

What's Rights for Some 18 @ 18



A portrait of
Canada's first generation
growing up under the
UN Convention on the
Rights of the Child

unicef 

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Please note:

Plain language interpretations of the articles of the Convention on the Rights of the Child are incorporated within the body of this report. For official text, please refer to the accompanying booklet or visit www.unicef.org/crc.

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Foreword

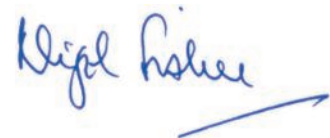
The well-being of Canadian children and young people is a collective responsibility. Parents and caregivers are primarily responsible for the well-being of their children. But governments also bear the duty to provide for and protect the rights of children. The Convention on the Rights of the Child is a covenant with governments, who have the responsibility to create public policy that advances the survival, development and protection of their youngest citizens.

When children's well-being is viewed as the sole responsibility of families, or of only particular levels and departments of government within our federated country, we fail to address the broader social and economic forces that impact children. When we see bullying, or obesity, or abuse, as a private family matter or a normal part of life rather than as a social concern, we fail in our collective responsibility to children.

The Convention on the Rights of the Child came into international effect eighteen years ago. This year, the first generation of children born with these universal rights leave their childhoods officially behind them. Has the well-being of this "first rights generation" improved? UNICEF Canada took the temperature of this generation and we find that while there has been some progress for some children in some places, for too many children we've stalled or even regressed in some aspects of their health, development and protection. After eighteen years, it's time to take our obligations seriously and put in place some of the measures that are working in so many other industrialized countries – measures that ensure national leadership and accountability for how societies treat their youngest and most vulnerable citizens.

A report by the Senate of Canada adopted in June, 2007 found that Canada has done very little at the national level to implement the Convention on the Rights of the Child. We have no legal framework to ensure the rights of children, no sustainable national plan of action with clear and measurable targets, and no focal point for children at the federal level. We can point to promising initiatives nationally and provincially by governments and civil society organizations – there are many – but their benefits are highly localized and many are short-lived. What could possibly be holding us back from doing what's working in other countries – doing what's right – to improve the health, development and protection of our children?

Through all of the information delivered in this report, it is clear that the focus on these national institutions for children is crucial, as they will ensure responsibility and accountability for the rights of all Canadian children. We all want to be citizens of a country that respects the rights of its children. Without permanent institutional mechanisms, the well-being of the next generations of children will remain dependent on the goodwill of parliamentarians rather than on the rights of children.



Nigel Fisher
President and CEO
UNICEF Canada

Executive summary

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This study, commissioned by UNICEF Canada on the eighteenth anniversary of the United Nations Convention on the Rights of the Child (Convention), provides a snapshot of what it's like to be 18 in Canada—and the vanguard of the first generation of children born with its own set of guaranteed universal rights.

Using current sociological data and the perspectives of Canadian children and youth, we look at the status of Canadian children's rights under the Convention; the impact of these rights on children's daily lives; and where Canada is—or isn't—meeting its commitments.

Who is the First Rights Generation?

A picture of Canada's children in 2007 finds that those under age 18—the “First Rights Generation”—make up almost one-quarter of our total population; a percentage that has been decreasing since 1961, and is expected to continue its decline. Exceptions to this trend include First Nations children, who constitute the fastest growing segment of Canada's population, and visible minority children and children who do not speak English or French as a first language, groups which are increasing in numbers. Our picture also finds that this generation is the most urbanized in Canada's history, with the highest concentration of children from birth to age 14 clustered in the urban centres of Canada's largest provinces.

Is Canada living up to its Convention commitments?

Has the First Rights Generation benefited from the Convention that sets standards for the rights, protection and well-being of children in Canada and around the world? In a selective rather than exhaustive view, we present a mixed diagnosis of the status of Canada's First Rights Generation 18 years after the Convention came into effect in 1989:

Poverty

- Poor children in Canada are unrelentingly poor: the rate of one in six Canadian children living in poverty has persisted for almost a generation
- Child poverty in Canada is worse today than in 1989,¹ by some estimates, rising by 20 per cent
- Child poverty varies by province and is higher among more vulnerable social groups such as children of single mothers and Aboriginal families

Health

- Canadian children have a relatively high standard of health and access to health care
- Life expectancy has increased, and the infant mortality rate has declined by 22 per cent; but Canada's infant mortality has stalled at five deaths per thousand births for close to five years while the rate continues to fall elsewhere
- The infant mortality rate for First Nations children is almost double the rate of the non-Aboriginal Canadian population
- Injury remains the leading cause of child death
- Rates of immunization have increased but in some provinces are well below the national target
- Almost 26 per cent of Canadian children are obese (close to the highest rate of obesity among industrialized countries), a rate that has seen a sharp increase over the past two decades; asthma and diabetes rates have also increased



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“It [children's rights] is extremely important, it gives them a chance to grow up and become something, not grow up broken.”

—Child participant

- Only one in five mentally ill children receives treatment as the incidence of mental illnesses among young people has risen

Education and employment

- Canadian children have relatively high levels of educational achievement, but the transition to employment leaves too many children without the skills to participate; as many as 39.3 per cent of young people plan to take up low-skilled work
- There has been a notable increase in the number of girls attaining post-secondary education and in employment opportunities available for young people in general and females in particular; however, there is increasing evidence that the experience of schooling remains uneven for males and females as well as for visible minority children
- While 96 per cent of children with disabilities attend school, there are more limited opportunities for disabled children to participate successfully in education, employment and community life

Violence and abuse

- Child abuse and neglect is the greatest source of violence and harm to children, though measuring trends and impact have been complicated by changing definitions and reporting protocol
- Stronger child protection legislation is a factor that has contributed to a significant increase in the number of children in care—an increase of 60 per cent over the past five years alone; Canada has one of the highest rates of children in welfare care of all industrialized countries
- The rate of First Nations children under care is three times that of children from the general population
- Peer violence and bullying are quite prevalent among young people with 37.2 per cent of young people aged 11, 13, and 15 being bullied and 35.8 per cent of youth involved in a physical fight
- Canada has among the highest rates of youth detention among comparable industrialized states, and the age limit for serving adult sentences is as young as 14
- There is an over-representation of First Nations and ethnic minority children in the justice system

Canada's uneven protection of children's rights

Since the 1991 ratification of the Convention in Canada, has our conceptualization of children and childhood evolved so that Canadian laws, policies and services place the best interests of children first, and respect children as subjects with rights of their own who participate in our society?

Canada's consideration of the best interests of the child, and institutionalization of the rights of children to have a say about medical, judicial and other issues affecting them according to their evolving capacities, are uneven in both federal and provincial legislation. Children's evolving capacity for decision making is very rarely recognized and it remains a rarity for children and young people to be consulted on issues affecting them.

What Canadian children and young people say

To gain an informed and accurate picture of Canadian children's lives 18 years after the ratification of the Convention, we sought the views of 226 Canadian young people aged 11 to 19, most of whom are Canadian by birth and were in high school at the time of the survey. We asked about their perceptions of their rights, both in Canada and in an international context. Highlights of their views are as follows:

- A majority had not heard of the Convention on the Rights of the Child—consistent with surveys and polls in previous years indicating that awareness of the rights of Canadian children remains limited

- Ironically, children and young people who were most aware of their rights were often those whose rights have been violated
- Many felt that international rights were important in the daily lives of children, as these rights could help save and protect children's lives
- When asked to identify the rights that were of greatest concern to children and young people today, the rights to health care, education, protection from sexual exploitation, protection from abuse and neglect, and non-discrimination were among the top concerns
- Opinions were divided as to whether children's rights were being implemented appropriately in Canada
- Some claimed that they have not had the opportunity to exercise their rights because they had never been in a position where they had to do so—they felt that their rights were generally respected; yet a majority cited examples of circumstances in which either their rights or the rights of their peers in Canada had been violated
- Young people suggested creating better child-friendly policies and the enforcement of stricter laws for the violation of rights as ways to promote their rights; and they stressed the need for more rights education in schools and through the Internet and television
- Many participants felt that community youth programmes and centres staffed with trained leaders and youth workers would go a long way to solving issues such as disaffection, discrimination and boredom
- Young people said that the appointment of a Children's Commissioner on both national and provincial/territorial levels was "non-negotiable" as well as the creation of an accompanying children's committee made up of children from across Canada

Our recommendations

It is possible to do better for the next generation. Most aspects of children's rights and well-being are sensitive to better laws, better policies and better programmes. While there are many initiatives across Canada that are working to advance the survival, development and protection of children, children's access to them is uneven. Recognizing the national leadership the federal government has for many issues affecting children and young people, we encourage the following institutional and administrative measures to help ensure that the next generation of children in Canada benefits from the full provision and protection of its rights:

- Create an independent national Children's Commissioner appointed by and reporting to Parliament, with the power to ensure governments are accountable for their responsibilities to children
- Establish enabling legislation to make the Convention enforceable in the courts; use the Convention as a guideline for any federal and provincial legislation and policies concerning or impacting children, with particular consideration of the principles of best interests of the child and the capacity for children to make decisions according to their evolving capacities
- Develop a national plan of action for children with clear targets and timetables and an annual report card, sustained by all parties
- Coordinate children's rights and well-being in policies and services among all government jurisdictions to reduce regional and demographic disparities
- Include children up to the age of 18 in child protection legislation and review other legislation including labour, justice and health to address age discrepancies
- Implement educational and awareness programs to ensure that children and others are aware of their rights
- Provide programmes and services so that children with disabilities, children living in poverty and immigrant children are able to fully participate in society
- Prioritize the needs of Aboriginal children with respect for their cultural heritage
- Conduct a parliamentary review of the 45 recommendations of the UN Committee on the Rights of the Child and the 24 recommendations of the Senate in *Children: The Silenced Citizens* and take substantive measures to bring Canada into compliance with its obligations under the Convention

Introduction

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WHY IS THE CONVENTION ON THE RIGHTS OF THE CHILD IMPORTANT?

- The Convention addresses all the issues that affect children within one integrated framework that puts the well-being and rights of children at its centre
- It respects children as active participants in Canada, with rights, responsibilities and needs for protection in ways appropriate for age, gender, and other circumstances
- It treats all children in Canada with equal respect, regardless of place of birth, race, economic status, or other considerations. As such it can help to prevent children's issues from getting caught in current federal-provincial disputes
- It provides an international standard; Canada and all provinces have ratified the Convention, along with almost all countries in the United Nations
- It has accountability mechanisms that can be used by Canadians to hold their governments accountable for the way they treat children in Canada

Article 4—Protection of rights: Governments have a responsibility to take all available measures to make sure children's rights are respected, protected and fulfilled. When countries ratify the Convention, they agree to review their laws relating to children. This involves assessing their social services, legal, health and educational systems, as well as levels of funding for these services. Governments are then obliged to take all necessary steps to ensure that the minimum standards set by the Convention in these areas are being met. They must help families protect children's rights and create an environment where they can grow and reach their potential. In some instances, this may involve changing existing laws or creating new ones. Such legislative changes are not imposed, but come about progressively through the same process by which any law is created or reformed within a country.

(This is a plain language interpretation of article 4 of the UN Convention on the Rights of the Child.)

"...Children are important, we are growing up and want to take part in this world."

—Child participant

This year marks the eighteenth birthday of the United Nations Convention on the Rights of the Child, and of the first generation of children to grow up with rights of their own. The adoption of the Convention in 1989 was a milestone in recognizing that all children around the world have the same specific and inalienable rights, taking into account their vulnerability due to age, evolving capacities and relative position in society.

