

Canada_NHRI_Canadian Human Rights Commission_PSWG

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THE CANADIAN HUMAN RIGHTS COMMISSION

The Canadian Human Rights Commission (CHRC) is Canada's national human rights institution. It has been accredited "A-status" by the Global Alliance of National Human Rights Institutions, first in 1999 and again in 2006, 2011 and 2016.

The CHRC was established by Parliament through the Canadian Human Rights Act (CHRA) in 1977. It has a broad mandate to promote and protect human rights. The Constitution of Canada divides jurisdiction for human rights matters between the federal and provincial or territorial governments. The CHRC has jurisdiction pursuant to the CHRA over federal government departments and agencies, Crown corporations, First Nations governments and federally-regulated private sector organizations. Provincial and territorial governments have their own human rights codes and are responsible for provincially/territorially-regulated sectors.

The CHRC also conducts compliance audits under the Employment Equity Act (EEA). The purpose of the EEA is to achieve equality in the workplace so that no person is denied employment opportunities or benefits for reasons unrelated to ability, and to correct the historic employment disadvantages experienced by four designated groups: women, Indigenous peoples, persons with disabilities and members of visible minorities.

Recently, the CHRC has been mandated with several new responsibilities under the Accessible Canada Act, the Pay Equity Act, and the National Housing Strategy Act. With the passage of the Accessible Canada Act, the CHRC was also designated as a body responsible for monitoring the Government of Canada's compliance with the Convention on the Rights of Persons with Disabilities (CRPD) in accordance with article 33.2 of the Convention.

The CHRC takes action to promote and protect the human rights of individuals by investigating complaints, issuing public statements, tabling Special Reports in Parliament, conducting research, developing policy, consulting with stakeholders, and representing the public interest in the mediation and litigation of complaints. It is committed to working with the Government of Canada to ensure continued progress in the protection of human rights, including Canada's implementation of the rights and obligations enshrined in the Convention on the Rights of the Child (CRC).

The CHRC celebrates the 30th anniversary of the CRC and takes this opportunity to both reflect on the progress of children's rights in Canada, and to highlight the important gaps and challenges that remain. The CHRC also supports the Sustainable Development Goals and their implementation in Canada, which will have a broad impact on the well-being of children ranging from child poverty to climate change. It is in the spirit of constructive engagement that the CHRC submits this report to the Committee on the Rights of the Child (the Committee) on the occasion of its consideration of Canada's 5th and 6th periodic reports.

VOICES OF CHILDREN (ARTICLES 12, 13)

The CHRC recognizes and supports the importance of ensuring children's voices are heard and considered in line with the General Principle of child participation. In its work, the CHRC strives to ensure that the perspectives of children are heard, better understood, and can be acted upon.

In its 2016 Annual Report, the CHRC highlighted the experiences of children in advocating for and accessing their human rights. These stories illustrate the realities of children across Canada who continue to experience discrimination in many facets of their daily life.

In a series of video interviews conducted with children, children identified education, religion, and shelter, among others, when asked which rights they viewed as most significant to them.

In 2016, the CHRC hosted a roundtable discussion on Youth and Human Rights in Canada. Several organizations from across the country that work with youth discussed ways to engage youth and increase their knowledge and awareness of human rights. Through the various discussions, the CHRC heard that:

children's rights need to be better incorporated into Canada's governance structures to help lessen the gaps that currently exist;

the experiences of children in Canada should not be homogenized;

children should be seen for the potential that they have now, rather than solely for their future potential;

there are gaps in the education children and youth receive about human rights;

children and youth observe situations that are unfair and possibly discriminatory, but don't necessarily have the knowledge or skills to do something about it; and

children and youth must learn about their rights repeatedly, at different levels of their education.

In addition, based on their own experiences as engaged youth, some participants suggested that, in order to empower youth to enact change and ensure that youth are better engaged on topics that matter most to them, it is imperative both to treat youth as equals, and create opportunities and spaces for engagement.

