

CRC Framework

(Howe & Cowell, 2001)

The CRC essentially provides a global standard or framework for all governments to improve, promote and protect the basic human rights for all children. It calls for continuous action and progress in the realization of children's rights underpinned by four general principles:

1. Non-discrimination (Article 2), which means that states commit themselves to respect and ensure the rights of all children under their jurisdiction without discrimination of any kind;

2. The best interests of the child (Article 3), which means that the interests of the child are recognized as paramount and budgetary allocations should give priority to children and to the safekeeping of their rights;

3. The child's right to survival and development (Article 6), which claims the right for children to realize their fullest potential through a range of strategies, from meeting their health, nutrition and education needs to supporting their personal and social development;

4. Respect for the children's views and for their right to participate in all aspects of democratic society (Articles 12 to 15), which asserts that children are not passive recipients, but active contributors to the decisions that affect their lives.

These key themes underpin all other provisions of the CRC and provide a strong framework for the adoption of a child-friendly focus in all of the obligations imposed on the state.

The CRC's remaining articles cover a range of issues, including the right to health, the right to education, the right to identity, and the explicit right to practice culture, religion, and language freely and without discrimination (a complete summary of the rights under the *Convention on the Rights of the Child* can be found at www.unicef.org/crc/files/Rights_overview.pdf).

Every five years, State parties report to the Committee on the Rights of the Child regarding their progress respecting the implementation of the articles within the CRC (Blackstock, Clarke, Cullen, D'Hondt, & Formsma, 2004). After considering the State Parties' reports and non-government (NGO) submissions, the Committee offers concluding observations that indicate areas of accomplishment and where improvements are required (Blackstock, et al, 2004).

