

THE UN CONVENTION ON THE RIGHTS OF THE CHILD

How Does Canada Measure Up?

**2003 Update to Canada's Report to the
UN Committee for the Rights of Children**

**Canadian Coalition for the Rights of Children
May 2003**



Canadian Coalition
for the Rights of Children

Coalition canadienne
pour les droits des enfants

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Introduction

In 2003, twelve years after Canada's ratification of the UN Convention on the Rights of the Child in 1991, the Government of Canada submits its second five year report on progress toward the implementation of the Convention to the UN Committee on the Rights of the Child. The Canadian Coalition for the Rights of Children has prepared this update to *The UN Convention on the Rights of the Child: How Does Canada Measure Up?* to accompany the Government of Canada's second progress report, and to present the views of Canada's non-governmental sector. This report documents significant changes in child rights-related policy and practice since the time of the CCRC's original report in 1999, and is organized under the original six reporting categories:

- Article 4: International Cooperation
- Articles 13, 14, and 15: The Fundamental Freedoms
- Article 19: Abuse and Neglect
- Article 23: Children with Disabilities
- Articles 28 and 29: The Right to and Aims of Education
- Article 22: Refugee Children

The general conclusion of this report is that although some level of progress may be observed in each of the six areas identified, there remains a substantial gap between the promise and reality of children's rights in Canada.

Executive Summary

Since the time of the CCRC's 1999 report to the UN Committee on the Rights of the Child, entitled *The UN Convention on the Rights of the Child: How Does Canada Measure Up?*, Canada has made some level of progress toward the implementation of the UN Convention on the Rights of the Child. However, a substantial gap remains between the promise and the reality of children's rights in Canada. This report highlights significant changes in child rights-related policy and practice over the last five years, and identifies areas in which Canada continues to fall short of its 1991 promise to children.

Article 4: International Cooperation

- Although Canada's 2003 Budget Plan increased international assistance by 8% after spending on international aid reached an all time low in 2001-2003, Canada has yet to reach its internationally set goal of .7% of GNP.
- In an effort to improve aid initiatives for children, in June 2001, CIDA introduced its *Plan of Action on Children Protection* as part of its Social Development Priorities. The Action Plan adopts a rights-based approach to the protection of especially vulnerable children, and represents CIDA's commitment to the UN Convention on the Rights of the Child as a framework for international cooperation.
- In 2003, Canada continues to recognize the importance of children's participation in matters that affect them, and has demonstrated leadership in encouraging

international children's participation. Recognizing the value of children's input in policy development and programming for children, Canada advocated for and supported children's participation in the 2002 United Nations General Assembly Special Session on Children. Canada also continues to support the meaningful involvement of children and youth in a variety of other national and international initiatives that affect them.

- Over the last five years Canada has provided funding and support for programs to improve the health of children in the developing world such as immunization programs, initiatives to treat and prevent HIV/AIDS, and efforts to eliminate micronutrient deficiencies and to end the practice of female genital mutilation.
- Through the development and support of international policy, the contribution of resources and participating in international dialogue, Canada has demonstrated commitment to identifying and ending harmful child labor, stopping the sexual exploitation of children abroad and providing assistance to children affected by armed conflict.

Articles 13, 14, and 15: The Fundamental Freedoms

- There are currently child advocate offices in eight of the provinces. Since 1999, new child advocate offices have been established in Nova Scotia, Newfoundland and Saskatchewan. The lack of broad mandates results in cases where children whose rights are violated must resort to legal action.
- Senator Landon Pearson and member of parliament, Karen Kraft-Sloan are receiving significant support for their proposed Center for Children, Youth and Citizenship. NGOs in Canada are hopeful that the proposed national advocacy will foster increased respect for children's expressive rights as well as provide systematic opportunities for their practice.
- Although children's rights education has not been widely implemented in Canada's school system, some progress has been made toward teaching children about their rights and freedoms. Programs are in place to varying degrees in Nova Scotia and Victoria, British Columbia, and promising work is being done in Calgary, Alberta.

Article 19: Abuse and Neglect

- The *Canadian Incidence Study on Reported Child Abuse and Neglect, (CIS)* released in 2001, represents significant progress as the first comprehensive source for national statistics on the nature and extent of child abuse and neglect in Canada.
- The 1997 death of five week old Jordan Heikamp, and the subsequent recommendations for change released in April 2001, highlight a variety of problems with child protection systems in Canada. Recommendations emerging from the Heikamp case include the increased focus of child protection workers on the child in need of protection rather than parents, and education programs for high risk parents and for child protection workers.
- Aboriginal children continue to be overrepresented among children involved with Canada's child protection system. There is growing consensus among First Nations communities that Aboriginal children are not well served by existing

child welfare systems, and that control of Aboriginal child protection should be returned to First Nations authority.

- The many attempts to have Section 43 of Canada's Criminal Code, which permits the use of force against children as a legal defense, repealed have been unsuccessful. Consistent with the UN Committee's 1995 recommendation, Section 43 must be repealed to protect the rights and best interests of Canada's children. The Supreme Court of Canada is scheduled to hear an appeal on June 6, 2003.

Article 23: Children with Disabilities

- The *Participation and Activity Limitation Survey* (PAL Survey), released in December 2002, provides current national data about children with disabilities in Canada.
- Although federal and provincial programs are in place to help ease the financial strain experienced by families of children with disabilities, the level of support offered does not meet the level of need, and not all families are eligible for programs and services.
- Although early intervention programs and inclusive child care opportunities exist, there remains significant variation in the availability and quality of services across the country and within jurisdictions.
- There is significant concern about the continuing lack of training and experience of child care workers for working with children with special needs.
- There is consensus that Aboriginal children in Canada are at particular risk of having one or more disabilities. However, there is no recent, reliable source of information on the nature and prevalence of disability among Aboriginal children.
- Although some improvements have been observed in programs and services for the education of children with disabilities, significant progress is still needed to ensure the equal access of children with special needs to educational opportunities to help them reach their full potential.

Articles 28 and 29: The Right to and Aims of Education

- As of December of 1999, the national high school drop out rate fell to 12%, significantly lower than in 1991 (18%). The largest decreases in high school drop out rates were observed in the Atlantic Provinces, which fell from among the highest rates in 1991 to among the lowest rates according to most recent statistics.
- Most recent statistics indicate that education spending remains at approximately 6% of Canada's GDP, with almost \$6.8 billion invested in 2000 by federal, provincial and local governments.
- A recent statistics Canada report indicates that there have been significant improvements in the education profile of Canada's Aboriginal population over the last several years, including higher levels of educational attainment and a reduction in drop out rates. However, there is still a great deal of work to be done toward providing culturally appropriate education opportunities for Aboriginal children.
- Results of the most recent Program for International Student Assessment study, released in 2001, show that Canadian students performed well when compared

with students from other countries. In 2001, Canadian students ranked second in reading, fifth in science and sixth in mathematics among the 31 countries tested. However, aboriginal and first-generation Canadian children tend to fare less well than other children in educational achievement.

- Although children's rights education has not been widely implemented in Canada's school system, some progress has been made toward increasing awareness of children's rights among teachers and students.
- Through the Global Classroom Initiative Canadian International Development Agency (CIDA) supports the development of educational resources to help raise awareness of global issues among Canadian students.

Article 22: Refugee Children

- In 2001, the number of refugee claims in Canada reached 45,000, followed by a 25% reduction in 2002. In 2003, refugee claims appear to be returning to the normal range of 25,000-30,000.
- In June 2002, Canada's legislation governing refugees changed with the introduction of the new *Immigration and Refugee Protection Act*. Under the new legislation, greater emphasis is placed on refugees' need for protection and less on their ability to resettle in Canada.
- In 2000, the claims of 671 unaccompanied minors were referred to Canada's Immigration and Refugee Board. A total of 404 claims were referred in 1999, and 340 in 1998.
- In 2000, 46% of separated children were under 16 years, and a significant number were under 10 years of age.
- The *IRP Act* reflects Canada's commitment to the best interests principle, and requires that the best interests of the child be considered in all matters involving a minor child, including deportation hearings.

Emerging Issues

Emerging issues for Canada's children that are not addressed under CCRC's original reporting categories include: child poverty, sexual exploitation and trafficking, economic exploitation, youth participation, child care, child health, and especially vulnerable children.

ARTICLE 4: INTERNATIONAL COOPERATION HOW DOES CANADA MEASURE UP?

RIGHTS ALERT: Canada has not honoured its commitment to spend 0.7 percent of GNP on international aid.

NEEDS ACTION: Statistics and information on federal programs for children are unclear and unreliable.

NEEDS ACTION: Although CIDA's *Action Plan on Child Protection* adopts a "performance-measurement framework", similar tools or strategies are needed to assess the effectiveness of Canada's programming for children in other areas.

MEETS COMPLIANCE: CIDA has adopted a new rights-based approach to child protection based on the Convention that recognizes children as the subjects of fundamental rights and active participants in matters that affect them.

Canada's Official Development Assistance

In 2001/02 Canada's spending on international aid reached an all time low at .24 percent of Canada's gross domestic product (GNP)¹. However, under Canada's 2003 Budget Plan international assistance increased by 8 percent, and is expected to double by 2010². Even with this renewed commitment to the world's poor, aid will remain significantly below the internationally set .7 percent of GNP³.

Although a large percentage of Canada's ODA program expenditures go to basic human needs, the extent to which expenditures benefit children remains unknown. Results-based evaluations that focus on outcomes for children are needed to determine the impact of Canada's international aid initiatives on children.

Canada's Strategy for Children

In June 2001, CIDA introduced its *Plan of Action on Children Protection* as part of its Social Development Priorities⁴. The Action Plan adopts a rights-based approach to the protection of especially vulnerable children, and represents CIDA's commitment to the UN Convention on the Rights of the Child as a framework for international cooperation. With the guiding principles of the Convention as its framework, the Action Plan views children "not as the objects of compassion or pity, but as the subjects of human rights under international law. Children are seen as "protagonists" and "agents of social transformation."⁵ Children's participation as stakeholders in the development, implementation, and evaluation of programs and initiatives to promote their well-being is fundamental to the Action Plan.

Canada's commitment to children's rights in international development is also reflected in a statement made by Maria Minna, Minister for International Cooperation, at the closing of the Experts' Meeting of the International Conference on War-Affected Children, in Winnipeg, September 2000. *"For nearly every country on the face of the earth, the Convention on the Rights of the Child is our moral compass. It's as fundamental as the law of gravity, and it should be just as non-negotiable."* Since 2000, progress has been made in promoting children's rights and encouraging children's

participation in decisions about international development and Canada's programming for children abroad. Canada's NGO's hope to see a move toward the use of the Convention on the Rights of the Child in *all* international cooperation that relates to children.

Action on Specific Children's Rights

Article 12: Respect for the views of the child

In 2003, Canada continues to recognize the importance of children's participation in matters that affect them, and has demonstrated leadership in encouraging international children's participation. Recognizing the value of children's input in policy development and programming for children, Canada advocated for and supported children's participation in the 2002 United Nations General Assembly Special Session on Children (UNGASS)⁶. Canada identified as a priority the meaningful participation of children and youth in all stages of the UNGASS. To ensure that the views of Canadian children and youth were represented at the Special Session, and to encourage the inclusion of children and youth by other countries, Canada initiated a variety of youth participation activities. Health Canada developed an interactive website to give all children and youth the opportunity to express their views on priorities for the world's children and issues related to the Special Session. A Youth Participation Session, chaired by Senator Landon Pearson, was organized to clearly define youth involvement in the context of the Special Session. Also, 120 youth representatives from around the world attended a workshop on youth participation coordinated by Canada at the Fifth Ministerial Meeting on Children and Social Policy in the Americas in preparation for the Special Session. Youth representatives were included in all Canadian delegations to the Special Session and related activities.

Canada also encourages international youth participation in conferences on children's issues. In September of 2000, Canada hosted the International Conference on War-Affected Children. A primary objective of the conference was to involve youth in discussions and decision making on war-affected children. The 25 youth delegates from

war-affected countries who participated in the conference produced a statement that calls for action for war-affected children⁷.