Recommended Question #1: Please provide details of efforts being made to increase children's awareness and understanding of their rights. What efforts are being made to meaningfully engage a diversity of children across Canada to better understand their views on important human rights issues that directly impact them? What processes are in place to ensure that the views of children are being considered and given due weight in policy decisions that impact their lives?

CHILDREN WITH DISABILITIES (ARTICLES 2, 3, 6, 17, 23, 24, 28, 29)

In Canada, more than 13% of youth (ages 15-24) identify as living with one or more disabilities. Children and youth with disabilities continue to encounter systemic and institutional barriers in a variety of spaces and circumstances, including while trying to access education, supports and services.

Education

Children with disabilities continue to face systemic social and institutional barriers while trying to access education. These barriers have a negative impact on the educational attainment, training, employment, career path and overall well-being of children with disabilities in Canada. These issues are the reality for Indigenous and non-Indigenous children with disabilities alike – whether they are living in remote areas of Canada, on First Nation reserves, in cities and urban centres across the country, or in the North.

A report released by the CHRC in collaboration with the Canadian Association of Statutory Human Rights Agencies (CASHRA), *Left Out: Challenges faced by persons with disabilities in Canada's schools*, identified the following barriers that persons with disabilities face in education:

lack of disability accommodation and support;

lack of services and funding;

ineffective dispute resolution; and

lack of special education and disability supports on First Nations reserves.

Additionally, the report identified the following impacts of disability on education:

more than 25% of individuals aged 15 and over reported being bullied at school due to their disability;

more than 25% of individuals aged 15 and over reported being avoided or excluded at school due to their disability;

approximately 10% of individuals aged 15 and over stopped their education altogether, long before they had the chance to obtain their desired educational level, because of their disability;

more than 40% of individuals aged 15 and over reported that their disability had an influence on their choice of career;

more than 30% of individuals aged 15 and over reported taking fewer courses as a result of their disability;

more than 25% of individuals aged 15 and over reported that their education was interrupted for long periods as a result of their disability;

approximately 35% of individuals aged 15 and over reported studying part-time as a result of their disability;

approximately 10% of individuals aged 15 and over reported having to leave their home community to attend school because appropriate services were not available;

approximately 15% of individuals aged 15 and over reported having additional expenses for school because of their disability; and

approximately 14% of individuals aged 15 and over reported having to begin school at a later age because of their disability.

Overall, persons with disabilities aged 15 and over are more likely to report “below high school” as their highest educational attainment compared to persons without disabilities across Canada.

The CHRC also consulted with provincial and territorial human rights commissions across Canada and with external stakeholders who work with persons with disabilities to better understand some of the barriers that persons with disabilities face in education. Some of the barriers identified include:

inadequate and insufficient accommodation arrangements in schools across Canada, which results in students being unable to attend the classes of their choice, write exams under necessary conditions, receive necessary transportation services, and bring service animals into classrooms and lecture halls;

increased class sizes and decreased funding for specialized supports for students with disabilities, including a decrease in the number of educational assistants in classrooms; and

closure of specialized education centres for persons with disabilities, such as education in Sign language for students.

Recommended Question #2: Please provide details of efforts to address systemic social and institutional barriers to education for children and youth with disabilities. What steps are being taken to foster inclusive learning environments and to prevent and combat bullying? What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to these issues?

Access to Supports and Services

Children with disabilities have unique needs and require targeted supports. This can include individual supports to participate in school, adapted equipment to play and engage in physical activities, and specialized health services to maintain good physical and mental health. The need for supports also extends to families of children with disabilities.

Access to support services for children and youth with disabilities in Canada was recently noted as an issue of concern by the Special Rapporteur on the Rights of Persons with Disabilities in her report on her April 2019 visit to Canada. The Special Rapporteur noted the prevalence of families with at least one child with a disability not receiving the support they need, and the excessive wait list times to receive such supports in some regions.

