

Legislative  
Assembly  
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To the Office of the High Commissioner for Human Rights,

The Provincial Advocate for Children and Youth (Advocate's Office) is an independent Officer of the Legislature of Ontario, Canada. The Office is mandated to provide rights education, advocacy and an independent voice for children and youth connected to the province's child welfare, children's mental health and youth justice systems, First Nations youth, children and youth with special needs and young people requiring the services of Provincial and Demonstration Schools.

The purpose of the Advocates Office submission is to draw the High Commissioner's attention to rights violations and inequities in the treatment of four marginalized and vulnerable child and youth populations in Canada. We respectfully submit a list of recommendations we believe will improve access to needed supports and services for each of these populations and bring Canada into greater compliance with principles in the United Nations Convention on the Rights of the Child (UNCRC).

Canada ratified the UNCRC in 1991. Despite ratifying the Convention, Canada lacks a national coordinating mechanism or body with a mandate to monitor the implementation of the Convention's principles. Canada needs to improve its ability to meet the rights of children under the following articles of the UNCRC: Article 2 (the right to non-discrimination); Article 3 (the best interests of the child); Article 6 (the right to life, survival and development); Article 19 (the right to protection from harm); Article 27 (access to an adequate standard of living); and Articles 28 and 29 (the right to an education).

The youth populations chosen for inclusion in this submission represent a sampling of vulnerable youth groups in crisis in Canada, with a particular focus on the province of Ontario. First Nations youth continue to live in third world conditions. New arrivals to Canada, such as Roma children and their families, experience overt discrimination. The issues of children with disabilities and their caregivers are given almost no attention by government. Living in poverty affects the lives of significant numbers of Canadian children, intersects with their marginalized status and other social challenges, but remains unaddressed in any sustained manner in government policy. Through the preparation of this submission we hope to draw your attention to issues that affect the lives of many Canadian children and youth. Due to limits in terms of the word count for submissions, we were not able to speak to or elevate the voices of all young people in our mandate. However, we have attached in an appendix copies of reports produced by our Office that provide Canadian youth living in Ontario with an opportunity to tell you more about their lived experiences directly.

Sincerely,

Irwin Elman  
Provincial Advocate

## 1) FIRST NATIONS CHILDREN

1. First Nations children and youth are one of the most vulnerable populations of young people in Canada. Many live in extreme poverty and have no access to basic levels of education, housing or health care. They are also overrepresented in the statistics on youth justice, child welfare, sexual exploitation and violence.
2. First Nations children on reserve receive \$2,000 to \$3,000 less per student, per year, for elementary and secondary education<sup>i</sup>.
3. 70% of First Nations students on-reserve never complete high school<sup>ii</sup>.
4. Many on-reserve communities struggle to provide basic education in buildings without heat, without proper classrooms or stable teaching staff<sup>iii</sup>.
5. First Nations peoples' quality of life in Canada ranks 63<sup>rd</sup> in the world, conditions which are considered Third World<sup>iv</sup>.
6. The First Nations infant mortality rate is 1.5 times higher than the overall Canadian infant mortality rate<sup>v</sup>.
7. 117 First Nations communities are under drinking water advisories<sup>vi</sup>.
8. Suicide rates for First Nations youth are six times higher than that of non-First Nations youth in Canada and suicide is now the leading cause of death for First Nations youth between the ages of 10-24<sup>vii</sup>. The suicide rate for First Nations girls in Canada ranks among the highest in the world<sup>viii</sup>.
9. 1 in every 4 First Nations children grows up in poverty<sup>ix</sup>.
10. Despite significant population growth, funding from the government of Canada to support on-reserve housing has remained unchanged for 20 years<sup>x</sup>.
11. First Nations children are 5% of Canada's child population but represent 25% of children in government care. However, the Government of Canada provides 22% less funding for child and family services for First Nations children than provincial governments provide for non-Aboriginal children in their care<sup>xi</sup>.
12. Despite the rapid growth in population rates for Aboriginal children and youth, the federal government's cap on budget increases for services to First Nations communities remains at 2%; 3% for health expenditures<sup>xii</sup>.
13. Forty-five years after the release of a Canadian government report calling for properly funded schools for First Nations children, nothing has changed<sup>xiii</sup>.