In 2002 CIDA launched an initiative called *Butterfly 208*, a yearly art and writing contest for Canadian youth between the ages of 14 and 18, to stimulate interest in international development and youth involvement in discussions about global issues⁸. As part of the 2003 *Butterfly 208* contest, 200 high school students from Ottawa participated in a forum on global issues such as child protection, the environment, basic education, HIV/AIDS, and health issues⁹. Through this initiative Canadian youth learn about the interconnectedness of the global community and have an opportunity to voice their opinions about international development.

Article 24: Child right to health and health services

Immunization

Canada continues to strive to meet the 1990 World Summit for Children goal of full immunization for every child. As part of that goal, in March 2001 CIDA contributed \$10 million to the Global Polio Eradication Initiative¹⁰. An additional \$10 million by 2005 was committed in October 2001 to support the Global Alliance on Vaccines and Immunization¹¹.

HIV/AIDS

CIDA's 2000 *Action Plan on HIV/AIDS* articulates Canada's commitment to work with the international community toward the reduction of HIV/AIDS in developing countries. Canada, with the international community, has established the following goals: to ensure that by 2010, at least 95% of young men and women, aged 15-24, have access to education and services to reduce their vulnerability to HIV/AIDS, to ensure a 25% reduction in the prevalence of HIV/AIDS in the 15-24 age group by 2005 in the most affected countries, and to use a country-based approach to significantly reduce the number of new cases in at least one country¹².

Toward meeting the goals of the Action Plan, CIDA has supported a variety of HIV/AIDS programs abroad. Recently, CIDA has supported child and youth focused HIV/AIDS programs. In April 2003, Canada donated \$1 million to the United Nations Population Fund for HIV/AIDS awareness and prevention programs for adolescents in India¹³. Also, in November 2002, CIDA contributed \$10.5 million to help reduce the spread of HIV/AIDS among high risk populations, including street children, in Haiti¹⁴.

Micronutrient Deficiencies

In May 2002, Canada contributed \$20 million to the Micronutrient Initiative, an Ottawa-based international centre that has achieved impressive results in helping to eliminate micronutrient malnutrition¹⁵. Since 1992 the Micronutrient Initiative has made a significant contribution toward the elimination of micronutrient deficiencies.

Female Genital Mutilation (FGM)

Canada recognizes the importance of protecting children from torture or other cruel, inhumane or degrading treatment such as FGM. In 2000 CIDA contributed \$46,000 to a legal aid program to help protect and promote the rights of women and children in Tanzania. The two-year project provided poor clients with better access to legal aid by offering the services of a lawyer and two part-time paralegals. Counseling was also offered to victims of human rights abuse, HIV/AIDS, spousal abuse and harmful practices such as FGM.

Article 32: Child labour

Child labour is a major strategic focus of CIDA's 2001 *Action Plan on Child Protection*¹⁶. The Action Plan recognizes the difference between harmful and non-harmful child labour, and represents Canada's commitment to adopt a rights-based approach to the protection of children from work that compromises their healthy development. The Plan includes efforts to provide children who are involved in harmful work with vocational training, education, and supports necessary to obtain more appropriate work and to achieve their full potential.

In June 2000, Canada ratified the International Labour Organization (ILO) Convention 182 on the Elimination of the Worst Forms of Child Labour. Convention 182 requires member states to take immediate action to protect children from the worst forms of child labour, including all forms of slavery, commercial sexual exploitation, debt bondage, the sale or trafficking of children, the production or trafficking of drugs, and all work which is likely to harm the health, safety or morals of children¹⁷.

As part of Canada's commitment under Convention 182, CIDA has committed to contribute \$15 million by 2005 (\$3 million per year) to ILO programs aimed at eliminating harmful child labour¹⁸.

Article 34: Sexual exploitation and abuse of children

Following the International Summit of Sexually Exploited Youth, hosted by Canada in 1998, Canada supported projects to assist sexually exploited youth in the Dominican Republic, Honduras, Bolivia, Peru and Chile. Based on these initiatives, in 2002 Canada published a report entitled *Good Practices in Working with Sexually Exploited Youth in the Americas*¹⁹.

In June 2000, Canada ratified the *International Labour Organization's (ILO) Convention 182 on the Elimination of the Worst forms of Child Labour* and was the first state to sign the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*. Both of these agreements require special provisions to protect children in especially difficult circumstances against sexual exploitation.

Although it has not yet been ratified, in November 2001, Canada signed the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography*²⁰, which requires states parties to ensure that all activities associated with the sale of children, child prostitution and child pornography are fully covered under criminal or penal law. As a signatory to the Optional Protocol, Canada is also required to establish jurisdiction over offenses committed by Canadians abroad.

Consistent with the Optional Protocol, in July 2002, Bill C-15A came into force with enhanced measures to protect children from sexual exploitation²¹. In addition to improving strategies to protect children from sexual exploitation on the internet, the new legislation increases Canada's capacity to address the problem of child sex tourism. A 1997 amendment to Canada's *Criminal Code* allowed for the prosecution in Canada of those accused of commercial sexual exploitation of children abroad. However, under the 1997 amendment, cases of non-commercial sexual exploitation could only be prosecuted in Canada at the request of the country in which the alleged offense occurred. Bill C-15A removed this procedural requirement and allows for the prosecution in Canada of all acts of child sexual exploitation committed by Canadians abroad.

In December 2001, Canada participated in the Second World Congress on Commercial Sexual Exploitation of Children held in Yokohama, Japan. The *Yokohama Global Commitment 2001* was adopted by participants in the Second World Congress and calls for a strengthened commitment to protect children from sexual exploitation and abuse and greater emphasis on children's rights through more effective implementation of the Convention on the Rights of the Child²².

Article 38: Children affected by armed conflict

In September 2000, Canada hosted the *International Conference on War-Affected Children* in Winnipeg. The Winnipeg Conference brought together Ministers and representatives of war-affected countries and interested governments, United Nations agencies, international organizations, youth, researchers, civil society and non-governmental organizations, to establish an agenda for war-affected children²³. The objectives of the Winnipeg Conference were to involve youth in discussions and decisions about war-affected children, increase understanding of the plight of children in conflict situations, identify gaps in the capacity of the international community to assist children affected by armed conflict, and to develop an international agenda for action. The *Final Agenda for War-affected Children*, adopted at the Winnipeg Conference, calls upon all members of the international community to uphold our obligations under the

Convention on the Rights of the Child and related protocols and treaties to protect and assist children in conflict situations.

Lessons learned from the Winnipeg conference are articulated in CIDA's *Action Plan on Child Protection*. The need to provide children affected by armed conflict with health and rehabilitation programs, education and vocational training and to reunite them with their families is a major focus of the *Action Plan*.

Canada also co-hosted the *West African Conference on War-Affected Children* with Ghana in April 2000. The 130 participants in the Conference adopted the *Accra Declaration*²⁴ which represents a commitment to protect and children in the West African region who are affected by armed conflict.

To mark the anniversary of the signing of the *Ottawa Convention* banning anti-personnel mines, in November 2002, the Government of Canada committed an additional \$72 million to the Canadian Landmine Fund²⁵. This new funding will be dispersed over a five year period beginning April 2003 and will support global mine action activities including mine clearing projects, assistance to landmine victims and communities, mine risk education, and the destruction of stockpiled mines²⁶. Recent Canadian contributions to anti- landmines initiatives include:

- \$900,000 in September 2002 to assist with demining initiatives in Mozambique and Namibia²⁷
- \$120,000 in July 2002 to support the Mine Action Resource Center in Colombo, Sri Lanka²⁸
- \$125,000 in December 2001 to support the Landmine Survivors Network's Raising the Voices of Landmine Survivors Initiative²⁹
- \$1 million in March 2001 for landmine detection dog training in Bosnia and Croatia³⁰
- \$250,000 in March 2000 to assist landmine victims in Yemen³¹

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ARTICLES 13, 14 AND 15: THE FUNDAMENTAL FREEDOMS HOW DOES CANADA MEASURE UP?

NEEDS ACTION: Canadian legislation should specifically recognize children. Although the *Charter of Rights and Freedoms* guarantees rights for everyone, children are often overlooked. Age discrimination in human rights legislation does not address children.

NEEDS ACTION: Legislation, particularly municipal by-laws, should be reviewed to ensure that they do not place unreasonable restrictions on children's freedoms.

- There is concern that some restrictions in municipal by-laws may be contrary to the *Charter of Rights and Freedoms* and the Convention.

NEEDS ACTION: Children's fundamental freedoms should be recognized in education legislation. These rights should be consistently respected in schools across the country.

- Teachers and principals have broad discretionary powers to restrict the freedom of students.
- These rights restrictions are applied arbitrarily with little, if any, accountability or recourse.

NEEDS ACTION: Accessible redress mechanisms that are meaningful to children should be in place.

- Challenging a restriction on the freedoms through the courts or human rights commissions is a lengthy, usually expensive and often intimidating process.
- There appears to be considerable variation across the country in access to redress mechanisms.
- There are no federal redress mechanisms such as a federal ombudsman or commissioner for children.

NEEDS ACTION: Children in care should have their fundamental freedoms explained to them systematically, and in a way they can understand. Children in care should have swift, effective and equal access to redress mechanisms.

- Children in care may be unaware of their rights and many report that their views are often not heard.
- The state has assumed the role of parent for children in care and is directly responsible for the protection of their rights.
- Some provinces and territories do not have an independent advocate to hear complaints of children in care.

NEEDS ACTION: All children should be aware of their fundamental freedoms, the rights of others and the responsibilities that accompany freedom. Children's rights education should be a mandatory part of school curricula.

NEEDS DISCUSSION: There is little consensus and awareness about children's fundamental freedoms. Some areas requiring discussion include:

- What constitutes unreasonable infringement on fundamental freedoms?
- How should environments in which children develop, such as schools, regulate freedom of expression?
- How should these environments respect freedom of religion?

Child Advocates

There are currently child advocate offices in eight of the provinces. Since 1999, new child advocate offices have been established in Nova Scotia³², Newfoundland³³ and Saskatchewan³⁴. There continues to be wide variation in the mandates of child advocates and the extent to which their policies and programs are rights-based. The lack of inclusive mandates results in cases where children whose rights are violated must resort to legal action. This is a particular problem for children in Canadian schools where the violation of children's fundamental freedoms continues. The following case provides an example of the violation of children's fundamental freedoms in the Canadian school system³⁵.

In February 2000, the principal of a school in Quebec ordered a 12 year old Sikh boy not to wear his kirpan (4 inch ceremonial dagger) to school. The child's parents complained, but the local school board supported the principal's ruling. The family filed a case in superior court, which issued a temporary injunction allowing the boy to wear the kirpan in school. On May 17, the two sides reached a compromise permitting the boy to wear the kirpan at school in a wooden sheath under his clothing.

Senator Landon Pearson and member of parliament, Karen Kraft-Sloan are receiving significant support for their proposed Center for Children, Youth and Citizenship. The essential objectives of the Center are³⁶:

- to establish a focal point for children and youth to promote a coherent and effective approach at the national level
- to encourage best practices within the federal government and civil society to support its ongoing efforts to uphold Canada's responsibilities and commitments made to children and youth, both nationally and internationally, and
- to foster inclusive citizenship by engaging children and youth under the age of 18 as citizens in their own right such that they can participate meaningfully and appropriately in federal-level decisions that affect their lives

NGOs in Canada are hopeful that the proposed national advocacy will foster increased respect for children's expressive rights as well as provide systematic opportunities for their practice.

Promoting the Freedoms

Schools

Although children's rights education has not been widely implemented in Canada's school system, some progress has been made toward teaching children about their rights and freedoms. Evaluations of children's rights curricula developed by the Children's Rights Centre with funding from Canadian Heritage, and pilot tested in grade 6 and grade 8 classes in the Cape Breton-Victoria Region, have shown positive results. Based on these results, the Nova Scotia Department of Education has integrated children's rights education into health and social studies curricula at the elementary level, and are currently working towards inclusion of children's rights education at the high school level³⁷. A *Children's Rights and Global Citizenship* curriculum designed to accompany grade 12 global studies classes, was developed by the Children's Rights Centre with funding from CIDA, and was pilot tested in the Cape Breton-Victoria Region in 2002-2003. The Nova Scotia Department of Education is currently considering the grade 12 children's rights curriculum for province-wide adoption.