She further noted the stress that a lack of access to supports and services places on families: “[f]amily members have to take over the responsibility of providing support, give up their jobs to provide personal care, manage the delivery of multiple services and make themselves available at short notice when service provision is cancelled.”

Finally, the Special Rapporteur noted that, in some cases, foster care placement is the only viable option for parents with children with disabilities, and that at the age of 18, young persons with disabilities who can no longer be supported by their families risk being placed in institutions such as nursing homes for older persons.

The CHRC also wishes to highlight access to supports and services in relation to child and youth mental health in Canada. The CHRC recognizes that the mental health of children and youth remains a pressing concern. At a high-level, the picture is alarming: two-thirds (2/3) of children and youth in Canada feel like they don't belong, which can harm their development, and contribute to poor performance in school, conflict with the law, homelessness, mental health issues and suicide. Equally, if not more alarming, are the high rates of suicide among young people in Canada. Canada's youth suicide rate (ages 15-24) is the third highest in the industrialized world. Further analysis shows that 34% of 11 to 15 year olds experience weekly symptoms of mental distress, including headaches, stomach aches and trouble sleeping, and 10.5% of 12 to 17 year olds report living with a mood and/or anxiety disorder. According to the Mental Health Commission of Canada, up to 70% of mental health problems and illnesses begin in childhood or adolescence, and as many as three (3) in four (4) children and youth with mental health problems and illnesses do not access services and treatments. This leaves children and youth at a much higher risk of continuing to experience these mental health issues as adults.

The CHRC acknowledges that while much awareness has been raised and progress has been made in child and youth mental health in Canada, gaps remain with respect to supports and services in the mental health system. Some of the identified gaps include: preventive approaches that integrate mental health supports into school and community programs; coordination between jurisdictions, services and systems of care; the availability of services and timely access; and the transition from child/youth to adult services.

Recommended Question #3: Please provide details of the efforts being taken to address gaps in access to supports and services for children with disabilities and their families, including in relation to mental health supports and services. What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

There is also a need for better data collection on the situation of children with disabilities in Canada. For instance, better information on the nature and needs of children and youth with disabilities is necessary to predict, plan and evaluate equitable and inclusive supports and services. Without such data, very little is known about how existing supports and services are meeting, or failing to meet, the diverse needs of children with disabilities and their families.

Recommended Question #4: Please provide details of the efforts being taken to address the need for better data collection on the situation of children with disabilities in Canada.

INDIGENOUS CHILDREN (ARTICLES 2, 3, 5, 6-9, 19, 20, 24, 30, 34, 37, 39)

The CHRC views the situation of Indigenous peoples in Canada as one of the most pressing human rights issues facing Canada today. Indigenous peoples in Canada, including Indigenous children and youth, continue to be significantly disadvantaged in terms of education, employment and access to basic needs such as water, food security and housing. In addition, Indigenous women and girls experience systemic discrimination and bear a disproportionate burden of violence, and are murdered or go missing at a disproportionately high rate. The root causes of this discrimination and violence are varied, complex, and intersectional.

Canada has a long and dark history of institutionalized child neglect, abuse and discrimination, including systematically separating Indigenous children from their families, culture and identity. For instance, the legacy of the residential school system looms large over many aspects of Indigenous lives, and continues to have a detrimental effect on the well-being of Indigenous children in Canada. As such, Indigenous children face significant barriers in being able to fully enjoy their rights.

The CHRC is mandated to deal with complaints about services for Indigenous children on reserve. Because of this, several of the issues outlined below refer specifically to Indigenous children on reserve. However, the CHRC recognizes that many of these realities are felt and experienced by Indigenous children living both on and off reserve.

Equitable and Adequate Services

Across the country, many First Nations children and their families continue to live without equitable and adequate housing, safe drinking water or access to quality education, child welfare, and other social services. First Nations often cite lack of funding as the main reason for inadequate programs and services on reserve, including special education services, disability-related services, and social and health supports.