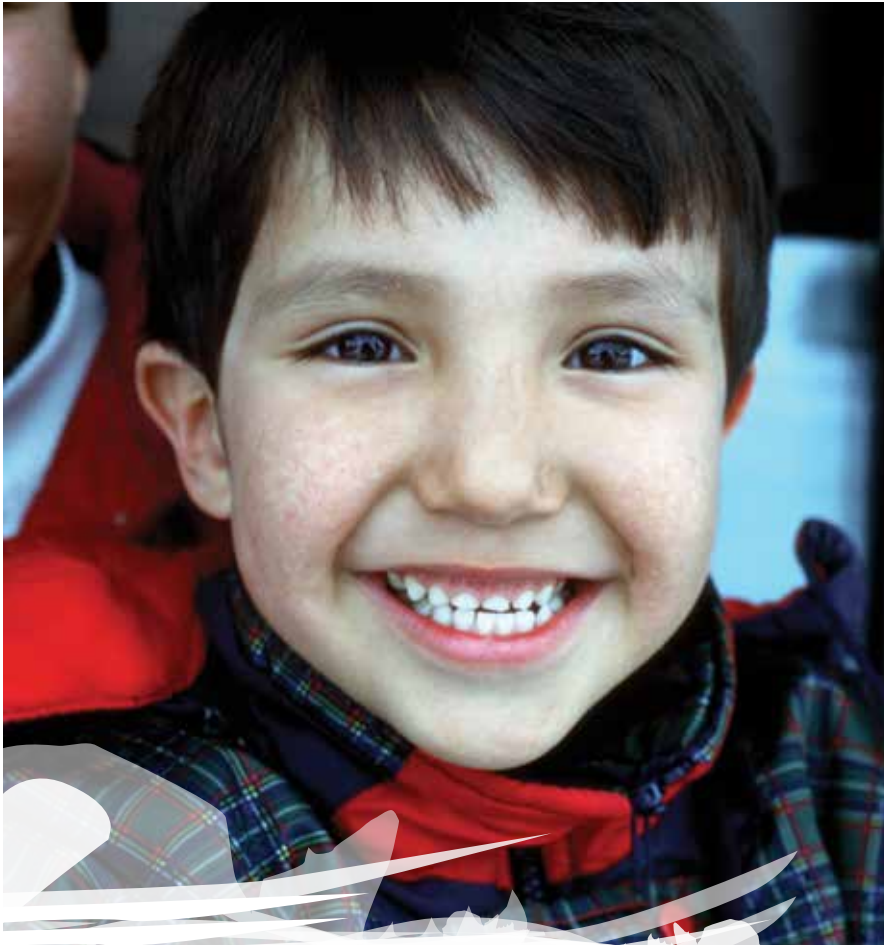
Failing First Nations Children

In recognition of the last year of the *International Decade of Indigenous Peoples*, the First Nations Child and Family Caring Society of Canada (Caring Society) published a report titled *Keeping the Promise*, which investigated the lived experiences of First Nations children across a number of dimensions including poverty, urbanization, substance misuse, education, youth suicide, accidental injury, child welfare, sexual exploitation, and youth justice (Blackstock, Clarke, Cullen, D'Hondt, & Formsma, 2004). The authors recognized many effects on the health and well-being of First Nations children caused by these dimensions and that there was no standardized way of determining when rights contained in the CRC were being upheld. For their purposes they identified possible rights violations based on the following three situations:

1. where First Nations children and young people face disproportionate risk relating to one or more articles of the CRC;
2. where there is an identified risk to First Nations children and young people relating to one or more articles of the CRC – particularly when the risk is severe and persistent; and
3. where there is little evidence that the State government has considered how to ensure the right is realized for First Nations children and young people (Blackstock et al., 2004, p. 16).

The findings indicate that First Nations children continue to experience unacceptable, disproportionate levels of risk across all the identified dimensions, and that policies developed by the government to redress these risks and protect the rights of First Nations children remain largely unimplemented.

Many policies and practices for First Nations communities often do not take into account current effects of historical traumas to First Nations peoples including those wrought by colonialism and systems of assimilation, for example residential schools. Further to this, funding to address structural challenges is lacking (Trocmé, et al. 2005). As a wealthy and prosperous nation with an international reputation for challenging oppressors of the under classes, Canada falls short when its treatment of Aboriginal children is exposed and scrutinized. The social determinants of health overall for First Nations communities have a large impact on the health and well-being of First Nations children and often impede their future success. As Martha Friendly (2007) notes, despite care and education programs such as Aboriginal Head Start, Aboriginal children within Canada remain significantly underserved in early learning



and childcare. Similarly, First Nations children face disproportionate difficulties accessing health care and consequently face higher risks for health problems (van Daalen-Smith, 2007), and they lag behind educationally in comparison to other Canadian children (Canadian Council of Provincial Child and Youth Advocates, 2010). First Nations children are also over-represented in the youth justice (Denov, 2007) and child welfare systems (Blackstock, 2007) across the country. First Nations children and youth are too often the victims of sexual exploitation and violence, and their rates of suicide, death and injury are also disproportionately high (UNICEF, 2009). Two areas in which these disproportionate levels of risk continue to be particularly pronounced are in the areas of poverty and child welfare.

Aboriginal children experience disproportionate levels of poverty

Although Article 24 of the CRC entitles all children to health and well-being, First Nations children continue to live far below the standard of living of the general Canadian population (Statistics Canada, 2006). The living conditions for many First Nations children both on and off reserve fall far short of those promised in the CRC. Many First Nations children living off reserve live in poverty with their basic needs for food, clothing and shelter remaining unmet. Urban First Nations children are twice as likely as their non-Aboriginal peers to live in poverty, to live in young single-parent households, to live in inadequate housing, and to be hungry (Canadian Council of Provincial Child and Youth Advocates, 2010). In many