The formation of the Convention was guided by the following core principles:

- Non-discrimination
- The right of every child to survival
- Promotion of the child's best interests
- A child's right to be heard in decisions affecting his/her life

The Convention on the Rights of the Child is the most widely ratified United Nations convention, affirming its importance within the framework of international human rights law.

It contains 42 articles that can be described in the following manner:

- 1 Protection rights**—indicate the need for children to be safeguarded from harmful practices such as abuse, neglect, and sexual and economic exploitation²
- 2 Promotion rights**—recognize the best interests of children and the provision for basic needs such as survival and development, health care, education and economic security³
- 3 Participation rights**—entitle all children to have a say in decisions affecting them, to have access to information and freedom of expression and of thought and conscience⁴

A global snapshot, post-Convention

Since the adoption of the Convention 18 years ago, there has been increased awareness and commitment nationally and internationally to the needs and status of children. But has it been enough to improve children's lives?

Globally, child mortality rates have dropped by 15 per cent between 1998 and 2004.⁵ According to 2006 statistics, a record low of 9.7 million children died of preventable causes before their fifth birthday.⁶ In addition, the proportion of underweight children in developing countries has decreased

by one-fifth from 1990-2005, and the rates of immunizations have increased in keeping with the Millennium Development Goals (MDGs).⁷ Yet HIV and AIDS and malaria still continue to threaten children's lives. And globally, school enrollment is still very low with 72 million children of primary school age not enrolled in school.⁸ Due to persistent discrimination, girls in developing countries are less likely to attend school. According to UNICEF's *The State of the World's Children 2007* report, approximately one out of every five girls who is enrolled in primary school does not complete her education, which impedes her survival and development.⁹ Millions of children continue to be exploited and abused and much of this violence is normalized and tolerated in societies around the world.¹⁰

Canada's post-Convention record

Canada signed the Convention on the Rights of the Child in May 1990 and ratified it in December 1991. By 1999 all provincial legislatures had ratified the Convention, thereby recognizing children's rights across federal and provincial jurisdictions, which share responsibilities for implementing rights.

Canada has played an important role in promoting the rights of children worldwide through foreign policy, foreign aid and non-governmental organizations (NGOs). Some important initiatives include a ban on land mines, the provision of education and immunization and support for war-affected children.¹¹

However, in Canada, the Convention on the Rights of the Child unevenly informs federal and provincial legislation, policy, programme support and investment. A fundamental issue of concern is that the Convention has not been fully legislated by both the federal and provincial governments, leading to gaps between the standards of the Convention and the realization of children's rights. The 2007 Senate of Canada report, *Children: The Silenced Citizens*, makes 24 recommendations for the effective implementation of the Convention in Canada.

Canada possesses no modern, transparent and democratic international human rights treaty implementation process.

Source: "Children: The Silenced Citizens" (*Final Report of the Standing Senate Committee on Human Rights*, April 2007)

One of these gaps is the right of children to participate and be heard in the political sphere. Although there are provincial advocates for children, there is no federally legislated focal point for children, who constitute a quarter of Canada's population. **The Senate of Canada, UNICEF Canada and many other organizations recommend the establishment of an independent national Children's Commissioner appointed by and reporting to Parliament to ensure that children's voices are heard.**¹² This has also been a recurring recommendation of the UN Committee on the Rights of the Child in its Concluding Observations in response to Canada's reports under the Convention. (See Annex 1.)

The Committee recommends that the State party establish at the federal level an ombudsman's office responsible for children's rights and ensure appropriate funding for its effective functioning. It recommends that such offices be established in the provinces that have not done so, as well as in the three territories where a high proportion of vulnerable children live.

Source: Concluding Observations, Committee on the Rights of the Child, October 2003. See full chart of Concluding Observation at Annex 1.

Article 12—Respect for the views of the child: When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account.

(This is a plain language interpretation of article 12 of the Convention.)

While Canada has made strides in the promotion of children's rights and development since the Convention came into effect, a snapshot of Canada's "First Rights Generation" points to how much further we need to go to ensure that the following generations have the fullest possible support of governments and communities for their rights and well-being.

"We're constantly shushed or frowned upon when we speak our minds."

—Child participant

"The government thinks that they are doing what they can, but somehow there are always some cases that slip through the cracks. They should always be trying to do more."

—Child participant

Study objectives

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The main objectives of this study are:

- To provide an overview of key indicators measuring different dimensions of the rights and well-being of children in Canada a generation after the Convention on the Rights of the Child came into effect
- To provide an idea of what children and young people in this First Rights Generation think about their rights and whether the Convention has perceptibly affected their lives
 - To point to key issues, concerns and gaps in child well-being in Canada that legislators, policymakers and practitioners must address to implement the Convention in the lives of the next generation

Methodology

We used secondary sources to identify major trends and gaps in realizing a broad but selected range of children's rights in Canada. This included government reports, the Canadian census and reports produced by various civil society organizations and research centres to create a profile of children in Canada. It is important to note that the information presented is by no means exhaustive, but rather, indicative.

It should also be noted that Canada lacks a means of monitoring and reporting on the comprehensive status of children's rights. While reports are to be submitted every five years to the UN Committee on the Rights of the Child, there is no adequate mechanism to quantitatively and qualitatively assess the progress of Canada's children across a comprehensive set of indicators and promote public participation in the process.

To collect our primary data on children's opinions on their rights in international, national and personal contexts, we conducted semi-structured interviews (through focus groups and by phone) with 226 participants between 11 and 19 years of age. This gave us a temporal profile of the issues, lives and experiences of children and young people close to age 18, from their perspective. Participants received an explanation of the purpose of this study. While this sample may not be representative due to the time limitations of interviewing a larger group, we made all efforts to include various expressions of diversity.

This study is divided into three sections.

Section I—Profiles the demographic composition of Canadian children and takes the temperature of various rights-related dimensions of their lives including health, education, poverty, and experience of violence. The experiences of children in the justice system, children in care, and Aboriginal children are highlighted. While the scope of this report does not permit an in-depth analysis of the contributing factors or promising responses, we highlight some of these.

Section II—Discusses the major rights themes as told to us by young people.

Section III—Summarizes the key issues, concerns and gaps in children's rights and well-being in Canada revealed in our primary and secondary sources. It provides a snapshot of how well Canada's children have fared since the ratification of the Convention and the rights that must be better ensured for our next generation.



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4 A portrait of Canada's First Rights Generation

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Definition of the child—Article 1: The Convention defines a 'child' as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. The Committee on the Rights of the Child, the monitoring body for the Convention, has encouraged States to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18.

(This is a plain language interpretation of article 1 of the Convention.)

While the Convention on the Rights of the Child defines a child as a person below the age of 18 years, Canadian federal and provincial legislation specify different definitions. A scan of age limits in selected policies and legislation shows that Canada does not comprehensively or evenly provide the full provision or protection of rights for children up to age 18. For the purposes of this study, "children," "youth" and "young people" are used to refer to persons under 18 years, unless otherwise indicated.

422,902

The number of young people currently at age 18 in Canada

Table 1: Age and Provincial Legislation

	Age of Majority	Age of Protection	School Leaving Age	Age of Employment
Newfoundland and Labrador	19	16	16	14
Prince Edward Island	18	18	16	16
Nova Scotia	19	16	16	14
New Brunswick	19	19	18	16*
Quebec	18	18	16	16
Ontario	18	16	18	14
Manitoba	18	18	16	16
Saskatchewan	18	16	16	16
Alberta	18	18	16	15
British Columbia	19	19	16	15
Yukon Territory	19	18	—	16
Northwest Territories	19	16	16	16
Nunavut	19	16	18	—

Sources: Federal/Provincial/Territorial Working Group on Child and Family Services Information. (2002). *Child Welfare in Canada 2000, The Role of Provincial and Territorial Authorities in the Provision of Child Protection Services*, Quebec: Health Canada

Kwarteng, E.E., (2006), "Implementing Nunavut Education Act: Compulsory School Attendance Policy," *Canadian Journal of Educational Administration and Policy*, Issue 55

Melchiorre, M., (2004), "At What Age? ... Are School-children Employed, Married and Taken to Court?, Right to Education Project, Second Edition," available at www.right-to-education.org.

Trocmé N., MacLaurin B., Fallon B., Daciuk J., Billingsley D., Tourigny M., Mayer M., Wright J., Barter K., Burford G., Hornick J., Sullivan R., McKenzie B., (2001) *Canadian Incidence Study of Reported Child Abuse and Neglect: Final Report*, Ottawa: Minister of Public Works and Government Services Canada

The percentage of children and young people under 19 in Canada's total population

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Article 7—Registration, Name, Nationality, Care: All children have the right to a legally registered name, officially recognized by the government. Children have the right to a nationality (to belong to a country). Children also have the right to know and, as far as possible, to be cared for by their parents.
(This is a plain language interpretation of article 7 of the Convention.)

Fast facts on Canada's young population

- As of 2007, Canada's population is 32,623,500—with 7,814,600 children aged 19 and under making up 24 per cent of the total population¹³
- Males aged 19 years and under comprise 51 per cent and females comprise 49 per cent of the children in Canada
- There are 422,902 young people currently at age 18 in Canada¹⁴
- Canada's population growth rate is 0.9 per cent; however, the number of children as a percentage of the total population has declined since 1961 and is expected to continue to decrease¹⁵
- There is a high concentration of children from birth to age 14 residing in Ontario, Quebec, British Columbia and Alberta (see Table 2)¹⁶
- Canada has a growing urban population: the current generation of children and young people is the first to have a majority (65 per cent) living in cities, especially Toronto, Montreal and Vancouver¹⁷
- According to the 2001 census, there are 493,020 First Nations young people aged 0 to 24¹⁸
- First Nations people in Canada have a 1.5 higher birth rate than the Canadian average; hence First Nations children are one of the fastest growing populations in Canada¹⁹

UNIVERSAL RIGHT TO BIRTH REGISTRATION NOT SO UNIVERSAL

The births of more than 30,000 babies over the last decade went unrecorded in Ontario—the only province which allowed municipalities to charge a fee for birth registration. Maintaining vital statistics is a key marker of an industrialized country. In addition to respecting children's right to birth registration and a legal identity, planning for public services suffers without accurate data on birth reporting. User fees for children's services often place low-income families at a disadvantage—who may also have greater needs for such services. All children have the right to birth registration under the Convention on the Rights of the Child.

Source: Abraham, C., (2006), "Red tape denies baby Sonja her brief life" The Globe and Mail, 22 July 2006

Table 2: Population of Canada

Population age group, by province and territory (millions)	2006	
	All ages	0 to 14
Canada	32,623.5	5,644.6
Newfoundland and Labrador	509.7	78.3
Prince Edward Island	138.5	24.0
Nova Scotia	934.4	147.7
New Brunswick	749.2	118.2
Quebec	7,651.5	1,241.6
Ontario	12,687.0	2,262.9
Manitoba	1,177.8	228.0
Saskatchewan	985.4	190.0
Alberta	3,375.8	637.4
British Columbia	4,310.5	690.2
Yukon Territory	31.2	5.6
Northwest Territories	41.9	10.2
Nunavut	30.8	10.4

Note: Population on July 1, 2006.