A primary level children's rights curriculum pilot tested in the Greater Victoria #61 School Board in British Columbia has been implemented more widely in BC, and education authorities in Calgary are currently working on implementing children rights education using the materials developed in Victoria. While these initiatives are promising, a greater philosophical and fiscal commitment on behalf of provincial ministries of education and local school boards is required to achieve the vision of educating children about their fundamental rights and freedoms.

The Federal Government

Canada's SchoolNet program has continued to expand. As of May 2000, half a million computers with Internet access were available to students in schools

across the country³⁸. Since 1998, over \$2.5 million has been invested in facilitating the incorporation of information technology in Canadian classrooms³⁹. Through the SchoolNet website, teachers currently have access to more than 5,000 teacher approved learning resources which include lesson plans relating to the fundamental freedoms⁴⁰.

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³³ Office of the Child and Youth Advocate, Province of Newfoundland and Labrador
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³⁴ Saskatchewan Children's Advocate Office <http://www.saskcao.ca/>

³⁵ Bureau of Democracy, Human Rights and Labour, 2002.

³⁶ Landon Pearson www.sen.parl.gc.ca/pearson

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ARTICLE 19: ABUSE AND NEGLECT

HOW DOES CANADA MEASURE UP?

RIGHTS ALERT: A disproportionate number of Aboriginal children are victims of abuse and neglect in comparison to non-Aboriginal children. Little, if any progress, has been made in this regard.

RIGHTS ALERT: In some jurisdictions, children over the age of 16 are not eligible for child protection services.

RIGHTS ALERT: Section 43 of the Criminal Code should be repealed to prohibit corporal punishment.

NEEDS ACTION: The reform of child welfare systems must continue across the country and Canadians must develop effective community responses to families at risk.

NEEDS ACTION: Increased resources should be dedicated to identifying, understanding and preventing child maltreatment, particularly neglect.

NEEDS ACTION: Public education is needed about the alternatives to physical punishment.

NEEDS DIALOGUE: Canadians need a public dialogue about a commitment to and accountability for children who need protection.

- Children in care may not have access to the services and resources they need and their views may not be heard.

MEETS COMPLIANCE: The Canadian Incidence Study on Reported Child Abuse and Neglect (CIS) fills the gap in our understanding of child abuse and neglect as it provides the first comprehensive source for national statistics on the nature and extent of child abuse and neglect.

Overview of Child Welfare in Canada

According to Peter Dudding, Child Welfare League of Canada, in recent years "...in the Anglo-American group of countries there was a discernible shift to place greater emphasis on child protection that impacted across Canada". Since the early 1990's, as reflected in data from the *Ontario Incidence Study of Reported Child Abuse and Neglect*, there has been a significant increase in child maltreatment investigations and substantiated cases of physical abuse, neglect, and emotional maltreatment⁴¹. In 2001 there were 65,000 children in care in Canada, compared with 40,000 in 1996⁴². This increased emphasis on child protection, and subsequent increase in identification of children in need of protection, places greater demands on Canada's child welfare systems. Greater volume of services brings forth questions about sustainability and accountability. With more children under the supervision of child protection systems, agencies struggle with increasing costs, the challenge of recruiting and retaining qualified staff, and the availability of foster care and adoption⁴³. Also, without sufficient research on the incidence of child abuse and neglect and child protection outcomes, accountability remains problematic⁴⁴. In 2000, Health Canada commenced funding for the Canadian Child Welfare Centre for Excellence. Although, this is a limited time and funding commitment, it has enabled the development and better coordination of research and knowledge transfer, in an area where this has been lacking.

The *Canadian Incidence Study on Reported Child Abuse and Neglect*, (*CIS*) released in 2001, represents significant progress as the first comprehensive source for national statistics on the nature and extent of child abuse and neglect in Canada. The *CIS* is a valuable tool for policy makers and those on the frontline of Canada's child protection system, as it enhances our understanding of child protection issues and facilitates the development of meaningful intervention strategies. Data collection for the 2003 *CIS* is expected to begin in the fall of 2003.

A Snapshot of Child Abuse and Neglect in Canada: Summary of Selected CIS Results⁴⁵
The Extent and Nature of Reported Child Maltreatment

- The CIS identifies 4 categories of child maltreatment: physical abuse, sexual abuse, neglect and emotional maltreatment.
- In Canada in 1998 there were 21 child maltreatment investigations per 1000 children. Almost half of reported cases were substantiated.
- At 40% of all investigations, neglect was the most common reason for investigation. Physical abuse comprised 31% of investigations, followed by emotional maltreatment (19%), and sexual abuse (10%).
- In almost half (43%) of all substantiated cases, prolonged child maltreatment continuing beyond six months in duration was found.
- In 17% of substantiated cases, physical harm (defined as bruises/cuts/scrapes, burns and scalds, broken bones, head trauma, other health conditions, and death) to the child was observed.
- Emotional harm (defined as changes in the child's development, self-regulation and emotions apparent for at least 48 hours) was noted in 34% of all substantiated cases. In 21% of cases, emotional harm was severe enough to warrant treatment.
- The CIS cites a Statistics Canada study estimating that 100 child homicides are documented by police across Canada every year⁴⁶.

Child Characteristics

- Male victims were overrepresented in physical abuse cases (60% of substantiated cases) and girls were overrepresented in cases of sexual abuse (69% of substantiated cases). Gender distribution was found to be generally even in cases of neglect and emotional maltreatment.
- Whereas the highest proportion of substantiated physical abuse, was in the adolescent age group, younger children were more often the victims of neglect, sexual abuse and emotional maltreatment.
- At least one child functioning issue was identified in 50% of substantiated child maltreatment cases. The most common concerns were related to child depression or anxiety and developmental delays.

Family Characteristics

- Families of maltreated children were 1.5 times as likely to be headed by a single parent than by two parents.
- In more than 20% of substantiated maltreatment cases children were considered to be living in unsafe housing conditions.
- In 25% of cases, children had experienced one or more moves in the previous six months.
- The caregivers of maltreated children were described as having adjustment problems including alcohol/drug abuse, mental health problems, a childhood history of abuse, and spousal violence.

Responses to Child Maltreatment

- Two third of substantiated child maltreatment cases were referred to child protection agencies by professionals in the community including school personnel and police
- In 72% of substantiated cases, children were not seen as requiring placement outside of the home. The majority of out of home placements involved neglect. Out of home placements were required less often in physical or sexual abuse cases, and only 6% of the time in cases of emotional maltreatment
- Seventy-seven percent of cases resulted in referrals to child or family support services to assist families experiencing difficulties. Most common referrals were for counseling for children and drug counseling for caregivers.

Failures of Child Protection Systems

Treatment of Youth in Care

There continues to be concern about the quality of care provided to youth in care. Two inquests in Ontario conducted in 2001 and 2002 drew our attention to the treatment of children while in the care of the state and the lack of accountability within that system. William Edgar, a 13 year old boy who was a Crown ward, and Stephanie Jobin, a 12 year old autistic girl, both died after being physically restrained by staff of the group homes in which they lived. In both inquests the juries recommended better training and accountability for staff and those running care facilities. The *Voices from Within* report⁴⁷

was specifically endorsed by the jury in the Edgar inquest and points out significant issues for youth in care from their perspective. Concerns were expressed at the inquest in respect of insufficient training of staff and the lack of accountability within the care system. The Jobin Inquest jury reiterated the many recommendations of the Edgar Inquest jury, most of which had not yet been implemented at the time of that inquest.

The Case of Jordan Heikamp

The 1997 death of five week old Jordan Heikamp, and the subsequent recommendations for change released in April 2001, highlight a variety of problems with child protection systems in Canada. Baby Jordan was born prematurely on May 2, 1997, to 19 year old Renee Heikamp, who had been living on the streets for several years. After 11 days, Jordan was released from a Toronto hospital under the supervision of the Catholic Children's Aid Society, and was living in a government funded shelter with his mother. Thirty seven days after his birth, Jordan died of starvation, weighing only four pounds two ounces - less than he weighed at birth⁴⁸. Jordan wasted away under the supervision of shelter staff and social workers⁴⁹. Two photographs filed as evidence at the coroner's inquest showed the baby's skin stretched over his protruding ribs, joints and tiny skull.⁵⁰ Jordan's mother and the child protection worker who was assigned to his case were charged with criminal negligence causing death. The charges were later dropped but a coroner's jury found the two responsible for the death of Baby Jordan. Following the coroner's inquest, in April 2001, the coroner's jury released 44 recommendations to improve Ontario's child protection system⁵¹. The first recommendation was that "...it should be made clear to all Child Protection Workers and their Child Protection Supervisors that their client is the child in need of protection not the parent or the family". Other recommendations included:

- Education programs on the harmful effects of neglect, how to recognize signs of maltreatment, and the importance of early intervention, for the public and for professionals who have contact with children at risk, including child protection workers, medical personnel, shelter workers, etc.
- Funding for Children's Aid Societies for the provision of pre/post natal care and support and early intervention for high risk parents.

- Increased support and instruction for high risk mothers before the release of newborns from the hospital.
- Early and frequent face-to-face visits by child protection workers to newborns under the supervision of the child protection system.
- A visit by a Public Health Nurse for newborns at risk, whether a child protection worker is involved or not.
- Consistent communication among service providers to ensure that children receive necessary care and supervision.

According to Family and Children's Services of St. Thomas and Elgin County, the following changes were made to the Ontario child welfare system since 1997⁵²:

- The new Ontario Risk Assessment Model provides a standardized approach to child protection cases.
- A new Funding Framework for Children's Aid Societies that adopts a volume-based approach to funding Children's Aid Societies.
- The new Ontario Child Protection Training Program provides mandatory training for all new protection workers before they can be authorized to independently conduct investigations.
- Amendments to the Child and Family Services Act that clearly articulate the paramount purpose of the act, to protect the safety, well-being and best interests of children.
- New Child Protection Standards that apply to all protection cases, not just abuse cases.

After the death of Jordan Heikamp, the Ontario government appointed a special panel to evaluate the child protection system. The subsequent Hatton Report recommended substantial legislative reform to allow a wider definition of abuse and neglect and for faster and stronger intervention in cases where social workers believe that there is a threat to a child. In 1999 the Ontario government passed the *Child and Family Services Amendment Act* which came into effect in 2000. The new Act makes it more clear that the paramount purpose of the child protection system is to promote the best interests and

well-being of the child, not to ensure family preservation⁵³. Similarly, the province of New Brunswick amended its *Family Services Act* in 1999 following many of the recommendations of the Child Death Committee.

Aboriginal Children and Child Protection

Aboriginal children continue to be overrepresented among children involved with Canada's child protection system. A recent study by the British Columbia Ministry of Children and Family Development reported that in March 2001, Aboriginal children accounted for nearly 40% of British Columbia's children in care⁵⁴. Aboriginal children are 6.3 times more likely to be placed in care than non-Aboriginal children⁵⁵. Similarly, in 2001, although Aboriginal children account for only 21% of Manitoba's child population, they account for 78% of the province's children in care⁵⁶. There is growing consensus among First Nations communities that Aboriginal children are not well served by existing child welfare systems, and that control of Aboriginal child protection should be returned to First Nations authority.

The Aboriginal Justice Inquiry - Child Welfare Initiative (AJI-CWI), established in 2000, is a joint initiative of the Province of Manitoba, the Manitoba Metis Federation, the Assembly of Manitoba Chiefs, and the Manitoba Keewatinowi Okimakanak to restructure the child and family service system in the province⁵⁷. The purpose of the initiative is "to develop a new system that recognizes cultural differences and returns to First Nations and Metis peoples the right to develop and control the delivery of their own child and family services"⁵⁸. The new system, expected to replace Manitoba's existing child protection system by 2004, will involve an increased sharing of responsibility between the province and four new authorities: a *Metis Child and Family Services Authority*, a *First Nations of Southern Manitoba Child and Family Services Authority*, a *First Nations of Northern Manitoba Child and Family Services Authority*, and a *General Child and Family Services Authority* for non-Aboriginal families⁵⁹. Agencies under the new Aboriginal authorities will deliver culturally appropriate services for all Aboriginal families, regardless of where in the province they are located. Manitoba's new child protection system will bring with it new legislation to support new initiatives and a focus

on family preservation, support services and prevention programs to keep children within their families and communities⁶⁰. While a focus on prevention is encouraging, any move in the direction of family preservation will likely be met with criticism as this places children's rights and well-being second to the goal of family maintenance.