on-reserve communities, particularly in remote settings, families struggle to meet basic needs in an environment of high prices and fewer economic opportunities. First Nations children living on reserve often do not have access to services which are available to non-Aboriginal children across the country. This is especially true for First Nations children with disabilities where jurisdictional disputes remain an obstacle (Lavallee, 2005; Blackstock, Prakash, Loxley & Wien, 2005). Food security is a pervasive problem, with national data indicating that Aboriginal children are four times more likely to report experiencing hunger than non-Aboriginal children in Canada (McIntyre, Walsh, & Connor, 2001). Aboriginal children are over-represented in homelessness, inadequate housing and over-crowding situations (Anderson, Blackwell, & Dornan, 2000). Adequate and safe water systems are a continuing problem (Crooks, 2012). UNICEF (2013) reports that “about 30 percent of children in poor families and in First Nations families are developmentally vulnerable – as opposed to 15 percent of children from better-off families” (p. 10). Under Article 4 of the CRC, State governments should be providing adequate funding to support children and their rights. In the case of First Nations children and communities, there should be adequate funding for infrastructure and access to services to meet the needs of children and families as no child in a resource-rich country like Canada should be living in poverty. In essence, poverty is a problem that pervades all aspects of life and makes healthy development difficult, not only for First Nations children but also for Métis and Inuit children (Bennett & Auger, 2010). Poverty reduction is also important in reducing the high numbers of First Nations children being taken into the care of child welfare because of parental neglect (Blackstock, 2003).

Child welfare policies and funding continue to undermine the health of First Nations children

Child welfare policies, practices and funding levels for First Nations children have been, and remain, discriminatory and inconsistent with the CRC (Blackstock, et al., 2004; Bennett, 2007; Blackstock, 2010). Many people are aware of the '60s scoop', a time during which there were mass removals of children from communities by non-Aboriginal social workers and placement into in non-Aboriginal homes (Kimelman, 1984). Not nearly enough has changed since. Research indicates that discriminatory treatment towards First Nations children is evident at every stage of social worker decision-making (Trocmé et al., 2005). For example, First Nations cases are more likely to be kept open for on-going services, and First Nations children are more likely to be removed from their homes and are often placed into non-Aboriginal homes. Importantly, studies have shown poverty to be a root cause leading to the removal of children (Trocmé et al., 2005). First Nations children continue to be overrepresented in the child welfare system (Blackstock, 2007). The 2011 National Household Survey indicated that in 2011, 48% of children in foster care were Aboriginal (Statistics Canada, 2013). The Federal Government's own data shows a staggering 71.5% increase in the number of First Nations ('Status Indian') children on reserve being placed in child welfare between 1995 and 2001 (McKenzie, 2002). Factors underlying this increase in the removal of children include a lack of home family supports for children at risk and inequitable funding for services. More funding for measures considered the least disruptive would do much to reduce the numbers of children in care (Shangreux, 2004; Blackstock, 2010). The funding issue has been brought to the Canadian Human Rights Tribunal in a human rights case against the Government of Canada,

alleging that the inequitable funding levels have contributed to the overrepresentation of First Nations children in the care of child welfare.⁴ If successful, this case could mean equitable funding for child welfare services and possibly other services if a legal precedent is set (Blackstock, 2010).

First Nations parents are in the best position to care for their children and should have supports to assist them when needed

The CRC requires that governments respect the responsibility of parents for providing appropriate guidance to their children. Nevertheless, Article 18 also states that governments should provide support services to parents especially if both parents work outside the home (United Nations Children's Fund, 2006). Children must be looked after properly by people who respect their ethnicity, religion, culture and language, and their care and treatment should always be based on the best interests' principle (United Nations Children's Fund, 2006; UNICEF, 2009). The current practices and policies in child welfare for First Nations children often infringe upon children's right to non-discrimination (Article 2), as well as the right to use his or her own language and enjoy his or her own culture (Article 30).

There is a role for governments to play in helping families and guardians who are unable to provide food, clothing and housing (UNICEF, 1990). According to Article 27 of the CRC, it is the responsibility of parents and guardians to secure, within their abilities and financial capacities, the conditions necessary for their child's development. State governments have a responsibility to take all necessary measures to assist parents and others responsible for the child to implement this right and all rights as outlined in the CRC, and provide material assistance and support programmes where needed (United Nations, 1989).