Source: Statistics Canada, (2006) *Estimates of population, by age group and sex, Canada, provinces and territories, annual (persons unless otherwise noted)* CANSIM table 051-0001, Ottawa, Ministry of Industry

Canada is a diverse country and the composition of its children reflects this. The changing demographic profile of Canada greatly influences the policies and budgetary resources that governments put in place to meet the needs of children and other citizens.²⁰

- Approximately five per cent of children aged 15 and under are born outside of Canada²¹ and most of them emigrate from Asia, Eastern Europe, Central and South America and Africa²²
- In 2002, 74 per cent of young immigrants did not speak English or French as a first language²³
- Of the total visible-minority population in Canada, 16 per cent are aged 0-18 years old²⁴; the majority of those are from South Asian, Chinese, Black, Arab/ West Asian and Filipino descent

Poverty—the right to an adequate standard of living

Article 27—Adequate standard of living: Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.
(This is a plain language interpretation of article 27 of the Convention)

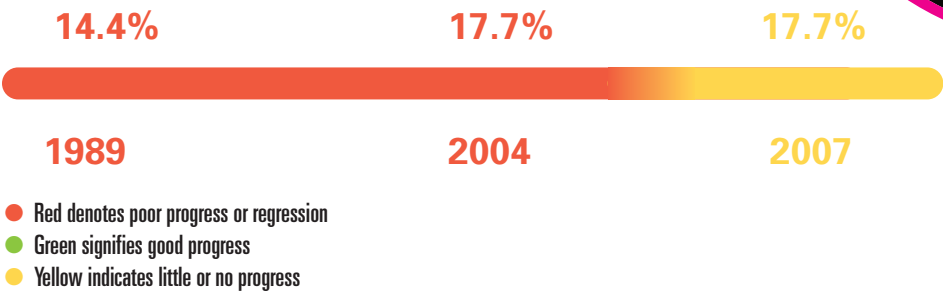


Child poverty is a persistent problem in Canada. Since the adoption of the Convention on the Rights of the Child by the United Nations General Assembly in 1989, child poverty in Canada has risen by 20 per cent and remains relatively unchanged, regardless of fluctuations in employment rates and the overall health of the economy.²⁵ In 1989, the Canadian government introduced an all-party commitment to promote the eradication of child poverty by the year 2000.²⁶ This resulted in policies such as the GST credit, the Canada Child Tax Benefit and Employment Insurance. These measures have indeed helped, and without them, Canada would have a much higher rate of poverty for low income families with children—at 24 per cent, compared with 17.7 per cent in 2004.²⁷



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Trend Report: Poverty



“Homelessness is a very big problem. It can deny many rights, including proper housing, parental care, clean water and many others.”
—Child participant

Child poverty is especially prevalent among vulnerable social groups such as female lone parent families (52 per cent), recent immigrant families (49 per cent), racialized families (34 per cent) and children with disabilities (28 per cent).²⁸ Children of First Nations descent are especially vulnerable, with a 40 per cent poverty rate for those who live off-reserve.²⁹

Child poverty rates vary by province, with British Columbia at the highest rate of 23.5 per cent, followed by Newfoundland and Labrador at 23.1 per cent.³⁰ Prince Edward Island has the lowest

CANADA SLIPPING IN HUMAN DEVELOPMENT INDEX RANKINGS

The Human Development Index:
Canada's Ranking

- 2002: 4 of 177 countries
- 2003: 5 of 177 countries
- 2004: 6 of 177 countries

Source: Human Development Reports 2003, 2004 and 2006

The Human Development Index (HDI) is the measure of life expectancy, literacy, education, and standard of living for countries worldwide. It is a standard means of measuring well-being, especially child welfare. The highest rank is 1.

WHAT CHILDREN SAY ABOUT POVERTY

Poverty is:

"... feeling ashamed when my dad can't get a job."

"... pretending that you forgot your lunch."

"... being teased for the way you are dressed."

"... being afraid to tell your Mom you need gym shoes."

"... hearing Mom and Dad fight over money."

"... hiding your feet so the teacher won't get cross when you don't have boots."

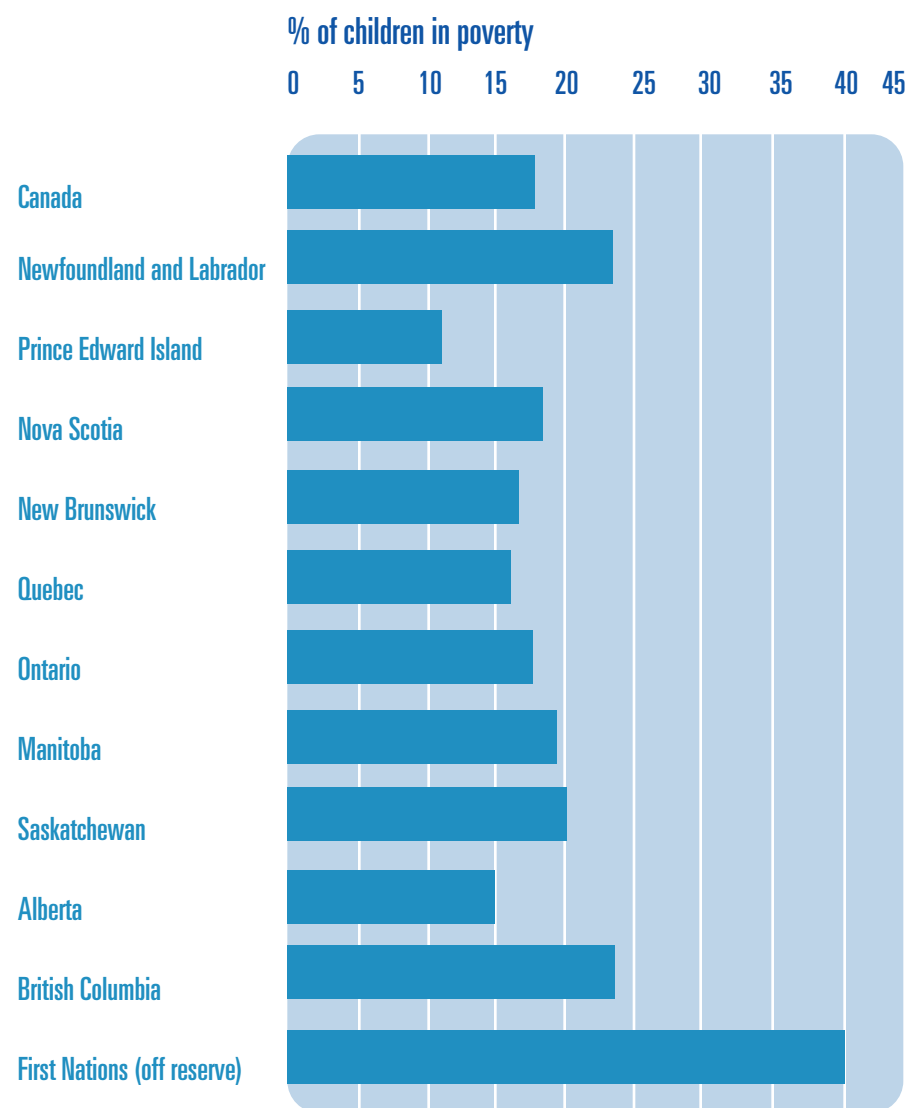
Source: Campaign 2000, (2006), "Oh Canada! Too Many Children in Poverty for Too Long..."
2006 Report Card on Child and Family Poverty in Canada, Toronto: Campaign 2000

child poverty rate at 10.8 per cent.³¹ Increasing family support benefits such as affordable child care and early learning services in Quebec has led to a steady decrease in child poverty rates since this policy was implemented in 1997.³²

However, no province has met the target proposed by UNICEF and called for by social action group Campaign 2000: to reduce child poverty to under 10 per cent.³³

Campaign 2000 is currently calling upon provincial governments to work with federal partners to realize minimum reductions of 25 per cent in child poverty rates by 2012, and minimum 50 per cent reductions by 2017.³⁴ Without a national definition of "poverty" and clear targets and timelines, one in six Canadian children continues to live in this compromised and excluded state.

Figure 1: Child Poverty in Canada 2004



Health—the right to good health and health care

Article 24—Health and health services: Children have the right to good quality health care — the best health care possible — to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. Rich countries should help poorer countries achieve this.

(This is a plain language interpretation of article 24 of the Convention.)

The percentage of children in Canada who are obese

26

Children in Canada have a relatively high standard of health and access to health care services. This is evidenced by the high life expectancy of males at 77.2 years and 82.1 years for females.³⁵ In 2002, the infant mortality rate was 5.4 per 1000 live births, which is roughly a 22 per cent decline from 6.8 per 1000 in 1990,³⁶ around the time the Convention was adopted. However, Canada's rate has remained stagnant over the past five years even as it continues to fall in most other industrialized countries. The infant mortality rate for First Nations children in Canada has also declined, but remains double the rate of the broader Canadian population.³⁷

Trend Report: Infant mortality



- Red denotes poor progress or regression
- Green signifies good progress
- Yellow indicates little or no progress

Injury

Injury remains the leading cause of child mortality in Canada. UNICEF's 2007 Report Card on Child Well-being shows that Canada ranks fourteenth among 26 OECD countries in deaths from accidents and injuries among children and youth. While the First Rights Generation has been better protected with legislation on seat belt, booster seat and bicycle helmet use, for example, the standards and enforcement of these laws vary across the provinces. The patchwork of policy persists without federal policy leadership to promote a comprehensive protective environment for children.³⁸



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Health-risk behaviours

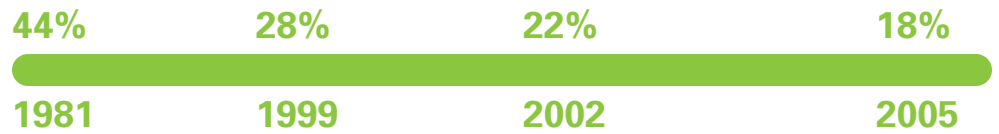
Health-risk behaviours among young people such as smoking, drinking, substance abuse and sexual activity are used as a collective indicator to measure well-being. These behaviours are among the primary causes of morbidity and mortality among Canadian youth, in their relationship to injury.³⁹ In 2001, Canada had the highest percentage (40.4 per cent), among 21 other industrialized countries, of young people aged 15 who used cannabis in the past year.⁴⁰ Approximately 19.8 per cent of young people aged 11, 13 and 15 had been drunk two or more times and 7.5 per cent smoked cigarettes at least once a week.⁴¹ The smoking rates among children aged 15 to 19 in Canada have dropped significantly over the years from 44 per cent in 1981 to 18 per cent in 2005.⁴² There are indications that sustained investments in public health campaigns paired with legislation to curb smoking have contributed to the decline.

SEXUAL HEALTH AMONG YOUNG PEOPLE

Since 1989, the year the Convention on the Rights of the Child came into effect, more boys are postponing their first experience of sexual intercourse—a decline of between eight and nine per cent—but the age at first intercourse for girls has remained unchanged. The proportion of young people reporting multiple sexual partners has declined. Knowledge about sexual health has also declined. For example, half of grade 9 students think AIDS can be cured if treated early. And while the number of children exposed to HIV from their mothers has declined significantly due to increased antiretroviral treatment of women, the proportion of older youth contracting HIV has risen in the past generation. The rates of exposure and infection of Aboriginal children are much higher than in the broader population.

Sources: Council of Ministers of Education (2003) *The Canadian Youth, Sexual Health and HIV/AIDS Study*; HIV/AIDS Epi Updates, Bureau of HIV/AIDS, STD and TB, Centre for Infectious Disease Prevention and Control, Ottawa: Health Canada

Trend Report: Smoking rates among 15 to 19 year olds



- Red denotes poor progress or regression
- Green signifies good progress
- Yellow indicates little or no progress

"Addiction and drug abuse is not looked into until life threatening."