The CHRC has received a number of complaints filed by or on behalf of Indigenous children and families, relating to the availability of and funding for a broad range of public services delivered on reserve. For instance, complaints have been filed regarding the adequacy of federal funding and supports for special education, health, and home and community care services. Examples include the following:

an Ontario First Nation filed a human rights complaint alleging that the federal government discriminates by failing to provide sufficient funding and supports to enable the delivery of appropriate special education services to First Nations children with disability-related education needs who live on reserve in Ontario;

an Alberta First Nations woman living on reserve filed a human rights complaint alleging that the federal government discriminated by failing to take adequate steps to ensure that her son, who uses a wheelchair, received safe transportation to and from school; and

a Manitoba First Nations woman living on reserve filed a complaint on behalf of her young son, alleging that the federal government discriminates by failing to provide sufficient funding and supports to enable the delivery of appropriate special education services, and various health, home and community care services, to First Nations children on reserve in Manitoba.

Further to these complaints, the Special Rapporteur on the Rights of Persons with Disabilities recently reported that many Indigenous children with disabilities in Canada are often removed from their homes because of the lack of appropriate support services in Indigenous communities. The Special Rapporteur also found that some families are afraid of reporting the disability status of a relative due to the risk of separation.

In a series of ground-breaking rulings from January 2016 to the present, the Canadian Human Rights Tribunal (the Tribunal) found the federal program and funding for child welfare services on reserve to be discriminatory against First Nations children and families, and ordered the federal government to provide sufficient funding and supports to enable the delivery of services that meet the real needs of First Nations children and families. These rulings require the government to provide First Nations children with substantively equal access to services – something that can require going beyond the standards of care provided in comparable communities off reserve.

The parties to the litigation continue to work together on implementation of these rulings, and the Tribunal is expected to provide further guidance in the coming months. In addition, in September 2019, the Tribunal ordered the federal government to pay financial compensation to victims of the government's discriminatory practices. The federal government has sought judicial review of the Tribunal's decision. Following a recent court order, two processes will now occur in parallel. At the Tribunal, the parties will make further submissions on how best to implement the compensation award. At the same time, the federal government will move its judicial review towards a hearing. The CHRC continues to be involved in this work.

The CHRC recognizes that An Act respecting First Nations, Inuit and Metis children, youth and families (the Act), which recently entered into force, provides an opportunity to improve the child welfare system. Among other things, the Act establishes national standards for the provision of child and family services to Indigenous children, and affirms Indigenous jurisdiction over child and family services. Many features of this new legislation are encouraging, including its emphasis on substantive equality, preventive care and the need for continuity of culture and language. However, the CHRC also shares the concerns of stakeholders that this legislation does not adequately address the need for reliable funding, which is critical for implementation. The Tribunal, as well as other respected bodies such as the Truth and Reconciliation Commission of Canada and this Committee, have all stressed the need for Canada to provide adequate resources for Indigenous child and family services.

According to the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (Report), the crisis of child welfare, the chronic underfunding of essential services, and the many health disparities currently facing Indigenous children and their families can all be attributed to the legacy of colonialism and the intergenerational effects of trauma and genocide.

For instance, according to the Report, researchers found that, compared with those who did not attend residential school, residential school survivors are more likely to suffer various physical and mental health problems, to report higher levels of psychological distress and poorer self-rated health, and to be diagnosed with various chronic health conditions. Although access to culturally appropriate and relevant services was identified as one of the most important factors for healing for residential school survivors, the Report found that 1) there are not enough culturally relevant treatment and healing centres for Indigenous people across Canada, and 2) stable, sufficient and reliable funding is a barrier for those that do exist.

The Report also found that Canada has failed to ensure that Indigenous women, girls, and 2SLGBTQQIA people have access to services and resources that are equitable to those received by non-Indigenous people. It stated that "[c]urrent health and wellness services are grossly lacking and often inappropriate and inaccessible, which contributes directly to the decreased safety and security of, and the violence experienced by, Indigenous women, girls, and 2SLGBTQQIA people."

