

**Colour of Poverty**



**Colour of Change**

**JOINT SUBMISSION TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD  
AT ITS 87TH SESSION AND REVIEW OF THE FIFTH AND SIXTH PERIODIC  
REPORTS OF CANADA**

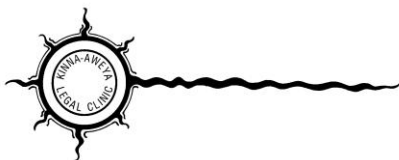
**By**

**Colour of Poverty - Colour of Change  
Black Legal Action Centre  
Campaign 2000  
Chinese and Southeast Asian Legal Clinic  
Council of Agencies Serving South Asians  
Kinna-aweya Legal Clinic  
Ontario Council of Agencies Serving Immigrants  
South Asian Legal Clinic of Ontario  
Dr. Kristin Burnett, Lakehead University  
Dr. Chris Sanders, Lakehead University**

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**Colour of Poverty - Colour of Change**  
505 - 123 Edward St.  
Toronto, ON, Canada  
M5G 0A8



**T: (+1) 416-966-3882  
F: (+1) 416-971-6780**



**Colour of Poverty - Colour of Change (COP-COC)** is a community initiative based in the province of Ontario, Canada, made up of individuals and organizations working to build community-based capacity to address the growing racialization of poverty and the resulting increased levels of social exclusion and marginalization of racialized communities (both Indigenous Peoples and peoples of colour) across Ontario.

CSALC, OCASI and SALCO are founding Steering Committee members of Colour of Poverty - Colour of Change.

The **Black Legal Action Centre (BLAC)** is a not-for-profit corporation created to combat individual and systemic anti-Black racism. BLAC provides legal services to low and no income Ontarians that identify as Black or African Canadian. BLAC's service areas include housing, income maintenance, social assistance, human rights, police complaints, employment and education. BLAC also engages in test case litigation, law reform and community development. BLAC delivers summary legal advice, brief services, and public legal education.

**Campaign 2000** is a cross-Canada public education movement to build Canadian awareness and support for the 1989 all-party House of Commons resolution to end child poverty in Canada by the year 2000. It is a coalition of 120 partners committed to addressing the issue of child and family poverty that began in 1991 out of concern about the lack of government progress in addressing child poverty.

The **Chinese & Southeast Asian Legal Clinic (CSALC)** – formerly known as the Metro Toronto Chinese & Southeast Asian Legal Clinic (MTCSALC) – is a Canadian NGO mandated to provide free legal services to low income members of Chinese and Southeast Asian communities in Ontario. Apart from providing legal services, CSALC also engages in systemic advocacy to advance the rights of immigrants, racialized communities and other disadvantaged members of society. CSALC has ECOSOC consultative status at the UN.

The **Council of Agencies Serving South Asians (CASSA)** is an umbrella organization that supports and advocates on behalf of existing as well as emerging South Asian agencies, groups, and communities in order to address their diverse and dynamic needs. CASSA's goal is to empower the South Asian Community. CASSA is committed to the elimination of all forms of discrimination from Canadian society.

The **Kinna-aweya Legal Clinic** is a community legal clinic that provides legal advice and assistance to residents in the District of Thunder Bay, particularly Aboriginal people, who need assistance with poverty law issues. The focus of the clinic is on helping people get income maintenance benefits and maintain access to housing. As part of its work, it also organizes and presents community legal education workshops and works with the community for organized, positive change.

**Ontario Council of Agencies Serving Immigrants (OCASI)** is a council of autonomous immigrant and refugee-serving organizations in Ontario and the collective voice of the immigrant and refugee-serving sector in the province. Formed in 1978, OCASI has 220 member organizations across the province of Ontario. OCASI's mission is to achieve equality, access and full participation for immigrants and refugees in every aspect of Canadian life.

**South Asian Legal Clinic of Ontario (SALCO)** is a not-for-profit organization established to enhance access to justice for low-income South Asians in the Greater Toronto area. Since 1999, SALCO has been working to serve the growing needs of South Asians in a culturally and linguistically sensitive manner. As a specialty clinic funded by Legal Aid Ontario, SALCO provides advice, brief services and/or legal representation in various areas of poverty law.

**Dr. Kristin Burnett** is an Associate Professor at the Lakehead University Department of Indigenous Learning. Her research interests include Indigenous history, race and colonization, settler studies, women and gender history, and the social history of health and medicine, and western Canadian history. Among her current research projects is the examination of personal identification as a social determinant of health.

**Dr. Chris Sanders** is an Associate Professor at the Lakehead University Department of Sociology, specializing in fields of public health and mental health. He has partnered on several studies examining health care access in Ontario. Among his current research projects is the examination of personal identification as a social determinant of health.

## **Acknowledgements**

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## Introduction

This joint submission on the fifth and sixth periodic reports of Canada under the Convention on the Rights of the Child was prepared by conducting a review of relevant literature, and through consultations with academics, lawyers, activists, social service providers, and community and research organizations working to advance racial justice and racial equality. It focuses on issues facing racialized communities (both Indigenous Peoples and Peoples of Colour), immigrants, refugees and migrants in Canada. In consultation and continued solidarity with organizations serving Indigenous communities, this report also addresses a number of issues disproportionately and uniquely faced by Indigenous communities. Anti-Indigenous racism is a form of discrimination that is distinct from discrimination against other racialized groups in Canada, because it is an ongoing manifestation of settler colonialism that has entrenched systems of oppression and marginalization. We recognize that Indigenous claims to justice, including claims of those living off-reserve, are distinct and require unique strategies and a nation-to-nation response, and that Indigenous Peoples are among the worst affected by poverty and institutional, structural and systemic racism and exclusion. The COP-COC Network further expresses its support of the anticipated recommendations submitted by Indigenous organizations to the Committee.

Many of the issues highlighted in this report were never addressed by the Canadian Government in its previous reports. To the extent that they were addressed, the Government of Canada has either not accepted the recommendation or has not acted on them. Some of these issues continue to remain unresolved since the Committee's 2003 review of Canada during its thirty-fourth session.

## General Measures of Implementation

### Data Collection

Article 4 of the Convention mandates that State Parties must undertake “all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.”<sup>1</sup> Despite numerous calls for action, including in the Committee's 2003 and 2012 Concluding Observations, Canada continues in its failure to establish a comprehensive national data collection system.<sup>2</sup> This continued failure at all levels of government to meet its due diligence obligations is an overarching issue that cuts across the different areas where racial discrimination is manifested, and reflective of the Federal Government's refusal to fully acknowledge the realities of racism.

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<sup>1</sup> *Convention on the Rights of the Child*, 20 November 1989, 1577 UNTS 3 art 4 (entered into force 2 September 1990).

<sup>2</sup> Committee on the Rights of the Child, *Consideration of Reports Submitted by State Parties under Article 44 of the Convention*, UN Doc CRC/C/15/Add.215, October 27, 2003, at para 19 [2003 CRC Concluding Observations]; Committee on the Rights of the Child, *Concluding Observations on the combined third and fourth periodic report of Canada, adopted by the Committee at its sixty-first session (17 September – 5 October 2012)*, UN Doc CRC/C/CAN/CO/3-4, December 6, 2012, at para 21 [2012 CRC Concluding Observations].

Data that is disaggregated by race, age, gender identity, sexual orientation, geographic location, ethnicity, faith, immigration status, disability, and socio-economic background, is crucial in facilitating the comprehensive and intersectional analysis of the situation of children, and the development of targeted strategies, action plans, and budget investments to address systemic failures and marginalization.<sup>3</sup> Failure to collect such data prevents the measurement and tracking of inequities and disparities; impairs assessment of the impacts of government laws, policies, and programs on marginalized communities; and impedes political and legal recognition of racial discrimination.

## **RECOMMENDATIONS:**

### ***Data Collection***

- Canada must establish a national data collection system, mandating Federal, Provincial, Territorial, and Municipal governments to collect data disaggregated by race, age, gender identity, sexual orientation, geographic location, ethnicity, faith, immigration status, disability, and socio-economic background, across all Departments, Ministries, Divisions, and relevant institutions, and use this data to develop strategies for addressing systemic discrimination.

**Relevant Articles of the Convention: arts. 2, 4**

## **General Principles**

### **Jordan's Principle**

Since its adoption by the Federal Government in 2007, Jordan's Principle has still not become a reality in Canada. The Federal Government instead continues to devote resources to defend harmful policies, and its longstanding refusal to acknowledge and act on its obligations to Indigenous peoples.<sup>4</sup> Jordan's Principle is a child first approach affirming that all Indigenous peoples in Canada can access the care and supports they need, and that this shall take precedence over all jurisdictional disputes. The government of first contact must pay for services without delay, with any jurisdictional disputes to be resolved after care has been provided.<sup>5</sup> Under the constitutional division of powers, the Federal Government is responsible for "Indians" under the *Indian Act*, while provincial and territorial governments are responsible for health and social services. This division has resulted in a service gap for individuals living on reserve, with

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<sup>3</sup> 2003 CRC Concluding Observations, *supra* at para 19; 2012 CRC Concluding Observations, *supra* at para 21. See also Committee on the Elimination of Racial Discrimination, *Concluding observations on the twenty-first to twenty-third periodic reports of Canada*, UN Doc CERD/C/CAN/CO/21-23, August 25, 2017, at paras 5-6.

<sup>4</sup> Lori Chambers & Kristin Burnett, "Jordan's Principle: The Struggle to Access On-Reserve Health Care for High-Needs Indigenous Children in Canada" (2017) 41:2 *Am Indian Quarterly* 101 at 110-114 [Chambers & Burnett].

<sup>5</sup> *Ibid* at 102.

children with special needs especially affected.<sup>6</sup> The principle is named in memory of Jordan Rivers Anderson, a Cree child from Norway House Cree Nation, who was born in 2005 with a neurological disorder that required him “to receive care in a home tailored to his medical needs.”<sup>7</sup> When doctors had determined that he could leave the hospital, costs for the necessary renovations to Jordan’s home, and other costs including transportation to medical appointments, were all disputed between the federal and provincial government. As a result of these disputes, Jordan eventually died at the age of 5, having spent his entire life in a hospital.<sup>8</sup> Jordan’s Principle ensures that the care of an Indigenous child always takes precedence over jurisdictional disputes, and that Jordan’s case never happens again.

In 2007, the First Nations Child and Family Caring Society and Assembly of First Nations filed a human rights complaint against Canada for its discriminatory and chronic underfunding of First Nations child welfare on reserves at the same level as services elsewhere, and failure to implement Jordan’s Principle. This underfunding denied Indigenous children of needed supports, and lead to children’s deaths, unnecessary family separations, and the devastating impacts of separation. The Federal Government proceeded to cut funding to the Caring Society, and spent years filing motions to dismiss the case,<sup>9</sup> but in 2016 the Canadian Human Rights Tribunal determined that the claim was substantiated. The Tribunal ordered that Canada immediately “cease its discriminatory practices” and “take measures to immediately implement the full meaning and scope of Jordan’s principle.”<sup>10</sup>

After numerous non-compliance orders and further compensation hearings, in September 2019 the Tribunal ordered the maximum damages for each of the children forced to leave their homes to access services, or who were denied services contrary to Jordan’s Principle, and their families; the Tribunal found Canada’s discrimination to be wilful and reckless.<sup>11</sup> In a May 2017 non-compliance order, the Tribunal found that the Federal Government’s failure to properly actualize Jordan’s Principle was partially responsible for the suicide deaths of two twelve-year-old Indigenous girls.<sup>12</sup>

Canada continues to resist the implementation of Jordan’s Principle. Since the September 2019 ruling, Canada has filed an application to set aside the Tribunal’s decision and dismiss the compensation order, marking almost thirteen years since the adoption of Jordan’s Principle and

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<sup>6</sup> Ibid at 101.

<sup>7</sup> Ibid at 102.

<sup>8</sup> Ibid at 102; *First Nations Child and Family Caring Society of Canada v Canada (Minister of Indian Affairs and Northern Development)*, 2016 CHRT 2 at para 352 [*First Nations Child and Family Caring Society v Canada* (2016)].

<sup>9</sup> Cindy Blackstock, “Compensation for Discrimination: Canada says one thing, does another”, *APTN Nation News* (15 October 2019), online: <<https://aptnnews.ca/2019/10/15/compensation-for-discrimination-canada-says-one-thing-does-another/>>.

<sup>10</sup> *First Nations Child and Family Caring Society v Canada* (2016), *supra* at paras 481. See also “Canadian Human Rights Tribunal Decisions on First Nations Child Welfare and Jordan’s Principle: Case Reference CHRT 1340/7008” (31 October 2016), online (pdf): *First Nations Child & Family Caring Society* <<https://fncaringociety.com/sites/default/files/Info%20sheet%20Oct%2031.pdf>>.

<sup>11</sup> *First Nations Child and Family Caring Society of Canada v Canada (Minister of Indigenous and Northern Affairs)*, 2019 CHRT 39 at paras 245-257. See also *Canada Human Rights Act*, RSC 1985, c H-6, s 53(2)(e), 53(3).

<sup>12</sup> *First Nations Child and Family Caring Society of Canada et al v Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2017 CHRT 14 at paras 88-90.

the initial human rights claim.<sup>13</sup> Canada’s continued inaction and resistance to addressing these inequities continues to be at odds with its stated commitments, including before the Committee.