—Child participant

Immunization

Child immunizations in Canada are publicly funded and are considered one of the most cost-effective and easy-to-administer public health interventions. Much progress has been made in protecting children and young people from vaccine-preventable diseases, and most have publicly-funded access to all the vaccines recommended by the Canadian Paediatric Society.⁴³ The National Immunization Strategy has reduced the disparity in access that existed only a few years ago. However, coverage and scheduling of all recommended vaccines is not yet universal across the country. Many children under the age of two do not receive immunizations; only 60 per cent of children in Ontario receive all their vaccinations, which is well below the national target (94 per cent to 97 per cent).⁴⁴

Obesity

The rate of obesity among Canadian children has emerged as an important health concern. In a study of school-aged children in industrialized countries, Canada ranked fifth out of 34 countries in the rate of overweight and obese children.⁴⁵ In 2004, 18 per cent of children aged two to 17 were overweight, while eight per cent were obese.⁴⁶

The lack of physical activity and unhealthy eating practices have been cited as the main causes of childhood obesity.⁴⁷ According to Health Canada, many factors have contributed to the increasing rates of overweight and obese children: changes in society, work and leisure have affected activity and eating patterns; there has been a shift towards less physically demanding work, as well as an increased use of automated transport and passive leisure activities, such as television viewing and playing video games; many children and youth have fewer opportunities to be physically active at school as physical education classes and time spent being physically active have been reduced; there are also fewer children and youth walking to and from school. Childhood rates of asthma, autism and diabetes are also on the increase. Given the interacting social, economic and environmental factors contributing to these rising health concerns, a comprehensive response from schools, public health, businesses and others led by strong public policy is required.

Trend Report: Proportion of overweight children

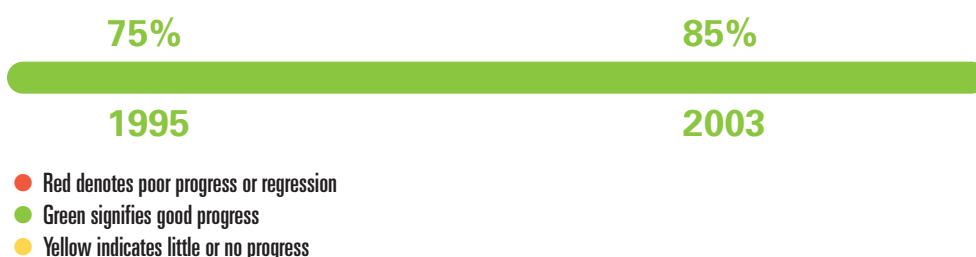


- Red denotes poor progress or regression
- Green signifies good progress
- Yellow indicates little or no progress

Breastfeeding

Over the past generation, Canada has introduced 15 baby-friendly health facilities that operate with the gold standard in breastfeeding promotion. During the last few years, the number of Canadian mothers who initiate and sustain breastfeeding has increased, partly as a result of baby-friendlier maternal leave policies; communities (including health centres and businesses) supportive of breastfeeding mothers; greater public awareness of the unparalleled benefits of breastfeeding; and the sustained advocacy of public health workers and agencies. The percentage of mothers who initiate breastfeeding has increased from 75 per cent in 1995 to 85 per cent in 2003.⁴⁸ Yet as of 2003, only 19 per cent of Canadian mothers breastfed for at least six months, without introducing other solids or liquid forms of nutrition.⁴⁹ This low rate of sustained breastfeeding is a concern, given the accumulated evidence that breastfeeding is the best source of nutrition for babies, and has many additional health and developmental benefits.

Trend Report: Mothers who breastfeed in Canada



Mental health

Every child and adolescent has the right to timely access to mental health care. Yet mental health issues and their associated social and educational ravages are a growing burden for children and young people. Approximately 1.1 million Canadian children and young people under the age of 20 (about 15 per cent) currently live with mental health conditions (see Table 3).⁵⁰ These include anxiety, depression, addiction and other disorders. The World Health Organization's (WHO) survey on Health Behaviour in School Aged-Children (2001) indicated that girls in Canada tended to report higher levels of depression than boys.⁵¹

Suicide is the second leading cause of death in Canadian teens, after motor vehicle accidents.⁵² Suicide rates among young people have been dropping, but suicide accounts for nine per cent of deaths among adolescents (about 300 deaths per year) and 22 per cent among older youth.⁵³ In Nunavut, the suicide rate is nine times the national average, with many of the victims young male Inuit.⁵⁴

Up to 90 per cent of suicide cases are preceded by a history of mental illness. Despite this, only one in five children in Canada with a mental health disorder receives treatment. Alarming, mental health problems among children and youth are predicted to increase by 50 per cent by the year 2020.⁵⁵ There have been improvements in access to and quality of mental health care, but Canada lacks a comprehensive mental health care prevention and treatment plan and must work at reducing waiting times for treatment across all provinces and territories.⁵⁶ The 2007 introduction of the Canadian Mental Health Commission, which includes a focus on children, is a positive measure to improve the mental health of the next generation.

Table 3: Number of Canadian children in contact with health professionals about mental health issues 2000–2001

Age	Male	Female	Total
12–14 years	601,795	552,852	1,154,646
15–19 years	1,060,785	1,027,850	2,088,653
12–19 years	1,662,580,701	1,580,701	3,243,281

Source: Government of Canada (2002), *National Report- Canada: Ten-Year Review of the World Summit for Children*, Ottawa: Ministry of Public Works and Government Services Canada

The Canadian Paediatric Society notes in its 2007 status report on Canadian public policy and child health that, despite years of warnings, there is an impending shortage of paediatricians and there may not be enough child health specialists to meet the needs of children in the coming years. While child health is influenced by many social and economic factors, the lack of specialists to address emerging health issues affecting children is an example of how public policy (in this case, in the form of a human resources plan) fails to place children at the top of the agenda.

Education and employment—the right to a future

Article 28—Right to education: All children have the right to a primary education, which should be free. Wealthy countries should help poorer countries achieve this right. Discipline in schools should respect children's dignity. For children to benefit from education, schools must be run in an orderly way — without the use of violence. Any form of school discipline should take into account the child's human dignity. Therefore, governments must ensure that school administrators review their discipline policies and eliminate any discipline practices involving physical or mental violence, abuse or neglect. The Convention places a high value on education. Young people should be encouraged to reach the highest level of education of which they are capable. (This is a plain language interpretation of article 28 of the Convention.)

“...classes are too full and there are not enough teachers to go around so half the class usually... gives up.”
—Child participant



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According to article 28 of the Convention on the Rights of the Child, children have the right to an education, which should be mandatory and free, and the right to develop their fullest potential.⁵⁷ Canada ranked an impressive second on the 2007 UNICEF Report Card of industrialized countries for educational attainment, scoring high in categories of overall educational achievement and the percentage of older teenagers still in school.⁵⁸ Children in Canada have access to free primary and secondary education and are required by provincial law to go to school until the ages of 14 to 18, depending on the province. (See Table 1.) It should be noted that the increasing cost borne directly by families for school-based activities is a concern raised by a number of organizations.

In 2001, 75 per cent of Canadian children graduated from high school; in 2002–2003, females (78 per cent) had higher graduation rates than males (70 per cent).⁵⁹ However, completion rates are considerably lower in economically disadvantaged communities. Overall, the completion rate for secondary education has stabilized at 75 per cent without upward progress for a number of years. Renewed efforts by ministries of education and school boards to raise completion rates and promote successful transition to employment through apprenticeship and other hybrids of learning and employment training show promise.

Trend Report: High school graduation rate at age 18

75% (Canada 2nd lowest in G-7 countries) 75%

1996

2001

- Red denotes poor progress or regression
- Green signifies good progress
- Yellow indicates little or no progress

Source: Education Indicators in Canada, Report of the Pan Canadian Education Indicators Program 1999 and 2005

Student perceptions of secondary school were highly positive in 1994, but have been slowly declining ever since.⁶⁰ The experience of schooling is uneven for Canadian children. Male students report higher levels of dissatisfaction related to teacher, parent and peer relationships, autonomy, and pressure to achieve at school and self-esteem than female students.⁶¹ Seventy-nine per cent of visible minority children had higher educational aspirations of obtaining a university degree than Canadian-born non-visible minority children.⁶²

In a study on the school success of immigrant children, learning Canada's official languages (either English or French) was cited as the primary challenge and greatly influenced children's rates of integration into Canadian society.⁶³ Language was also considered the most common barrier preventing immigrant children and young people from gaining access to Canadian health and social services.⁶⁴ Pointing to good practices for successful learning and social integration, school boards are partnering with community organizations in a growing effort to welcome and support newcomer students, including immigrant and homeless/transitioning children.

Article 29—Goals of education: Children's education should develop each child's personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. It should also help them learn to live peacefully, protect the environment and respect other people. Children have a particular responsibility to respect the rights of their parents, and education should aim to develop respect for the values and culture of their parents. The Convention does not address such issues as school uniforms, dress codes, the singing of the national anthem or prayer in schools. It is up to governments and school officials in each country to determine whether, in the context of their society and existing laws, such matters infringe upon other rights protected by the Convention.

(This is a plain language interpretation of article 29 of the Convention.)

Post-secondary education

There were 1,014,500 Canadian young people who went on to post-secondary education in 2004-2005.⁶⁵ More girls have attained post secondary education in the current generation; in 2004, girls represented 60 per cent of all university graduates who received bachelor's or other undergraduate degrees as compared to 58 per cent in 1994.⁶⁶

Employment of children and young people

Employment opportunities for young people have grown over the past several years largely due to Canada's stronger economy. The unemployment rate for young people fell from 16.3 per cent in 1997 to 13.4 per cent in 2004, with job creation rising 21.1 per cent during this time period.⁶⁷ Interestingly, young women have greatly benefited from this and had a 24.7 per cent gain in employment since 1997, compared to 17.7 per cent for their male counterparts.⁶⁸

However, in parts of Canada (see Table 1) a child may enter the labour force as young as 14 years

FIRST JOB CAN BE HAZARDOUS TO YOUNG WORKERS' SAFETY

A 2007 study from the Institute for Work & Health revealed that only one in five Canadians reported receiving safety training in their first year of a new job. According to the report, young workers and those in jobs demanding higher physical exertion associated with higher injury rates were no more likely to have received training than workers in less hazardous jobs.

Source: Jill Andrew, Workplace safety is taking a back seat, *Metro*, September 10, 2007

old, which is inconsistent with Canada's obligations under the Convention on the Rights of the Child and with the ILO (International Labour Organization) Conventions 138 on Minimum Age (not ratified by Canada) and 182 regarding the Worst Forms of Child Labour (ratified by Canada). These conventions proscribe the admission of children into the work force before the age of 16 years due to a child's limited capacity to negotiate his/her rights, exposure to workplace injury and prevalence of other forms of workplace exploitation. Efforts on the part of some municipal and provincial governments, together with responsible corporate practices to inform young people of their employee rights and to create workplace policies addressing their educational, health and safety and other rights, show promise to reduce exploitation and injury.

Early childhood education

The youngest children in Canada have rights as do all children under 18. In 2000, the Canadian government made a commitment to improve early childhood care and development for children up to six years of age.⁶⁹ However, the Senate of Canada (2007)⁷⁰ found that early childhood education in Canada was patchy due to different provincial policies and the lack of coordination between different service providers. Canada ranks last among 14 industrialized countries in spending on early childhood education and care, according to data from the Organization for Economic Cooperation and Development. Challenges in securing affordable, regulated quality care persist for Canada's youngest children, whose parents participate in the workforce at a higher rate than in any previous generation.