Recommended Question #5: Please provide details of the steps being taken to ensure that services for Indigenous children and their families are equitable, adequate and appropriate. What steps are being taken by Canada to implement the recommendations made by the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, including in relation to the provision of services?

Suicide Rates for Indigenous Youth

As previously highlighted, youth suicide rates in Canada are very high. Indigenous youth in Canada, in particular, experience disproportionately high rates of suicide and suicidal ideation in comparison to their non-Indigenous counterparts. In 1995, a special report published by the Royal Commission on Aboriginal Peoples estimated that the rate of suicide among Indigenous youth was five (5) to six (6) times higher than among non-Indigenous youth in Canada. Unfortunately, over the past three decades, these figures have remained largely unchanged, with Indigenous youth continuing to be at high risk of suicide. In addition, the most high risk group for suicide are Inuit males aged 15-29, with rates almost forty (40) times the national rate.

The reasons for these disproportionately high rates are many and multi-faceted. For example, the lingering effects of the residential school system, the manner in which child welfare and mental health services are delivered, the social and economic marginalization of Indigenous peoples more broadly, and a variety of structural issues all contribute to this situation.

Recommended Question #6: Please provide details of the steps being taken to address the issue of Indigenous youth suicide, including information about efforts to ensure that culturally-appropriate mental health services are available in Indigenous communities.

RACIALIZED CHILDREN (ARTICLES 2, 3, 6, 28-30, 37, 40)

The realities of systemic racism and discrimination in Canada have been repeatedly recognized by international and regional human rights mechanisms, by civil society and domestic human rights institutions, and – in many cases – by government. Nevertheless, substantive progress towards addressing these realities remains largely elusive.

The CHRC acknowledges that there are ongoing federal initiatives that contribute to addressing racism and discrimination in Canada. However, the CHRC maintains that without a rigorous human rights lens, gaps in progress will remain, and may even exacerbate systemic inequities based on race. To prevent this, it is essential that both the development and evaluation of all laws, policies and programs fully integrate race-based considerations, to ensure substantive equality in Canada.

For instance, racialized children and youth in Canada continue to experience a number of barriers to equality, including historic and ongoing systemic racism and discrimination in education and child welfare. This results in negative impacts on their ability to thrive and their future well-being.

At the conclusion of its official visit to Canada in October 2016, the UN Working Group of Experts on People of African Descent expressed concern over anti-Black racism and the lack of social inclusion in the education system in Canada, and found that race-based stereotypes about African Canadian students' scholastic ability have had a devastating impact. According to the Working Group, African Canadian students have disproportionately low educational attainment, high rates of dropout, suspensions and expulsions, and are more likely than other children to be streamed into general and basic-level academic programs, instead of advanced-level programs. The Working Group noted three primary concerns in the education system for African Canadian students: 1) differential treatment, 2) lack of Black and African Canadian history and culture in the curriculum, and 3) the absence of Black teachers.

There is also an overrepresentation of Black children in the child welfare system. The social and economic issues that contribute to the overrepresentation of Black children in child welfare include poverty, the lack of adequate and appropriate services and supports, and the intergenerational effects of systemic racism.

Further, negative assumptions about poverty and race, policies and system-level practices, and an individual's conscious or unconscious racial bias, are all factors that may lead to incorrect assumptions about the level of risk racialized children are exposed to, which could result in decisions that adversely affect Black children and their families.

In addition, the trauma of being removed from one's family can be made worse for Black children and youth when, for example, they are placed with non-Black foster families and are away from their communities for long periods of time. This may lead to feelings of alienation from their family and community and result in a loss of connection to both culture and identity. For instance, the UN Working Group of Experts on People of African Descent expressed concern over reports that, "...across Canada, African Canadian children are taken from their parents by child welfare agencies on dubious grounds without respect for the extended care opportunities that exist in African Canadian families and communities."