Corporal Punishment

The allowance of corporal punishment of children under federal law presents a significant challenge for Canada's child protection system. Section 43 of Canada's criminal code states that *Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances*. Many attempts to have Section 43 repealed, including the case filed by the Canadian Foundation for Children, Youth and the Law in 1998 to have Section 43 declared unconstitutional, have been unsuccessful. The 1998 test case is being appealed to the Supreme Court of Canada. Both the Ontario Superior Court and the Court of Appeal have held that the section is constitutional and thus, it remains a legal defense to corporal punishment of children. The federal government continues to argue before the courts that the Committee has not recommended that Canada actually repeal the legislation and that the Convention does not prohibit all forms of corporal punishment of children. It is the legal position of the government of Canada in this case that the Convention has no direct or binding application to Canadian law and that the current position of the Committee is not relevant because the "drafters of the Convention" did not intend Article 19 to apply to "reasonable corrective measures". The Supreme Court of Canada is scheduled to hear the appeal on June 6, 2003. The following recent cases cited by the Repeal 43 Committee provide examples of judicial decisions in which assaults by parents and teachers were considered reasonable under Section 43⁶¹.

- *R. v. C. (G.) 51 WCB (2nd.) 417, NFLD 2001*. A 14 year old girl was struck with a belt 3 or 4 times across the thighs causing welts and bruises after returning home after curfew. The father was charged and acquitted of Assault with a Weapon.

- *R. v. Skidmore Unreported No. 8414/99 June 27, 2000 Ontario Nosanchuk, J. A* 13 year old boy was grabbed by the arm and throat, pushed against a wall, and accidentally hit on the head with a clipboard for ignoring instructions not to kick a volleyball in gym class, and continued “horseplay” contrary to instructions. The teacher was charged and acquitted of common assault.
- *R. v. Holmes Unreported No. 555-01 0267-998 Aug 31, 2000 Que. Lapointe, J. A* 13 year old boy was lifted off the ground by his chin and head and held in a wrestling hold by a 260 lb. teacher for fooling around in gym class. The teacher was charged and acquitted of assault causing bodily harm.

These cases indicate that assaults causing physical harm to children are not considered abuse under federal law.

The *Canadian Incidence Study on Reported Child Abuse and Neglect*, (CIS) found that inappropriate punishment was a factor in almost 70% of substantiated cases of physical abuse in Canada⁶². A large body of child development literature also supports a link between corporal punishment and abuse. Despite expert consensus, many parents and teachers continue to advocate corporal punishment as a reasonable means of child discipline. The Canadian Teachers’ Federation (CTF) supports Section 43 stating that while CTF opposes the use of corporal punishment Section 43 “allows teachers to intervene, when appropriate and without fear of criminal prosecution, in situations that arise on a day-to-day basis within schools”⁶³. Also, the results of a study conducted in 2002 by the Canadian Press and the Leger Marketing Company indicate that 50% of parents have used “light physical punishment, like a slap” to discipline a child, and that 70% of parents are opposed to legislation banning spanking⁶⁴. Consistent with the UN Committee’s 1995 recommendation, Section 43 must be repealed to protect the rights and best interests of Canada’s children.

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⁴² IBID

⁴³ IBID

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⁴⁵ Trocme, N & Wolfe, D. , 2001.

⁴⁶ Fitzgerald, R. 1996.

⁴⁷ Snow, K. & Finlay, J., 1998.

⁴⁸ CBC News Online, January 11, 2001.

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⁵¹ Jury Recommendations Concerning the Death of Jordan Desmond Heikamp, April 11, 2001.

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⁵⁴ BC Ministry of Child and Family Development, June 2001.

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⁵⁶ Aboriginal Justice Inquiry – Child Welfare Initiative, August, 2001.

⁵⁷ Aboriginal Justice Inquiry – Child Welfare Initiative, March 2003.

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⁵⁹ Aboriginal Justice Inquiry – Child Welfare Initiative, March 2003.

⁶⁰ Aboriginal Justice Inquiry – Child Welfare Initiative, August, 2001.

⁶¹ Repeal 43 Committee, 2003 <http://www.repeal43.org/>

⁶² Trocme, N & Wolfe, D. , 2001.

⁶³ Canadian Teachers Federation, January 2002.

⁶⁴ Canadian Press and Leger Marketing Company, February 2002.

ARTICLE 23: CHILDREN WITH DISABILITIES

HOW DOES CANADA MEASURE UP?

NEEDS ACTION: Children with disabilities are not guaranteed free and appropriate early diagnosis, early intervention, and early childhood education in Canada.

NEEDS ACTION: Families of children with disabilities need increased public support.

- Additional assistance and financial help are needed to meet the extra needs of children with disabilities and to support their families, regardless of their income. This may include augmented maternity and parental leave policies, income support, respite care, child care options or training.

NEEDS DIALOGUE AND/OR RESEARCH:

- Programs for children with disabilities need to equalize opportunities with non-disabled children and maximize development. Although some progress has been made, participation of persons with disabilities is still largely considered a privilege rather than an entitlement.
- Bio-ethics and advanced technology in health care can negatively affect the right to life. Genetic testing and diagnosis may lead to negative ethical judgments, reinforcing stereotypes about the undesirability of people with disabilities.
- There is a lack of information about children with disabilities who are in conflict with the law and about children with disabilities who are living in the care of the state.
- Use of the term “best interests” as a decision-making rationale by courts and schools can be detrimental to children. Its interpretation can vary according to different perspectives, not always serving children as intended. Further, the concept can be used to provide a simple or quick solution to address a problem rather than exploring other options for the child in question.

MEETS COMPLIANCE: The old *Immigration Act* discriminated against families of children with disabilities, refusing access to Canada if a child would place excessive demands on health or social services. Under the new *Immigration and Refugee Protection Act*, a family can not be denied access to Canada on the basis of a family member’s ability status, regardless of the cost to health or social services.

MEETS COMPLIANCE: The *Participation and Activity Limitation Survey* (PAL Survey), released in December 2002, provides current national data about children with disabilities in Canada to inform timely and effective policies and interventions.

Definition of a Disability

The *Participation and Activity Limitation Survey* (PAL Survey), released in December 2002, provides current national data about children with disabilities in Canada. Until the release of the PAL Survey, the most recent national information available to policy makers and those working with and on behalf of children with disabilities was the 1991 *Health and Activity Limitation Survey* (HAL Survey). Current data on the prevalence and nature of disability among Canadian children informs the development of timely, effective, and meaningful interventions for children with special needs. Although the PAL Survey follows the groundwork laid by the 1991 HAL Survey, data from the two can not be directly compared as the PAL Survey is based on a revised model of disability⁶⁵. In 2001 the World Health Organization launched the new *International Classification of Functioning, Disability and Health* (ICF). The PAL Survey uses the ICF as its framework and views disability as the interrelationship between body functions, activities and social participation, while recognizing the role of the environment as providing barriers or facilitators⁶⁶. With a more inclusive view of disability, the PAL Survey better identifies non-physical disabilities like learning disabilities, developmental disabilities, and psychological conditions⁶⁷. The PAL Survey defines persons with disabilities as “those who reported difficulties with daily living activities or who indicated that a physical, mental condition, or a health problem reduced the kind or amount of activities they could do”⁶⁸.

According to the PAL Survey, 3.3% of children surveyed between the ages of 0-14 have some type of disability. Fifty-seven percent of children identified as having one or more disabilities had disabilities that were considered “mild to moderate”. The remaining 43% were considered to have “severe to very severe” disabilities. A limitation of the PAL Survey is that it does not provide accessible data on adolescents with disabilities as those 15 and older fall under the adult category. This means that the PAL Survey significantly underestimates the number of children with disabilities in Canada. Also, the PAL Survey excludes children living in the territories and those living on First Nations reserves. This also contributes to significant underestimation, as rates of disability are higher among Aboriginal populations.

Legislation

Immigration

The federal *Immigration Act* was replaced in 2002 by the *Immigration and Refugee Protection Act (IRPA)*. Previous immigration legislation discriminated against families of children with disabilities, refusing applications if the admission of a child would cause excessive demands on health or social services. Under the new *IRPA*, a family can not be denied access to Canada on the basis of a family member's ability status, regardless of the cost to health or social services⁶⁹.

Protection from Abuse and Violence

Children with disabilities remain at particular risk for abuse and neglect. Nonetheless, an update on the Latimer decision suggests some increased awareness of the rights of children with disabilities. Robert Latimer was initially sentenced to two years less a day for the second degree murder of his daughter, Tracy. A conviction of second degree murder normally has a mandatory life sentence. However, due to Tracy's health status, the murder was perceived as mercy killing by many and the sentence reduced. Upon appeal, the Supreme Court of Canada overturned the reduced sentence and ordered that he be given the mandatory life sentence with minimum ten years parole eligibility.

Financial Assistance

According to a report by the Roehrer Institute, families of children with disabilities continue to experience increased financial hardship. "While children with disabilities may live in families in various economic circumstances, children with disabilities are more likely to be poor than other children."⁷⁰ Twenty-nine percent of children with disabilities live in households where the total income is in the lower middle and lowest income quintiles, compared with 17% of children without disabilities⁷¹. Extra costs associated with raising a child with special needs often make it difficult to provide for the most basic of needs. Families of children with disabilities are twice as likely as other families to run out of money for food (16% compared to 8%)⁷². Although federal and provincial programs are in place to help ease the financial strain experienced by families of children with disabilities, the level of support offered does not meet the level of need,

and not all families are eligible for programs and services. Federal tax assistance to persons with disabilities and their caregivers increased from \$600 million per year in 1996 to \$1.1 billion per year in 2002⁷³. Also, in February 2003 the federal government introduced the Child Disability Benefit as a supplement in the Canada Child Tax Benefit⁷⁴. The supplement provides up to \$1,600 per year for families caring for a child with special needs. Provincial programs also provide some level of financial assistance but support is fragmented.

Early Identification, Early Intervention and Child Care

Although early intervention programs and inclusive child care opportunities exist, there remains significant variation in the availability and quality of services across the country and within jurisdictions. A report released by the Child care Resource and Research Unit in February 2003 describes early intervention and child care services across the country. In all provinces there is a basic philosophy of inclusion of children with disabilities in child care centers and kindergartens. However, the basic philosophy is not consistently reflected in policy⁷⁵. In many provinces block funding is provided to child care centers and kindergartens that serve children with disabilities and funding in the form of special needs grants are available to support the needs of individual children⁷⁶. In some jurisdictions funding opportunities require parents to undergo a needs test, making some families ineligible for subsidization, consequently limiting the participation of some children⁷⁷. The 2000 Early Childhood Development Agreement, a five year funding through Canada Health and Social Transfer, has some potential in assisting provinces and territories with the provision of supports for child care for all children. The fund started at \$300 million and rose to \$400 million for 2002-2003 and will increase to \$500 million per year for the remaining three years. Although provinces and territories may choose to support a range of services under this agreement, it is hoped that a sufficient amount will be directed toward child care to reduce the current gap between need and availability. However, increased funding alone is insufficient.

Another factor which impedes the provision of effective inclusion of children with disabilities is the lack of training and experience of child care workers for working with

children with special needs. While most jurisdictions require that at least two thirds of the staff in child care centers have ECE training, additional training is rarely required for those working with children with special needs⁷⁸. Adequate training is required to ensure that the diverse needs of children with disabilities are met and that their meaningful participation in ECE programs is maximized.

Support Services and Respite Care

There are over 2.3 million families in Canada providing day to day support for a family member with a disability⁷⁹. Families of children with disabilities still have very limited access to respite care. In 2002, Health Canada released a national survey to establish an in depth profile of the experiences of caregivers across Canada. While the survey includes caregivers of children and adults with special needs, it provides some insight into the difficulties experienced by parents of children with disabilities. The 2002 survey revealed that fewer than one in four family caregivers are currently receiving any type of formal home care services to assist them⁸⁰. Also, many caregivers feel that they could benefit from some assistance in the form of respite care. Seven in ten caregivers indicated that providing care has been stressful and that they need a break from their care-giving duties⁸¹. Increased supports for families providing home care are necessary to maximize the health and well-being of children with disabilities.