## RECOMMENDATIONS:

### *Jordan’s Principle*

- Canada must ensure the full implementation of Jordan’s Principle such that access to supports and services is never denied or delayed as a result of jurisdictional disputes, and honour the repeated rulings of the Canadian Human Rights Tribunal by providing adequate funding for child welfare services on reserve, and compensation to the children and parents and grandparents of children who were unnecessarily placed in care because of discrimination.

**Relevant Articles of the Convention: arts. 2, 3, 6**

## Civil Rights and Freedoms

### Birth Registration

Access to many essential social supports including child and family benefits, social housing, social and health services, and emergency food supports, is contingent on an individual possessing some form of personal identification (PID), with the foundational piece being a birth certificate.<sup>14</sup> The long form birth certificate is necessary for acquiring Indian “status” under the *Indian Act*, which in turn provides access to additional health and social services, the absence of which reinforces longstanding systemic barriers. Barriers to birth registration have cascading negative consequences that further perpetuate marginalization and vulnerability. The fee for birth certificates can be a prohibitive barrier for many people. Although in Ontario a fee waiver exists, only the short form birth certificate is eligible. This precludes the long form birth certificate or short form birth certificate with parental information. Significantly, only a limited number of social services agencies can provide Fee Waiver Program and only individuals who are homeless or at risk of being homeless according to stringent criteria can access the Fee Waiver Program.

In Canada, and in particular rural and fly-in communities in the far north, Indigenous peoples disproportionately face barriers to birth registration, as a consequence of geography and Canada’s historical and contemporary colonial policies.<sup>15</sup> Community partners and organizations

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<sup>13</sup> First Nations Child & Caring Society, “Notice of Application for Judicial Review” (2019), online: <<https://fncaringsociety.com/publications/notice-application-judicial-review>>.

<sup>14</sup> Chris Sanders & Kristin Burnett, “A Case Study in Personal Identification and Social Determinants of Health: Unregistered Births among Indigenous People in Northern Ontario” (2018) 16:4 Intl J Env’tl Research & Pub Health 567 at 2, online: <<https://www.mdpi.com/1660-4601/16/4/567/htm>> [Sanders & Burnett]. See also UNICEF, *The ‘Rights’ Start to Life: A statistical analysis of birth registration* (New York: UNICEF, 2005).

<sup>15</sup> Sanders & Burnett, *supra* at 2.



continue to observe the prevalence of unregistered births and the continued challenges faced by Indigenous peoples in acquiring personal identification (PID).<sup>16</sup> Key informants from certain fly-in First Nation communities for example, are concerned about the high numbers of unregistered births and children and youth without first birth certificates, perhaps as high as 50-75%.<sup>17</sup>

In northern Ontario, 20% of the population is of Indigenous ancestry, in contrast to the rest of Ontario, where the figure is 2%. The terrain is also geographically vast and diverse, posing particular challenges in the access to health and social services: of the 49 First Nation communities in northern Ontario, 32 are “only accessible by plane or briefly during the winter by seasonal ice roads.”<sup>18</sup> All Indigenous women living in fly-in communities are forced to leave their communities to give birth in a southern hospital at least three to four weeks before their due date, often alone.<sup>19</sup> Further, hospitals have inconsistent policies that ensure new mothers register births before they are discharged, which, combined with prohibitive costs, language barriers, a lack of bureaucratic literacy, and limited access to internet, increases the likelihood that the birth will not be registered at all.<sup>20</sup>

Birth registration or the replacement of lost birth certificates itself also requires information that may not be readily accessible or knowable, especially given systemic barriers resulting from colonial practices that have fractured families and communities across generations. Taking Ontario as an example, individuals are required to provide information such as given names at birth (as well as any name changes that take place) and place of birth. For the parents the application requires the mother’s given names as well maiden and married last names, both parents’ date of birth and the father’s given name and birth date. The forced removal of Indigenous children to residential schools and by the child welfare system has ensured that personal and parental information is frequently missing. In some instances, multiple generations within a family will not have PID, and as a result, children are unable to acquire a birth certificate until their parent, and in some cases their grandparent, also registers. Children are then left without services pending each of these registrations, contrary to the service-first approach mandated by Jordan’s Principle.<sup>21</sup>

Certain provinces, such as Ontario, also require a guarantor currently serving in specific professional groups, such as lawyers, accountants, engineers, Band Chiefs, or judges. Individuals living in remote communities have less access to these professional groups and often only the Chief will be able to serve as a guarantor. Further, as not all Indigenous people live on reserves,

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<sup>16</sup> Sanders & Burnett, *supra* at 3, 6.

<sup>17</sup> Sanders & Burnett, *supra* at 3, 6.

<sup>18</sup> *Ibid* at 2. See also Kristin Burnett, Kelly Skinner & Joseph LeBlanc, “From food mail to nutrition north Canada: reconsidering federal food subsidy programs for northern Ontario” (2015) 2:1 CFS/RCÉA – Knowing and Growing 141.

<sup>19</sup> Karen Lawford & Audrey Giles, “Marginalization and Coercion: Canada’s Evacuation Policy for Pregnant First Nations Women Who Live on Reserves in Rural and Remote Regions” (2012) 10(3) *Pimatisiwin: A Journal of Aboriginal and Indigenous Community Health* 327; Karen Lawford & Audrey R Giles, “An Analysis of the Evacuation Policy for Pregnant First Nations Women in Canada” (2012) 8:2 *AlterNative: An International Journal of Indigenous Peoples* 329.

<sup>20</sup> Sanders & Burnett, *supra* at 6.

<sup>21</sup> *Ibid* at 5.

the addition of Band Chiefs under the *Indian Act* as possible guarantors does not eliminate this barrier. In contrast, provinces such as Manitoba do not have a guarantor requirement.

Community partners have further observed that kinship arrangements are not recognized by all provincial agencies. As a result, if birth parents are unable or unwilling to give permission, guardians are also blocked from helping the children in their care obtain forms of PID in order to access necessary services like eye and dental care.

## **RECOMMENDATIONS:**

### ***Birth Registration***

- Canada must remove all charges associated with birth registration;
- Canada must coordinate with Provincial and Territorial governments to remove the requirements of guarantors in birth registration;
- Canada must coordinate with Provincial and Territorial governments to ensure that kinship agreements are recognized across all ministries and services;
- Canada must invest in capacity building within communities through dedicated funding and provincial and territorial partnership agreements, to ensure support for parents prior to and after the birth of children, to increase access to birth registration; and
- Canada must implement Jordan's Principle, such that children receive services first, before jurisdictional disputes are resolved.

**Relevant Articles of the Convention: arts. 2, 6, 7, 24**

## **Violence against Children**

### **Appropriate Supports for Children Facing Forced Marriage**

Community partners continue to observe the absence of supports for children and youth in situations of forced marriage. In the Canadian context, community partners observe the incidence of forced marriages both in Canada, and abroad, where for example, an individual is taken abroad their family's home country, and thereafter forced into marriage. Forced or non-consensual marriage, "is a form of domestic violence and a global human rights issue" that is "characterized by coercion, where individuals are forced to marry against their will, under duress and/or without full, free and informed consent from both parties."<sup>22</sup> Victims are not a monolith,

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<sup>22</sup> South Asian Legal Clinic of Ontario, *Who if When to Marry: The Incidence of Forced Marriage in Ontario*, by Maryum Anis, Shalini Konanur & Deepa Mattoo (Toronto: SALCO, 2013) at 4, online (pdf): [https://salc.on.ca/Documents/FM/SALCO%20-%20Who,%20If,%20When%20to%20Marry%20%20-The%20Incidence%20of%20Forced%20Marriage%20in%20Ontario%20\(Sep%202013\).pdf](https://salc.on.ca/Documents/FM/SALCO%20-%20Who,%20If,%20When%20to%20Marry%20%20-The%20Incidence%20of%20Forced%20Marriage%20in%20Ontario%20(Sep%202013).pdf) > [*Who if When to Marry*].

and come from “varied backgrounds, communities, cultures, ages, religions, etc.”<sup>23</sup> Additionally, while women constitute the largest data set in surveys conducted by the South Asian Legal Clinic of Ontario (SALCO), forced marriage was shown to occur across gender boundaries.<sup>24</sup> However, given the ages considered “most eligible for marriage” across many cultures, young people are at the greatest risk. SALCO’s survey found that 25% of individuals in situations of forced marriage were between the ages of 16-18, with 31% between the ages of 19-24.<sup>25</sup> Family and community members may use emotional pressure, threats, violence, or other abuse, to effect an individual’s compliance. Minors, who are financially dependent on family members, are particularly vulnerable.<sup>26</sup> Poverty, lack of education, low income and unemployment opportunities, are all also been linked to the incidence of forced marriage situations.<sup>27</sup>

Victims of forced marriage face devastating long-term consequences, including isolation, estrangement, strained familial relationships, and health concerns such as depression and anxiety. While community organizations have done extensive work in education across Canada,<sup>28</sup> this is by no means comprehensive or comparable to the scope and reach of a federal education campaign. According to survey results, “in 39% of cases, service providers had difficulty finding individual or group counselling, any mental health services, substance abuse programs or suicide help lines that understood the uniqueness of [forced marriage] situations.”<sup>29</sup> Education is the most effective tool in preventing forced marriages, including in ensuring that individuals are either not taken abroad, or have a safety plan if they are.<sup>30</sup> Of survey respondents, 50% of individuals were unaware of their rights pertaining to forced marriage.<sup>31</sup>

Further, when forced marriages are taking place abroad, community organizations are especially concerned by Canadian embassies’ tendency to take the position that they are only able to support Canadian citizens, and in some cases, permanent residents. This altogether leaves out temporary resident visa holders such as students.

Ultimately, Canada does not collect statistical data pertaining to forced marriage. The work of community organizations in collecting this data and spreading awareness and education cannot be a substitute for Government action.

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<sup>23</sup> Ibid; South Asian Legal Clinic of Ontario, *Forced/Non-Consensual Marriages Toolkit for Service Providers*, by Shalini Konanur et al (SALCO, 2016), online (pdf): <[https://salc.on.ca/Documents/SALCO\\_FM\\_Toolkit.pdf](https://salc.on.ca/Documents/SALCO_FM_Toolkit.pdf)>.

<sup>24</sup> *Who if When to Marry*, *supra* at 4.

<sup>25</sup> Ibid at 10.

<sup>26</sup> Ibid at 15.

<sup>27</sup> Ibid at 17.

<sup>28</sup> Ibid at 9.

<sup>29</sup> Ibid at 20.

<sup>30</sup> Ibid at 13.

<sup>31</sup> Ibid at 14.

## RECOMMENDATIONS:

### *Appropriate Supports for Children Facing Forced Marriage*

- Canada, in coordination with Provincial and Territorial governments, must invest in an education campaign and support services for individuals, with specialized training and guidelines for service providers;
- Canada must broaden the eligibility and protections afforded through foreign embassies abroad in order to provide the most robust supports for victims of forced marriage; and
- As part of a national data collection system, mandating Federal, Provincial, Territorial, and Municipal governments to collect disaggregated data, Canada must collect and analyze disaggregated data on the incidence of forced marriage for children and youth.

**Relevant Articles of the Convention: arts. 24(3)**

## Family Environment and Alternative Care

### Appropriate Assistance to Parents

#### Canada Child Benefit

The Canada Child Benefit (CCB) is a tax-free monthly payment made to eligible families to help with the cost of raising children, administered through the income tax system. This may be the only amount a family receives to cover basic needs for children, including food, diapers, clothing and other necessities. In the case of Ontario, provincial social assistance no longer includes income supports for the children of recipients, but rather only provides a shelter allowance for the family, and a basic needs allowance for adult family members only.<sup>32</sup> Support for children is received solely through the CCB and Ontario Child Benefit, which are combined into a single payment. As social assistance amounts are insufficient to address actual costs, the CCB therefore represents a vital and significant portion of a family's income, without which they are unable to meet basic needs. However, while the CCB is critical in helping close gaps that undermine the health and well-being of low-income children in Canada, it widens the gap for others.

#### *Eligibility*

The CCB is administered through the income tax system, and is only available to those who are resident in Canada for tax purposes and have filed an income tax return. Residency for the purpose of filing income tax does not depend on one's immigration status. It only requires an individual to have "significant residential ties" to Canada, such as a home, a spouse or common-law partner and dependants in Canada.<sup>33</sup> A resident is also deemed to be a resident if they are

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<sup>32</sup> *Ontario Works Act*, 1997, SO 1997, c 25, Sched A, s 5.

<sup>33</sup> Canada, "Income Tax Folio S5-F1-C1, Determining an Individual's Residence Status", (last modified 5 April 2016), online: <<https://www.canada.ca/en/revenue-agency/services/tax/technical-information/income-tax/income->

present in Canada for 183 days or more in any calendar year.<sup>34</sup> As a result, many of those living in Canada, even with precarious immigration status, are required to pay taxes.

However, for the purpose of applying for CCB, the *Income Tax Act* limits eligibility for the CCB to only citizens, permanent residents, protected persons (e.g. refugees), temporary residents who have lived in Canada for 18 months and “Indians” registered under the *Indian Act*. This means that even if their parents meet each of the other eligibility requirements, namely living with and being the primary caregiver of the child and paying their income taxes, many children in Canada are unfairly and arbitrarily excluded solely on the basis of their parents’ immigration status. These families are caught in an unfair system that requires them to contribute to the tax system yet excludes them from benefiting.