International Concerns for Aboriginal Children in Canada

Every year upon reviewing Canada's record in implementing the CRC, the United Nations Committee on the Rights of the Child continues to express deep concern about the lack of progress in implementing the rights of Indigenous children. The Government of Canada appeared before the United Nations Committee on the Rights of the Child (Committee) on September 26-27, 2012 to undergo a review of its compliance with the UN Convention on the Rights of the Child (UNCRC). The Committee released its findings and recommendations in a document called *Concluding Observations* on October 5, 2012 (United Nations, 2012). Reference was specifically made to Aboriginal⁵ children and young people regarding child welfare, health, poverty, education, and juvenile justice.

The UNCRC has several concerns for Aboriginal children in Canada

The report strongly criticized Canada for lack of progress in discrimination against Aboriginal children and youth as evidenced through the significant overrepresentation of Aboriginal children in the child welfare system and the ongoing inequitable funding for child welfare services for First Nations children on reserves. The Committee also raised concerns about loss of identity and culture as there are inadequate cultural supports while Aboriginal children are in out-of-home care. The Committee was disturbed by removals of children from their families as a first resort in cases of neglect, financial hardship or disability, and went on to outline the following concerns for children while in the care of child welfare: inappropriate placements, poorer outcomes, abuse and neglect, inadequate preparation for life

⁴ The case was filed by the Assembly of First Nations and the First Nations Child and Family Caring Society in 2007. More information is available at www.fnwitness.ca.

⁵ While the *Concluding Observations* report focused specifically on Aboriginal children and young people with respect to child welfare, health, poverty, education, and juvenile justice, this paper mainly focuses on First Nations children and two factors affecting their health and well-being: poverty and child welfare.

after care, caregivers with little training or preparation, and, for Aboriginal children in particular, placements in homes outside their communities. Concerns about health were raised, including violence against Aboriginal women and girls, mental health of Aboriginal children, and the continued high suicide rate. The Committee also noted the Government of Canada's lack of a national poverty initiative, as well as concerns about the inequities and inadequacies of welfare services in meeting needs of Aboriginal children. With regard to education and Aboriginal children, the Committee commented on the high dropout rate as well as inappropriate and excessive use of disciplinary measures applied in school. The Committee also drew attention to the fact that Aboriginal

youth are more likely to be involved in the criminal justice system than to graduate from high school. The UNCRC also noted that Canada cannot excuse rights violations due to the federalist structure of the country.⁶

Conclusion

Contrary to the child's right to education, health care and economic assistance, First Nations children in Canada continue to suffer disproportionately from high rates of child poverty, from high levels of neglect, and from a child welfare system that fails to adequately protect them through culturally-appropriate services (Blackstock, 2007). First Nations children and all children should have access to community-

based and culturally appropriate services which will help them grow up safe, healthy, and spiritually strong and be free from abuse, neglect, sexual exploitation, and the damaging effects of neglect and caregiver substance abuse. All should have a bright future, be entitled to a place of safety and nurturance, and be seen as a source of pride to their family of origin and community. In order for this to occur, it is important that First Nations families (and their respective organizations) be given the resources they need to ensure that the rights of Aboriginal children under their care are upheld and respected. Now more than ever, the current environment presents new opportunities to work towards a path of healing, reconciliation and renewal, with the well-being of children and youth



⁶ The full text of the Concluding Observations can be found at: www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-CAN-CO-3-4_en.pdf.



as the focus. In order to help vulnerable children such as First Nations children, a community developed, outcomes-directed, child-centered national plan in Canada is required.