### Recommendations

In partnership with First Nations leadership and communities, the Government of Canada must:

14. Develop a national plan to ensure permanent, equitable funding for First Nations children that includes culturally-based curriculum plans for education on reserves.
15. Build more schools on reserves to improve access to education and eliminate the need for First Nations children to leave their families and communities to receive a basic education.
16. Allocate resources to provide adequate housing on-reserve.
17. Enforce provisions to ensure safe drinking water for Aboriginal communities on reserves.
18. Provide mental health programs, services and resources for children and youth on reserve.
19. Provide equitable and sustainable funding for First Nations child welfare services.

20. Develop indigenous best practice models for providing community-based child welfare services to stop the removal of First Nations children from their families and communities.
21. Resolve all jurisdictional disputes with provincial governments that interfere with the timely provision of health and other support services to First Nations children.

## **2) CHILDREN LIVING IN POVERTY**

22. With a child poverty rate of 13.3%, Canada ranks 24<sup>th</sup> out of 35 industrialized nations, placing it behind the UK and Australia. Canada's child poverty rate is conservatively estimated to be nearly two percentage points higher than the country's overall poverty rate of 11.4%<sup>xiv</sup>.
23. Living in poverty makes children vulnerable to involvement in the criminal justice system. In the province of Ontario, 11% of Crown Wards had charges laid against them through the Youth Criminal Justice Act<sup>xv</sup>.
24. In the Province of British Columbia, more than half of the youth leaving care applied for social assistance within 6 months of leaving care<sup>xvi</sup>.
25. Canada's youth unemployment rate was 14.1% in 2011<sup>xvii</sup> placing young people at greater risk of social exclusion, emotional and physical health problems and a likelihood of sustained unemployment into adulthood<sup>xviii</sup>.
26. Canada is the only first-world country that does not have a national affordable housing strategy<sup>xix</sup> and approximately 750,000 children live in substandard housing conditions<sup>xx</sup>.
27. The two fastest growing groups in the homeless population are youth and seniors. Almost a third of Canada's homeless are between the ages of 16 and 24<sup>xxi</sup>.
28. The 2011-2012 Federal Spending Estimates released by the federal government revealed a 39% cut in housing investments which included a decrease of more than 90% to the federal housing initiative and the housing repair and renovation program. These cuts will likely result in a substantial increase of child poverty and homelessness in Canada<sup>xxii</sup>.
29. Resources directed toward First Nations youth are time limited, surplus revenue that never last long.<sup>xxiii</sup>

### **Recommendations**

30. Implement a sustainable national Child Poverty Elimination Strategy by 2020 with achievable targets and a monitoring plan to assess progress and impact of the Strategy.
31. Develop a national Child Poverty Elimination Strategy in partnership with provincial, municipal and Aboriginal leadership, non-governmental organizations and children, families and youth living in poverty.
32. Develop a long-term national housing plan to address the urgent need for affordable housing, including strategies for meeting housing needs on-reserve.
33. Provide child care benefits for low-income and single-parent families to reduce financial pressures that impair the healthy development and well-being of children.
34. Funding provided for supports to children and youth services must be based on the long-term needs of young people in a community.