These rules exclude many families who are striving to make Canada their home permanently, such as refugee claimants awaiting a determination of their claim. It excludes children who cannot leave Canada for reasons beyond their control, such as those whose parents are from countries where Canada has issued a moratorium on removal because of dangerous conditions. It also excludes children who are Canadian citizens, but whose parents do not fall within the limited immigration eligibility categories. Many of these families will be in Canada for extended periods and/or will eventually be granted the right to remain in Canada permanently, but the pernicious effects of poverty will already have taken root.

In Canada, non-permanent residents have a poverty rate of 42.9%, compared with 14.2% for the general population.<sup>35</sup> The children of non-permanent residents are therefore among those most in need of financial support. Further, despite the lack of more specific data on the incomes of “non-permanent residents,” many of the issues and barriers facing recent immigrants are also experienced by people without regularized status, although the precariousness of their status will often exacerbate these problems. Recent immigrants with children are 13 times more likely to live in chronic low income than individuals born in Canada.<sup>36</sup> Recent immigrants experience higher unemployment (10% for recent immigrants, as compared to 7% among Canadian-born workers).<sup>37</sup> The 2016 Census also documents that the average wage of a recent immigrant is \$33,913, as compared to \$47,792 for non-immigrants.<sup>38</sup> Immigrant women are amongst the

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[tax-folios-index/series-5-international-residency/folio-1-residency/income-tax-folio-s5-f1-c1-determining-individual-s-residence-status.html](https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/dt-td/Rp-eng.cfm?LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GID=0&GK=0&GRP=1&PID=110561&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=999&Temporal=2016,2017&THEME=119&VID=0&VNAMEE=&VNAMEF=>)>.

<sup>34</sup> Ibid.

<sup>35</sup> Statistics Canada, Data Tables, 2016 Census, Table 98-400-X2016206, online:

<<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/dt-td/Rp-eng.cfm?LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GID=0&GK=0&GRP=1&PID=110561&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=999&Temporal=2016,2017&THEME=119&VID=0&VNAMEE=&VNAMEF=>>>.

<sup>36</sup> Anita Khanna, *2017 Report Card on Child and Family Poverty in Canada: A Poverty-Free Canada Requires Federal Leadership* (Campaign 2000: Toronto, 2017) at 10, online: <<https://campaign2000.ca/wp-content/uploads/2017/11/EnglishNationalC2000ReportNov212017.pdf>>.

<sup>37</sup> Canada, *A Backgrounder on Poverty in Canada* (Ottawa: Her Majesty the Queen in Right of Canada, 2016) at 15, online: <<https://www.canada.ca/en/employment-social-development/programs/poverty-reduction/backgrounder.html>> [*A Backgrounder in Poverty in Canada*].

<sup>38</sup> Statistics Canada, Data Tables, 2016 Census, Table 98-400-X2016205, online:

<<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/dt-td/Rp-eng.cfm?LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GID=0&GK=0&GRP=1&PID=110561&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=999&Temporal=2016,2017&THEME=119&VID=0&VNAMEE=&VNAMEF=>>>.

groups most affected by the gender wage gap. In Ontario, for example, immigrant women earn 39% less on average than non-immigrant men. That gap rises to 43% for recent immigrants. Very young children in mother-led families are even more likely to be disadvantaged because the earnings of new mothers (not new fathers) tend to drop in the year of childbirth and for several years after.<sup>39</sup> Almost 13% of households maintained by recent immigrants are in “severe housing need”, meaning that they spend at least 50% of their before-tax income on housing. The rate is only 5% for all Canadian households.<sup>40</sup> These statistics demonstrate that some of the families most in need of financial support are also amongst those most likely to be excluded from the CCB. Meanwhile, the lifelong consequences for the children in these families can be devastating. Poverty leads to sub-standard housing, lack of access to nutritious food, chronic health conditions, greater risk of violence, and insecurity. Low-income people fare worse on most any measure of well-being, from infant mortality to life expectancy.

Newcomer and racialized women also face disproportional impacts from gender-based violence, due to the many barriers they face, including language barriers, lack of knowledge of the justice system, lack of employment, discrimination, and racism.<sup>41</sup> Women with precarious immigration status are often forced to choose between remaining in an abusive relationship together with their children, deportation, and living without access to social services or the ability to work. Women with Canadian-born children are also often prevented from taking their children out of the country to return to their country of origin with them.<sup>42</sup> Even if women are able to overcome these barriers and leave abusive situations, they must bear the burden of poverty that arises for so many women following family breakdown.

### *Structural Barriers*

As noted above, as a consequence of geography and Canada’s historical and contemporary colonial policies, obstacles to birth registration are disproportionately faced by Indigenous peoples, particularly in rural and fly-in communities in the far north. The CCB is among the social supports whose access is contingent on possessing a birth certificate. Without birth registration, Indigenous children cannot receive benefits through the CCB. While community organizations have been helping individuals obtain birth certificates and other identification, the limited resources available means that individuals are unable to acquire the identification necessary for the CCB.

Additionally, the CCB is ultimately administered through the income tax system, which has proven to be ill-equipped to serve the complex needs of low-income families, and especially Indigenous families.

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[110560&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=0&Temporal=2017&THEME=120&VID=0&VNAMEE=&VNAMEF=>](#).

<sup>39</sup> Statistics Canada, *Children Living in Low-Income Households: Census of Population, 2016* (Ottawa: Statistics Canada, 2017) at 2, online: <[http://publications.gc.ca/collections/collection\\_2017/statcan/98-200-x/98-200-x2016012-eng.pdf](http://publications.gc.ca/collections/collection_2017/statcan/98-200-x/98-200-x2016012-eng.pdf)>.

<sup>40</sup> *A Backgrounder in Poverty in Canada*, *supra* at 21.

<sup>41</sup> West Coast LEAF, “Position Paper on Violence against Women Without Immigration Status” (Vancouver: West Coast LEAF, 2012) at 1, online: <<http://www.westcoastleaf.org/wp-content/uploads/2014/10/2012-POSITION-STATEMENT-Women-without-Status-in-Canada.pdf>>.

<sup>42</sup> *Ibid.*

First, income taxes must be filed each year in order to continue to receive CCB. However, there are very scarce resources to assist people to file their income tax returns, particularly in First Nation communities.

When eligibility is under review, taxpayers are required by the Canada Revenue Agency (CRA) to provide detailed information including regarding their citizenship, residence, spousal status, and children. If they do not respond promptly, their CCB benefits can be cut off. However, collecting this information, including obtaining specific records, presents additional challenges and costs. This has included the demand for proof of citizenship despite the CRA already having a recipient's Indian status number on file, and the high costs associated with obtaining rush copies of documents.<sup>43</sup> Individuals are also often required to provide letters from professionals, such as doctors and lawyers, to confirm details about their family and living arrangements. Many individuals will not know or have access to professionals on the list, and as noted above, this obstacle is particularly acute for individuals residing in remote northern First Nation communities. People with precarious immigration status will also have less access to these professional groups.

Community partners have expressed particular concern about how supposedly random audits are initiated. They observe a trend in case files where "random" audits disproportionately capture women with more children, and as a consequence, Indigenous women – Indigenous people have the highest birth rate in Canada, resulting in larger households. Indigenous women are over-represented in case files concerning random and subsequent audits. Community partners are also concerned about audits initiated seemingly as a result of information provided through tax returns, such as address information of children's fathers. Sometimes ex-spouses utilize a client's mailing address without permission, or are transient and as a result use their children's address to reliably receive mail, not realizing the consequences for CCB audit and eligibility. In First Nations communities in particular, the limited number of post office boxes in each community also means that people continue to share a box despite a relationship breaking down, and as a result, share the same mailing address.

Further, unlike provincial social assistance programs, which are administered through local offices, and which assign caseworkers as a direct point of contact for any questions and concerns, there is no parallel system for CCB. The sole method of communication is through an often busy toll-free telephone line or by writing, which imposes obstacles for individuals without telephones, literacy, or resources. The extensive security screening within the toll-free telephone system poses further obstacles in accessibility. Community partners have further observed the lack of direct communication with legal representatives, even where an authorization is on file. The lack of direct contact leads to additional delays and barriers for vulnerable clients, including those with insecure housing situations who may not reliably receive mail, and those with additional barriers such as in language and literacy.

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<sup>43</sup> Jennifer Quesnel, "Low-income, Indigenous families feel weight of child benefit reviews" *CBC News*, 25 May 2017, online: <<https://www.cbc.ca/news/canada/saskatoon/low-income-indigenous-families-feel-weight-of-child-benefit-reviews-1.4120221>>.

If an individual is denied, determined to no longer qualify, or to have received a payment in error, benefits are suspended. Unlike provincial social assistance programs however, there is no mechanism to obtain interim benefit payments pending the resolution of the appeal, which itself is a lengthy process, taking up to several months or even years for appeals to the Tax Court. Families relying on the CCB as a vital part of their monthly income are as a result abruptly left without recourse, unable to pay for their basic needs, thus putting their housing, health, and safety at risk.

Outstanding debts are also often paid through a punitive 100% recovery rate, unlike many provincial social service regimes. Where there is an outstanding debt in relation to the past receipt of CCB (or the previous child benefits regime), the CRA often recovers overpayments at a rate of 100% deduction of benefits until the overpayment is fully repaid. Under Ontario's social assistance legislation, deductions for the collection of overpayments are limited to 10% of the financial assistance. A 100% recovery rate fails to recognize the vulnerability of recipient families who often cannot meet the basic needs of their children without the CCB. Furthermore, overpayments are applied to the parent for any previous child for whom there is or was an overpayment issue. For instance, a mother who had an overpayment from 15 years ago and has a new child, will not receive CCB for the new child until the overpayment is recovered for the other matter.

The CCB's implementation of mandatory direct deposit for benefits also presents a further barrier for those without access to bank accounts and who rely on receiving physical cheques from the government. Notably, without a birth certificate individuals cannot acquire a social insurance number (SIN) and without a SIN, it is impossible for them to open a bank account. The barriers to birth registration that disproportionately affect Indigenous people once again prevent access to crucial social supports. Despite efforts by community organizations, limited resources means that individuals are unable to acquire the identification necessary to obtain a bank account, and as a result, will lose access, even temporarily, to the CCB.

As will be discussed below, the barriers to accessing and maintaining eligibility for CCB has particularly devastating consequences for Indigenous and racialized families, who are over-represented in the child welfare system as a result of bias, and negative and incorrect assumptions about poverty, race, and risk. Socio-economic stressors that disproportionately affect them are often used to justify apprehension.

### EI Parental Benefits

Current changes to employment insurance (EI) parental leave allow parents to spread the 12 months of parental leave over 18 months. However, the quantum of benefits remains the same, which means that parents would still receive the same amount of benefits if they take 12 months or if they 18 months. This extension means that benefits are simply stretched over a longer period. Most low-income families would not be able to take advantage of a longer parental leave without additional financial support, and so children from those families simply do not benefit from the change. Changes should be made to the EI parental leave regime to recognize that inequity of the scheme for low-income families, including providing more benefits for new parents and lowering the benchmark for parents to qualify (lowering the number of hours to



qualify for parental leave). The existing poverty of parents must not be a barrier to the full enjoyment of the parental leave regime.

### **Counselling in Child-Rearing, Including Culturally Appropriate Assistance**

Canada is one of the most multicultural and diverse countries in the world, accepting thousands of newcomers every year. In 2016, 21.9% of the Canadian population was born outside of Canada,<sup>44</sup> and in 2017, Canada welcomed more than 286,000 permanent residents, including more than “44,000 resettled refugees, protected persons and individuals admitted under humanitarian, compassionate and public policy grounds.”<sup>45</sup> Canada plans to further raise immigration levels to between 310,000 and 360,000 in 2020.<sup>46</sup>

Community service providers continue to express concern over the dearth of supports for newcomer parents of all backgrounds, particularly supports that are culturally specific and in their spoken languages. While some newcomers will have some proficiency in the official languages upon arrival, many still face language barriers that prevent them from attaining crucial information to support their children’s development and health needs, including education related to vaccinations, nutrition, and available services. There has been an increase in the proportion of immigrants with knowledge of neither of the official languages in the latest census data, likely linked to the increase in the number of refugees with a mother tongue other than English or French.<sup>47</sup>

Additionally, due to the ongoing precarious nature of provincial funding to support programs and initiatives for racialized communities, Black children and families need and deserve sustained governmental commitment and funding to ensure that previously implemented programs, such as the Innovative Supports in Ontario for Black Parents Initiative, continue to be funded. Canada and Provincial and Territorial governments must ensure that culturally specific initiatives for Black and Indigenous parents are available throughout all the provinces and territories.

### **Out of Home Care**

Under article 9 of the Convention, children have a right not to be separated from their parents against their will, unless it is in their best interest to do so. Under article 20.3, where this separation does occur, due regard must be given to the child’s ethnic, religious, cultural, and linguistic background.

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<sup>44</sup> Statistics Canada, *Immigration and Language in Canada, 2011 and 2016*, by Brigitte Chavez, Catalogue No 89-657-X2019001 (Ottawa: Statistics Canada), online: <<https://www150.statcan.gc.ca/n1/pub/89-657-x/89-657-x2019001-eng.htm>> [*Immigration and Language in Canada*].