There are also many negative and long-term effects associated with being placed in care. According to a 2018 report on child welfare by the Ontario Human Rights Commission, these effects can include higher rates of youth homelessness, lower levels of post-secondary education, low income, high unemployment and increased prevalence of chronic health problems for children. The report also found that compared to youth from the general population, youth from the child welfare system are at much greater risk for becoming involved with the juvenile criminal justice system – a process sometimes referred to as the “child-welfare-to-prison pipeline”. Thus, due to racial disparities in the child welfare system, Black children may be disproportionately likely to experience these negative effects.

Recommended Question #7: Please provide details of efforts being undertaken to address systemic racism and discrimination against racialized children in Canada, including in relation to education and child welfare. What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to these issues?

ADEQUATE STANDARD OF LIVING (ARTICLES 4, 24, 27)

Despite being one of the wealthiest nations, Canada has a significant child population that does not enjoy an adequate standard of living. It is the poorest children who have been, and are most affected by, widening income inequality and the resulting stress experienced by families. This situation is of great concern to the CHRC, which believes that greater support is required to lift children and families out of poverty.

Poverty, Food Insecurity and Homelessness

The rate of child and family poverty continues to be unacceptably high in Canada. There are over 1.35 million children living in poverty with their families, which represents 18.6% of children under 18. Among those with the highest prevalence of child poverty rates are racialized groups (22%), recent immigrants (35%) and, most significantly, Indigenous children (53% for First Nations children living on reserve). This is in stark contrast to non-racialized, non-immigrant and non-Indigenous children, where only 12% report to live in poverty.

The harmful impacts of child poverty can affect many aspects of a child’s life. Many studies provide strong evidence that children living in poverty tend to have worse cognitive, social-behavioural and health outcomes, with the strongest negative effects evident in preschool years.

Poverty and household food insecurity are strongly interrelated in Canada. For instance, 70% of households who rely on social assistance in Canada are food insecure. Food insecurity continues to affect many people across Canada, including 1.15 million – or one (1) in six (6) – children in Canada, and is more prevalent among households with children under the age of 18. In 2018, one (1) in four (4) children and youth in Canada reported that they go to bed or school hungry at least sometimes because there is not enough food at home. Food insecurity can have harmful effects on a child’s growth, development and well-being, and can pose numerous health risks, such as obesity, diabetes, malnutrition and chronic illness. Northern populations and marginalized groups, in particular, experience disproportionately high rates of food insecurity.

In Canada, 1.7 million households are in core housing need. Furthermore, 235,000 Canadians experience homelessness each year, 35,000 on any given night, with young people (ages 13-24) making up approximately 20% of the homeless population in Canada.

For many youth, their first experience of homelessness occurs well before they are entitled to access interventions and supports, and youth who leave home at a younger age experience both increased hardship before they become homeless and greater adversity once on the streets. Additionally, those who leave home at an early age are more likely to: experience multiple episodes of homelessness; have greater involvement with child protection services; experience bullying; become victims of crime once homeless, including sexual assault; have greater mental health and addictions symptoms; experience poorer quality of life; attempt suicide; and become chronically homeless. Those in vulnerable circumstances and who face discrimination on the basis of multiple and intersecting identities are often even more profoundly impacted. For example, 2SLGBTQI youth with

disabilities are generally overrepresented in homeless populations.

The CHRC is encouraged by the passage of federal housing and anti-poverty legislation, and the earlier release of National Housing and Poverty Reduction Strategies, which demonstrate a commitment to recognizing and addressing the social and economic disadvantage that certain groups – including children and their families – continue to experience. Given the prevalence of children in food insecure households, as well as the harmful impacts that food insecurity can have on a child, the CHRC is encouraged by the inclusion of food insecurity as an indicator in the Poverty Reduction Strategy. The CHRC also welcomes the anticipated appointment of a Federal Housing Advocate, who will be mandated to examine and report on systemic housing issues.