The province of Ontario has ceased providing special needs agreements whereby children with disabilities can be placed in residential treatment by the province with continued active involvement with the family. In many instances throughout the province, parents are being required to place their children in the permanent care of children's aid societies and to relinquish their parental role through Crown Wardship orders in order to obtain residential treatment for severely disabled children. A class action has been launched by a group of parents challenging the province's refusal to fully support parents and children with disabilities. This is arguably contrary to a number of articles of the Convention which aim to preserve the family relationship and respect the role of parents⁸².

Aboriginal Children with Disabilities

There is consensus that Aboriginal children in Canada are at particular risk of having one or more disabilities. However, there is no recent, reliable source of information on the nature and prevalence of disability among Aboriginal children. The recent PAL Survey, which is the only comprehensive national source for current disability statistics, excludes children living on First Nations reserves and in Northern regions. Also, results of the second Aboriginal Peoples Survey (APS) will not become available until late 2003. It is hoped that the APS, which includes a youth questionnaire which collects information on such issues as general health, health care access and utilization, social activities and child care, will yield some recent valuable information on disability issues among Aboriginal children⁸³.

A provincial report recently released by the British Columbia Ministry of Education indicates that Aboriginal youth are at particular risk for severe behavior disorders. In the 1999-2000 school year, 3.1% of Aboriginal students in British Columbia schools were considered to have a severe behavior disorder, compared with .8% of non-Aboriginal children⁸⁴. This makes Aboriginal children 3.5 times more likely than non-Aboriginal children to have a severe behavior disorder⁸⁵. Inclusive programs and services are needed to address the high rates of disability that persist among Aboriginal children.

In November 2002 the federal government announced a funding allocation of \$320 million over the next five years to improve early childhood development programs for Aboriginal children⁸⁶. Early intervention programs provide the best opportunity to improve outcomes for Aboriginal children with special needs.

Education

Information and statistics from the PAL Survey related to the education of children with disabilities is expected to be released near the end of 2003. However, minimal increases in funding and supports for children with disabilities have been observed across the country. The Newfoundland Department of Education provides an example of provincial ministries' progress on educational supports for children with disabilities. The number of

Newfoundland students receiving special education services has increased significantly over the last decade. In the 2000-2001 school year, 14% of students in Newfoundland schools received special education services, compared with 11.8% in 1995-1996 and 9.7% in 1990-1991⁸⁷. Expenditures on student assistance services have increased by nearly 50% since 1995-1996.⁸⁸ Newfoundland has led the Atlantic Provinces in the provision of resources for children with special needs since 1999⁸⁹. Recent advancements in education for children with special needs in Newfoundland include⁹⁰:

- an increase in the allocation of teachers for students with autism, learning disabilities, and emotional behavior disorders.
- The employment of three provincial autism consultants the provision of significant professional development in the area of programming for students with autism.
- increased technological supports to ensure access to curriculum materials for children with special needs.

Similar improvements in programs and services for children with disabilities may be observed across the country. For example:

- In 2001-2002, the New Brunswick Department of Education developed a Child At Risk Steering Committee in partnership with the Department of Family and Community Services⁹¹.
- In 2001-2002, the New Brunswick Department of Education also collected province-wide data on children with exceptionalities⁹².
- In 2001-2002, Manitoba distributed support documents on Fetal Alcohol Syndrome and behavior disorders to schools and provided workshops to implement FAS strategies⁹³.
- In 2001-2002, Manitoba also developed a Student Services Handbook to increase awareness of services available to students with special needs⁹⁴.

Although some improvements have been observed in programs and services for the education of children with disabilities, significant progress is still needed to ensure the

equal access of children with special needs to educational opportunities to help them reach their full potential.

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ARTICLES 28 AND 29: THE RIGHT TO AND AIMS OF EDUCATION HOW DOES CANADA MEASURE UP?

NEEDS ACTION: Initiatives are needed to effectively address early school leaving, particularly among Aboriginal students.

NEEDS ACTION: Although small improvements have been observed, cutbacks in education funding and the closing of schools need to be addressed as they have undermined access to and quality of education in Canada, especially in special education, citizenship, social studies, and arts education.

NEEDS ACTION: The development of respect for equality, human rights, cultural diversity and the environment are recognized in policy, but not necessarily reflected in practice.

NEEDS ACTION: A comprehensive approach is needed to address violence and homophobia in schools.

NEEDS ACTION: Increased access through the Internet to exploitative, racist, and sexual information requires the development of critical thinking skills and anti-racist and media literacy courses for the core curriculum.

NEEDS ACTION: Staffing in education systems should reflect community diversity and the principles of equity.

NEEDS ACTION: Children's rights education needs to be part of core curricula.

NEEDS DIALOGUE:

- A discussion is needed on perceived threats to the public school system in Canada and school governance, including the role of parents and the community in education.
- Public funding for charter and denominational schools requires broader public debate. Access to instruction in Canada's two official languages needs to be resolved.
- The purpose of student testing and use of test results need to be rethought and evaluated.
- More information is needed about the impact of information technology in education.

The Right to Education

In Canada, all children are entitled to free public education until the end of secondary school. However, in practice, this right is not always respected. Two recent situations in the province of Ontario exemplify this. Despite a provision in the *Education Act* that states that children have a right to attend school despite the fact that their parents might have no legal status in Canada, these children continue to be excluded from school throughout Ontario. Also, children who have left their parents' home, often because of abuse issues, are not permitted to attend school unless they are in the school district in which their parents live. If they have moved in with a relative, for example, who lives outside the school district, school boards are refusing to enroll them in school unless they go to court to obtain legal custody of the child. This can take months or might not happen at all, thereby depriving the young person with a right to attend school. Further, the *Education Act* fails to recognize the student as a person with any status. For example, students are not party to their own expulsion hearings. Thus the fundamental obligation under the *Convention*, that children be heard in all matters affecting them, is not followed in Ontario law.⁹⁵

Early School Leaving

In 2000 Human Resources Development Canada released the results of the Youth in Transition Study (YITS)⁹⁶ which provides valuable insights into the experiences of 18-20 year olds across the country as they leave high school. According to the YITS, at the beginning of 2000, approximately 85% of students graduated from high school. Of those, approximately 70% went on to pursue post-secondary education. As of December of 1999, the national high school drop out rate fell to 12%, significantly lower than in 1991 (18%). The largest decreases in high school drop out rates were observed in the Atlantic Provinces, which fell from among the highest rates in 1991 to among the lowest rates according to most recent statistics.

The YITS also identifies a variety of factors that are related to early school leaving. Those who dropped out of high school were more likely than graduates to come from single parent families in which parents did not complete high school. The parents of high

school drop outs were three times as likely as the parents of graduates to have dropped out of high school. Those who dropped out were less engaged in school and also more likely than graduates to engage in frequent alcohol and drug use, and to frequently skip classes. Some (particularly males) reported that they dropped out to pursue employment and some females indicated that they dropped out to pursue child rearing responsibilities. Interestingly, although those who dropped out typically achieved lower grades than those who graduated, almost half of students who dropped out maintained a B average. This indicates that factors other than academic performance play a significant role in the decision to drop out. Previous research showed that high school drop outs were critical of the quality and relevance of their courses. The YITS found that many of today's students, regardless of their high school completion status, are not confident about the quality of their education. Approximately 30% of YITS participants, both graduates and drop outs, rate their math and computer skills as fair or poor. Many also rated their reading, writing, communication and problem solving skills as fair or poor. This indicates that many students may believe that their courses do little to provide them with relevant life skills or prepare them for participation in the workforce. This may contribute to the persistent problem of early school leaving. Efforts to address the problems associated with early school leaving, including providing relevant learning opportunities that are sensitive to student's needs and goals, are necessary to significantly reduce rates of early school leaving.

Education Spending

Most recent statistics indicate that education spending remains at approximately 6% of Canada's GDP, with almost \$6.8 billion invested in 2000 by federal, provincial and local governments. Although spending continues to be lower than in 1985 when 8.5% of Canada's GDP was invested in education, small increases in terms of actual dollars have been observed over the last several years.

Total Funds for Education (in \$ million Canadian)⁹⁷

1995-1996	58,944
1996-1997.....	58,185
1997-1998.....	62,026
1998-1999.....	65,284
1999-2000.....	67,696

Much more significant increases in education funding are necessary to reverse the effects of many years of cutbacks on the country's education systems.

Aboriginal Students

A recent statistics Canada report indicates that there have been significant improvements in the education profile of Canada's Aboriginal population over the last several years. In 2001, 39% of Aboriginal people aged 25-64 reported having less than high school education; this is a significant decrease from 45% in 1996⁹⁸. Also in 2001, 23% of Aboriginal people reported high school as the highest level of education completed (21% in 1996), and 38% indicated that they had completed at least some post-secondary education, compared with 33% in 1996⁹⁹. This represents significant progress toward improving education outcomes for Aboriginal children.

The improvement of education programs and services for Aboriginal children was identified as a priority in the 2002 Speech from the Throne. This commitment was reflected in the increase in funding to band councils and other First Nations education authorities to support education programs for Aboriginal children living on reserves. Funding from the Department of Indian Affairs and Northern Development (DIAND) for First Nations elementary/ secondary programs increased from \$703.8 million in 1992-1993 to \$1,029.6 million in 2001-2002¹⁰⁰. This funding was directed toward the objective of ensuring the capacity of schools located on reserves to provide programs and services comparable to those available in provincial public schools¹⁰¹. Presently, 119,000 Aboriginal children are enrolled in 502 First Nations schools across Canada.

In June 2002, DIAND established the Minister's National Working Group Education to report on progress toward the development of effective, culturally appropriate education programs for First Nations children. The working group, consisting of 15 Aboriginal members from across Canada, released a report outlining recommendations for change in December 2002¹⁰². The report, entitled, *Our Children – Keepers of the Sacred Knowledge*, highlighted the successes of selected First Nations Schools, including the Amiskwaciy Academy in Edmonton and Onion Lake Immersion School in Saskatchewan¹⁰³. The working group concluded that although progress has been observed, there is still a great deal of work to be done toward providing culturally appropriate education opportunities for Aboriginal children. Recommendations outlined in the report focus on three fundamental objectives¹⁰⁴:

- the transfer of jurisdiction of education for Aboriginal children to First Nations authority
- increased funding for First Nations schools to bridge the gap in the level of services between First Nations and provincial public schools
- and ensuring that First Nations knowledge, language, and culture are respected and promoted in education programs for Aboriginal children

National and International Assessments

The Program for International Student Assessment (PISA) compares the performance of students in 31 countries in reading, mathematics, and science. Results of the most recent PISA study, released in 2001, show that Canadian students performed well in all three areas when compared with students from other countries. In 2001, Canadian students ranked second in reading, fifth in science and sixth in mathematics among the 31 countries tested¹⁰⁵. Provincial comparisons reveal that most provinces performed well in all areas, with Alberta students scoring significantly above the Canadian average in all three domains¹⁰⁶. Also, students in Quebec scored above the Canadian average in mathematics and science¹⁰⁷. While students in the Atlantic Provinces scored below the Canadian average in all domains, they reached or exceeded the middle of the international range¹⁰⁸.

In addition to international testing, the School Achievement Indicators Program (SAIP) administered reading, writing, mathematics and science tests to 13 and 16 year olds in all provinces and territories on a rotating basis since 1993¹⁰⁹. Collectively, the SAIP tests reveal small but significant provincial differences, with British Columbia and the Prairie provinces scoring higher than Ontario and the Atlantic provinces. Provincial differences in SAIP and PISA results suggest that efforts should be made identify the factors that lead to such disparities and to maximize the learning of students in the Atlantic Provinces.

Children's Rights

Although children's rights education has not been widely implemented in Canada's school system, some progress has been made toward increasing awareness of children's rights among teachers and students. Evaluations of children's rights curricula developed by the Children's Rights Centre with funding from Canadian Heritage, and pilot tested in grade 6 and grade 8 classes in the Cape Breton-Victoria Region, showed a positive impact on student's attitudes and behaviors. Children who learned about their rights in the context of a caring and participatory classroom environment demonstrated increased support for the rights of others and more positive interactions with peers and teachers, and engaged less frequently in bullying and teasing of classmates¹¹⁰. Based on these results, the Nova Scotia Department of Education has integrated children's rights education at the elementary level and have begun to integrate children's rights education at the high school level¹¹¹. A Children's Rights and Global Citizenship curriculum designed to accompany grade 12 global studies classes, was developed by the Children's Rights Centre with funding from CIDA, and was pilot tested in the Cape Breton-Victoria Region in 2002-2003. The Nova Scotia Department of Education is currently considering the grade 12 children's rights curriculum for province-wide adoption.