References

- Anderson, K., Blackwell, S., & Dornan, D. (2000). *Urban Aboriginal poverty: A status report on Aboriginal children and their families*. Toronto, ON: Ontario Federation of Indian Friendship Centres. Retrieved March 5, 2013 from <http://www.fsin.com/healthandsocial/childportal/images/Urban%20Aboriginal%20Poverty%20OFIFC.pdf>
- Bennett, M. (2007). Aboriginal children's rights: Is Canada keeping its promise? In *The rights of the child in Canada: A retrospective*, K. Covell & B. Howe (eds.), pp. 265-286. Waterloo, ON: Wilfrid Laurier University Press.
- Bennett, M., & Auger, A. (2010). Editorial: Aboriginal victim or valor?: Understanding the past to change the future. *First Peoples Child and Family Review*, 4(2): 5-8.
- Blackstock, C. (2003). First Nations child and family services: Restoring peace and harmony in First Nations communities. In *Child welfare: Connecting research policy and practice*, K. Kufeldt & B. McKenzie (eds.), pp. 331-342. Waterloo, ON: Wilfrid Laurier University Press.
- Blackstock, C. (2007). Are residential schools closed or have they just morphed into child welfare? *Indigenous Law Journal*, 6(1): 71-78. Retrieved March 4, 2013 from <https://tspace.library.utoronto.ca/bitstream/1807/17131/1/ILJ-6.1-Blackstock.pdf>.
- Blackstock, C. (2010). The Canadian Human Rights Tribunal on First Nations Child Welfare: Why if Canada wins, equality and justice lose. *Children and Youth Services Review*, 33: 187-194.
- Blackstock, C., & Bennett, M. (2003). *National children's alliance: Policy paper on Aboriginal children*. Ottawa, ON: First Nations Child & Family Caring Society. Retrieved March 5, 2013 from http://www.nationalchildrensalliance.com/nca/pubs/2003/Aboriginal_Children-Blackstock_%20Bennett.pdf.
- Blackstock, C., Clarke, S., Cullen, J., D'Hondt, J., & Formsma, J. (2004). *Keeping the promise: The Convention on the Rights of the Child and the lived experiences of First Nations children and youth*. Ottawa, ON: First Nations Child & Family Caring Society of Canada. Retrieved January 10, 2012 from <http://www.fncfcs.com/docs/KeepingThePromise.pdf>.
- Blackstock, C., Prakash, T., Loxley, J., & Wien, F. (2005). *Wen: de: We are coming to the light of day*. Ottawa, ON: First Nations Child and Family Caring Society of Canada.



Canadian Council of Provincial Child and Youth Advocates (2010). *Aboriginal children and youth in Canada: Canada must do better*. Ottawa, ON: The Authors.

Crooks, C. (2012). *A draft submission: Canada's legal obligation and duty to ensure on-reserve access to clean drinking water*. Victoria, BC: University of Victoria, Environmental Law Centre. Retrieved March 2, 2013 from <http://www.elc.uvic.ca/press/documents/2012-Clean-Drinking-Water-on-Reserves.pdf>.

Denov, M. (2007). Youth justice and children's rights: Transformations in Canada's youth justice system. In *The rights of the child in Canada: A retrospective*, K. Covell and B. Howe (eds.), pp. 153-178. Waterloo, ON: Wilfrid Laurier University Press.

Denov, M., & Campbell, K. (2002). Casualties of Indigenous displacement in Canada: Children at risk among the Innu of Labrador. *Refuge*, 20(2): 21-34.

Friendly, M. (2007). Early learning and child care: Is Canada on track? In *The rights of the child in Canada: A retrospective*, K. Covell and B. Howe (eds.), pp. 45-72. Waterloo, ON: Wilfrid Laurier University Press.

Howe, R.B., & Covell, K. (eds.) (2007). *Children's rights in Canada: A question of commitment*. Waterloo, ON: Wilfrid Laurier University Press.

Kimelman, E. (1984). *File review report. Report of the Review Committee on Indian and Métis Adoptions and Placements*. Winnipeg, MB: Manitoba Community Services.

Lavallee, T. (2005). Federally funded Manitoba First Nation children with complex medical needs. *Paediatrics and Child Health*, 10: 527-529.

McIntyre, L., Walsh, G., & Connor, S. (2001). *A follow-up study of child hunger in Canada*. Hull, QC: Applied Research Branch Strategic Policy, Human Resources Development Canada.

