

# OFFICE OF THE PROVINCIAL ADVOCATE FOR CHILDREN AND YOUTH



## PRE-BUDGET CONSULTATION SUBMISSION TO THE HOUSE OF COMMONS STANDING COMMITTEE ON FINANCE

“The true measure of a nation’s standing is how well it attends to its children – their health and safety, their material security, their education and socialization, and their sense of being loved, valued, and included in the families and societies into which they are born.”

UNICEF Innocenti Report Card 7, 2007

August 2009

## **Introduction**

The Office of the Provincial Advocate for Children and Youth is an independent Office of the Legislature established under the *Provincial Advocate for Children and Youth Act, 2007*. The mandate of the Office is clearly outlined in the opening paragraphs of the legislation:

- Provide an independent voice for children and youth, including First Nations children and youth and children with special needs
- Encourage communication and understanding between children and families and those who provide them with services
- Educate children, youth and their caregivers regarding the rights of children and youth

The Provincial Advocate is commissioned to serve the more than 26,000 children and youth who are often in peril and known to child protection services, youth justice and children's mental health facilities in Ontario. The Office identifies systemic issues involving children, conducts reviews and provides education and advice on the issue of advocacy and the rights of children.

The Office is guided by the principles of the UN Convention on the Rights of the Child (UNCRC) and has a strong commitment to youth involvement.

## **Executive Summary**

The current global recession impacts all Canadians. The Department of Finance Canada is charged with the important responsibility of providing financial support to provincial/territorial governments to assist in the provision of dedicated programs and services. In 2009-10 the Government of Ontario will receive 15.9 billion dollars through major federal transfers (Canada Social Transfer and Canada Health Transfer). We strongly believe that Canada's economic decisions and federal budgets have the power to directly improve the lives of children and youth in this country. Federal budgets can generate positive results in areas such as early childhood development, education, and child welfare. It is important that the Standing Committee on Finance ensure "prosperity and a sustainable future" for Canadian children and youth from an economic and social perspective. Our comments will be restricted to the first question outlined in the *Call for Submissions* press release.

Canada played a central role in the drafting and promoting of the UN Convention on the Rights of the Child and was considered a world leader when the CRC was ratified in December 1991. However, it is concerning that full implementation of the fifty four articles contained in the Convention has not yet taken place in this country.

The Office of the Provincial Advocate for Children and Youth proposes the federal government place conditions upon Social Transfer payments that will ensure provinces/

territories and organizations adopt implementation of the UNCRC within all programs and services. “It is time to close the gap between the rhetoric and the realities of children’s rights in Canada” as stated in *The Final Report of the Standing Senate Committee on Human Rights, Children: The Silenced Citizens (2007)*.

Our recommendations for the committee can be divided into three areas:

1. Impose conditions on Social Transfer payments that will effectively move ‘on the ground’ implementation of children’s rights forward in Canada and commemorate this commitment by asking the First Ministers to sign an agreement that binds all provinces/ territories to this covenant. This “national pledge” will unite Canada in promoting children’s rights and is an exciting opportunity for Canada to celebrate the 20<sup>th</sup> anniversary of the UN Convention on the Rights of the Child this November.
2. Build upon Canada’s federal commitment to create equity for aboriginal children and youth by (a) reviewing the current funding formula for First Nations child welfare agencies and (b) by ensuring that all provinces and territories adopt and implement *Jordan’s Principle*.
3. Develop meaningful consultation mechanisms for children and youth involvement in government decision making processes. We challenge The Standing Committee on Finance to develop an authentic process that invites children and youth to the financial planning tables of the future.

## **Moving Forward**

### ***Recommendation One:***

#### **Social Transfer Conditions and the National Agreement for UNCRC Implementation**

The objectives of the Finance Committee in the areas of effective spending, efficient programming and meeting its obligations to the Canadian taxpayer can be achieved by fully implementing the UN Convention on the Rights of the Child in Canada. Sanctioning and implementing children’s rights is an investment that has economic and social benefits to society. Children who learn and practice their rights and responsibilities are more likely to become contributing members of society. Investing in a well-informed and educated population has benefits for economic growth. A workforce of responsible citizens results in a stronger economy and reduces poverty.

The 20th anniversary of the UNCRC is an opportunity for Canada as a signatory of the Convention to lead the world in promoting children’s rights and giving priority to the full implementation of the CRC. In Canada, the implementation of international treaties is the shared responsibility of federal and provincial/territorial governments. With respect to the UNCRC, although Canada (as State) is the signatory, it is the provinces and territories that are largely responsible for implementation.

In 2004, Canada's National Plan of Action, entitled, *A Canada Fit for Children*, called upon Canadians from all levels of government to recognize that the UNCRC "has become the main instrument of reference, the essential basis for the achievement of children's rights in Canada. " This report acknowledged that while many children and youth in Canada are flourishing, "aboriginal children, children with disabilities, children living in remote communities, children of single parent families, children in the welfare system, children of recent immigrants and refugee children are more likely to experience economic disadvantage with its associated risks."

