of February 13,2020 https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/hiring/young-people

[97] Statistics Canada (May 9, 2019) *Adult and youth correctional statistics in Canada, 2017/2018* Retrieved 22 February 2020 from https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00010-eng.htm

[98] Ibid

[99] Medley, Petitioner, 134 U.S. 160 (1890), retrieved from https://supreme.justia.com/cases/federal/us/134/160/

[100] Tamar R. Birckhead, "Children in Isolation: The Solitary Confinement of Youth," (2015) 50 Wake Forest L Rev at 15

[101] *Ibid* at 10

[102]Manitoba, Legislative Assembly, Manitoba Advocate for Children and Youth, *Learning form Nelson Mandela: A Report on the use of solitary confinement and pepper spray in Manitoba youth custody facilities,* (2019) at 47. https://manitobaadvocate.ca/wp-content/uploads/MACY-2019-Learning-from-Nelson-Mandela-FINAL.pdf.

[103] [1] 5 David Lovell, L. Clark Johnson, and Kevin C. Cain, "Recidivism of Supermax Prisoners in Washington State," Crime & Delinquency 53:4 (2007), 633-656.

[104] *Supra*, note 106

[105] Ibid

[106] Peter Scharff Smith, "The Effects of Solitary Confinement on Prison Individuals: A Brief History and Review of the Literature" (2006) 34:1 Crime and Justice 441 at 449.

[107] American Civil Liberties Union (ACLU), "Alone and Afraid: Children Held in Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities" (New York, NY: ACLU, 2013), 4-5. https://www.aclu.org/sites/default/files/field_document/alone_and_afraid_complete_final.pdf.

[108] *United Nations Convention on the Rights of the Child*, General Comment No. 24 (201x), Children's rights in juvenile justice, CRC/C/GC/24 at 20. https://www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf.

[109] Youth Custody Regulation, BC Reg 137/2005, s. 15.1.

[110] Sunny Dhillon, "Teen inmate suing B.C. over alleged solitary confinement", *Globe and Mail*, (2017), https://www.theglobeandmail.com/news/british-columbia/young-refugee-sues-bcs-childrens-ministry-over-alleged-solitary-confinement/article27485143/, 2015.

[111] Patrick White," Solitary confinement for young prison inmates should be banned, watchdogs say", *Globe and Mail*, (2017), https://www.theglobeandmail.com/news/national/solitary-confinement-for-young-inmates-should-be-banned-watchdogs-say/article36498036/