Article 18—Parental responsibilities; State assistance: Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments must respect the responsibility of parents for providing appropriate guidance to their children — the Convention does not take responsibility for children away from their parents and give more authority to governments. It places a responsibility on governments to provide support services to parents, especially if both parents work outside the home.

(This is a plain language interpretation of article 18 of the Convention.)

Violence and abuse—the right to be safe from harm

"Some of these kids' lives depend on these rights, because that is all they have. Rights protect them from people who would otherwise hurt and scar them for life, and show them what is right and wrong."
—Child participant

Article 19—Protection from all forms of violence: Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them. In terms of discipline, the Convention does not specify what forms parents should use. However, any form of discipline involving violence is unacceptable. There are ways to discipline children that are effective in helping children learn about family and social expectations for their behaviour — ones that are non-violent, are appropriate to the child's level of development and take the best interests of the child into consideration. In most countries, laws already define what sorts of discipline are considered excessive or abusive. It is up to each government to review these laws in light of the Convention.

(This is a plain language interpretation of article 19 of the Convention.)

The Convention on the Rights of the Child has several articles that address violence against children, and in Canada, there has been a continuous progression in policies and practices to build a more protective environment for children. Federally, there are stronger penalties for the trafficking of children. Provincial and territorial child welfare legislation has expanded to prohibit a range of violence including physical and sexual assault, emotional harm, exposure to domestic violence and some forms of neglect.⁷¹

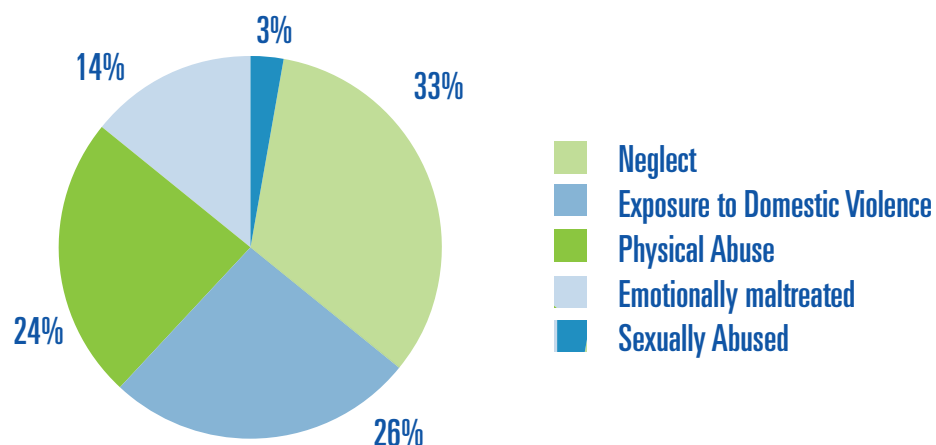
Growing up in an abusive or violent home

Over the last generation, mounting evidence shows that abuse, neglect and witnessing violence in the home can impact children negatively⁷² and impede their optimal development. In fact, such violence constitutes the greatest source of intentional injury and morbidity for Canadian children. The 2003 Canadian Incidence Study of Reported Child Abuse and Neglect (CIS) indicated that there were 114,604 substantiated maltreatment cases in Canada at a rate of 18.67 cases per 1000 children.⁷³ Of these cases, 34 per cent were due to neglect, 26 per cent due to exposure to domestic violence (i.e. parents or adult family members fighting), 24 per cent due to physical abuse, 14 per cent due to emotional maltreatment and three per cent due to sexual abuse.⁷⁴

Between 1998 and 2001, there was a 78 per cent increase in the number of child welfare agency investigations into suspected abuse.⁷⁵ This increase is probably due in large part to changes in the practices of reporting suspected abuse, and the impact of including emotional neglect, exposure to domestic violence, and sibling victimization in legal definitions of abuse.⁷⁶ The CIS study found that boys experienced more physical abuse while girls experienced more sexual abuse.⁷⁷ It also found that boys aged 8 to 11 and girls aged 12 to 15 years were more vulnerable to maltreatment.⁷⁸ Although the legislation has grown to be more inclusive in addressing all types of violence against children, this data only includes cases of abuse that have been reported and substantiated; actual levels of child abuse in Canada are likely to be higher.

A study by UNICEF Canada and partners in 2006 found that children and young people in Canada identify violence in the home—particularly physical discipline and exposure to domestic violence—as the greatest burden of violence in their lives, followed by peer violence.⁷⁹

Figure 2: Types of substantiated maltreatment in Canada



Today's generation of children and youth are growing up alongside evidence that physical discipline practices can lead to a child's physical, emotional and social harm. Data from the National Longitudinal Survey of Children and Youth (NLSCY) has shown that children exposed to punitive parenting practices tended to have more aggressive behaviour, higher levels of anxiety and lower levels of social behaviour.⁸⁰ A growing base of health professionals, child welfare organizations and parliamentarians are calling for a repeal of section 43 in Canada's *Criminal Code* to provide equal protection under the law to children and adults alike from the use of force for correction or any purpose.⁸¹ This move would make the law consistent with the recommendations of the 2006 UN Secretary General's Study on Violence Against Children; of the Senate of Canada's 2007 report, *Children: The Silenced Citizens*; and of the UN Committee on the Rights of the Child. (See Annex 1 Chart of Concluding Observations; # 33 of the UN Committee on the Rights of the Child.)

CHILDREN IN CYBERSPACE—AN UNCHARTED AREA OF RIGHTS AND PROTECTIONS

In one generation, the media landscape has changed profoundly. Young Canadians are now using a wide variety of communications media including cell phones, camera phones, wireless Internet, instant messaging, social networking and online gaming. A variety of rights issues has emerged almost as quickly as new media. More than 94 per cent of young Canadians today have Internet access at home—more than almost any other country in the world—and unheard of a single generation ago. Children's rights to privacy, to protection from abuse (including "cyberbullying" and sexual exploitation), and to freedom of expression are guaranteed in the 1989 Convention on the Rights of the Child—but how those rights are exercised and protected must evolve alongside these changes. Parents, educators, health providers, industry, regulatory agencies and law enforcement all have roles to work together with children and young people to promote safety and respect for human rights.

Source: Children's Hospital of Eastern Ontario, (2007), "CHEO Physician Prescribes a Health Approach to Internet Surfing for Youth." Children's Hospital of Eastern Ontario, April 18, 2007



Peer violence and bullying

Another prevalent form of violence against children is peer violence and bullying. The 2007 UNICEF Report Card indicated that in 2001, 37.2 per cent of young people aged 11, 13, and 15 were bullied at least once in the preceding two months.⁸² In addition 35.8 per cent of youth were involved in a physical fight.⁸³ Boys reported higher levels of victimization (25 per cent) than girls (21 per cent). More boys reported being in physical altercations and tended to be harassed because of their race, ethnicity and religion, while more girls experienced sexual harassment.⁸⁴ A combination of research and school-wide policies promoting rights-respecting behaviours demonstrates that rates of peer violence and bullying can be drastically reduced where such policies engage young people, teachers, parents and other community members.

Children in care—Canada has one of highest rates in the world

76,000

The number of Canadian children in child welfare care

Article 20—Children deprived of family environment: Children who cannot be looked after by their own family have a right to special care and must be looked after properly, by people who respect their ethnic group, religion, culture and language. (This is a plain language interpretation of article 20 of the Convention.)

With the adoption of the Convention on the Rights of the Child, many provinces have changed their legislation to include a more comprehensive definition of children who are in need of protection.⁸⁵ A notable change has been the inclusion of emotional abuse as a criterion for intervention.⁸⁶ A step forward in the provision of child welfare in Canada is that children in care are able to realize their right to be heard in decisions affecting them, although this is unevenly experienced.

"One time at my group home they told me I could not call my lawyer and I said I had the right to call my lawyer."

—Child participant

As definitions and reporting obligations under child welfare legislation have expanded over the current generation of children and young people, the number in the care of the state has exponentially increased. Canada now has one of the highest rates of children in care among the industrialized countries. Over the past 10 years, the number of children in need of protective care has increased substantially and so has their length of stay.⁸⁷ There are approximately 76,000 children under the protection of Child and Family Services in Canada.⁸⁸ Children in care may be protected from family violence, but are exposed to other risks including sexual exploitation, peer violence, and arbitrary restriction of freedoms and other rights. There are a number of measures that require greater investment and support to reduce the levels of children in care and the risks to those in care: preventive programmes such as parenting education; more stable fostering and adoptive placement; and strong, independent provincial advocates' offices for children are among these measures.

"...no child should have to live without parents for a few months, never mind years."

—Child participant

In 2002 there were 150,646 First Nations children under the age of 18 in care:⁸⁹ three times the overall Canadian rate. Close to 27,000 First Nations children have been removed from their families, most as a result of poverty;⁹⁰ this is close to 10 times the Canadian rate and exceeds the number of First Nations children separated from their families and placed in residential schools in previous generations.

There are also more children identified with special needs in foster care than there were a decade ago.⁹¹ Both of the preceding statistics suggest that First Nations families and families of children with special needs are not receiving the support they need to ensure the well-being of their children.

Investing in preventive family and child services could help remedy this. The Royal Report on Aboriginal Peoples (1996) highlighted issues such as inappropriate funding and lack of cultural sensitivity as child welfare areas that needed to be remedied.⁹²

Trend Report: Children in care



- Red denotes poor progress or regression
- Green signifies good progress
- Yellow indicates little or no progress

First Nations agencies receive 22 per cent less funding per child than other groups. Child welfare services are under provincial and territorial jurisdiction, with the exception of services for First Nations children, which are under federal jurisdiction according to the *Indian Act* of Canada. Presently, the Indian and Northern Affairs Canada Child and Family Services Program provides 22 per cent less funding per child to First Nations agencies than is received by provincial agencies.⁹³ Another issue of concern is that some provinces and territories (Ontario, New Brunswick, Nova Scotia, Newfoundland and Labrador, Saskatchewan and the Northwest Territories) use age 16 as the cut-off for children in need of protection.⁹⁴ These inequities are at variance with the Convention, which demands that all children up to the age of 18 be equitably entitled to the protective services of their governments.

“In many group homes and foster homes, rights like privacy, visits with family and [the right to be] treated fairly and sometimes even health care are denied.”

—Child participant

Children in the justice system—the right to consideration of a child’s best interests

Article 37—Detention and punishment: No one is allowed to punish children in a cruel or harmful way. Children who break the law should not be treated cruelly. They should not be put in prison with adults, should be able to keep in contact with their families, and should not be sentenced to death or life imprisonment without possibility of release.

(This is a plain language interpretation of article 37 of the Convention.)



With the adoption of the Convention on the Rights of the Child, the universal view of children and childhood has begun its evolution from regarding children as non-citizens or “human beings” to respecting them as human beings and citizens with rights of their own. However, the recognition of children as autonomous beings with agency in line with their evolving capacities has been unevenly applied in Canadian legislation. The capacity of young people to act and make decisions responsibly in their best interests is differently interpreted across provincial health legislation and in family courts. But nowhere is this concept more challenging to apply than in the federally legislated youth criminal justice system.