### 3) CHILDREN WITH DISABILITIES

35. Reliable global data on the number of children living with disabilities is scarce. According to UNICEF, there are 150 million children with disabilities worldwide<sup>xxiv</sup>. In Canada, 14.3% (4.4 million) of the general population lives with a disability<sup>xxv</sup> including approximately 300,000 children and youth under the age of 19 years<sup>xxvi</sup>.
36. While the Government of Canada has established an Office for Disability Issues, its role is one of a coordinating body or warehousing site for adult resources. There has also been an increasing focus on providing tax incentives to support disabled adults while provincial programs and services for children with disabilities are amalgamated or eliminated.
37. Of the 202,350 Canadian children aged 0 - 14 with disabilities, 58.3% have a mild to moderate disability and 41.7 % a severe to very severe disability. Approximately 63.5% of children 0-4 have a mild to moderate disability. For children 5 - 14, 33.5% have a mild disability, 24.0% have a moderate disability, 23.6% have a severe disability and 18.9% have a very severe disability<sup>xxvii</sup>.
38. Canadian children with disabilities are ethnically and racially diverse. Overall, 5% are First Nations, Inuit or Métis, 5% were born in another country and 7.5% speak neither French nor English as a first language<sup>xxviii</sup>. The Aboriginal Peoples Survey reported that 22% of Aboriginal youth aged 15 - 24 have a disability; a rate 3 times greater than for non-Aboriginal youth<sup>xxix</sup>. Service delivery is consistently poor or non-existent in Aboriginal communities<sup>xxx</sup>.
39. The literature on family support reveals a recurring pattern of reductions in government spending in health and social services. Many support agencies dependent on public funding have been forced to streamline their operations and provide services only in crisis situations. Others have been left with no choice but to refuse to serve clients with high levels of need.
40. Twenty-nine per cent of Canadian children with disabilities live in low-income households, compared to 17% of children without disabilities<sup>xxxi</sup>. Children who live in low-income households are 2.5 times more likely to have a problem with vision, hearing, speech or mobility than children in high-income families<sup>xxxii</sup>. Families with children with disabilities are twice as likely as other families to run out of money to buy food<sup>xxxiii</sup>.
41. In most parts of Canada, there is little financial support for family members who are primary caregivers of adults or children with disabilities<sup>xxxiv</sup>.
42. 64% of two-parent families with a child with a disability report one parent losing or giving up their job to provide support to their child, typically the mother. Consequently, the family experiences reduced income, long-term economic security and increased social isolation<sup>xxxv</sup>.
43. Disability often leads to poverty as families of children with disabilities face additional financial costs for tutors, special diets, special clothing, transportation, babysitting, medications, supplies and equipment and home adaptations<sup>xxxvi</sup>.
44. Family breakdown is common for children with disabilities. 21% of all children with disabilities live in a lone-parent family, compared with 15% of non-disabled children<sup>xxxvii</sup>.
45. Children with disabilities are more likely to live in poverty, experience higher rates of physical and sexual abuse and face significant barriers in education and employment opportunities. Between the years 1999-2002, the rate of employment for people with disabilities in Canada was 25% to 30% lower than those of the non-disabled<sup>xxxviii</sup>.

## **Recommendations**

46. Realization of the rights of children with disabilities must be viewed as both an investment in the future and a requirement for the social and economic development of the country.
47. Canada must entrench in social policy an understanding of the benefits of advancing a national accessibility strategy tied to a whole life needs.
48. Existing funding and service frameworks available to families of children and youth with disabilities must be expanded and, where possible, supplemented through the Canada Health and Social Transfer process.
49. Social Determinants of Health indicators must be used as the basis for developing a National Strategy focused on expanding access, opportunity and success for children and youth who have disabilities.
50. Canada must adopt a policy framework that ensures the building blocks for social inclusion are in place for all Canadians including: disability supports, learning and skill development, employment opportunities, secure income, services to support health and wellbeing and strategies to strengthen capacities within the disability community.

## **4) IMMIGRATION AND CHILDREN IN CANADA**

51. The United Nations High Commissioner for Refugees (UNHCR) reports that the number of refugees has increased from 8.4 million in 2001 to almost 10 million 2006<sup>xxxix</sup>. The complex nature of human migration is a global issue that is taking on increased importance on the world stage. An increasing segment of the refugee population is children and youth.
52. Resettlement organizations have traditionally targeted their programs to adults rather than youth. There is a lack of overall vision within Citizenship and Immigration Canada for youth related programs and supports<sup>xl</sup>.
53. In 2012 revisions were made to the Immigration and Refugee Protection Act. Under the new legislation families and children seeking refugee status will face significant barriers for admission to Canada.
54. Canada's new *Protecting Canada's Immigration System Act*, or *Bill C-31*, "An Act to Amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act", received Royal Assent on June 28, 2012. Under this legislation:
55. The Minister of Immigration has the power to decide arbitrarily which countries are considered 'safe' without having to consult human rights experts.
56. Rejected refugee claimants from countries considered 'safe' are no longer able to appeal decisions about their claims to the Immigration and Refugee Board.
57. Claimants from 'safe' countries have to wait for a specified period of time before they can apply permanent refugee status on compassionate and humanitarian grounds. They can also be deported while they are waiting.
58. Claimants from 'safe' countries can ask for a judicial review by the Federal Court, but can be deported before the Court makes a decision.
59. Biometric identification will be required from people that apply for visas to visit Canada.