The primary level curriculum pilot tested in the Greater Victoria #61 School Board in British Columbia has been implemented more widely in BC, and education authorities in Calgary are currently working on implementing children rights education using the

materials developed in Victoria. While these initiatives are promising, a greater philosophical and fiscal commitment on behalf of provincial ministries of education and local school boards is required to achieve the vision of universal children's rights education.

Different Civilizations: Global Education

Through the Global Classroom Initiative Canadian International Development Agency (CIDA) supports the development of educational resources to help raise awareness of global issues among Canadian students. The objectives of CIDA's Global Classroom Initiative are¹¹²:

- to encourage the integration of global perspectives in teaching
- to provide resources to increase teachers' and students' knowledge of global development issues
- to instill an understanding of the interdependence of the global village
- to instill an understanding of the importance of global citizenship and the impact of individual and collective action to improve global conditions
- to increase awareness of Canada's role in global relief
- to promote tolerance and respect for different cultures

The Global Classroom Initiative provides between \$5000 and \$150,000 to organizations and groups to develop curriculum materials, websites, conferences, international electronic pen pals programs, etc. to encourage the development of the values and beliefs necessary for meaningful global citizenship.

Access to Technology

On March 30, 1999, through its SchoolNet initiative, Canada became the first country in the world to connect all schools in the country, including First Nations Schools, to the Internet¹¹³. As of May 2000, half a million computers with Internet access were available to students in schools across the country¹¹⁴. Also, through the SchoolNet website, teachers currently have access to more than 5,000 teacher approved learning resources¹¹⁵. As the role of technology in the global economy continues to grow, students require

higher levels of computer literacy to be able to compete in the labor market. The availability of computers in schools and the gradually increasing emphasis on technologically based school curricula have emerged to prepare students for living and working in a society that depends on technology. The 2001 Speech from the Throne expressed the commitment of the federal government to provide up-to-date technology in schools across the country and to create more and better e-learning content.

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ARTICLE 22: REFUGEE CHILDREN

HOW DOES CANADA MEASURE UP?

RIGHTS ALERT: It takes too long for refugee families to be reunited in Canada since families cannot join inland refugees until they have been accepted for landing.

- The average length of time it takes to determine a refugee claim is 9.6 months.
- Despite the introduction of the new family class application, refugees without identity documents still have long waiting periods to be reunited with their families in Canada.

RIGHTS ALERT: Children are sometimes detained in unsuitable environments including adult detention facilities, which do not provide for their education, health and recreation rights.

NEEDS ACTION: Quebec does not sponsor unaccompanied refugee children from overseas.

NEEDS ACTION: The Immigration and Refugee Protection Act does not set out specific procedures or criteria for dealing with the claims of children, other than the designation of an adult to represent them in hearings.

MEETS COMPLIANCE: In February 2000, the right of landing fee was eliminated, reducing the burden on refugees to Canada.

MEETS COMPLIANCE: Under the new IRP Act, convention refugees or persons in need of protection, and their dependents, will no longer be refused entry on the grounds of excessive demands on health or social services.

MEETS COMPLIANCE: The new IRP Act requires that the best interests of the child be considered in all matters involving minor children, including deportation hearings of their parents.

Overview of the Refugee Determination Process

According to the UN High Commissioner for Refugees, in 2002 there were 19.8 million refugees and displaced people in the world¹¹⁶. This figure is significantly lower than in previous years, and represents two conflicting trends: while large numbers of people continued to be displaced, even larger numbers, particularly internally displaced people, returned home¹¹⁷.

In 2001, the number of refugee claims in Canada reached 45,000. Although there was a 25% reduction in 2002, by 2003, refugee claims were returning to the normal range of 25,000-30,000¹¹⁸.

The 2001 rise in refugee claims, and the subsequent need to reduce the burden on Canada's immigration and refugee protection system, was cited as a rationale for signing the "safe third country" accord with the United States¹¹⁹. The "safe third country" accord, signed in December 2002, will allow Canada and the United States to recognize each other as a safe place for refugee claimants to seek asylum. This allows both countries to turn back claimants at the border to seek asylum in the first country they entered. Canada has been criticized by such organizations as Amnesty International for signing the accord as the U.S. has weaker protections for asylum-seekers which do not conform to international standards¹²⁰.

Child Refugee Claimants

Wendy Ayotte's report, *Separated Children Seeking Asylum in Canada*, was published in July 2001, based on consultations with Citizenship and Immigration Canada, International Refugee Board, United Nations High Commissioner for Refugees and other relevant government offices and NGO's. Ayotte's report provides an overview of Canada's immigration and refugee protection system as it relates to unaccompanied minors. Major findings of the report are as follows¹²¹.

- Refugee children account for more than 45% of the world's refugees, and separated children or unaccompanied minors account for 3-5% of the refugee population.

- In 2000, the claims of 671 unaccompanied minors were referred to Canada's Immigration and Refugee Board. A total of 404 claims were referred in 1999, and 340 in 1998.
- Acceptance rates for separated children dropped from 74% in 1998 to 50% in 2000, likely due to the large numbers of Chinese children whose claims were refused in 2000.
- In 2000, 46% of separated children were under 16 years, and a significant number were under 10 years of age.
- In 1999-2000 the average processing time for a child's claim was 7.3 months, with some cases in which a child waited more than a year for their hearing.
- Although immigration officials work with and on behalf of child refugees, they do not receive any specific training related to children. When IRB guidelines for working with children were introduced in 1996, only one half-day training session was provided.
- At times children are held in unsuitable environments including adult detention facilities, which do not provide for their education, health and recreation rights.
- It is not always clear whether proper assessments and arrangements are made before a separated child is removed from Canada.

The following case, also taken from Ayotte's report, highlights the weaknesses of Canada's refugee protection system in relation to separated children.

In the summer of 1999, 134 separated Chinese children arrived off the B.C. coast along with 465 adults. After initial processing at the Canadian military base in Esquimalt, the majority of the children were released into the care of the Ministry of Children and Family Development (MCFD), which housed them in facilities in Victoria and Burnaby. However, 18 boys remained in youth detention for approximately seven months. Eventually the MCFD sought their release, but CIC argued for continuing detention because it was suspected the boys might be involved with the organizers of the smuggling operation. Eventually all were released into the care of the MCFD. Only five children were recognized as

Convention refugees. The majority received negative determinations and left B.C. (and probably Canada) illegally. Some former caregivers remained in touch with some of the young people and report that about 40 of them are in New York City, while others are known to be in Chicago, Baltimore and Philadelphia, all working illegally. Some joined family members in the USA.

Legislation

In June 2002, Canada's legislation governing refugees changed with the introduction of the new *Immigration and Refugee Protection Act*. The new *IRP Act*, which replaces the previous *Immigration Act*, provides increased clarity and coherence in legislative provisions, and improves the ability of the immigration and refugee protection system to deal with the complex needs of refugees in Canada. Under the new legislation, greater emphasis is placed on refugees' need for protection and less on their ability to resettle in Canada. Although it does not fully incorporate the Convention on the Rights of the Child, the new Act improves the situation for refugee children, recognizing Canada's commitment to the "best interests of the child". Specifically, children should be detained only as a measure of last resort, and the best interests of the child shall be considered in all decisions in which a child is directly involved.

Admissibility

Under the old *Immigration Act*, claimants were accepted only if they were judged likely to be self-sufficient within one year of settling in Canada. This made it difficult to protect the most vulnerable, including unaccompanied minors. The new *IRP Act*, however, shifts the focus toward protection rather than the ability to resettle¹²². This enhances the ability of the immigration and refugee protection system to protect the most vulnerable applicants including unaccompanied minors, women at risk, victims of violence and torture, the elderly, and those requiring medical treatment.

Another discriminatory element in previous refugee legislation was the refusal of those who might reasonably be expected to make excessive demands on health or social

services. Under new legislation, convention refugees or persons in need of protection, and their dependents, will no longer be refused on the grounds of excessive demands¹²³. Refugee claimants may only be denied entry to Canada on the basis of a health issue if their health condition is likely to be a danger to public health or safety¹²⁴.

Lack of Appeal Mechanism

Prior to the introduction of the new *IRP Act*, no appeal mechanism was available to those whose application for refugee status was denied. In 1997 the Toronto Joint Center of Excellence for Research on Immigration and Resettlement cited the lack of an appeal mechanism as a violation of fundamental rights under the *Canadian Charter of Rights and Freedoms*¹²⁵. The 2002 *IRP Act* acknowledges the right of claimants to appeal refugee determinations to the Immigration Appeal Division of Citizenship and Immigration Canada. The right to appeal does not apply to those who have committed a crime in Canada and have been sentenced to two years or more in prison, or to those who have misrepresented themselves in prior communication with CIC¹²⁶.

Timelines of the Process

Progress has been made toward reducing processing times for refugee claims. In 1996-97, the average processing time was nearly 13 months. In 1999-2000, it took an average of 9.6 months to determine a refugee claim.¹²⁷

Acceptance Rates

According to the Canadian Council for Refugees, in both 2001 and 2002, the percentage of favorable Immigration and Refugee Board Decisions was 47%¹²⁸.

Right of Landing Fee

In 1995 the government of Canada introduced a \$975 right of landing fee for each adult refugee seeking permanent residence in Canada. Canada was the only country to impose such a fee, which was criticized for being prohibitively high for individuals who have fled their homes with few possessions, and for “keeping thousands of refugees in “limbo”

–without any clear legal status in Canada, and denied many of the rights that allow them to get on with their lives”¹²⁹. In February 2000, the right of landing fee was eliminated¹³⁰, reducing the burden on refugees to Canada.

Deportation

Under the old *Immigration Act*, the best interests of the child did not have to be considered in deportation hearings. This allowed the deportation of children who have lived in Canada for years and of parents of Canadian-born children, without consideration of the best interests of the child. Current legislation ensures that such rights violations can no longer occur. The *IRP Act* reflects Canada’s commitment to the best interests principle, and requires that the best interests of the child be considered in all matters involving a minor child, including deportation hearings.

Despite this commitment in the legislation, however, legal arguments by the Ministry of Citizenship and Immigration in the courts have tended to try to limit the application or scope of the best interests test. These arguments were successful in the case of *R. v. Hawthorne* (2002) Federal Court of Appeal, where the government argued and the court found that the best interests test in a deportation appeal by a mother, amounted only to looking at whether the child would suffer “hardship”. The government lawyers also successfully argued that the best interests test was only one factor that need be looked at and should not be accorded any higher consideration. The Federal Court of Appeal stated that “Article 3(1) of the *United Nations Convention on the Rights of the Child*” ... should be read with caution.”¹³¹

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Emerging Issues: How Does Canada Measure Up?

The following section, taken from *Canada's NGO Report to the UN General Assembly Special Session on Children (UNGASS)*, describes the concerns of Canadian NGOs working with and on behalf of children that did not fall under the reporting categories of CCRC's original report *The UN Convention on the Rights of the Child: How Does Canada Measure Up*. These emerging issues were identified in national consultation with representatives of almost 50 child serving NGOs from across Canada in preparation for the UNGASS.

Child Poverty

Under Article 27 of the Convention, States Parties recognize the right of every child to "a standard of living adequate for the child's physical, mental, spiritual, moral and social development." While the Convention recognizes the primary responsibility of the parents in providing for children's basic needs, it charges States Parties "to take appropriate measures" according to national conditions and within their means to provide families with necessary supports and material assistance to ensure that such needs are met. The Government of Canada has recognized the problem of children living in poverty as evidenced in a number of new initiatives over the past decade.

In 1989, unanimous support was expressed in Parliament for an all-party resolution to eliminate child poverty by the year 2000. During the 1990s, however, despite such initiatives as the National Child Benefit, the development of the National Children's Agenda, increases in Child Care Expense Deductions, and a number of Early Childhood Development initiatives, a substantial gap remained between promise and reality. Recognizing the continuation of child poverty, a number of commitments were made in the January 2001 Throne Speech. The NGO community applauds these initiatives which include an increased contribution to the National Child Benefit, partnerships with provinces and territories to assess means to reduce child poverty among lone-parent families, and the improvement of supports available to families and caregivers in times of

family crisis, such as a gravely ill child. Nonetheless, NGOs expressed significant concern over the increase in child poverty through the 1990s to the present.