“Juvenile justice [is a concern]—
children are tried as adults.”
—Child participant

From punishment to participation

Prior to the ratification of the Convention, the *Young Offender’s Act* (1984) in Canada was based more on the principles of punishment, and less on reducing criminal acts by addressing the distinct vulnerability and capacities of children.⁹⁵ The *Youth Criminal Justice Act* (April 2003) was among the first federal laws to specifically cite and incorporate aspects of the Convention: emphasizing reintegration, promoting child participation in the justice system and providing special consideration for First Nations children, to name a few.⁹⁶

Children—including those in the justice system—have the right to consideration of their best interests. For that reason, the detention of minors should only be used as a last resort once other avenues have been explored. There is growing evidence that other forms of consequence such as open custody and redistributive justice are more effective for rehabilitation, prevention and protection, as they recognize that most children in the justice system are victims of severe abuse and other rights violations, and therefore need access to treatment and support services.

Article 40—Juvenile justice: Children who are accused of breaking the law have the right to legal help and fair treatment in a justice system that respects their rights. Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings.
(This is a plain language interpretation of article 40 of the Convention.)

One of the highest rates of youth detention

Canada has one of the highest rates of youth detention among comparable industrialized states.⁹⁷ In 2004, there were approximately 39, 035 youth involved in the justice system.

This included:

- 41 per cent on probation
- 36 per cent on remand
- 14 per cent sentenced to custody
- 6 per cent to community portion of custody and community supervision orders
- 3 per cent to deferred custody and supervision⁹⁸

There is also an over-representation of First Nations and ethnic minority children in the justice system.⁹⁹ In 2004 there were 3,060 First Nations youth in remand which is approximately 20 per cent of the total youth in remand that year.¹⁰⁰

There are two other areas of concern:

- 1 Young offenders can be given adult sentences and be detained in adult correctional facilities despite their status as children.
- 2 The list of offences for which young people can receive an adult sentence has grown.¹⁰¹

While previously the age limit for the possibility of serving adult sentences was 16 years of age, it has declined to age 14.¹⁰² Yet, recognizing the vulnerability of children, proposed child protection legislation before Parliament seeks to raise the age of sexual consent from age 14 to 16. And while children have the right to be heard in decisions affecting them in judicial proceedings, the court is not obligated to take these views into account.¹⁰³

Table 4: Youth in the justice system in Canada, 2004: An overview

Type of correctional service	Number of children
Remand	15,312
Secure custody	2,758
Open custody	3,033
Probation	18,403

Source: Statistics Canada, (2007), "Youth Custody and Community Services", *The Daily*, March 14, Statistics Canada Catalogue no. 85-002-XIE
<http://www.statcan.ca/Daily/English/070314/d070314d.htm>

Children with disabilities—the right to special care

Article 23—Children with disabilities: Children who have any kind of disability have the right to special care and support, as well as all the rights in the Convention, so that they can live full and independent lives.
(This is a plain language interpretation of article 23 of the Convention.)

In previous generations, children with developmental disabilities were often discriminated against, taken away from their families and housed in institutions.¹⁰⁴ Article 23 of the Convention specifies the right of disabled children to enjoy full and decent lives and to be able to actively participate in the community.¹⁰⁵ Since the adoption of the Convention, Canada has made progress in this area, including improving access to education and care facilities.

Yet there is evidence of continuing discrimination against children with disabilities that impacts their survival, education, employment and inclusion in social life. According to the 2001 Physical Activity Limitation Survey, there are approximately 180,930 children aged 0 to 14 with disabilities in Canada. Approximately 96 per cent of these children attend school, but two out of five children are not able to participate in school outings and recreational activities.¹⁰⁶ Efforts by parents and advocacy organizations to lift the stigma of disability and promote legislation, policy, education, employment and access to services, need broader awareness and support.

First Nations children—glaring gaps in rights

Article 30—Children of Minorities/Indigenous Groups: Minority or indigenous children have the right to learn about and practice their own culture, language and religion. The right to practice one's own culture, language and religion applies to everyone; the Convention highlights this right in instances where the practices are not shared by the majority of people in the country.
(This is a plain language interpretation of article 30 of the Convention.)

First Nations children are one of the most vulnerable populations in Canada. They face massive challenges including systemic poverty: 40 per cent of off-reserve First Nations children live in poverty, as does one in four who lives in a First Nations community.¹⁰⁷ Overall, the poverty rate for

Aboriginal children is close to double that of other Canadian children. As well, children in some remote First Nations communities lack access to adequate housing, clean water and education.

Article 2—Non-discrimination: The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn't matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis.
(This is a plain language interpretation of article 2 of the Convention.)

The levels of inequality between First Nations children and other young Canadians represent a glaring gap in children's rights.

- The disability rate of First Nations children (one in eight) is double the rate of the national average
- Foetal Alcohol Spectrum Disorders (FASD) among First Nations are estimated at 25 to 30 times the national average¹⁰⁸
- Smoking rates among First Nations youth are three to four times Canadian rates
- More than 50 per cent of First Nations children are overweight or obese, compared to about 20 per cent of other Canadian children¹⁰⁹
- 30 per cent of Aboriginal youth drop out of school—double the general population rate
- First Nations children are overrepresented in the child protection and juvenile justice systems

"Aboriginals, First Nations... do not have access to the same educational opportunities as other Canadians..."
—Child participant

Suicide is one of the leading causes of death among First Nations children, with rates at least six times higher than the national rate.¹¹⁰ Approximately 30.9 per cent of First Nations children report having suicidal thoughts. In 2000, suicide accounted for 22 per cent of deaths among First Nations children aged 10 to 19 years of age.¹¹¹

Jurisdictional issues, such as the overlapping of provincial laws and the authority of First Nations organizations, and the gaps between federal and provincial responsibilities, have contributed to the inequities for this generation of Aboriginal children. First Nations children face delays and disruption in education, health and other services while provincial and federal governments dispute jurisdictional responsibilities.¹¹² The intergenerational legacy of cultural destruction, in part from the very recent residential schools' record of abuse and deprivation, has also had a devastating impact on child well-being. However, the way forward is evident in the initiatives of First Nations community agencies and supportive partners.

First Rights Generation takes a slower road to adulthood

In contrast to their counterparts of three decades ago, the transition from childhood to adulthood will continue well past age 18 for this generation. Census data from 1971 and 2001 analyzed by Statistics Canada¹¹³ shows how the timing of key life transitions has changed for young adults between the ages of 18 and 34. In 2001, they left school later; stayed longer in their parents' home; entered the labour market later; and postponed marriage and childbearing.

For example, in 2001, half of all 22-year-olds were still in school. Only one in five had a partner (usually common-law) and one in 11 had children. In 1971, three-quarters of 22-year-olds had left school. Nearly half were married and one in four had children. As well, in 2001, the time between transitions had increased, stretching from the late teens to the early 30s. Youth in 1971 packed more life transitions into the years from their late teens to mid-20s and fewer transitions into their early 30s.

Profile of the respondents

A total of 226 youth respondents were surveyed on their perceptions of their universal rights:

- 59 per cent were female; 39 per cent male (no data were available regarding the gender of the remaining two per cent)
- 95 per cent were studying in high school at the time of the survey; the remaining 5 per cent had recently completed high school
- 39 per cent were 15 years old; 19 per cent were 16; 15 per cent were 14; 14 per cent were 17; 11 per cent were 18; one respondent was younger than 14
- 83 per cent were Canadian by birth; 13 per cent were immigrants; 2 per cent were refugees
- 58 per cent were Caucasian; 10 per cent were of mixed race; 9 per cent were black; 5 per cent were South Asian; 2 per cent were East Asian; 1 per cent was South East Asian; 2 per cent were other (Armenian and Russian)

Awareness of the Convention

Article 42—Knowledge of rights: Governments should make the Convention known to adults and children.

Adults should help children learn about their rights, too.

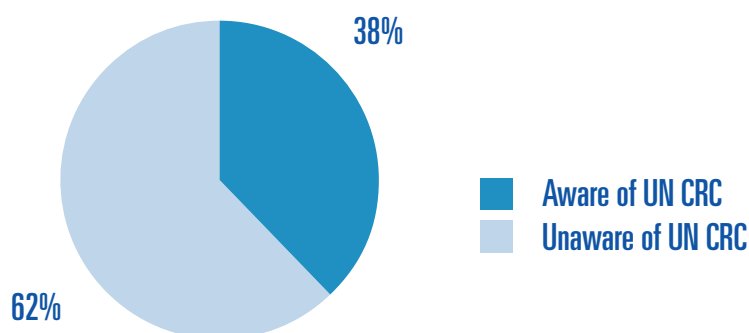
(See Protection Rights, article 4.) (This is a plain language interpretation of article 42 of the Convention.)

Thirty-eight per cent of child and youth respondents to our survey reported that they had heard of the UN Convention on the Rights of the Child, while the majority, 62 per cent, reported that they had not. Those who had heard about it had done so primarily at school, during social studies classes, law classes, discussions, or while preparing for projects and through UNICEF materials. Respondents also learned about these rights through discussions with parents/at home; through a youth programme at a community services agency; participating in an advocacy group; through research to participate in a conference; through this survey; through the media (television, advertising, Internet) and from social workers.

"It's easy to violate someone's rights when they don't know it's a violation of their rights. . . . If I don't know that I have this right to, say, health care, or education or speaking out, how do I know to speak up unless someone tells me?"

—Child participant

Figure 3: Respondents' awareness of the UN Convention on the Rights of the Child



These results clearly indicate that children's rights education is not systematically carried out in our schools and other institutions that teach or work with children. Ensuring that children and adults are made aware of the rights enshrined in the Convention is a government responsibility to foster a culture of respect for children's rights and to promote changes in attitudes and behaviours.

Children and youth themselves were very concerned that they knew little or nothing about the Convention and most agreed that much more should be done to educate young people about their rights.

Awareness of universal rights

A majority (50 per cent) of the respondents were not aware that they had universal rights, while 47 per cent reported that they were aware that universal rights for children exist (even though they could not readily identify the Convention as their legal source). However, most young people had a reasonable knowledge of what was right and wrong in their lives and understood that protections such as Children's Aid were created specifically for them. Of those who were aware that they possessed universal rights, some were able to name specific rights. The following is a list of their most frequent responses:

Table 5: Respondents' awareness of universal rights

Rights mentioned	Percentage (%) of respondents
Right to education	13
Right to health care	8
Freedom of speech/thought	8
Right to food	8
Right to shelter	5

Several respondents were unable to list any rights although they were aware of the fact that they had them. Other respondents did not reply to this query.

Responses indicate that economic and social rights (developmental rights) are more known to children, while civil, political and cultural rights are less known and in fact almost unknown to children.

"We are tired of being called up to speak when something was going wrong, and they [adults] need to fix it but can't do it without our help because somebody told them they couldn't do it without our help."
—Child participant

Very few respondents were aware of children's right to be heard in matters affecting their lives. However, the youth spoke frequently to both the barriers and opportunities surrounding youth voice and young people's right to participate in decisions that affect them. They talked about "well-meaning adults" and tokenism, as well as the perception that they often felt like their voices weren't important until an adult told them so.

The solution, one youth told us, was to create opportunities where "young people could talk to adults on our time and on our terms, not just when they need us or want us to make them look good." And many respondents felt that in order to really uphold the Convention, some sort of legally binding and institutionalized opportunity needs to be created within governments and in the health, justice and education sectors.

Importance of universal rights

Eighty-four per cent of the respondents expressed the belief that it is important for children and young people to have universal rights. Eight per cent reported that they were unable to respond to this question as they felt they did not know enough about the topic. One respondent felt that it was not necessary to have international laws but that countries should decide what rights their children should have.