<sup>45</sup> Immigration, Refugees and Citizenship Canada, *2018 Annual Report to Parliament on Immigration* (Ottawa: IRCC, 2018) at 2, online: <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2018/report.html>>.

<sup>46</sup> Canada, “Immigration, Refugees and Citizenship Canada Departmental Plan 2018-2019” (last modified 20 December 2018) online: <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/departmental-plan-2018-2019/departmental-plan.html>>.

<sup>47</sup> *Immigration and Language in Canada*, *supra* at 9.

Indigenous, Black, and other racialized children continue to be severely over-represented in the Canadian child welfare system, with long-term placement in foster care being correlated with lower education achievement, future homelessness, and involvement with the criminal justice, welfare, and mental health systems.<sup>48</sup> While the pathways and underlying root causes vary between Indigenous children and racialized children, these disparities are evident.<sup>49</sup> In Ontario, the proportion of Black children admitted into care was 2.2 times higher than their proportion in the child population.<sup>50</sup> In a 2016 report by the Ontario Association of Children's Aid Societies, in Toronto, the largest city in Canada, Black Canadians constitute 8.5% of the population of Toronto, but 40.8% of the children in care.<sup>51</sup> Data for another Ontario city showed Black youth representing a staggering 65% of the children in group care despite representing only 8% of the municipality's population.<sup>52</sup> Also in 2016, across Canada, 52.2% of children under the age of 15 in foster care were Indigenous, despite Indigenous children representing only 7.7% of the child population.<sup>53</sup> While Indigenous children are only 7% of the youth population in Canada, they represent more than 50% of all children in foster care.<sup>54</sup> The rate in Manitoba is even more alarming, at almost 90%.<sup>55</sup> These numbers are further believed to be underestimates, given that child welfare workers frequently misidentify Métis children as White, or altogether do not ask about Indigenous identity.<sup>56</sup>

Ontario-based research further observed that “Indigenous, Black, Latin American and West Asian children are more likely to be the subject of maltreatment-related investigations than White children.”<sup>57</sup> Research suggests the over-reporting of racialized families to child welfare authorities is linked to unconscious bias, and negative and incorrect assumptions that are made about poverty, race, and risk.<sup>58</sup> Socio-economic stressors that disproportionately affect Indigenous, Black, and other racialized children, are often used to justify apprehension, despite

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<sup>48</sup> *One Vision One Voice: Changing the Ontario Child Welfare System to Better Serve African Canadians, Part 1* (2016), online (pdf): <[http://www.oacas.org/wp-content/uploads/2016/09/One-Vision-One-Voice-Part-1\\_digital\\_english.pdf](http://www.oacas.org/wp-content/uploads/2016/09/One-Vision-One-Voice-Part-1_digital_english.pdf)> [*One Vision One Voice*].

<sup>49</sup> Ontario Human Rights Commission, *Interrupted Childhoods: Over-representation of Indigenous and Black children in Ontario child welfare* (2018) at 6, 17, online: <<http://www.ohrc.on.ca/en/interrupted-childhoods>> [*Interrupted Childhoods*].

<sup>50</sup> *Interrupted Childhoods*, *supra* at 39-40.

<sup>51</sup> *One Vision One Voice*, *supra* at 21.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Interrupted Childhoods*, *supra* at 7. See also Statistics Canada, Data tables, 2016 Census, Table 98-400-X2016162, online: <[www12.statcan.gc.ca/census-recensement/2016/dp-pd/dt-td/Rp-eng.cfm?LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GID=0&GK=0&GRP=1&PID=110517&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=0&Temporal=2017&THEME=122&VID=0&VNAMEE=&VNAMEF=>](http://www12.statcan.gc.ca/census-recensement/2016/dp-pd/dt-td/Rp-eng.cfm?LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GID=0&GK=0&GRP=1&PID=110517&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=0&Temporal=2017&THEME=122&VID=0&VNAMEE=&VNAMEF=>)>.

<sup>54</sup> Statistics Canada, *First Nations People, Métis and Inuit in Canada: Diverse and Growing Populations*, Catalogue No 89-659-x2018001 (Ottawa: Statistics Canada, 2018), online: <<https://www150.statcan.gc.ca/n1/pub/89-659-x/89-659-x2018001-eng.htm>>.

<sup>55</sup> Manitoba, *Report of the Legislative Review Committee: Opportunities to Improve Outcomes for Children and Youth* (September 2018) at 4, online: <[https://www.gov.mb.ca/fs/child\\_welfare\\_reform/pubs/final\\_report.pdf](https://www.gov.mb.ca/fs/child_welfare_reform/pubs/final_report.pdf)>.

<sup>56</sup> *Interrupted Childhoods*, *supra* at 42.

<sup>57</sup> *Interrupted Childhoods*, *supra* at 6. See also *One Vision One Voice*, *supra* at 22.

<sup>58</sup> *Interrupted Childhoods*, *supra* at 24-27. See also African Canadian Legal Clinic, *Making Real Change for African Canadians: Report of the African Canadian Legal Clinic to the CERD (93rd Session, 2017)*, online: <[https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT\\_CERD\\_NGO\\_CAN\\_28173\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CAN/INT_CERD_NGO_CAN_28173_E.pdf)> [*Making Real Change Happen*].

not necessarily reflecting any risk to the child. For example, requirements pertaining to the number of children allowable per bedroom are onerous and disproportionately punish families living in poverty.<sup>59</sup> The Ontario Human Rights Commission has found, “[t]he rate of “neglect only” investigations for First Nations children is six times higher than that of non-Aboriginal children.”<sup>60</sup> Lack of affordable childcare has also led to families relying on older siblings for the care of younger children, or for children to be left home alone, resulting in risking involvement of the child welfare services for lack of “proper supervision.”<sup>61</sup>

In the case of Indigenous children, severe over-representation in the child welfare system is inextricably tied to a long history of colonial violence and oppression,<sup>62</sup> including assimilationist policies such as residential schools and the “Sixties Scoop.” These practices uprooted Indigenous children from their families and communities and continue to be root causes of intergenerational and current day social and economic disadvantages and outcomes.<sup>63</sup> As the Truth and Reconciliation Commission had heard, “the child welfare system continued a multigenerational cycle of displacement and alienation. Many children lost contact with both their families and their Aboriginal identity forever.”<sup>64</sup> The National Inquiry into Missing and Murdered Indigenous Women and Girls further found Canada to be guilty of ongoing genocide.<sup>65</sup>

This Committee has already urged Canada in its 2012 Concluding Observations of the need to “take urgent measures” to address these disparities. Once again, we call on Canada to implement expansive measures preventing the disproportionate apprehension of children of Indigenous, Black, and racialized backgrounds. Such measures must include addressing the root causes of overrepresentation, including acknowledging how “white supremacy, colonialism, and anti-Black racism . . . have been woven into the fabric of child welfare policies and practices, leading to the creation of long-standing disproportionalities and disparities for African Canadian and Indigenous communities.”<sup>66</sup> Without this recognition and meaningfully addressing it through training, reform and transformation, meaningful change will not be possible.

Further, addressing the root causes of issues that affect vulnerable families should be made a priority by all levels of government. Addressing the poverty-related links to involvement with the child welfare system should also mean increased funding for services that address basic

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<sup>59</sup> *Interrupted Childhoods*, *supra* at 25.

<sup>60</sup> *Interrupted Childhoods*, *supra* at 18.

<sup>61</sup> *One Vision One Voice*, *supra* at 31.

<sup>62</sup> See also *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019), online: <<https://www.mmiwg-ffada.ca/final-report/>> [*Reclaiming Power and Place*].

<sup>63</sup> *Interrupted Childhoods*, *supra* at 17-18.

<sup>64</sup> Truth and Reconciliation Commission of Canada, *The Final Report of the Truth and Reconciliation Commission of Canada, Vol 5, Canada’s Residential Schools: The Legacy* (2015) at 16, online: <[http://www.trc.ca/assets/pdf/Volume\\_5\\_Legacy\\_English\\_Web.pdf](http://www.trc.ca/assets/pdf/Volume_5_Legacy_English_Web.pdf)>.

<sup>65</sup> *Reclaiming Power and Place*, *supra*. See also *A Legal Analysis of Genocide: Supplementary Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019), online (pdf): <[https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report\\_Genocide.pdf](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Supplementary-Report_Genocide.pdf)>.

<sup>66</sup> *One Vision One Voice*, *supra* at preamble.

needs for families, including universal child care, affordable housing, public transit, and living wage standards.<sup>67</sup>

## Family Class Immigration

### Undeclared Family Members

All individuals applying to become permanent residents in Canada are required to declare all of their immediate family members in their application, namely their spouse or common-law partner, and dependent children. Regulation 117(9)(d) of the *Immigration and Refugee Protection Regulations* however, imposes a lifelong sponsorship ban on previously undeclared family members. This excessive and punitive measure is in place despite the multitude of valid reasons for failing to declare these family members, and disproportionately affects refugees and vulnerable migrants, especially children.<sup>68</sup> Information attained through an Access to Information Request by the Canadian Council for Refugees (CCR) revealed that between 2010 and 2014, 55% of the approximately 1,150 sponsorships refused on the basis of r. 117(9)(d) were applications to sponsor children.

Reasons for not declaring family members include gender-based oppression, fear of endangering family members, unexpected changes in circumstances, fear of penalty for breaching family planning law,<sup>69</sup> and lack of information. Gender-based oppression may prevent women from declaring children born out of wedlock or of a prior relationship.<sup>70</sup> Applicants may also not disclose children out of fear that these children will be put in danger as a result, or will expose the family to political persecution at home.<sup>71</sup> In some cases, applicants may be unaware of the existence of family members or whether certain family members were in fact alive.<sup>72</sup> In other cases, family members are not disclosed due to misinformation and barriers to understanding the immigration process.<sup>73</sup>

In such cases, the only avenue for family reunification is through an application for an exemption based on humanitarian and compassionate grounds, a process that is highly discretionary, expensive, inconsistent, and lengthy.<sup>74</sup> Despite the government justifying r. 117(9)(d) as a measure to combat fraud and misrepresentation, it is both excessive and redundant. Regulation 117(9)(d) is the only regulation in Canada's immigration regime that imposes such a lifetime ban

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<sup>67</sup> *One Vision One Voice*, *supra* at 30.

<sup>68</sup> Canadian Council for Refugees, *Excluded Family Members: Brief on R. 117(9)(d)* (May 2016) at 1, online: <<https://ccrweb.ca/sites/ccrweb.ca/files/excluded-family-members-brief-may-2016.pdf>>.

<sup>69</sup> This is particularly common among immigrants from China, where the national family planning law prohibits families from having more than two children (and previously more than one child). Those who are in breach of the family law may sometimes not declare the existence of children who were never registered in China.

<sup>70</sup> *Ibid* at 4.

<sup>71</sup> *Ibid* at 5.

<sup>72</sup> *Ibid* at 5.

<sup>73</sup> *Ibid* at 6.

<sup>74</sup> *Ibid* at 6-7.

against family unification, and there are already laws in place to combat misrepresentation and otherwise circumventing the immigration system.<sup>75</sup>

The impacts of continued family separation are devastating. Children may be forced to remain in the same precarious and dangerous country conditions that led to their parents seeking protection in Canada, or to remain in third countries in which they lack secure status; they may also altogether lack a stable caregiver and home.<sup>76</sup> The psychological impacts on children from separation from their parents and families are also devastating, and extend to those parents and children in Canada. Parents struggle to support themselves while navigating the stressful immigration process alone.<sup>77</sup>

### De Facto Children

In some situations, the definition of “dependant” within Canada’s immigration system leads to family separation. Community organizations continue to observe numerous cases especially from Pakistan where children are not found to be part of the family class under adoption. As Pakistan does not formalize adoptions in a way consistent with Canadian or international law, Canada does not recognize a “legal” adoption process in Pakistan. Canada therefore continues to deny the validity of these family relationships, despite other countries, including the UK and US, acknowledging that these are in fact *de facto* children and therefore eligible for sponsorship. A similar issue arises for families who may have taken in and raised children as their own family members,<sup>78</sup> but lack formal adoption papers and are unable to attain them. In some cases, formalization of a past adoption is altogether impossible.

As with undeclared family members, families are left at mercy of the highly discretionary, expensive, inconsistent, and lengthy process of applying for an exemption on humanitarian and compassionate grounds.

### Unaccompanied and Separated Children

Currently, refugee children in Canada are not afforded a pathway to reuniting with family members outside of Canada. While adult refugees may reunite with family members as they apply for permanent residence by including their spouse and dependent children on their application, refugees who are minors can only apply for permanent residence for themselves, given the definition of “family member” within the *Immigration and Refugee Protection Regulations*.<sup>79</sup> However, minors cannot act as sponsors in family class sponsorship, and even upon reaching the age of majority, sponsoring parents or siblings entails minimum necessary income requirements unlikely to be met by many immigrants and refugees, but especially young people. Refugee children are therefore left with no recourse for reunification, instead facing indefinite separation from their parents and families.

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<sup>75</sup> Ibid at 2; *IRPA*, *supra* s 40, 126.

<sup>76</sup> Ibid at 9.

<sup>77</sup> Ibid 10-11.

<sup>78</sup> For example, community partners have observed the incidence of families from China who have taken in abandoned girls, raising them as their own, but lacking formal adoption papers.