In 1999, using the LICO (low-income cut-off) definition of poverty, indications were that the rate of child poverty had increased 43% since 1989, with nearly 1.5 million Canadian children living in poverty. Child poverty rates are highest among children under 6 years, of whom approximately 25% were living in poverty. The number of children in working poor families increased 55% since 1989. There is also much evidence that those in Canada who are poor are deeply poor, with family incomes an average of \$9,489 below the (LICO) poverty line. Of particular concern to the NGOs were children in lone-mother families who experience poverty at a rate of 56% and Aboriginal children with a poverty rate of 50%. The number of poor children living in lone parent families increased by 49% from 1989 to 1999. The number of children living in lone-mother families in which the mother worked full time yet whose income remained below the poverty line increased by 61% from 1996 to 1998.

As noted in a recent report (2001) by the Vanier Institute of the Family, whereas family incomes rose in the late 1990s, the increase stemmed from longer hours of work and more family members working. Real wage gains have been non-existent. In fact, they noted a large increase in family debt and bankruptcies, and a large decrease in savings. Also of great concern to NGOs was the Institute's documentation that where there had been income increases, these were disproportionately represented in already wealthy families. Over the past decade poor families have been growing poorer.

Many poor children rely on food banks and clothing depots. 12.2% of poor families live in substandard housing conditions, and are exposed to chronic neighborhood dangers such as violence, crime and pollution. When compared to middle and upper income families, almost twice as many low-income families report that their neighborhoods are not safe for their children to play outdoors or in local parks or playgrounds. The decreased production of social housing from 10,000 units in 1989 to 1,500 in 1999 contributes to this trend and represents a major area of concern for many NGOs.

Whereas the new government initiatives may reduce child poverty, NGOs remain concerned about the relatively high rates of child poverty and the impact of early and persistent poverty on the child's development and they believe that poverty remains the root cause of many child rights violations in Canada. It is recommended that all levels of government closely monitor the impact on children of the new initiatives and make modifications as suggested by evaluation data.

Sexual Exploitation of Youth

Article 34 of the Convention ensures that States Parties shall take all necessary measures to protect children from all forms of sexual abuse and exploitation. This obligates Canada to enforce strong legislation to prevent the inducement of children to engage in unlawful sexual activity, and the exploitive use of children in prostitution and in pornographic materials or performances. Overall, Canada has a good record in this area and has justifiably been described as a world leader in preventing the sexual exploitation of children. Canada's recent initiatives (e.g., 1999 Children as Victims Project, 1999 reforms to the Extradition Act, 2000 amendments to the Criminal Records Act etc.) provide a useful model for other countries.

Canada's child protection legislation and the Canadian Criminal Code prohibit the sexually exploitive use of children, and in comparison with many other countries, the sexual exploitation of children is relatively uncommon. In fact, the existing legislation was strengthened in 1997 with amendments to the Criminal Code (Bill C-27). The amendments allow for prosecution of persons who engage in child sex tourism in other countries, and facilitate the apprehension and prosecution of persons who seek out the services of child victims of sexual exploitation in Canada. Moreover, Canada has played a seminal role in promoting awareness of sexual exploitation and working toward its reduction. This was well exemplified in the Out From the Shadows International Summit of Sexually Exploited Youth, a landmark initiative in its inclusion of youth.

Nonetheless, NGOs did express concern about sexually exploited children, particularly for street youth who are the most vulnerable, and for Aboriginal youth who in disproportionate numbers end up in the sex trade as a means for survival. It is recommended that services be systematically available to treat the serious and persistent physical and psychological difficulties experienced by child victims of sexual exploitation, and that young people exploited in the sex trade in all provinces be treated under child welfare rather than criminal legislation. In addition, special emphasis needs to be given to enable Aboriginal youth to re-establish cultural connections and find strength in their heritage. This should help address the problem of low-self-esteem which increases vulnerability to sexual exploitation.

Economic Exploitation of Youth

Under Article 32 of the Convention, States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with their education or their physical, mental, spiritual, moral or social development. Toward this end, Canada is required to take all appropriate legislative measures to regulate children's involvement in the workforce, and to provide sufficient penalties for those who encourage exploitive child labor. On the international level, where child labor is a significantly greater problem than it is domestically, Canada, through CIDA's Social Development Priorities and the Child Development Action Plan, committed resources to work toward the ending of exploitive child labor.

However, some NGOs cautioned that the work experiences of children in Canada might present a significant threat to their well being, interfering with their education and depriving them of adequate social and recreational opportunities necessary for healthy development. Working children in Canada are typically employed in low paid, tedious positions, often working long hours which interfere with school attendance and academic performance. Some children, particularly those of immigrant families, work to assist with the family business or to supplement an inadequate family income. Canada-wide research is needed to fully assess the extent of working children, as well as to identify factors that differentiate beneficial from harmful youth employment. It is recommended also that

there be systematic assessment of the degree to which employment standards and child protection legislation prevent the exploitive employment of children within Canada.

Youth Participation

Article 12 calls on Canada to assure "to the child capable of forming his or her own views, the right to express those views freely in all matters affecting the child." In association with the right to be heard, the child also has the right to freedom of expression (Article 13), and the right to freedom of thought, conscience and religion (Article 14). Parents or legal guardians are important here. Article 14 requires States Parties to respect the rights and responsibilities of parents or legal guardians to "provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child." Children's right to freedom of association and peaceful assembly is described in Article 15. Such rights of participation are important for the healthy development of the child.

Giving reality to participation rights within the family requires the use of democratic parenting styles. Democratic parenting, in which the child is encouraged to participate in personal and family decision making, is consistently associated with high levels of self-esteem, social maturity, and self-reliance. Yet, in the absence of parent education and children's rights education, few are aware of the child's right to participate in the family and the importance of parenting style. The National Longitudinal Survey of Children and Youth indicated that only about one third of parents use democratic parenting styles.

Schools and communities in Canada require considerable structural reorganization to allow for children's participation rights. Some participation is allowed in varying degrees in many jurisdictions. However, participation is often tokenistic rather than meaningful, and commonly participation decreases with grade level as the focus turns increasingly to classroom management. A lack of meaningful participation is a contributing factor in decreased achievement in adolescence, truancy, school failure and early school leaving. Inclusion of rights training and child development training for all teachers would do

much to provide for a school environment in which children feel safe questioning ideas and exploring issues with peers and teachers, and in which children's voices are heard.

Participation opportunities must also be extended in the community. Some communities across Canada have made some provisions for youth involvement in community decision-making, but these are rare and not all allow for more than token participation. Community structures need to be altered such that children have a voice in neighborhood associations, municipal councils and community organizations in which they may be involved. Community policies must be developed with children, not simply for children.

Limitations and variations in allowances for children's participation in legal proceedings are at odds with the Convention. With the exception of juvenile justice, in which participation rights are assured, participation in legal proceedings such as in areas of child protection and custody are limited and discretionary. It is noteworthy that in most jurisdictions child protection legislation does not require that the wishes of the child be part of the determination of the child's best interests.

To fulfill children's participation rights will require significant partnerships among all levels of government, NGOs, and other civil society actors and organizations. A leadership role by the federal government would be welcomed here.

Child Care

Under Article 18 of the Convention, Canada is obligated to take all appropriate measures to ensure that the children of working parents have the right to benefit from child-care services. The government has provided assistance through expanded parental leave (now up to one year), the Child Care Expense Deduction (which was increased in 1998), and child benefits, and has assisted First Nations with child care through the First Nations/Inuit Child Care Program. In addition, restored transfer payments in 2000 under CHST (Canadian Health and Social Transfer) have paved the way for inter-governmental agreements on early childhood development. Also positive was the observation that the proportion of teaching staff without any ECE training dropped from 42% in 1991 to

11.4% in 1998. However, NGOs remain concerned about the costs of child care, the paucity of spaces and the lack of national standards.

Recent data from Statistics Canada and from the Vanier Institute of the Family indicate an ever-growing proportion of mothers of young children in the workforce. Statistics Canada data in 1999 showed that 90% of working women returned to their workplace within one year of giving birth. By the year 2000, 70% of mothers with children under the age of six years were employed. The need for high quality child care, then, is obvious. High quality child care benefits all children and functions as a protective factor for children in high-risk circumstances; it should, therefore, be accessible to any parent who wishes it. For many parents, however, the cost is prohibitive.

The median Canadian parent fees during 1998 ranged from \$455.00 per month for preschoolers to \$531.00 per month for infants. However, fees in some areas of the country were significantly higher. In Ontario, for example, the average monthly fee for an infant (to 17 months) was \$783, and \$603 for a toddler (18 months to 3 years). Parents who neither qualify for subsidies nor earn high salaries have difficulty with these fees. In addition, there have been complaints that many child care centers require parents to provide diapers and formula, things which previously had been provided by the centers.

The number of available regulated spaces is insufficient. At this time, on average, there is one space to serve every 10 children who need one. The joint impact of high fees and few spaces is seen in the high numbers of young children in informal care arrangements that frequently are unstable and of poor quality. Children's healthy development is compromised by poor quality child care. Moreover, it is often the child whose home environment indicates a strong need for high quality child care who is the least likely to experience it.

The lack of national standards for the provision of child care is also of concern. For example, not all jurisdictions have the same requirements for trained staff or for child-

caregiver ratios, yet these are key predictors of the positive outcome of child care experience.

It is recommended that provincial and territorial comparisons be undertaken to identify systematically the variations of child care provisions and their impact on children.

General issues which need to be addressed by federal, provincial and territorial governments are the following: the current method of funding child care, the low salary levels and poor benefits for staff, the variability across the country in regulations, and the lack of a coordinated policy approach to ensure that high quality child care is available to all children in Canada, regardless of their economic or geographic status.

Child Health

Prenatal Care

Under Article 24 of the Convention, Canada is obligated to take all necessary measures to ensure that all children enjoy the highest attainable standard of health. This includes the responsibility to provide for optimal conditions for prenatal development. There is a substantial body of evidence indicating that prenatal experience is a major determinant of long-term development, and that the postnatal environment is limited in its capacity to reverse the effects of prenatal damage. A child whose prenatal health is compromised may experience significant physical and mental health problems that persist over the lifespan.

During the 1990s there was an increase in the incidence of low birth-weight and pre-term birth. A significant proportion of incidents of low birth weight, as well as congenital anomalies, and perinatal mortality and morbidity, result from poor prenatal care and fetal exposure to toxins such as alcohol and nicotine. Data indicate that around 18% of women consume alcohol during their pregnancy. In fact, in one study 12.5% reported binge drinking. Approximately 24% of women report smoking during pregnancy, 84% of whom report smoking throughout the pregnancy. Also, approximately 7% continue to use illegal drugs while pregnant. Many children born in Canada will cope with the persistent and pervasive effects of Fetal Alcohol Syndrome. The Canadian Institute of Child Health

has estimated FAS rates to be 1 in 500 children, while a Health Canada study in 1998 estimated as many as 3 per 1000. While the prevalence of the less severe Fetal Alcohol Effect, alcohol related birth defects (recently estimated at 1 in 100), and the effects of fetal exposure to tobacco is unknown, it appears that the well-being of many Canadian children may be jeopardized before birth.

NGOs are very pleased that the Government of Canada has committed to cooperate with Aboriginal communities, provinces and territories to work toward the reduction of Fetal Alcohol Syndrome among the Aboriginal community where it is most endemic. In addition, NGOs recommend parent education be encouraged in school curricula and in community health settings. Comprehensive, mandatory parent education programs were frequently suggested by NGOs to be accompanied by policy reform to provide the to-be-born child with a healthy prenatal environment.

Finally, NGOs urge the government to accept and implement the recommendation of the 1992 Standing Committee on Health and Welfare, Social Affairs, Seniors and the Status of Women, that warning labels about FAS/FAE be placed on alcohol bottles. This has proven effective in the United States and there is no reason to doubt a comparable educative effect in Canada.

Health Care

In contrast to Article 24 (described above), a number of inadequacies were noted in the provision of health care for children. Whereas NGOs are aware that health care is under provincial jurisdiction, they believe that it would be helpful for Canada to review provincial and territorial compliance with the Canada Health Act. Of particular concern to NGOs is compliance with the two key principles of the Act, those of universality and accessibility. Provincial and territorial practices could be reviewed to ensure that these principles are met. Particular attention should be given to children living in rural and northern communities as well as children in First Nations communities. It is encouraging to see the affirmation of the commitment to the principles of the Canada Health Act in the 2001 Throne Speech.