McKenzie, B. (2002). *Block funding child maintenance in First Nations child and family services: A policy review*. Winnipeg, MB: Report prepared for Kahnawake Shaktiia'takenhhas Community Services.

Rae, J. (2006). *A report on Indigenous children and the UN Convention on the Rights of the Child*. Toronto, ON: Report prepared for the UN Committee on the Rights of the Child in the development of a General comment on the topic of Indigenous children and youth, and for the general usage of the UN Sub-Group on Indigenous Children and Young People (ISG).

Shangreux, C. (2004). *Staying at home: Examining the implications of least disruptive measures in First Nations Child and Family Service Agencies*. Ottawa, ON: First Nations Child & Family Caring Society of Canada. Retrieved January 30, 2013 from http://www.fnfcfs.com/docs/Staying_at_Home.pdf.

Statistics Canada. (2006). *Aboriginal children's survey – Family, community and child care*. Ottawa, ON: Statistics Canada. Retrieved January 30, 2013 from <http://www.statcan.gc.ca/pub/89-634-x/89-634-x2008001-eng.pdf>.

Statistics Canada. (2013). *Aboriginal Peoples in Canada: First Nations People, Métis and Inuit*. National Household Survey, 2011. Catalogue no. 99-011-X2011001. Ottawa, ON: Minister of Industry.

Trocmé, N., MacLaurin, B., Fallon, B., Knoke, D., Pitman, L., & McCormack, M. (2005). *Mesnmimk Wasatek: Catching a drop of light. Understanding the overrepresentation of First Nations children in Canada's child welfare system: An analysis of the Canadian incidence study of reported child abuse and neglect*. Toronto, ON: Centre of Excellence for Child Welfare. Retrieved March 3, 2013 from http://cwrp.ca/sites/default/files/publications/en/MesnmimkWasatek_revised2011.pdf.

UNICEF. (1990). *First call for children: World declaration and plan of action from the world summit for children and convention on the rights of the child*. New York: UNICEF.

UNICEF. (2009). *Aboriginal children's health: Leaving no child behind. Canadian Supplement to the State of the World's Children*. Ottawa, ON: UNICEF Canada. Retrieved January 30, 2013 from <http://www.nccah-ccnsa.ca/docs/nccah%20partner%20documents/UNICEF%20Report,%20English.pdf>.

UNICEF. (2013). *Stuck in the middle: Report card 11. Child well-being in rich countries: A comparative overview, Canadian companion*. Ottawa, ON: UNICEF Canada. Retrieved September 12, 2013 from http://www.unicef.ca/sites/default/files/imce_uploads/DISCOVER/OUR%20WORK/ADVOCACY/DOMESTIC/POLICY%20ADVOCACY/DOCS/unicef_rc_11_canadian_companion.pdf.

United Nations. (1989). *United Nations Convention on the Rights of the Child (UNCRC)*. Geneva: United Nations.

United Nations. (2012). *Concluding observations: Canada*. New York: United Nations. Retrieved March 11, 2013 from http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-CAN-CO-3-4_en.pdf.

United Nations Children's Fund. (2006). Fact sheet: A summary of the rights under the Convention on the Rights of the Child. Retrieved March 5, 2013 from http://www.unicef.org/crc/files/Rights_overview.pdf.

van Daalen-Smith, C. (2007). A right to health: Children's health and health care through a child rights lens. In *The rights of the child in Canada: A retrospective*, K. Covell & B. Howe (eds.), pp. 73-98. Waterloo, ON: Wilfrid Laurier University Press.



IONDESIGN.CA



NATIONAL COLLABORATING CENTRE
FOR ABORIGINAL HEALTH
CENTRE DE COLLABORATION NATIONALE
DE LA SANTÉ AUTOCHTONE

FOR MORE INFORMATION:
UNIVERSITY OF NORTHERN BRITISH COLUMBIA
3333 UNIVERSITY WAY, PRINCE GEORGE, BC V2N 4Z9

1 250 960 5250
NCCAH@UNBC.CA
WWW.NCCAH-CCNSA.CA