<sup>79</sup> *Immigration and Refugee Protection Regulations*, SOR/2002-227, s 176(1), 1(3) [*IRPR*]

Canada continues to reason that such exclusion is to “provide safeguards against the potential exploitation of children” as “[a]llowing children to include parents on their application increases this risk as unaccompanied minors are more vulnerable.”<sup>80</sup> Yet, Canada has confirmed that that it is “not aware of any research being conducted or available statistical evidence [to support the policy].”<sup>81</sup> In contrast, the evidence of irreparable harm to children and families as a result of family separation is undeniable. Moreover, as the CCR observed 16 years ago, even if there were such a problem, “innocent children cannot be deprived of family reunification to act as a deterrence.”<sup>82</sup> It should further be noted that if parents were able to accompany their children to Canada, these parents would also likely be accepted as refugees, rendering null the argument that there may be advantages to sending their children ahead.<sup>83</sup>

### Minimum Necessary Income

In 2011, the Federal Government introduced a number of policy changes that restrict family class sponsorship, including increasing the financial burden of families who seek to reunite with their parents and grandparents to the minimum necessary income plus 30%.<sup>84</sup> However, as members of racialized communities and recent immigrants are more likely to live in poverty, these financial eligibility requirements have a disproportionately negative impact on these communities. Immigrants from Asia and other parts of the Global South are also more likely to apply through the family class stream, and are more likely than immigrants from a European background to adopt an extended family structure.

A larger family support system is a powerful tool to enable women to re-enter the workforce and help lift families out of poverty, given the lack of affordable childcare. It also helps women, who are often the primary caregivers of children, to build their networks and support systems, thereby decreasing their social and emotional isolation, financial dependence, and vulnerability to gender-based violence.

## **RECOMMENDATIONS:**

### ***Appropriate Assistance to Parents***

- The current exclusions based on immigration status should be removed from the *Income Tax Act*, such that every parent in Canada who is considered a resident for income tax purposes should be eligible for the CCB;
- Particular consideration must be given when considering CCB audits of individuals residing in a First Nation community and individuals receiving social assistance, keeping

<sup>80</sup> Brian Hill, “Calls to end policy that blocks child refugees in Canada from reuniting with parents” *Global News*, 29 June 2018, online: <<https://globalnews.ca/news/4302957/calls-end-policy-blocks-child-refugees-reuniting-parents/>>.

<sup>81</sup> Ibid.

<sup>82</sup> Canadian Council for Refugees, *Impacts on children of the Immigration and Refugee Protection Act* (November 2004) at 6-7, online: <<https://ccrweb.ca/files/children.pdf>>.

<sup>83</sup> Ibid.

<sup>84</sup> *IRPR*, *supra* s 133(1)(j).

in mind barriers to responding to requests;

- Requests for information must also be tailored to the individual, requesting only information that is necessary to confirm eligibility, as opposed to sending form letters requesting repetitive documentation and documentation that has already been provided;
- Specialized caseworkers should be responsible for the CCB audits, especially for First Nation communities, and contact information provided, to assist in collecting and providing the information that is necessary to review eligibility benefits;
- A system of interim CCB assistance should be implemented while appeals are being processed, along with a responsive system in place to address objections, disclose documents, and facilitate mediation, or an early resolution process;
- Where an individual identifies a legal representative, the CRA must directly communicate with the representative, especially when responding to correspondence directly from the representative;
- The default for collection of CCB overpayments should not be a 100% rate of recovery
- Support should be provided to low-income individuals to obtain identification and to open bank accounts, and paper cheques should continue to be available to those who do not have access to banking services; and
- Canada must expand the current EI parental benefits regime, and ensure that the existing poverty of parents is not a barrier to the full enjoyment of the parental leave regime.

**Relevant Articles of the Convention: arts. 2, 3, 6, 18.2, 26**

#### ***Counselling in Child-Rearing, Including Culturally Appropriate Assistance***

- Canada must invest in and coordinate with Provincial and Territorial governments to develop culturally and linguistically appropriate supports, particularly for newcomer parents, facilitating health literacy and awareness of resources available to them and their children; and
- Canada must coordinate with Provincial and Territorial governments to ensure sustained commitment and funding in existing support programs for Black and Indigenous children and families

**Relevant Articles of the Convention: arts. 5, 24**

#### ***Out of Home Care***

- Canada must coordinate with all Provincial and Territorial governments to ensure implement expansive training, reform, and transformation of the child welfare system that explicitly acknowledges the institutionalization of white supremacy, colonialism, and anti-Black racism within the child welfare system;
- Canada must prohibit the apprehension of children on the basis of poverty and cultural bias, and invest in much needed culturally appropriate programs and agencies to eradicate poverty and help families to succeed and thrive. Canada, in coordination with all Provincial and Territorial governments, must adopt an approach to child welfare that focuses on supporting strong and healthy families, rather than removing children;
- Canada must ensure that where apprehension into care is unavoidable, the priority is for

children to be placed with other family members or close community members, and that financial supports are provided that are equal to that which would be paid to a foster family; and

- Given the disproportionate impact the child welfare system has on Black children and families, a child welfare agency must be established that is directed, developed and operated by the African Canadian community (similar to the CASs that already exist for the Jewish, Catholic and Indigenous communities).

**Relevant Articles of the Convention: arts. 2, 3, 9, 20.3**

### *Family Class Immigration*

- Canada must create a path for family reunification of refugee children;
- Canada must create a path for family reunification of *de facto* children, by recognizing a broader definition of the parent-child relationship beyond formal legal adoption;
- Canada must repeal regulation 117(9)(d) of the *Immigration and Refugee Protection Regulations*; and
- Canada must repeal the minimum income requirement for sponsorship of parents and grandparents

**Relevant Articles of the Convention: arts. 3, 5, 9, 10**

## **Disability, Basic Health and Welfare**

### **Universal Healthcare Coverage for All Children**

Community partners continue to observe incidents of children born in Ontario to parents without immigration status, being denied healthcare coverage despite the Ontario Ministry of Health's directive.<sup>85</sup> In fact, parents are observed to routinely be denied access to the services and benefits for their children, to which these children are entitled as citizens. Certain provinces including Ontario continue to impose a three-month waiting period which denies newcomer families including children access to provincially funded health care.

The inability to access healthcare is compounded by the poverty rates of non-permanent residents. As noted above, in Canada, non-permanent residents have a poverty rate of 42.9%, compared with 14.2% for the general population,<sup>86</sup> and many of the issues and barriers facing recent immigrants are also faced by individuals without regularized status, if not exacerbated by

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<sup>85</sup> Ontario Ministry of Health, "OHIP Eligibility of Canadian-Born Children of OHIP-ineligible Parents" (November 2011), online: <[http://www.health.gov.on.ca/en/public/publications/ohip/eligibility\\_2.aspx](http://www.health.gov.on.ca/en/public/publications/ohip/eligibility_2.aspx)>.

<sup>86</sup> Statistics Canada, Data Tables, 2016 Census, Table 98-400-X2016206, online: <<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/dt-td/Rp-eng.cfm?LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GID=0&GK=0&GRP=1&PID=110561&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=999&Temporal=2016,2017&THEME=119&VID=0&VNAMEE=&VNAMEF=>>>.



their precarious status. Children of non-permanent residents are as a result among those most in need of financial support, and vulnerable to the inextricable health consequences of poverty. People living in poverty are “disproportionately affected by chronic disease, depression, and higher mortality and morbidity rates, which have been linked to food insecurity, especially early on in life.”<sup>87</sup> Healthcare coverage must be available to all children, regardless of the immigration status of their parents, in accordance to article 2 of the Convention.

## **Mental Health**

Numerous studies have determined that “the cumulative outcomes of social inequities, systemic racial discrimination, sexism, poverty and marginalization of Aboriginal peoples and members of racialized groups (including immigrants and refugees) is the debilitating impact on mental health prospects for members of these communities, including the multidimensional impact of intersections of poverty, race, gender and sexual orientation.”<sup>88</sup> While Canada has implemented various mental health services for children and youth, still missing are services that directly affirm and support racialized children and youth, through an anti-oppressive and intersectional lens, including the experiences of religious minorities. For example, a 2013 census by the Toronto District School Board found East Asian teenagers to have the greatest levels of emotional distress.<sup>89</sup>

Community partners continue to express particular concern over the inadequacy of current supports to fully addressing the mental health needs of children and youth from racial minorities and minority faith groups, especially in dealing with issues such as hate crimes and the impacts of Islamophobia. Community partners observe the incidence of children and youth facing feelings of dislocation and distress related to their identities and notions of belonging in Canadian society. Participants in a study of South Asian youth in Toronto echoed these concerns, speaking of the pressures to be “cross-culture kid[s]” with a “dual identity.”<sup>90</sup>

## **Poverty Reduction**

Indigenous and racialized communities in Canada continue to face disproportionate levels of poverty. According to the most recent census data, 41% of status First Nations children living off-reserve are living in poverty, with the number climbing to 53% on reserve. For non-status

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<sup>87</sup> Campaign 2000, *2019 Report Card on Child and Family Poverty in Canada, 2020: Setting the Stage for a Poverty-Free Canada* (updated January 24, 2020) at 27, online (pdf): <<https://campaign2000.ca/wp-content/uploads/2020/01/campaign-2000-report-setting-the-stage-for-a-poverty-free-canada-updated-january-24-2020.pdf>> [Campaign 2000].

<sup>88</sup> Kwasi Kafele, “Racial Discrimination and Mental Health in Racialized and Aboriginal Communities”, OHRC Policy Paper (December 2004), online: <<http://www.ohrc.on.ca/en/race-policy-dialogue-papers/racial-discrimination-and-mental-health-racialized-and-aboriginal-communities>>.

<sup>89</sup> Caroline Alphonso, “Graduation rate, stress are highest among East Asian teens, survey finds,” *Globe and Mail*, 25 June 2013, online: <<https://www.theglobeandmail.com/news/national/education/graduation-rate-stress-are-highest-among-east-asian-teens-survey-finds/article12821545/>>.

<sup>90</sup> See also Farah Islam et al, “Mental health of South Asian youth in Peel Region, Toronto, Canada: a qualitative study of determinants, coping strategies and service access” (2017) *BMJ Open* at 4, online: <<https://bmjopen.bmj.com/content/bmjopen/7/11/e018265.full.pdf>>.

First Nations children across the country, the poverty rate is 32%, and for Inuit and Métis children, the rates are 25% and 22% respectively. Racialized children face a poverty rate of 22%, with children of former or current landed immigrants facing a poverty rate of 35%. Each of these figures stands in stark contrast to the 12% poverty rate of non-immigrant White children.<sup>91</sup>

These disparities are even more pronounced in particular cities. In Toronto, a shocking 84% of all Indigenous children and one third of all racialized children live in poverty, in contrast to the 15.1% of non-racialized children. For children of colour, these numbers increase with further disaggregation: 59.5% of West Asian children, 58.8% of Arab children, 43.6% of Black children, 36.1% of Latin American children, 25.3% of Chinese children and 33% of South Asian children live in poverty.<sup>92</sup> For children of West Asian and Black backgrounds, these high poverty rates persist even when they are born in Canada, including being third-generation or more in Canada.<sup>93</sup>

Poverty is exacerbated by other forms of race-based disadvantage. For example, the effects of poverty for children living on reserve are intensified by chronic underfunding of schools and child welfare services, crowded housing, and undrinkable water.<sup>94</sup>

In 2018, Canada released its first ever Poverty Reduction Strategy, a welcomed commitment to addressing poverty in Canada. However, despite identifying various vulnerable communities at heightened risk of poverty, altogether missing from consideration are all communities of colour. Among communities of colour, communities of African descent in particular are over-represented in virtually every category that signifies disadvantage. It is critical that race based data is disaggregated further to allow identification of the experiences of diverse peoples of colour and to measure the unique impacts of public policy interventions. Any poverty reduction strategy must directly address the reality of racialized poverty, with targeted action plans to eradicate these inequities.

Also of note, as part of its poverty reduction strategy, Canada is using the Market Basket Measure (MBM) as the official poverty measure. Under the MBM, a household is determined to be low income if it is unable to afford a specific basket of goods and services that would allow them to meet their basic needs and achieve a modest standard of living; the costs of each item vary across communities.<sup>95</sup> The MBM however, underestimates the prevalence of poverty. It measures only material deprivation, rendering invisible other aspects of poverty including social participation. It moreover leaves out items such as childcare and prescription medication, underestimates shelter costs, does not take into account cultural differences, and does not define what a “modest” standard of living is.<sup>96</sup> Many children and families considered to be living in poverty under other poverty measures such as the low income measure are not considered to be

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<sup>91</sup> Campaign 2000, *supra* at 8-9.

<sup>92</sup> OACAS, *2018 Toronto Child and Family Poverty Report: Municipal Election Edition* (2018) at 2, online: <<https://www.torontocas.ca/news/2018-toronto-child-family-poverty-report>>.

<sup>93</sup> *Ibid* at 2.

<sup>94</sup> David Macdonald and Daniel Wilson, “Shameful Neglect: Indigenous Child Poverty in Canada” (2016) *Canadian Centre for Policy Alternatives*, <<https://www.policyalternatives.ca/publications/reports/shameful-neglect>>.

<sup>95</sup> Canada, *Opportunity for All: Canada’s First Poverty Reduction Strategy* (2018) at 11, online: <<https://www.canada.ca/en/employment-social-development/programs/poverty-reduction/reports/strategy.html#h2.8>>.