However, the problems of child poverty and inadequate housing are interrelated, interdependent and often indivisible, which is why it is imperative that these new initiatives work together. The CHRC is concerned that a lack of coordination reduces the likelihood of success of each separate initiative, and may hinder overall progress towards equality. Meaningful progress also demands broader coordination within and beyond the federal government, with provinces and territories, Indigenous governments, municipalities, private and community organizations, and civil society. The causes and conditions of child poverty and youth homelessness touch on many key sectors of society, including healthcare, education, child protection, justice, employment supports, and housing. Thus, while federal housing and anti-poverty legislation are encouraging, in order for solutions to be effective in addressing inequality, they must be planned, resourced and coordinated across different initiatives and sectors of society.

Recommended Question #8: Please provide details on the anticipated impact that the housing and anti-poverty legislation and strategies will have on children and their families. What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

INTERSEX, TRANS AND GENDER DIVERSE YOUTH (ARTICLES 2, 19, 24)

Intersex, trans and gender diverse youth in Canada experience multiple and intersecting forms of discrimination. Recent studies indicate that many trans and gender diverse youth report discrimination, bullying and violence as a result of their gender identity, and those who experience these are more likely to report homelessness and mental health difficulties, including depression, anxiety, self-harm and suicide. This abuse and discrimination occurs in a variety of spaces, including classrooms, playgrounds and social areas, health care settings, toilets and changing rooms, on the way to and from school, and online.

According to the 2015 Canadian Trans Youth Health Survey:

36% of younger trans youth (ages 14-18) reported having been physically threatened or injured at school, and 64% reported being taunted or ridiculed;

60% of younger trans youth reported experiencing discrimination because of their gender identity;

33% of younger trans youth reported being cyberbullied;

75% of younger trans youth reported engaging in self-harm;

65% of younger trans youth reported having seriously considered suicide, with more than one-third (1/3) having attempted suicide at least once;

33% of younger trans youth reported not receiving physical health care when needed, and even more (68%) reported not receiving mental health care when needed; and

33% of younger trans youth reported that they had no adult they could talk to if they were having a serious problem.

The Survey also provided a number of key recommendations to address the health and well-being of trans youth in Canada, including: better outreach and support for families; supportive school environments; adequate and timely access to gender-affirming healthcare; and elimination of cross-provincial disparities in access to care.

Recommended Question #9: Please provide details of efforts being taken to eliminate discriminatory policies and practices towards intersex, trans and gender diverse youth in Canada. What efforts are being made to foster inclusive family and learning environments and ensure adequate and timely access to social supports? What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

The CHRC maintains that children who are intersex, trans and gender diverse should not be psychopathologized, and that being intersex, trans or gender diverse is not in and of itself a disability or a mental illness.

However, in order to gain access to critical health and social services, intersex, trans and gender diverse youth are often forced to adhere to a medical model which is based on cis-normative assumptions about medically “correct” or “normal” bodies and sex characteristics. Non-consensual medical interventions themselves, such as coerced examinations or pharmaceutical treatments, unnecessary surgeries, and conversion therapies, can be cruel and harmful to intersex, trans, and gender diverse infants, children and young adults.

The CHRC notes that a non-medicalized model would follow best practices such as ensuring free and informed consent and providing better access to appropriate gender affirming care and supports. This would reduce stigma, recognize and normalize variations of sex characteristics and gender diversity, and enable intersex, trans and gender diverse youth to enjoy their right to health and to fully exercise their human rights.

Recommended Question #10: Please detail the steps being taken to ensure that intersex, trans and gender diverse children and youth are not harmed by non-consensual medical interventions, and that they are able to access gender affirming care and supports.

In November 2019, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity issued a call for inputs on his current thematic study on the practices of conversion therapy on lesbian, gay, bisexual, trans and gender diverse people around the world. The study is exploring the human rights implications of these practices, the impact on the persons that are subjected to it, measures adopted to prevent its practice and remedies provided to injured parties. The Independent Expert noted that conversion therapy appears to produce long-lasting negative effects on individuals subjected to the practice, and can lead to physical and deep psychological harm, such as depression, anxiety, drug use, homelessness, and suicide, with children being especially vulnerable. For instance, the Independent Expert has previously reported that he has “received abundant information that close relatives attempt to force LGBT youth to conceal or change their behavior or sexual desire, including forcing them to undergo conversion therapies”.