NGOs expressed considerable concern with the intra-provincial and inter-provincial and territorial variability in availability and accessibility of diagnostic and treatment procedures. Similarly, accessibility to medication and medical equipment varies with the socioeconomic status of the child's family. Many NGOs noted the lack of mental health services for Aboriginal youth, and other marginalized youth, who experience higher rates of substance abuse and suicide.

Nutrition

Under Article 27 of the Convention, Canada undertakes the responsibility to provide material assistance and support programs to ensure that all children receive adequate nutrition. Relative to less affluent nations, a small percentage of Canadian children experience hunger. However, NGOs expressed concern about the number of children using food banks, the lack of breakfast programs in schools, and the lack of national statistics on child nutrition, including child obesity.

Since 1989, food bank use has risen more than 92%, and the number of children relying on donated food has increased more than 85%. Canadian children comprise 26% of the total population but account for 40% of all food bank users. Inadequate nutrition threatens children's overall well being as it has been linked to a variety of physical, cognitive, social and emotional problems.

Although hunger is typically associated with poverty, nutrition status is not entirely determined by socioeconomic status. Recent data suggest that while the national child poverty rate is 20%, 31% of Canada's primary school students and 62% of secondary school students do not eat breakfast daily. This means that a substantial number of Canadian children do not consistently receive adequate nutrition at home. Families in which both parents are employed often have little time to regularly prepare nutritious meals for their children. School based meal programs provide a solution for children in low-income and time constrained families. Despite the demonstrated benefits of school meal programs, Canada remains one of the few developed countries that does not provide

universal school meal programs for its children. Current programs are typically funded by community organizations and receive no stable federal funding. NGOs believe that the provision of stable funding for school based meal programs would be sound social policy. In addition, the NGO sector recommends that the government facilitate research to enable the compilation of national statistics on breastfeeding, childhood obesity and adolescent eating disorders.

Environmental Health

Although the Convention does not specifically address children's environmental health, its signatories are obligated to ensure that children's best interests are provided for through all means necessary. Article 6 of the Convention states that "States Parties shall ensure to the maximum extent possible the survival and development of the child". Also, under Article 24, Canada is required to "recognize the right of the child to the enjoyment of the highest standard of health..." All children, then, should be provided with clean and healthy environments, and should be protected from the demonstrated negative effects of exposure to environmental hazards.

Despite this commitment, Canada's children are chronically exposed to toxic substances in the food they eat, the air they breathe, and the toys they play with. Environmental contamination represents a significant public health problem for all Canadians. However, a variety of physical and behavioral factors make children particularly vulnerable to the effects of exposure to environmental hazards. Childhood exposure to environmental contaminants has implications for adult onset of malignancies, immunological dysfunction and reproductive difficulties. Chronic exposure to environmental toxins also is implicated in the increase in childhood illnesses such as childhood cancer, respiratory diseases, and a variety of immunological and neurodevelopmental disorders.

According to the 1998 Statistics Canada Health Report on childhood asthma, for example, there has been a 400% increase in childhood asthma over the past two decades. The incidence of cancer among children under the age of 15 has increased 25% over the past 25 years. In 1997 Daniels and colleagues reported a considerable increase in acute lymphocytic leukemia, central nervous system tumors and bone tumors. Although

survival rates have increased for children with cancer over the past few years, the National Cancer Institute reports that as of 1998, cancer remains the second most common cause of death among children in Canada, over the age of one year.

Exposure to environmental tobacco smoke represents a major avoidable threat to the health of Canada's children. In 1996-1997 the leading cause of hospitalization for infants was respiratory conditions that may be connected to environmental tobacco smoke. The occurrence of asthma among children increased from 8% in 1990 to 12% in 1996, an increase too great to be attributed to increased awareness and improved diagnostic tools. Those investigating the relation between asthma and air quality implicate environmental tobacco smoke and other air pollutants such as dust mites, mold, natural gas cooking, animal dander and ground level ozone. Despite children's special vulnerability to environmental contaminants, 33% of all Canadian children are regularly exposed to tobacco smoke in the home, and 85% of children who live with a smoker are given no protection against the smoke.

Environmental contaminants also affect children's mental health. Recent research conducted with a large sample of young adolescents in the vicinity of the Sydney Tar Ponds demonstrated that a link exists between children's perception of danger from environmental toxins and emotional difficulties and mental health problems. Clinical levels of depression and fears for future health were found in the adolescents who live in a neighborhood most frequently labeled as Canada's worst toxic waste site. Future studies of the impact of environmental hazards and children's health should address mental health as well as physical.

A final issue here is one raised earlier by Senator Pearson, (Personal Representative of the Prime Minister for the Special Session and Special Advisor on Children's Rights to the Ministry of Foreign Affairs) with which NGOs strongly agree. The issue is the need for disaster preparedness and disaster prevention programs. Whereas the impact of earthquakes, tsunami, floods and so forth are traumatic for all, their impact is most severe

on children's healthy development. Identification of best practices in this area is urged as a preliminary step.

Especially Vulnerable Children

Street Youth

Under Article 27 of the Convention, States Parties undertake to "provide a standard of living adequate for the child's physical, mental, spiritual, moral and social development". There is no question that the issue of street children is of more urgent concern in other countries such as Brazil where 8 to 10 million children survive on the streets. Around the world, street children are victims of rights violations, violence, sexual exploitation, neglect, and addictions. All efforts to alleviate the problem of street children world-wide are considered urgent by Canada's NGOs. However, they also voiced domestic concerns. Existing statistics from major urban centers indicate that children represent a substantial proportion of Canada's homeless population. Police records indicate that in 1996, 43,680 children were runaways and in 1999 there were 47,585 runaways entered on the RCMP CPIC (Canadian Police Information Centre) database. Estimates indicate that approximately 60% of street youth are those who have left home to escape an abusive family situation or those who have been forced to leave home by neglectful parents. Of great concern to NGOs here is that of these, 58% were female and as such especially vulnerable to involvement in prostitution. Of equally great concern is that Aboriginal children are highly over-represented among children living on the streets.

There are few provisions for street children who are over the age of 14 years. The requirements for helping street children are identified by examining their profiles. A study of street youth in Ottawa is informative. Eighty-nine percent had not completed high school, 58% reported drug-related problems, 37.5% reported alcohol-related problems, and 45% had mental health problems. These data indicate that education, addiction and health services are essential for street youth. In addition to the provision of such programs, the development of prevention programs and services to address the underlying problems are obviously essential.

Young Offenders

Articles 37, 39 and 40 of the Convention direct that the treatment of youth involved in the justice system follow a rehabilitative approach, emphasizing treatment and using detention or imprisonment only as a measure of last resort. Legal protections for youth are described in both Articles 37 and 40; Article 39 describes the focus on rehabilitation and social reintegration. Article 40 (3 & 4) directs States Parties to ensure that where possible there are measures for dealing with children "without resorting to judicial proceedings" and that "a variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes, and other alternatives to institutional care" are provided. The federal government's Crime Prevention Initiative, with its focus on proactive programs for high-risk families, and the introduction of the new Youth Criminal Justice Act (YCJA) represent a step forward in bringing Canada's youth justice system closer to compliance with the Convention.

Under the existing Young Offenders Act, Canada has a record of youth custody that is among the highest in the industrialized world, 10 to 15 times higher than in many European countries, Australia and New Zealand. There is significant provincial and territorial variation in the provision of alternative measures, and Canada continues to allow for the mixing of juvenile and adult offenders in detention facilities.

The proposed YCJA has a number of shortcomings, however. On the one hand, the Act does place greater emphasis on extrajudicial measures and rehabilitation, and it does allow for the non-serious offender to be dealt with through community-based programs. Custody rates may be reduced as custody will be reserved for violent or repeat offenders. Custodial sentencing may be more beneficial than under current arrangements in that it includes treatment and a portion of the sentence reserved for supervision outside custody. On the other hand, the expanded use of adult sentences for children as young as 14 suggests that custody rates may not decline as much as they should. In addition, the expanded allowance of access to youth records and public identification stands in

contradiction to the special due-process rights accorded to youth under the Convention. Moreover, the new Act continues to allow for youth to be held with adult offenders.

A major concern of NGOs is that the government has attempted to appease public demands for punitiveness in its framing of the new act. Public perceptions about youth crime are documented to be inaccurate and based primarily on media stereotypes and sensationalized high-profile cases. Public education about the causes of youth offending, the low rates of serious youth offending, and the benefits of therapeutic approaches are recommended. The government's growing emphasis on proactive and preventive initiatives is applauded.

Since the NGO report to the UNGASS the new Youth Criminal Justice Act has gone into effect (April 1, 2003). The new Act is designed to focus more on rehabilitation and reintegration and to make more extensive use of community based programs rather than custody. However, a number of concerns have been identified by child rights advocates in Canada. These include the facilities to which young people will inevitably be sentenced, the allowance of provincial and territorial variation in programming and services, and the potential for continued discriminatory responses to Aboriginal youth.

Youth in Care

Under Article 20 of the Convention, States Parties are required to provide special protection and assistance to all children temporarily or permanently removed from their family. The Convention clearly states that in decisions about alternative placements "due regard shall be paid to the desirability of continuity in a child's upbringing, and to the child's ethnic, religious, cultural and linguistic background." Whereas in theory, children in the care of the state are promised continuity of care and the preservation of their culture, there is a substantial gap between theory and practice. Despite some progress in placing foster children in families of like-culture, there continues to be a shortage of such placements, especially for Aboriginal children. And again, because children in care fall under the jurisdictional responsibility of the provinces and territories, there is wide variation in definitions and in services across the country.

Despite the large body of research indicating that children's adjustment in care depends on stability and continuity of care, permanency, and the maintenance of reliable trained

workers, children in care typically have several different short-term placements and workers. On average, Canadian children in care have 5 different placements and 3 different workers. It is suggested that best practices be identified from other jurisdictions where children in care have their needs met more in compliance with their rights, and that these practices be made known to the provinces and territories along with encouragement to adopt them.

HIV/AIDS Infected Children

Under Article 24 of the Convention, Canada recognizes the right of all children to enjoy the highest attainable standard of health. Toward this end, Canada is to provide appropriate facilities for the treatment of illness and rehabilitation of health, and to develop education programs and services for the prevention and management of illness. NGOs recognize the important contribution made by CIDA's social development priorities in addressing the pandemic of HIV/AIDS internationally. However, some concern was expressed that governments tended to be complacent about the situation of HIV/AIDS prevention and services for HIV/AIDS infected youth domestically. Although at this time the numbers of HIV/AIDS infected or affected children is relatively low, the concern is that without interventions the rates may increase.

The lack of public education regarding HIV/AIDS prevention was noted most commonly. Canadian adolescents typically possess little accurate information about HIV/AIDS and many engage in high risk sexual behaviors with little awareness of the potential consequences. The development and mandatory inclusion of comprehensive school based sexuality education programs that address HIV/AIDS issues needs to be encouraged in order to reduce the risk of infection among Canadian youth. Programs are also necessary to provide information and assistance to youth living on the streets. In addition to high-risk sexual behaviors, street youth engage in other high-risk behaviors that increase their risk of infection. A 1995 study of street involved youth in Montreal indicated that 36% of street-involved youth had used intravenous drugs, and 67% had shared injecting equipment.

The need for public education is also reflected in the number of women who pass the infection along to their newborns. In 1999, HIV prevalence studies indicated that 3 to 4 per 10,000 pregnant women in Canada were infected with the virus, and between 1985 and 1999, 234 infants contracted the HIV virus through perinatal transmission. As many HIV/AIDS infected children contract the disease at birth, general public education programs and early diagnosis are required to reduce the rate of perinatal transmission.

Also necessary is the development of programs and services to address the complex health needs of HIV/AIDS infected youth. Canadian children infected by HIV/AIDS often receive inadequate medical services and lack necessary social support. As a result of significant subjective distress, HIV/AIDS infected children experience a variety of psychological, behavioral, and neurocognitive difficulties as well as physical health problems. Early identification and multidimensional care is required to improve the quality of life for these children.