The respondents were asked to explain why they felt these rights were important. Most felt that it was because children are people too and need to be recognized as such and accorded rights just as adults are.

"Because
it's age discrimination if we don't."
—Child participant

International rights were seen by most as crucial universal standards for the protection, survival and development of all children.

"I think there should be
international standards and rights and it is
important so that religion and culture don't interfere
with what is right and what is wrong. So that they are
not taken advantage of and are not abused even if
that is acceptable in that culture."

"... Because every child
deserves education and caring,
not war, abuse and neglect."

"Yes, so we don't get taken
advantage of and abused verbally,
mentally and physically."

"Yes of course, because if we do
not, there will be more cases of child soldiers,
child abuse, etc. as children are the next generation
of adults, giving them rights and the means to defend
themselves is one of the most important steps to a
better future for everyone."

"Very much so, although we may not
always use them in our daily lives, don't
they sort of define our humanity?"
—Child participants

Importance of rights in the daily lives of children and young people

Respondents largely perceived that universal rights were very important in the daily lives of children. Their reasons included that they helped children live happily and more confidently and that these rights could help save children's lives and prevent abuse and exploitation.

"Very important. Some of these kids' lives depend on these rights, because that is all they have . . . Rights protect them from people who would otherwise hurt and scar them for life, and show them what is right and what is wrong."

"Extremely important, they affect everything a child does and is to do, from receiving an education to ensuring basic health care. These rights have an enormous impact on the standard of living for children around the world."

"These rights are very important because they show the responsibility from a young age making them feel wanted and a part of the growing society because . . . they are our future."
—Child participants

A few saw their current situation as a positive outcome or realization of these rights.

"Here in Canada we are not aware that we benefit from those rights every single day of our lives, but it is because of those rights that we live like we do, that we go to school and enjoy life."

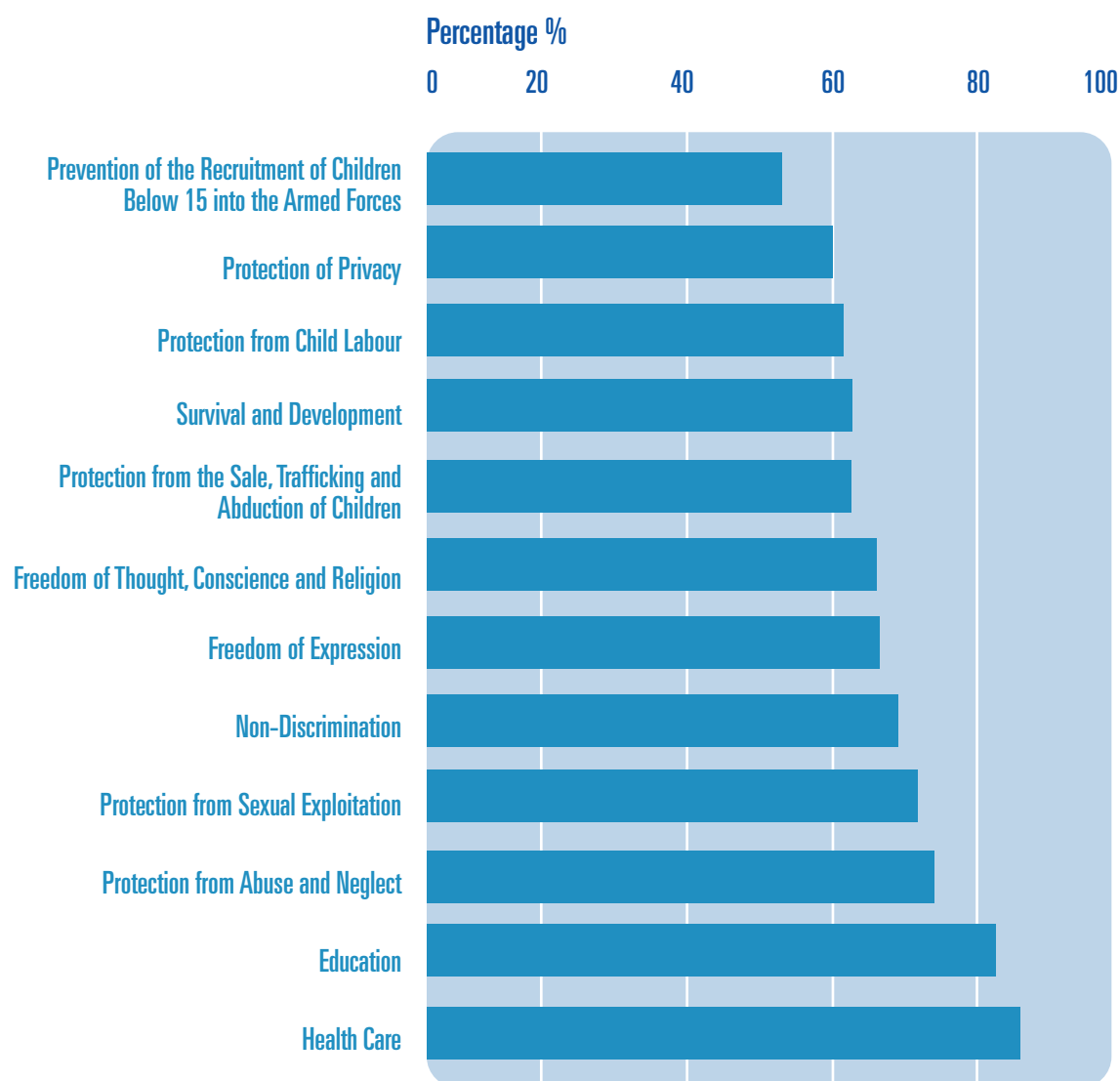
—Child participant

Two of the respondents felt that these rights were not very important or had little applicability in the daily lives of children.

Identifying issues of concern

Respondents were provided with a description of the rights enshrined in the Convention and asked to identify rights that they perceived as being of greatest concern to them. Twenty-eight respondents indicated that they felt all the rights were important, and profoundly understood that all rights are equal, interdependent and indivisible. Figure 4 ranks respondents' concerns on specific rights.

Figure 4: Issues of concern for respondents



Interestingly, of those who did rank rights in order of concern and importance to them, very few referred to protections in the justice system or child care system, or provisions regarding rights to consideration of children's best interests and participation, as being of significant concern. This indicates that we require more comprehensive sensitization and education regarding the full spectrum of children's rights to highlight their interdependence and inalienability.

Ideas to promote and respect children's rights in Canada

Respondents had many ideas to promote and respect children's rights in Canada. These focused mainly on education about rights through schools and through the media (television, the Internet, posters and advertisements). They also suggested using "kid to kid" or "teen to teen" peer programmes to reach out to children and educate them about their rights.

Many respondents felt that awareness and education presented the critical missing pieces of the implementation and dissemination of the Convention. They firmly expressed that they need to identify their rights before they can begin to change a bad situation, or speak out for others.

To protect children better, many respondents suggested creating better policies, laws and stricter enforcement for violation of rights. Other suggestions included listening to children, lowering the voting age and expanding provision of scholarships for underprivileged children.

One respondent mentioned the need to balance the enforcement of children's rights with primary consideration of the best interests of the child.

"I feel that children's rights are already promoted in Canada. It is important to find a balance between enforcement and not. It is not appropriate to punish a parent for spanking a child and it is also not appropriate to allow a child to live in a household that they are unable to live freely in. Children who are afraid to live at home and have a legitimate fear should be allowed to leave."

—Child participant

Impressions regarding implementation of children's rights in Canada

Respondents were divided in their opinions regarding the reach of children's rights in Canada. Few felt that the reach was very good or excellent, while a few others felt that for the most part, rights were implemented, although there were some exceptions.

"I think that children's rights in Canada are very good. We are free to express ourselves and participate in sports and leisure activities."

"I think the rights of the child have been fairly implemented in all areas excepting education. Aboriginals, First Nations... do not have access to the same educational opportunities as other Canadians..."

—Child participants

Most respondents felt that much more must be done to implement children's rights in Canada.

"Overall

I think we have a very good system but every system has its flaws and ours is being too lenient. We have to crack down on enforcing these laws. We also have to put more effort into the foster care system of Canada; no child should have to live without parents for a few months, never mind years."

"The government thinks that they are doing what they can, but somehow there are always some cases that slip through the cracks. They should always be trying to do more. The system is okay but could be better."

—Child participants

Still others felt that the reach was inadequate and that the government was not doing enough to promote and protect children's rights.

"Their [rights] are being sorely overlooked."

—Child participant

Ways in which children in Canada are denied their rights

Some respondents cited discrimination, racism, child labour, gang violence, poverty, inadequate housing, abusive and neglectful families and cultural alienation as ways in which Canadian children were denied their rights. They also felt that many underprivileged children do not receive their rights.

"Juvenile justice—children are tried as adults."

"It's as if there was a big cover-up... like 'shh, we've signed this Convention thing, but we don't really want to do anything about it so we're not going to tell anyone'.... It's kind of like a betrayal to children and youth that there isn't more awareness out there."

"Inadequate living situations. Not enough help from the justice system. Not enough help with education, everyone has the right to education, classes are too full and there are not enough teachers to go around so half of the class usually gives up."

"Homelessness is a very big problem. It can deny many rights, including improper housing, parental care, clean water and many others. There is also the right to have a valuable opinion, which many adults disrespect because of the authority position an adult has over the child."

—Child participants

Opportunities to exercise rights

We asked respondents if they had personally had the opportunity to consciously exercise or request respect for their rights and found that 64 per cent had not. Many of those felt that they hadn't yet been in a position where they had to advocate for their rights; that their rights had never been violated; and that their rights were respected.

Some of the 30 per cent who did consciously claim their rights shared ways in which they did so. These included speaking up when someone did something unjust, asking for help at work, and approaching the police for protection. Most of the children and young people who were aware of and had taken steps to claim their rights did so because their rights were violated. In some cases, these rights were violated while the young people were in the care of the state—in child welfare and juvenile justice institutions.

"I am in foster care; I exercised the right to adequate living conditions and religious beliefs when I entered into it when I was 12. I am now almost 17."

"One time at my group home they told me I could not call my lawyer and I said I had the right to call my lawyer."

"I always do. I say 'yo, I have rights,' but people don't care still."

—Child participants

Discrimination in Canada

Under the Convention, children have the right to non-discrimination, and all children are entitled to all rights regardless of their status of any kind. Seventy-three per cent of respondents felt that there are children who are discriminated against in Canada. Nineteen per cent did not feel that discrimination existed and two per cent reported that they did not know.

Those who reported that discrimination did exist elaborated on who they felt was discriminated against and why. They felt that the primary reason children are discriminated against in Canada is "difference." The differences that led to discrimination were: race/ethnicity, religion, nationality, skin colour, gender, sexism, economic status, disability, dress, body shape, intellect, and sexual orientation.

Respondents often mentioned discrimination suffered by Aboriginal children and ethnic minorities (particularly

"Children in care because we are not their own children and people in custody because police think they don't deserve their rights."

—Child participant

"Aboriginals and minority groups. But anyone can be discriminated against. Anyone who looks, speaks or acts 'different' from 'normal' people. People with different religions or beliefs. People with disabilities are also made fun of."

—Child participant

Participants predominantly stated racism as the subject of discrimination. Others included negative stereotypes of children in care and children who have been in the justice system, as well as misdirected fear such as that expressed towards Muslims after the 9/11 attacks.