<sup>96</sup> Campaign 2000, *supra* at 4, 13-14.

living in poverty under the MBM.<sup>97</sup> The MBM also does not apply to First Nations reserves and the territories, which face higher rates of poverty.

## Housing

Nearly 1.7 million Canadian households are in core housing need, namely living in housing that is inadequate, unsuitable, or unaffordable.<sup>98</sup> However, “[w]omen-led sole-parent households, Indigenous, racialized, and immigrant families are disproportionately affected.”<sup>99</sup> For example, over 50% of households of people of colour in Canada are in core housing need, in contrast to 28% of non-racialized households.<sup>100</sup> One study found that most immigrants were spending more than 50% of their income on housing, with 15% spending 75% or more of their income.<sup>101</sup> Indigenous people are overrepresented amongst the homeless population in virtually all urban centres in Canada, and 28-34% of the shelter population is Indigenous.<sup>102</sup> According to a national report, those who reported an Indigenous identity were more than twice as likely (18%) to have experienced hidden homelessness as their non-Indigenous counterparts (8%).<sup>103</sup> The confluence of racial and social profiling also further exacerbates disparities, with for example, Black youth, and particularly Black homeless youth, particularly vulnerable to “being stopped, questioned and ticketed by police for a range of minor offences such as loitering, trespassing, or public intoxication more often than white youth or white homeless youth.”<sup>104</sup>

### RECOMMENDATIONS:

#### *Universal Healthcare Coverage for All Children*

- Canada must coordinate with Provincial and Territorial governments to ensure that healthcare is available to all children, regardless of the immigration status of their parents; and
- Canada must coordinate with Provincial and Territorial governments to remove waiting period from accessing healthcare.

**Relevant Articles of the Convention: arts. 2, 6.2, 24, 26**

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<sup>97</sup> Ibid at 14.

<sup>98</sup> Campaign 2000, *supra* at 26.

<sup>99</sup> Ibid.

<sup>100</sup> Colour of Poverty - Colour of Change, “Fact Sheet #9, Racialized Poverty in Housing & Homelessness” (March 2019) at 1, online (pdf): <<https://colourofpovertyca.files.wordpress.com/2019/03/cop-coc-fact-sheet-9-racialized-poverty-in-housing-homelessness-2.pdf>> [COPC Fact Sheet #9]. See also Colour of Poverty - Colour of Change, “Fact Sheet Sources” (March 2019), online: <<https://colourofpovertyca.files.wordpress.com/2019/03/cop-coc-fact-sheet-sources-1.pdf>>.

<sup>101</sup> COPC Fact Sheet #9, *supra* at 1.

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> Springer et al, *supra* at 447.

### ***Mental Health***

- Canada must invest in and coordinate with Provincial and Territorial governments to ensure that mental health services for children and youth adopt an anti-oppressive and intersectional lens that supports and affirms intersecting identities of racialized youth, including in issues of hatred and Islamophobia.

**Relevant Articles of the Convention: arts. 6.2**

### ***Poverty Reduction***

- Canada must address the racialization of poverty in the national as well as provincial and territorial poverty reduction strategies; and
- Canada must improve the MBM and adopt additional poverty measures beyond material deprivation, in order to meaningfully track levels of poverty and reflect cultural variation. Canada must also set timelines to co-develop poverty measures with Indigenous communities and organizations.

**Relevant Articles of the Convention: arts. 2, 6.2, 24, 26, 27**

### ***Housing***

- Canada must, as part of its national and provincial housing strategies, adopt measures that recognize and directly target the housing inequities faced by Indigenous communities and communities of colour, and other marginalized groups; and
- COP-COC further endorses the recommendations put forward by Canada Without Poverty.

**Relevant Articles of the Convention: arts. 2, 6.2, 27**

## **Education, Leisure and Cultural Activities**

### **Education**

Navigating the school system is particularly challenging for marginalized and racialized students given the often exclusionary structures in place that fail to recognize intersecting identities and the barriers that children and youth face as a direct consequence of these identities. While the government's report to the Committee outlines a series of measures adopted to address racial discrimination in school curricula, curricula continue to be "White-centric", marginalizing the histories and contributions of Indigenous groups and communities of colour, and intersectional identities. Indigenous and racialized LGBT2SQ children and youth must be provided with

supports and services that “distinctly affirm and support their identities” through an anti-oppressive and intersectional lens.<sup>105</sup>

Stereotypes, and a lack of both empathy and cultural awareness, continue to shape perceptions of child and youth needs, as well as the trajectory of disciplinary decisions. According to data from the Toronto District School Board (TDSB), Black and Indigenous students are more likely to be streamed into non-academic programs than White or some other racialized students. In 2015, 53% of Black students and 48% of Indigenous students, compared to 81% of White students, were enrolled in Academic programs of study. In contrast, 39% of Black students and 41% of Indigenous students, compared to 16% of White students, were enrolled in Applied programs.<sup>106</sup> Black immigrant students are also often put in English as a Second Language classes because of their accents, or placed in grades below their level without being tested.<sup>107</sup>

Black children have further been found to often experience significant discrimination and mistreatment by non-familial adults, with researchers long arguing that assumptions of childhood innocence and the need for protection are often dismissed.<sup>108</sup> Black girls in particular, are forced to contend with “sexual stereotypes and perceptions of low educational aspirations and achievements.”<sup>109</sup> Respondents to a survey by the Ontario Human Rights Commission observed that “racialized and Indigenous students are often assumed to be the perpetrators in conflicts with other students.”<sup>110</sup> The mistreatment of Black children and youth, including verbal abuse by peers and teachers and the use of racial slurs, has been documented along with a general “lack of attention towards their worries, interests and requests, and an unwillingness on the part of teachers and administrators to act on complaints of racism.”<sup>111</sup> Indeed, community partners have further observed the incidence of Black children being disciplined for “defiance” when they challenge the racism they experience within the school system.

While Ontario has repealed the 2000 *Safe Schools Act*, following complaints by the Ontario Human Rights Commission that its’ zero tolerance policy was being discriminatorily applied against racialized students and students with disabilities, the disproportionate disciplining and

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<sup>105</sup> See for example, Ontario, Ministry of Children, Community and Social Services, *Serving LGBTQ2SQ Children and Youth in the Child Welfare System: A Resource Guide* (2018), online:

<<http://www.children.gov.on.ca/htdocs/English/documents/LGBT2SQ/LGBT2SQ-guide-2018.pdf>>.

<sup>106</sup> Carl James, *Towards Race Equity in Education: The Schooling of Black Students in the Greater Toronto Area* (April 2017), online (pdf): <<http://edu.yorku.ca/files/2017/04/Towards-Race-Equity-in-Education-April-2017.pdf>> [*Towards Race Equity in Education*]; Toronto District School Board, *Toronto District School Board’s Student Group Overviews: Aboriginal Heritage, Afghan, Portuguese-Speaking, Somali-Speaking, and Spanish-Speaking Students* (August 2015),

<<http://www.tdsb.on.ca/Portals/research/docs/reports/TDSB%20StudentGroupOverviews.pdf>> [*TDSB Student Group Overviews*].

<sup>107</sup> Ontario Human Rights Commission, *Under Suspicion: Research and Consultation Report on Racial Profiling in Ontario* (2017), online: <http://ohrc.on.ca/en/under-suspicion-research-and-consultation-report-racial-profiling-ontario> [*Under Suspicion*].

<sup>108</sup> Kerith J Conron & Bianca DM Wilson, *LGBTQ Youth of Color Impacted by the Child Welfare and Juvenile Justice Systems* (UCLA Williams Institute, 2019) at 16, online: <<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTQ-Youth-of-Color-July-2019-3.pdf>> [*LGBTQ Youth of Colour*].

<sup>109</sup> Jen Katshunga et al, *Behind the Numbers*, online: <<http://behindthenumbers.ca/shorthand/black-women-in-canada/>> [*Behind the Numbers*].

<sup>110</sup> *Under Suspicion*, *supra*.

<sup>111</sup> *Behind the Numbers*, *supra*.

policing of racialized students persists. In April 2017, the TDSB released a report showing that Black, Indigenous, and Middle Eastern students are disproportionately expelled from schools: almost half of all students expelled over the last five years were Black, despite Black students comprising only 12% of the TDSB's population; Indigenous students represented 1% of all expulsions despite representing only 0.3% of the TDSB population; and Middle Eastern students represented 8% of all expulsions despite being only 4% of the TDSB population.<sup>112</sup>

The presence of police officers in Ontario schools has further compromised the ability to learn and thrive in school environments in creating “the very sense of fear and violence that [officers] are supposed to prevent.”<sup>113</sup> Police presence in schools fails to recognize the deep-rooted and traumatic relationships between specific communities and the police.<sup>114</sup>

These institutional failings are further amplified for children with intersecting identities. For example, LGBTQ+ youth face higher rates of depression and anxiety along with other mental health issues, and the risk of suicide and substance abuse among LGBTQ+ youth is 14 times higher than that for heterosexual teens.<sup>115</sup> In Ontario, 43% of trans people have attempted suicide, with one third occurring when the individual was younger than 15 years old; another third was between the ages of 15 and 19 years old.<sup>116</sup> The added layer of racialization can increase the risks for Indigenous and racialized LGBTQ+ children and youth. Black youth for example, are significantly underrepresented in mental health and treatment-oriented services and over-represented in containment-focused facilities.<sup>117</sup>

The results of racial discrimination in the education system manifest in poorer outcomes for Black, Indigenous and other racialized students. Data from the Toronto District School Board (TDSB) from 2015 shows a graduation rate of 69% for Black students and 50% for Indigenous students, in contrast to the 84% graduation rate of White students. Additionally, while 47% of White students applied to and were accepted by an Ontario university, this figure was only 25% for Black students and 26% for Indigenous students.<sup>118</sup> Alarm continues to be raised about the “school-to-prison pipeline,” as children are actively forced out of learning environments.<sup>119</sup> In

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<sup>112</sup> Toronto District School Board, *Expulsion Decision-Making Process and Expelled Students' Transition Experience in the Toronto District School Boards' Caring and Safe School Programs and their Graduation Outcomes* (April 2017), online (pdf):

<<http://www.tdsb.on.ca/Portals/research/docs/reports/Student%20Expulsion%20Rpt%2030Mar17.pdf>>; *Towards Race Equity in Education*, *supra*; Joseph Springer, Janet Lum & Terry Roswell, “Policy Challenges to Homelessness Among Caribbean Youth in Toronto” in Gaetz et al, eds, *Youth Homelessness in Canada: Implications for Policy and Practice* (Toronto: Canadian Homelessness Research Network, 2013) 445, online: <<https://www.homelesshub.ca/resource/26-policy-challenges-homelessness-among-caribbean-youth-toronto>> [Springer et al].

<sup>113</sup> *Making Real Change Happen*, *supra* at 18

<sup>114</sup> *Making Real Change Happen*, *supra* at 18

<sup>115</sup> Canadian Mental Health Association, “Lesbian, Gay, Bisexual, Trans & Queer Identified People and Mental Health”, online: <<https://ontario.cmha.ca/documents/lesbian-gay-bisexual-trans-queer-identified-people-and-mental-health/>>.

<sup>116</sup> Greta R Bauer et al, “Suicidality among trans people in Ontario: Implications for social work and social justice” (2013) 59:1 *Service social* 35.

<sup>117</sup> Kiaras Gharabaghi, Nico Trocmé & Deborah Newman, *Because young people matter: Report of the Residential Services Review Panel* (Toronto: Queen's Printer for Ontario, 2016).

<sup>118</sup> *Towards Race Equity in Education*, *supra*; *TDSB Student Group Overviews*, *supra*.

<sup>119</sup> *Under Suspicion*, *supra* at 62

2015, Black youth constituted 42% of the youth detention population, despite being only approximately 16.5% of youth aged 10-17 in the general population.<sup>120</sup> In the latest census data, Indigenous youth make up 46% of admissions into correctional services despite being only 8% of the general youth population.<sup>121</sup>

## Early Childhood Education and Care

Access to childcare plays a crucial role in lifting families out of poverty, and supports healthy child development. It is especially crucial in eradicating deep disparities in income and employment for women, and families of racialized, Indigenous, and immigrant backgrounds. Affordable childcare enables parents to participate in the workforce including on a full-time basis, as well as further education and training. It also helps women, who are often the primary caregivers of children, to become financially independent and decrease their vulnerability to gender-based violence.

As identified by the Committee in both its 2003 and 2012 Concluding Observations however, despite significant resources, there has long been a lack of funding directed toward ensuring affordable and accessible early childhood care and services.<sup>122</sup> While Canada's Multilateral Framework on Early Learning and Child Care (2017) and Indigenous Early Learning and Child Care Framework (2018) have been welcome steps toward stable, affordable, and quality childcare, regulated childcare in Canada continues to be out of reach for countless Canadians, with many families living in "child care deserts."<sup>123</sup> Even within Canada's Poverty Reduction Strategy there are no targets pertaining to childcare.

## Leisure Activities

Based on the latest census data, nearly 1.2 million children live in poverty (nearly one in four).<sup>124</sup> Low-income families face difficulties in accessing affordable recreational opportunities for their children, due to high user fees, lack of reliable transportation, and time constraints associated with employment. Children from lower income families are less likely to access such programs. Data from the Toronto District School Board has shown that 48% of children from families with incomes below \$30,000 did not participate in out-of-school recreational activities, whereas only

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<sup>120</sup> LGBTQ Youth of Color, *supra* at 52.