Numerous reports, studies and statistics demonstrate that there continues to be a need for child and youth serving organizations to implement children's rights legislation in Canada. In 2007 Canada was ranked poorly in the UNICEF, *Innocenti Report Card* in the areas of health and safety, behaviour and risks and the subjective well - being of children.

It has been 18 years since the ratification of the UNCRC in Canada and it is time for action.

The Standing Committee on Finance has the ability to ensure that federal transfers are used by provinces and territories that guarantee to improve Canada's ranking by adherence to the fifty four articles of the UNCRC. Measures that can be taken in order to augment compliance with the UNCRC Articles:

- Integrate the Convention's principles and provisions into all sectors of the population including school curricula and the training of all those who work with, or for, children.
- Require that the provinces/ territories utilize the *General Measures of the Implementation Checklists* contained in the UNCRC as a means to ensure full compatibility with principles and provisions.
- Invite the First Ministers of Canada to sign an Agreement that demands fiscal collaboration and obliges provinces/ territories and non- governmental organizations to be engaged in practices that demonstrate full implementation of the UNCRC.

***Recommendation Two:***

**Create Funding Equity for First Nations Children and Youth in Canada**

The federal government has the responsibility to provide culturally appropriate, First Nations-managed child welfare services to aboriginal children and youth and their families. There are 1 in 10 First Nations children in care compared to 1 out of every 200 non-First Nation children in Canada (approximately 8000 children). First Nations Child and Family Service agencies receive approximately 22% less funding than provincial child welfare agencies.

First Nations children and youth deserve the same level of economic investment as non-First Nation children. The Standing Committee on Finance must meet its fiscal objectives to deliver funding equitably to all Canadian children and youth. It is imperative that the Committee undertake a review of the current First Nations child welfare funding formulas (which have not been reviewed since 1988). Cost of living adjustments have not been paid to First Nations child welfare agencies since 1995. The formula frameworks explored in the in *Wen:De - We Are Coming to the Light of Day* Research Project (Directive 20-1 (DIAND), linking FNCFSA funding to Provincial Funding Levels, and the FN Based Funding Model) are well researched and the proposed solutions warrant significant attention from the Committee. It is strongly recommended that the Committee review the First Nations funding formulas and make it a priority to rectify this situation as soon as possible.

On-going disputes regarding jurisdictional responsibilities and funding for First Nations Child and Family Services are longstanding in Canada. Jordan River Anderson was a First Nations child from Manitoba who was born with complex medical needs and spent his first two years in hospital. During this time, the First Nations Child and Family Services agency, family and community worked together to find a medically qualified foster home and to raise funds to refit the home and a van for Jordan's transportation. Shortly after his second birthday, Jordan's doctors approved his discharge from hospital to live in a family home. The jurisdictional dispute regarding which government department would pay for Jordan's at home care lasted over two years. During this time Jordan remained needlessly in hospital. Jordan died shortly after his fourth birthday without spending a day at home.

On December 12, 2007 the federal government collectively adopted the following private member's motion endorsing the ethical principle named in honour of Jordan River Anderson. It is succinct:

Where a jurisdictional dispute arises around government services to a Status Indian or Inuit child, the government department of first contact pays for the service to the child without delay or disruption. The paying government can then refer the matter to intergovernmental processes to pursue repayment of the expense.

*Jordan's Principle* has been approved by the Ontario and Manitoba legislature but has not been fully implemented by the Canadian Government or any provincial/ territorial government. This Standing Committee must undertake immediate adoption and implementation of *Jordan's Principle* at every level of government programs and services in Canada.

***Recommendation Three:***

**Meaningful Consultation with Children and Youth**

The active involvement of children and youth in decision making is a central tenet of Article 12 of the United Nations Convention on the Rights of the Child. Meaningful child participation aids in the development of responsible citizens and respect for democratic values. The participation of children and youth at all levels of government has been encouraged by the UN Committee on the Rights of the Child. Participatory rights span a continuum beginning from a place where every child capable of forming a view has the right to express views freely in all matters affecting him, or her, to the dedicated inclusion of children actively engaged in local policy issues related to budget allocations in such areas as education, health, child welfare and youth justice.

The Office of the Provincial Advocate for Children and Youth requests that the Committee consider adding special weight to the participatory rights provisions contained in Article 12 of the Convention by highlighting Article 12 in the conditions imposed upon provinces/territories with respect to transfer payments. We respectfully suggest that the Committee take a lead role in the implementation of Article 12 of the UNCRC by developing a meaningful process to include children and youth as genuine participants in policy discussions regarding the development of the next federal budget.

**Conclusion**

Canada is often viewed as a praiseworthy contributor in the area of children's rights. Let us build upon our children's rights legacy and collectively move forward as a Nation to achieve the full implementation of the United Nations Convention on the Rights of the Child. The House of Commons Standing Committee on Finance can play an instrumental role in meeting both its fiduciary obligations and its legislative responsibility to the children and youth of Canada by adopting the recommendations outlined in this Submission.