Aboriginal children

Although the subject was not addressed in many of the groups' interviews, youth from Nunavut, Saskatchewan, Alberta and Ontario discussed the state of Aboriginal children at some length. They identified issues of racism, poverty, separation/isolation and boredom as important (and noted that these affected other children and youth too). Youth understood that these issues are interconnected and must be solved together. They brought forth two major ideas for action. First, a refocusing of resources back into the communities so that they could "heal themselves from the inside" and, second, the establishment of an Aboriginal Children's Commissioner who would not only act as an advocate, but who would support and foster a greater cultural awareness among all Aboriginal children.

Bullying

Participants frequently raised the issue of bullying and other forms of violence. While a child bullying another child was an important issue for respondents, many older youth also felt that teachers and other adults were guilty of bullying, with few or no consequences. Younger youth focused on the fact that favouritism in the classroom was a clear cause of stress for them. To address all of these issues, the youth wanted more integration-based programs for newcomers to the school (and newcomers to Canada) as well as school-wide mediation-based activities and anger management programmes.

Despite their excellent solutions to bullying, there was a pervasive sense of fatalism, with many respondents saying that bullying would probably never stop and "kids will be kids." This idea that bullying is "normal" behaviour should be of concern; more education and community-wide efforts to create a rights-based "culture" are definitely needed.

Youth solutions

While there were many solutions offered to the wide range of rights issues discussed, youth participants consistently suggested that to address issues such as discrimination, disaffected youth, bullying and boredom, we need to create and support meaningful community youth programmes and community centres. They were clear that this was about more than just programmes, but also included the staffing and training of youth care workers and community leaders.

"Too

often people think of Aboriginal as being one culture. We're not. We're totally not. Aboriginal means so many different types of people, so many different backgrounds and cultures and histories, we need to remember that. . ."

—Child participant

"Bullying

is real. I know people are doing things about it, but not enough. It's not just kids being mean either, adults bully too, and nothing happens."

—Child participant

"We'd be stronger, better kids if we had people who cared about us, who helped us out when we needed it. . . it shouldn't only be the kids whose parents can afford to go to those kinds of programmes or kids in the cities, it should be everyone."

—Child participant

6 Conclusion

18 @ 18

As the Convention on the Rights of the Child turns 18 this year—along with the first generation of children to hold these universal rights—it is important to recognize that the Convention has been instrumental in creating unassailable norms for children worldwide.

Our collective challenge is to ensure that all Canadian children live up to or beyond these international standards. Canada has made some strides in realizing children's rights, from the broader provision of equitable education to a high standard of health care. Child welfare legislation, provincial legislation establishing advocacy offices for children and the *Youth Criminal Justice Act* have variously used the Convention as a reference point. In addition, many of the young people that we surveyed felt that their rights were generally respected.

"It's that constant thing where it's like we're old enough to dress ourselves and make choices about what to eat for breakfast, but we're not old enough to really have a say about whatever..."

—Child participant

But after 18 years, there remain serious aspects of child well-being where progress has stalled or even declined, including child poverty and, more recently, child mortality rates. Child abuse and injury represent considerable sources of harm to children. Still other areas of concern have emerged and surpassed our capacities or our will to address them through rights-based mechanisms—preventive and responsive policies, programmes, legislation and investment. For example, growing rates of obesity and mental illness call for preventive measures. And, among others, there are legislative gaps in addressing juvenile justice and child protection.

The Convention has not been legislated nor supported with mechanisms used successfully in many other countries, such as a national office or commissioner for children, and a measurable and comprehensive plan of action. Much of the legislation, funding, and monitoring related to children varies across federal and provincial jurisdictions, leading to significant differences in the development and delivery of services, and difficulty in capturing an accurate and comprehensive account of how children are faring in Canada.

Finally, children and youth themselves have stated very clearly that they must have a strong voice in making any decisions on the rights and issues that affect them, but remain sceptical of their formalized inclusion. We cannot disappoint them indefinitely—Canada's 7,814,600 children and youth are counting on us.

7,814,600 reasons to try harder

We have given broad recommendations to support children's rights in Canada, broken down at systemic and programmatic levels. Systemic recommendations refer to legislative and administrative changes and mechanisms for laws, policies and budgeting. In essence, these are ways to guarantee children minimum services and protections rather than leave their well-being to changing public or political goodwill. Programmatic recommendations refer to the introduction of appropriate interventions for addressing gaps in realizing children's rights. Implementing them will improve the lives of Canada's 7,814,600 children.

Systemic Recommendations

- Create an independent national Children's Commissioner appointed by and reporting to Parliament
- Create enabling legislation to make the Convention enforceable in the courts; use the Convention as a guideline for any federal and provincial legislation and policies concerning or impacting children, with particular consideration of the principles of best interests of the child, evolving capacity of the child, and child participation
- Create a national plan of action for children with clear targets and timetables and an annual report card, sustained by all parties that addresses a spectrum of concerns including violence, health (including mental health) and poverty
- Coordinate children's rights and well-being in policies and services on a national level so there are no regional or demographic disparities
- Include children up to the age of 18 in child protection legislation and review other legislation including labour, justice and medical to address age discrepancies

Programmatic Recommendations

- Implement educational programs to ensure that children (as well as adults) are aware of their rights
- Provide programmes and services so that children with disabilities, children living in poverty and immigrant children are able to fully participate in society
- Prioritize the needs of First Nations children with respect for their cultural heritage
- Implement the 45 recommendations of the UN Committee on the Rights of the Child and the 24 recommendations of the Senate in *Children: The Silenced Citizens* to bring Canada into compliance with its obligations under the Convention

"...Everybody has some rights—
adults and children, men and women. Moreover, we
could almost state that children's rights are even more
important than adult's rights because children are young and
they can be easily manipulated and exploited. And they
can hardly defend themselves..."

—Child participant

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"In full compliance?"

Has Canada fulfilled its children's rights obligations since its 2003 report to the United Nations?

As one of the conditions of abiding by the Convention on the Rights of the Child (Convention), the Canadian government must file regular status reports of its progress in promoting and protecting the rights of Canadian children. In 2003 Canada filed its second report with the UN Committee on the Rights of the Child (Committee). After reviewing Canada's report, the Committee made 45 recommendations for action (known as Concluding Observations), highlights of which are outlined below. Four years have passed. The second and third (combined) reports are due early in 2009. Has Canada taken action and lived up to its promises?

The Committee recommended Canada inform its children's rights work with two key general principles:

Non-discrimination—This principle is woven throughout six recommendations, calling on Canada to end discriminatory practices that leave some children behind. All Canadian children, regardless of birthplace, race, gender or other factors, deserve equitable treatment.

The "Best Interests of the Child"—Canada was asked to ensure that the key principle of "best interests of the child" is understood, integrated into all laws affecting children, taught to professionals who work with children, and reinforced in programmes for children.

The following is a summary of the Committee's recommendations:

Policy, Procedures and Programmes

- **End disconnects between federal and provincial responsibilities.** Because many areas of the Convention fall under provincial and territorial jurisdiction, the Committee urges the federal government to make sure that provinces and territories are aware of their obligations and will fulfill them through appropriate policy and legislation.
- **Report to public for accountability.** Canada was asked to "strengthen monitoring, particularly between federal, provincial, and territorial authorities," provide data on children across Canada, and make reports public. Regular monitoring and public reporting on the situation of children will hold all agencies accountable for their treatment of children.
- **Implement a rights-based National Plan of Action targeting all children, but focusing especially on the most vulnerable, including First Nations, migrant and refugee children.**
- **Establish a national independent children's ombudsperson (children's commissioner) and counterparts in provinces and territories that have not already done so.**
- **Allocate resources equitably.** Regularly evaluate the impact of the National Child Benefit system by evaluating annual federal/provincial/territorial budgets spent on children and prioritizing expenditures on vulnerable groups; clearly state priorities with respect to child rights issues; and identify the amount and proportion of the budget spent on children.
- **Use the wealth of statistical data on children to inform and evaluate policy and programmes.** While Canada gathers vast amounts of information on its children, much of this is collected at the provincial level and is difficult to compile at a national level: Canada needs a central collection and analysis system to ensure that data is effectively used to improve all children's lives.

- **Guarantee a child's right to all civil freedoms through birth registration.** Children without official identity often exist along the margins of society and lack access to important social programmes. Canada must take further measures to ensure free birth registration and to facilitate citizenship applications.

The Family

- **Recognizing the growing problems of parental child abduction and international sale and illicit transfer of children, Canada must strengthen its stand on following the Hague Convention for all children adopted internationally into Canada, including offering the maximum amount of assistance through diplomatic channels.**
- **Change legislation to allow adopted children appropriate access to information on their biological parents.**
- **Adopt legislation to remove the use of "reasonable force" in disciplining children, and ban all forms of violence against children within the family, in schools, and other institutions where children are placed.** The Committee expressed deep concern that Canada has not tabled legislation to expressly ban all forms of corporal punishment, including removing Section 43 of the *Criminal Code*.

Health, Education and Childcare

- **Provide an adequate standard of health care to children in First Nations, remote and rural areas.** Canada's relatively high standard of health care is not shared by all Canadian children. Singling out the disproportionately high rates of foetal alcohol syndrome disorder, youth suicide and substance abuse among First Nations children, the Committee urges Canada to establish more prevention and intervention programmes to tackle these ongoing issues.
- **Improve the quality of education, focusing particularly on:**
 - Teaching primary education that is culturally sensitive to all children, especially First Nations, children in remote or rural communities, refugee children and other disadvantaged children
 - Teaching children their rights through courses taught in every school
 - Abolishing corporal punishment in schools and encouraging children's input into disciplinary measures
- **Create a coordinated approach at the provincial/territorial level that ensures that quality childcare is available to all children, regardless of economic status or where they live.**

Standard of Living

- **Carry out more research to identify the causes of homelessness and possible related links to child abuse and child prostitution. Strengthen support services to homeless children.**
- **Continue to address the factors leading to rising rates of child poverty. Develop policies and programmes so that all families—and particularly families led by single mothers—have adequate resources.**

Special Protection and Exploitation

- **Create a national policy on unaccompanied children seeking asylum in Canada that clearly outlines the guardianship process and refrains from detaining children.** Improve the process of returning children not in need of international protection to their country of origin and ensure that refugee children in Canada are not discriminated against in receiving full rights and benefits.
- **Limit military recruitment efforts to those 18 years of age or older.**
- **Conduct national research to find out exactly how many children are working and ratify International Labour Organization Convention No. 138 regarding Minimum Age for Admission to Employment to prevent children as young as 13 from entering economic activity that could be exploitative.**
- **Increase protection of and assistance given to child victims of sexual exploitation and child trafficking.**

Homeless Children

- **Since children represent a substantial portion of Canada's homeless population—with an over-representation of Aboriginal and other vulnerable children—study the scope and the causes of this issue, including child poverty and abusive family situations.**

Juvenile Justice

- **Ensure that no child under age 18 is tried as an adult, regardless of circumstances or gravity of the crime.**
- **Make sure that children's views are heard and respected in court cases concerned with them and that their privacy, when in conflict with the law, is fully protected.**
- **Reduce the high numbers of children in detention, using it only as a last resort and for the shortest possible time in a facility separate from adults.**

Aboriginal Children

- **Reduce the gap in life chances between Aboriginal and non-Aboriginal children. This urgent recommendation by the Committee requests that Canada give priority to improving the situation of Aboriginal children on all fronts.**



For every child
Health, Education, Equality, Protection