<sup>121</sup> Statistics Canada, Table 12

Admissions of youth to correctional services, by characteristics of the person admitted and type of supervision program, selected jurisdictions, 2016/2017, online: <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54972/tbl/tbl12-eng.htm>>.

<sup>122</sup> 2012 CRC Concluding Observations, *supra* at paras 71-72; 2003 CRC Concluding Observations, *supra* para 38-39.

<sup>123</sup> David Macdonald, *Childcare deserts in Canada* (Ottawa: Canadian Centre for Policy Alternatives, 2018), online: <<https://www.childcarecanada.org/documents/research-policy-practice/18/06/child-care-deserts-canada>>.

<sup>124</sup> Statistics Canada, "Census in Brief: Children living in low-income households" (September 2017), online: <<https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016012/98-200-x2016012-eng.cfm>>.

7% of children from families with incomes of \$100,000 or more did not participate.<sup>125</sup> These barriers are compounded by the need for programming that supports children in a way that is also responsive to specific cultural and linguistic needs, particularly for racialized and Indigenous children, newcomers, and children from religious minorities.

## **RECOMMENDATIONS:**

### ***Education***

- Canada must coordinate with Provincial and Territorial governments to ensure that all school boards establish a data collection system to collect student demographic data disaggregated by race, age, gender identity, sexual orientation, geographic location, ethnicity, faith, immigration status, disability, and socio-economic background, to develop targeted measures to address systemic discrimination in education and education outcomes; and
- Education and curriculum development needs to be reformed to employ an anti-colonial, anti-oppressive and intersectional lens that identifies and addresses inequities in educational institutions, including racism, homophobia, and Islamophobia.

**Relevant Articles of the Convention: arts. 2, 28, 29**

### ***Early Childhood Education and Care***

- Canada must coordinate with Provincial and Territorial governments to establish a high quality, publicly-funded and managed universal childcare program with timelines for implementation.

**Relevant Articles of the Convention: art. 18, 27**

### ***Leisure Activities***

- Canada must invest in, and coordinate with Provincial and Territorial governments, to ensure accessible recreational programming that is also culturally appropriate and linguistically accessible for children and youth.

**Relevant Articles of the Convention: arts. 30, 31**

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<sup>125</sup> Polanyi et al, *Divided City (2016 Toronto Child and Family Poverty Report Card)* (November 2016), online: <[https://www.researchgate.net/publication/310292712\\_Divided\\_City\\_Life\\_in\\_Canada's\\_Child\\_Poverty\\_Capital\\_2016\\_Toronto\\_Child\\_and\\_Family\\_Poverty\\_Report\\_Card](https://www.researchgate.net/publication/310292712_Divided_City_Life_in_Canada's_Child_Poverty_Capital_2016_Toronto_Child_and_Family_Poverty_Report_Card)>.



## Special Protection Measures

### Asylum-Seeking and Refugee Children

#### Unaccompanied and Separated Children

Despite recommendations from a UNHRC study as early as 2001,<sup>126</sup> at present, there is still no uniform mandate requiring immigration bodies to identify and track the number of all unaccompanied and separated children arriving in Canada, or to refer them to necessary services and supports. While there are some local agreements in place with NGOs, there is no mandated communication across all ports of entry. As a result, the number of unaccompanied and separated children arriving and residing in Canada is unknown, and these children may not be accessing critical supports, including at the early stages of their refugee claims. Children may be proceeding through crucial initial interviews alone, or with designated representatives who are unaware of their responsibilities or who fail to act in the child's best interest. Even with child protection authorities, their involvement is not guaranteed. In Ontario, while the *Child, Youth and Family Services Act* has expanded the purview of the Children's Aid Society (CAS) to include 16 and 17 year olds, the duty to report does not extend to them,<sup>127</sup> and CAS is therefore less likely to be involved for these children. CAS is also less likely to be involved if the child is released into the care of a relative or community member. In both cases, the child disappears off the radar.

Further, while designated representatives serve as an important protection for children, and all refugee claimants under 18 years old have a right to one, there is no uniform process of ensuring that one is assigned as early as possible, from the start of the claim process.<sup>128</sup> At present, across Canada designated representatives may be assigned through the Immigration and Refugee Board (IRB) or CAS, or the role may be taken by a relative, community member in Canada, or other representatives such as a refugee house, NGO, or lawyer. Assignment through these disparate channels results in dangerous gaps in service, increasing the risk that the protection and rights of the child may be compromised. For example, where the assignment is through the IRB once the claim has assigned for a hearing, this is already too late: unaccompanied and separated children require support prior to their claim reaching the IRB, for example in retaining appropriate legal counsel. Additionally, regardless of the manner in which a designated representative is assigned, there is limited oversight or monitoring to ensure that designated representatives are fulfilling their responsibilities to the child and acting in the child's best interests.

Another obstacle currently faced by unaccompanied and separated children is that settlement, child welfare, and housing services may be ill equipped to fully address their complex needs, in being either tailored for adults, or in lacking the specific immigration expertise required to provide the robust support that is needed for successful settlement.

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<sup>126</sup> UNHCR, *Separated Children Seeking Asylum in Canada*, by Wendy Ayotte (2001), at 17, online: <<https://ccrweb.ca/sites/ccrweb.ca/files/static-files/separated.PDF>> [*Separated Children Seeking Asylum*].

<sup>127</sup> *Child, Youth and Family Services Act*, 2017, SO 2017, c 14, Sched 1, 125(4).

<sup>128</sup> *Immigration and Refugee Protection Act*, SC 2001, c 27, s 167(2). See also *Separated Children Seeking Asylum*, *supra* at 34.

## Gaps in Access and Integration Supports for Refugee Children

Anecdotal evidence from frontline community agencies also indicates that child in-land refugee claimants, especially unaccompanied and separated children, are facing barriers accessing services including health coverage and education due to the processing time to receive identification documents.

While health coverage through the Interim Federal Health Program is now available even when the refugee claim is partially processed, there is still a service gap between the time that the children arrive, and the time that they have been connected to a lawyer who can assist them with their claim and documentation. Similarly, in the case of education, community partners observe that policies regarding the registration of refugee claimant children have been applied inconsistently, leading to delays in their access to education. While refugee claimant children are entitled to register for school, children have been denied in cases where there is a delay in making the refugee claim. For example, children may have arrived as a visitor, and by virtue of that visitor status, are denied registration in school until their refugee claim is officially made. Again, each of these delays may be longer for unaccompanied and separated children.

An additional barrier expressed by stakeholders is the dearth of supports available to educate refugee youth about their legal rights and other transitional issues. Refugee youth and children are especially vulnerable to sexual exploitation, gender-based violence, forced recruitment, and unlawful arrest and detention, and require supports that address the social isolation and knowledge gaps that they face.<sup>129</sup> While community organizations have compiled information to support refugee youth, particularly in their spoken languages,<sup>130</sup> this is by no means comprehensive across Canada.

## Continued Detention of Children

The significant psychological trauma experience by children that have lived in detention, even briefly, and which persists long after their release, has been extensively documented. Detained children experience “high rates of psychiatric symptoms, including self-harm, suicidality, severe depression, regression of milestones, physical health problems, and post-traumatic presentations,” and younger children experience “developmental delays and regression, separation anxiety and attachment issues, and behavioural changes, such as increased aggressiveness.”<sup>131</sup> Children are also severely and negatively impacted by the effects of

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<sup>129</sup> See for example, CASSA, “Legal Toolkit: A Guidebook on Transitional Issues for Refugee Youth,” July 2018, online: < <http://www.cassa.on.ca/toolkit/>>.

<sup>130</sup> Ibid.

<sup>131</sup> Hanna Gros & Yolanda Song, *No Life for a Child: A Roadmap to End Immigration Detention of Children and Family Separation* (University of Toronto, Faculty of Law: Toronto, 2016) at 23 online: <[https://ihrp.law.utoronto.ca/utfl\\_file/count/PUBLICATIONS/Report-NoLifeForAChild.pdf](https://ihrp.law.utoronto.ca/utfl_file/count/PUBLICATIONS/Report-NoLifeForAChild.pdf)> [*No Life for a Child*]; Rachel Kronick, Cécile Rousseau & Janet Cleveland, “Asylum-seeking children’s experiences of detention in Canada: A qualitative study” (2015) 85:3 *Am J Orthopsychiatry* 287. See also International Human Rights Program, *Rights violations associated with Canada’s treatment of vulnerable persons in immigration detention: Joint submission to the Working Group on Universal Periodic Review to assist in its review of Canada, 30th session (April–May 2018)*, online (pdf): < [https://ihrp.law.utoronto.ca/utfl\\_file/count/media/Canada%20UPR%20Final.pdf](https://ihrp.law.utoronto.ca/utfl_file/count/media/Canada%20UPR%20Final.pdf)>.

immigration detention on their parents' mental health.<sup>132</sup> Children who are separated from their detained parents face similarly devastating mental health consequences.<sup>133</sup>

Despite the 2017 Ministerial Directive<sup>134</sup> children continue to be detained, or to be separated from a parent due to immigration detention. The directives are being implemented inconsistently, especially in considering the best interests of the child, and the average length of detention has increased to 18.6 days, the highest average in five years.<sup>135</sup>

Of note, children accompanying a detained parent are not legally classified as “detained,” but are rather “housed.” However, the *de facto* detention is no less harmful to the child, and in fact a child in such circumstances lacks the same legal protections as a child who is detained, as they do not formally appear before the IRB.<sup>136</sup> As a result, these children are not captured by detention review statistics, despite the reality that these children are regularly sitting before the decision-maker.<sup>137</sup> Additionally, Canada Border Services Agency (CBSA) statistics do not capture the common practice of separating families as a result of detention, sometimes without any means of contacting one another. One parent may be detained, and the other parent, along with their children, sent to a temporary shelter.<sup>138</sup>

While some provinces have been able to altogether eliminate the practice of detaining children, in the past year the vast majority of housed or detained children were in Montreal, Quebec, speaking to the unnecessary and arbitrary nature of detention.<sup>139</sup> In fact, Montreal has detained individuals on identity grounds more than any other region, and most detained children in Montreal have been detained “because border officials are not “satisfied” that their parent’s identity has been established – a decision that is not reviewable by any independent tribunal.”<sup>140</sup> Between 2018 and 2019, “identity was the ground for detention of parents in 66% of the cases where children were housed.”<sup>141</sup> This is so in spite of the Directive stating that of the “extremely limited circumstances” in which a child may be detained or housed where no alternatives are available, are situations where there are serious identity concerns, “but only insofar as there are well-founded reasons to believe the minor or his or her [parent/legal guardian] may represent a risk to public safety and national security.”<sup>142</sup>

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<sup>132</sup> *No Life for a Child*, *supra* at 23-24.

<sup>133</sup> *Ibid* at 24.

<sup>134</sup> Public Safety Canada, “Ministerial Direction to the Canada Border Services Agency: Minors in Canada’s Immigration Detention System” (2017), online: <<https://www.cbsa-asfc.gc.ca/security-securite/detent/nddhm-dndhm-eng.html>> [2017 CBSA Directive].

<sup>135</sup> Canadian Council for Refugees, *Immigration Detention and Children: Rights Still Ignored, Two Years Later* (2019) at 2-3, 8, online: <<https://ccrweb.ca/sites/ccrweb.ca/files/children-detention-nov-2019.pdf>> [Immigration Detention and Children].

<sup>136</sup> *Ibid* at 4.

<sup>137</sup> *Ibid* at 4.

<sup>138</sup> *Ibid* at 4.

<sup>139</sup> *Ibid* at 3.

<sup>140</sup> *Ibid* at 5.

<sup>141</sup> *Ibid*.

<sup>142</sup> *Ibid*; 2017 CBSA Directive, *supra*.

## RECOMMENDATIONS:

### *Asylum-Seeking and Refugee Children*

- Canada must implement a comprehensive national framework, in collaboration with Provincial and Territorial governments and NGOs, that guarantees the protection and well-being of unaccompanied and separated children at all stages of their settlement in Canada, including access to safe housing, education, healthcare, and oversight of designated representatives;
- Canada must invest in capacity building at the local and municipal level, so that all frontline workers and service managers who may be in contact with unaccompanied and separated children have the necessary specialized knowledge of their needs and be able to identify and connect them to resources and support;
- Canada must implement a services-first approach such that refugee claimant children are not denied access to services due to delays in acquiring documentation;
- Canada must invest in multi-lingual educational tools that address the knowledge gaps and unique vulnerability of refugee children and youth;
- The CBSA must be overseen by an independent accountability mechanism with the jurisdiction to receive complaints about non-compliance with the Minister’s directives on the detention of minors;
- Strong protections of children’s rights must be legislated within the *IRPA* rather than relying on a Ministerial Directive, such that the best interests of the child are a primary consideration in all decisions concerning children; and
- Canada must immediately end the practice of detaining or the housing of children in detention

**Relevant Articles of the Convention: arts. 22, 37(b)-(d), 39**

## Youth Criminal Justice

### Administration of Juvenile Justice

While Canada acknowledges “the importance of addressing the overrepresentation of Indigenous, Black Canadian and visible minority children in the youth criminal justice system,”<sup>143</sup> the various implemented measures still fail to address these inequities. In a survey of nine jurisdictions by Canada, between 2017 and 2018, Indigenous youth between the ages of 12-17 made up 43% of admissions into correctional services despite constituting only 8% of the Canadian youth population.<sup>144</sup> As of 2013, data for Ontario showed that “African Canadian boys’

<sup>143</sup> Canada’s Fifth and Sixth Reports on the Convention on the Rights of the Child at para 1.