60. People can be discriminated against on the basis of their method of arrival ('irregular arrivals') or country of origin.
61. Court cases can be scheduled on inflexible timelines that may prevent people from properly preparing their cases.
62. A five-year ban can be made on permanent residence and family reunification applications for "irregular arrivals" once they are recognized as refugees.
63. Detention can be made mandatory for some claimants.
64. Bill C-31 will make refugee protection vulnerable to political whims.
65. In 2001, 44,000 refugee applications were received by Canada, but by 2010 the number was 22,000<sup>xli</sup>.
66. In 2010 and 2011 refugee acceptance rates dropped to 38%, the lowest in the history of the Immigration Refugee Board<sup>xlii</sup>.
67. The Ministers of Citizenship and Immigration, and Public Safety and Emergency Preparedness, have extensive powers to imprison refugee claimants, to deny refugees the ability to reunite with family members and to strip refugees of secure legal status free of judicial oversight.
68. Permanent residence status for resettled and in-land refugees is now precarious and insecure, placing hundreds of thousands of refugees who have resettled in Canada at risk of deportation.
69. Children over the age of 16 can be detained if they are part of 'irregular group' arrivals. The detention of children is damaging to their mental health and contradicts many international agreements<sup>xliii</sup>.
70. With the option of mandatory detention, some families who arrive together in Canada can be separated from or placed in detention with their children<sup>xliv</sup>.
71. The five year ban on applications for permanent residence, and for humanitarian and compassionate consideration, will impose a burden on refugees arriving in Canada without family members. The ban will prevent children and spouses from reuniting and may leave those outside of Canada in dangerous or even life-threatening situations.
72. In the worst case scenarios parents may be forced to place their children in state care while they remain in detention or jail pending their hearing.

### **Recommendations**

As per the concluding observations of the CRC<sup>xlv</sup>, Canada must bring its immigration and asylum laws into full conformity with the Convention on the Rights of the Child and other relevant international standards.

73. Reconsider its policy of detaining children who are asylum-seeking, refugees and/or irregular migrants.
74. Ensure that legislation and procedures use the best interests of the child as the primary consideration in all immigration and asylum processes.
75. Establish immediately the institution of independent guardianships for unaccompanied migrant children.
76. Ensure that cases of asylum-seeking children progress in a timely manner, and those unaccompanied children are provided with an independently designated representative.
77. Provide funding so that resettlement organizations can properly meet the needs of children and adolescents.

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- <sup>ii</sup> INAC, Nominal Roll (1994-2000).
- <sup>iii</sup> Office of the Provincial Advocate for Children and Youth. (2011). *Pikangikum Report*. P.6.
- <sup>iv</sup> Indian and Northern Affairs Canada (INAC), (1998). *The Human Development Index examines per capita income*.
- <sup>v</sup> Statistics Canada; Health Canada, Healthy Canadians, *A Federal Report on Comparable Health Indicators*.
- <sup>vi</sup> Popplewell, B. (2010, November 8). *Canada's Broken Reserve System: Problem? What Problem?* Toronto Star.
- <sup>vii</sup> Health Canada. (October 2004). Health Sectoral Session Background Paper.
- <sup>viii</sup> Canadian Coalition for the Rights of the Child. (November 2011). *Right in Principle, Right in Practice*.
- <sup>ix</sup> Campaign 2000. (2011). *Report Card on Child and Family Poverty in Canada. Revisiting Family Security in Insecure Times*.
- <sup>x</sup> Assembly of First Nations. (2011). Fact Sheet. [http://www.afn.ca/uploads/files/factsheets/quality\\_of\\_life\\_final\\_fe.pdf](http://www.afn.ca/uploads/files/factsheets/quality_of_life_final_fe.pdf)
- <sup>xi</sup> First Nations Child & Family Caring Society of Canada (2010). Presentation to End Exclusion Forum
- <sup>xii</sup> Campaign 2000. (2011). *Report Card on Child and Family Poverty in Canada. Revisiting Family Security in Insecure Times*.
- <sup>xiii</sup> Office of the Provincial Advocate for Children and Youth (2011). *Our Dreams Matter Too: First Nations Children's Rights, Lives and Education*.
- <sup>xiv</sup> Monsebraaten, L., (2012, May 29). *Canada lags on fighting child poverty, report finds*. Toronto Star.
- <sup>xv</sup> Ministry of Children and Youth Services Quality Assurance and Accountability Branch, (2007), P. 18., as quoted in, *25 is the new 21*. Office of the Provincial Advocate for Children and Youth. (2012). P. 24).
- <sup>xvi</sup> Ministry of Child and Family Development in British Columbia, Public Reporting of Performance Measures, March 2011, P.11., as quoted in, *25 is the new 21*. Office of the Provincial Advocate for Children and Youth. (2012). P.24).
- <sup>xvii</sup> Statistics Canada (2011, November 4). *Labour Force Survey*.
- <sup>xviii</sup> Scarpetta, S., Sonnet, A., and Manfredi, T., (2010, April 14). Social, Employment and Migration Papers - Rising Youth Unemployment During the Crisis: How to Prevent Negative Long-Term Consequences on a Generation?. *OECD*. Retrieved at [http://www.oecd-ilibrary.org/social-issues-migration-health/rising-youth-unemployment-during-the-crisis\\_5kmh79zb2mmv-en](http://www.oecd-ilibrary.org/social-issues-migration-health/rising-youth-unemployment-during-the-crisis_5kmh79zb2mmv-en)
- <sup>xx</sup> Campaign 2000. (2011). *Report Card on Child and Family Poverty in Canada. Revisiting Family Security in Insecure Times*.
- <sup>xx</sup> Co-Operative Housing Federation of Canada (August 2009). *The Dunning Report: Dimensions of Core Housing Need in Canada*. CHF Canada. Retrieved at <http://www.chfcanada.coop>
- <sup>xxi</sup> Kirby. *The Homeless and Mental Illness: Solving the Challenge*, 2008, P. 33., as quoted in, *My Real Life Book,: Report from the Youth Leaving Care Hearings*, Office of the Provincial Advocate for Children and Youth. (2012)
- <sup>xxii</sup> Treasury Board of Canada Secretariat (2011). *2011-2012 Part I and II Main Estimates*. P. 176-184. Retrieved at <http://www.tbs-sct.gc.ca/est-pre/20112012/p2-eng.asp>
- <sup>xxiii</sup> <sup>xxiii</sup> Office of the Provincial Advocate for Children and Youth, (2011). *Pikangikum Report*. P.9.
- <sup>xxiv</sup> UNICEF, *The State of the World's Children 2006: excluded and invisible*, at 28 (2005).
- <sup>xxv</sup> Statistics Canada < <http://www.statcan.gc.ca/pub/89-628-x/2007002/4125019-eng.htm>
- <sup>xxvi</sup> Statistics Canada, (2006). *HALS Census Data*.
- <sup>xxvii</sup> Statistics Canada.(2006).
- <sup>xxviii</sup> Canadian Council on Social Development (CCSD) (2001a). *The Progress of Canada's Children*. Ottawa: CCSD.
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- <sup>xxxii</sup> Roeher Institute. (2000). *Count Us In: A Demographic Overview of Childhood and Disability in Canada*. North York: L'Institut Roeher Institute.
- <sup>xxxiii</sup> Roeher Institute. (2000). *Finding a way in: Parents on social assistance caring for children with disabilities*. North York: L'Institut Roeher Institute.
- <sup>xxxiv</sup> Canadian Coalition for the Rights of Children (CCRC) (1999). *The UN Convention on the Rights of the Child: How Does Canada Measure Up?* Ottawa: CCRC.
- <sup>xxxv</sup> Irwin S and Lero D. (1997). *In our way: Childcare barriers to full workforce participation*

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<sup>xxxvii</sup> Hanvey, Louise. (2001). *Children and Youth with Special Needs*. Ottawa: Canadian Council on Social Development.

<sup>xxxviii</sup> *Government Response to the Eighth Report of the Standing Committee on Human Resources, Skills Development, Social Development and the Status of Persons with Disabilities Accessibility for All.*

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<sup>xxxix</sup> Citizenship and Immigration Canada.

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<sup>xl</sup> Chuang, S. and the Canadian Immigrant Settlement Sector Alliance. (2009). *New Start: Immigrant Serving Agencies' Perspectives on the Issues and Needs of Immigrant and Refugee Youth in Canada*. Ottawa: Citizenship and Immigration Canada.

<sup>xli</sup> Human Rights and Education Resource Centre, University of Ottawa<<http://www.cdp-hrc.uottawa.ca/projects/refugee-forum/projects/Statistics.php>>

<sup>xlii</sup> Human Rights and Education Resource Centre, University of Ottawa< <http://www.cdp-hrc.uottawa.ca/projects/refugee-forum/projects/Statistics.php>>

<sup>xliii</sup> OCASI. (2012). Written Submission to the Committee on the Rights of the Child – Fall 2012. Toronto: OCASI. P.3.

<sup>xliv</sup> Canadian Council for Refugees. (2012). *Bill C31 – Diminishing Refugee Protection A Submission to The House of Commons' Standing Committee on Citizenship and Immigration.*

<sup>xlv</sup> United Nations Committee on the Rights of the Child 61 Session Concluding Observations: Canada <[http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-CAN-CO-3-4\\_en.pdf](http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-CAN-CO-3-4_en.pdf)

APPENDIX (see attachments)