<sup>144</sup> Canada, “Indigenous overrepresentation in the criminal justice system” (May 2019), online: <<https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/may01.html>>.

representation in youth correctional facilities is, proportionally, four times higher than their proportion in the general young male population.”<sup>145</sup>

Bias continues to permeate and interfere with the goals of the *Youth Criminal Justice Act*. A recent study in the Greater Toronto Area for example, found that in general, Black youth are more likely to be charged and less likely to be cautioned than white youth and youth from other racial backgrounds.<sup>146</sup> This research found that police discretion plays a significant role in decisions to divert or charge and apprehend a young person – namely, who enters the court system. As a result, biases may influence decisions to arrest, and indeed, the research reveals discrepancies in decisions to charge or caution based on race and gender.<sup>147</sup> In its 2016 review of Canada, the UN Working Group of Experts on People of African Descent had concluded that “there is clear evidence that racial profiling is endemic in the strategies and practices used by law enforcement (in Canada).”<sup>148</sup> The Ontario Human Rights Commission (OHRC) has made similar findings of racial profiling of Indigenous and racialized youth, including arbitrary police stops and disproportionate police responses.<sup>149</sup>

Due to an informal ban on the systematic collection of race-based crime statistics in Canada, it is difficult to identify whether there are any significant racial disparities in arrest decisions. However, many Canadian studies and evidence have demonstrated that Indigenous and racialized groups in Canada perceive high levels of discrimination and bias within the criminal justice system.<sup>150</sup>

In sentencing as well, there is a need for courts to formally take into account the impact and manifestations of racism, especially anti-Black racism, in an offender’s life, much in the same way as such considerations are to apply in the case of Indigenous offenders. In *R v Morris*, a recent Ontario decision, the sentencing judge not only recognized the unique history of Black people in this country and the legacy of slavery and colonialism in the offender’s life, but also used that knowledge to affect the offender’s sentence in a meaningful way.<sup>151</sup>

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<sup>145</sup> *Under Suspicion, supra*.

<sup>146</sup> Kanika Samuels-Wortley, “Youthful Discretion: Police Selection Bias in Access to Pre-Charge Diversion Programs in Canada” (2019) 1:24 Race and Justice.

<sup>147</sup> *Ibid*.

<sup>148</sup> “Statement to the Media by the United Nations’ Working Group of Experts on People of African Descent, on the Conclusion of its Official Visit to Canada, 17-21” (October 2016), online: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20732&LangID=E>.

<sup>149</sup> *Under Suspicion, supra*.

<sup>150</sup> See for example, *ibid*; *Making Real Change Happen, supra*.

<sup>151</sup> *R v Morris*, 2018 ONSC 5186.

**RECOMMENDATIONS:**

*Administration of Juvenile Justice*

- As part of a national data collection system mandating all Federal, Provincial, Territorial, and Municipal governments to collect disaggregated data across all Departments, Ministries, Divisions, and relevant institutions, Canada must ensure that ethno-racial data is collected at each stage of the criminal justice system to develop targeted strategies for addressing systemic discrimination; and
- Ensure that sentencing principles formally take into account the impact of systemic racism in an offender's life.

**Relevant Articles of the Convention: arts. 2, 37**

## **APPENDIX A: RECOMMENDATIONS**

### **General Measures**

#### *Data Collection*

1. Canada must establish a national data collection system, mandating Federal, Provincial, Territorial, and Municipal governments to collect data disaggregated by race, age, gender identity, sexual orientation, geographic location, ethnicity, faith, immigration status, disability, and socio-economic background, across all Departments, Ministries, Divisions, and relevant institutions, and use this data to develop strategies for addressing systemic discrimination.

Relevant Articles of the Convention: arts. 2, 4

### **General Principles**

#### *Jordan's Principle*

2. Canada must ensure the full implementation of Jordan's Principle such that access to supports and services is never denied or delayed as a result of jurisdictional disputes, and honour the repeated rulings of the Canadian Human Rights Tribunal by providing adequate funding for child welfare services on reserve, and compensation to the children and parents and grandparents of children who were unnecessarily placed in care because of discrimination.

Relevant Articles of the Convention: arts. 2, 3, 6

### **Civil Rights and Freedoms**

#### *Birth Registration*

3. Canada must remove all charges associated with birth registration;
4. Canada must coordinate with Provincial and Territorial governments to remove the requirements of guarantors in birth registration;
5. Canada must coordinate with Provincial and Territorial governments to ensure that kinship agreements are recognized across all ministries and services;
6. Canada must invest in capacity building within communities through dedicated funding and provincial and territorial partnership agreements, to ensure support for parents prior to and after the birth of children, to increase access to birth registration; and
7. Canada must implement Jordan's Principle, such that children receive services first, before jurisdictional disputes are resolved.

Relevant Articles of the Convention: arts. 2, 6, 7, 24

## **Violence against Children**

### *Appropriate Supports for Children Facing Forced Marriage*

8. Canada, in coordination with Provincial and Territorial governments, must invest in an education campaign and support services for individuals, with specialized training and guidelines for service providers;
9. Canada must broaden the eligibility and protections afforded through foreign embassies abroad in order to provide the most robust supports for victims of forced marriage; and
10. As part of a national data collection system, mandating Federal, Provincial, Territorial, and Municipal governments to collect disaggregated data, Canada must collect and analyze disaggregated data on the incidence of forced marriage for children and youth.

Relevant Articles of the Convention: arts. 24.3

## **Family Environment and Alternative Care**

### *Appropriate Assistance to Parents*

11. The current exclusions based on immigration status should be removed from the *Income Tax Act*, such that every parent in Canada who is considered a resident for income tax purposes should be eligible for the CCB;
12. Particular consideration must be given when considering CCB audits of individuals residing in a First Nation community and individuals receiving social assistance, keeping in mind barriers to responding to requests;
13. Requests for information must also be tailored to the individual, requesting only information that is necessary to confirm eligibility, as opposed to sending form letters requesting repetitive documentation and documentation that has already been provided;
14. Specialized caseworkers should be responsible for the CCB audits, especially for First Nation communities, and contact information provided, to assist in collecting and providing the information that is necessary to review eligibility benefits;
15. A system of interim CCB assistance should be implemented while appeals are being processed, along with a responsive system in place to address objections, disclose documents, and facilitate mediation, or an early resolution process;
16. Where an individual identifies a legal representative, the CRA must directly communicate with the representative, especially when responding to correspondence directly from the representative;
17. The default for collection of CCB overpayments should not be a 100% rate of recovery;
18. Support should be provided to low-income individuals to obtain identification and to open bank accounts, and paper cheques should continue to be available to those who do not have access to banking services; and
19. Canada must expand the current EI parental benefits regime, and ensure that the existing poverty of parents is not a barrier to the full enjoyment of the parental leave regime.

Relevant Articles of the Convention: arts. 2, 3, 6, 18.2, 26



### *Counselling in Child-Rearing, Including Culturally Appropriate Assistance*

20. Canada must invest in and coordinate with Provincial and Territorial governments to develop culturally and linguistically appropriate supports, particularly for newcomer parents, facilitating health literacy and awareness of resources available to them and their children; and
21. Canada must coordinate with Provincial and Territorial governments to ensure sustained commitment and funding in existing support programs for Black and Indigenous children and families

Relevant Articles of the Convention: arts. 5, 24

### *Out of Home Care*

22. Canada must coordinate with all Provincial and Territorial governments to ensure implement expansive training, reform, and transformation of the child welfare system that explicitly acknowledges the institutionalization of white supremacy, colonialism, and anti-Black racism within the child welfare system;
23. Canada must prohibit the apprehension of children on the basis of poverty and cultural bias, and invest in much needed culturally appropriate programs and agencies to eradicate poverty and help families to succeed and thrive. Canada, in coordination with all Provincial and Territorial governments, must adopt an approach to child welfare that focuses on supporting strong and healthy families, rather than removing children;
24. Canada must ensure that where apprehension into care is unavoidable, the priority is for children to be placed with other family members or close community members, and that financial supports are provided that are equal to that which would be paid to a foster family; and
25. Given the disproportionate impact the child welfare system has on Black children and families, a child welfare agency must be established that is directed, developed and operated by the African Canadian community (similar to the CASs that already exist for the Jewish, Catholic and Indigenous communities).

Relevant Articles of the Convention: arts. 2, 3, 9, 20.3

### *Family Class Immigration*

26. Canada must create a path for family reunification of refugee children;
27. Canada must create a path for family reunification of *de facto* children, by recognizing a broader definition of the parent-child relationship beyond formal legal adoption;
28. Canada must repeal regulation 117(9)(d) of the *Immigration and Refugee Protection Regulations*; and
29. Canada must repeal the minimum income requirement for sponsorship of parents and grandparents

Relevant Articles of the Convention: arts. 3, 5, 9, 10

## **Disability, basic health and welfare**

### *Universal Healthcare Coverage for All Children*

30. Canada must coordinate with Provincial and Territorial governments to ensure that healthcare is available to all children, regardless of the immigration status of their parents; and
31. Canada must coordinate with Provincial and Territorial governments to remove waiting period from accessing healthcare.

Relevant Articles of the Convention: arts. 2, 6.2, 24, 26

### *Mental Health*

32. Canada must invest in and coordinate with Provincial and Territorial governments to ensure that mental health services for children and youth adopt an anti-oppressive and intersectional lens that supports and affirms intersecting identities of racialized youth, including in issues of hatred and Islamophobia.

Relevant Articles of the Convention: arts. 6.2

### *Poverty Reduction*

33. Canada must address the racialization of poverty in the national as well as provincial and territorial poverty reduction strategies; and
34. Canada must improve the MBM and adopt additional poverty measures beyond material deprivation, in order to meaningfully track levels of poverty and reflect cultural variation. Canada must also set timelines to co-develop poverty measures with Indigenous communities and organizations.

Relevant Articles of the Convention: arts. 2, 6.2, 24, 26, 27

### *Housing*

35. Canada must, as part of its national and provincial housing strategies, adopt measures that recognize and directly target the housing inequities faced by Indigenous communities and communities of colour, and other marginalized groups; and
36. COP-COC further endorses the recommendations put forward by Canada Without Poverty.

*Relevant Articles of the Convention:* arts. 2, 6, 27.1-3

## **Education, Leisure and Cultural Activities**

### *Education*

37. Canada must coordinate with Provincial and Territorial governments to ensure that all school boards establish a data collection system to collect student demographic data disaggregated by race, age, gender identity, sexual orientation, geographic location, ethnicity, faith, immigration status, disability, and socio-economic background, to develop targeted measures to address systemic discrimination in education and education outcomes; and
38. Education and curriculum development needs to be reformed to employ an anti-colonial, anti-oppressive and intersectional lens that identifies and addresses inequities in educational institutions, including racism, homophobia, and Islamophobia.

Relevant Articles of the Convention: arts. 2, 28, 29

### *Early Childhood Education and Care*

39. Canada must coordinate with Provincial and Territorial governments to establish a high quality, publicly-funded and managed universal childcare program with timelines for implementation.

Relevant Articles of the Convention: art. 18, 27

### *Leisure Activities*

40. Canada must invest in, and coordinate with Provincial and Territorial governments, to ensure accessible recreational programming that is also culturally appropriate and linguistically accessible for children and youth.

Relevant Articles of the Convention: arts. 30, 31

## **Special Protection Measures**

### *Asylum-Seeking and Refugee Children*

41. Canada must implement a comprehensive national framework, in collaboration with Provincial and Territorial governments and NGOs, that guarantees the protection and well-being of unaccompanied and separated children at all stages of their settlement in Canada, including access to safe housing, education, healthcare, and oversight of designated representatives;
42. Canada must invest in capacity building at the local and municipal level, so that all frontline workers and service managers who may be in contact with unaccompanied and separated children have the necessary specialized knowledge of their needs and be able to identify and connect them to resources and support;
43. Canada must implement a services-first approach such that refugee claimant children are not denied access to services due to delays in acquiring documentation;

44. Canada must invest in multi-lingual educational tools that address the knowledge gaps and unique vulnerability of refugee children and youth;
45. The CBSA must be overseen by an independent accountability mechanism with the jurisdiction to receive complaints about non-compliance with the Minister's directives on the detention of minors;
46. Strong protections of children's rights must be legislated within the *IRPA* rather than relying on a Ministerial Directive, such that the best interests of the child are a primary consideration in all decisions concerning children; and
47. Canada must immediately end the practice of detaining or the housing of children in detention.

Relevant Articles of the Convention: arts. 22, 37(b)-(d), 39

## **Youth Criminal Justice**

### *Administration of Juvenile Justice*

48. As part of a national data collection system mandating all Federal, Provincial, Territorial, and Municipal governments to collect disaggregated data across all Departments, Ministries, Divisions, and relevant institutions, Canada must ensure that ethno-racial data is collected at each stage of the criminal justice system to develop targeted strategies for addressing systemic discrimination; and
49. Ensure that sentencing principles formally take into account the impact of systemic racism in an offender's life

Relevant Articles of the Convention: arts. 2, 37