In Canada, 8% of trans and non-binary youth (ages 14-24) have undergone conversion therapy in an attempt to make them cisgender. The CHRC notes that there is currently no federal legislation banning conversion therapy in Canada and, at present, the practice remains legal in several jurisdictions across Canada, although it is increasingly being banned at the municipal level. The CHRC is encouraged by the federal government’s commitment to implementing legislation banning the practice of conversion therapy in 2020 and looks forward to continued action on this important human rights issue for 2SLGBTQI people.

Recommended Question #11: Please provide details of steps being taken to ban the practice of conversion therapy in Canada. What efforts are being made to ensure coordination between the various jurisdictions in Canada in relation to this issue?

The CHRC recognizes that data on intersex, trans and gender diverse youth both in Canada and abroad is incomplete, fragmented, and in some areas, non-existent. However, the CHRC wishes to acknowledge progress from both Statistics Canada and a national research project. Statistics Canada has included greater diversity in its classification and census questions related to both sex and gender, and Trans PULSE Canada – a national

study of trans and non-binary people – is currently in the process of developing data reports on health and human rights stemming from a national survey which has identified youth as one of its priority populations. The focus on youth and other priority populations will fill data gaps within these populations, investigate how policies and practices impact these populations, and identify the potential causes of barriers and inequalities. The survey results have the potential to fundamentally influence and improve health outcomes and human rights progress both domestically and internationally.

OTHER ISSUES REQUIRING ATTENTION

Children, Technology and Human Rights (Article 16)

Today's children and youth are the first generation to be born into a digital age and to live their lives through technology. Children and youth have the right to the benefits of technology and the digital environment, and to protection from human rights violations related to these. The CHRC wishes to highlight that it is crucial for children's online rights and protections to be consistent with their offline rights.

Children and youth are increasingly subject to technological surveillance of their activities by both governments and the private sector. This is often done without children's awareness or informed consent, and presents new and profound risks to privacy and, consequently, to other rights. This increasing surveillance, combined with other technologies such as big data, facial recognition, and AI can put children and youth at risk of having significant parts of their lives and decisions predicted, influenced, monetized and exploited in ways that are inconsistent with the best interests of the child. It can also normalize surveillance as children grow, leaving children and youth increasingly at risk and vulnerable to violations of their right to equality and to live free from discrimination.

Children are also victims of online exploitation, hate, harassment, and abuse, often related to their sex, race, gender identity or expression, or other characteristics. Cyber-bullying and the sharing of child abuse images online are examples of serious violations of children's privacy rights that can have long-term ramifications due to the far reach and permanency of information online.

There have been few detailed assessments of whether and how children's rights – including the right to privacy – can be both realized and protected in digital environments. However, international frameworks and guidance for both governments and the private sector is growing. For example, in 2016, the UN Human Rights Council passed a resolution on the right to privacy in the digital age that makes explicit reference to the CRC. As well, section 38 of the European Union's General Data Protection Regulation recognises that “[c]hildren merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data”.

In Canada, there is ongoing work from governments and the private sector in this area, but there is little legislation or regulation currently in place to identify, prevent, prohibit or remedy individual or systemic human rights violations against children that are linked to technology, human rights, and the digital environment.

Recommended Question #12: Please provide details of steps being taken to address the prevention, protection and access to remedies for the violation of rights against children in the digital environment. What efforts are being made to ensure that children's rights to equality in the digital environment are adequately protected by governments and within the private sector?

Environmental Concerns (Article 24)

Children are increasingly vulnerable to the health, economic and social effects of climate change. According to a report from UNICEF, “climate change undermines [a child's] most basic rights, putting their survival and well-being in danger and threatening their access to food, water and education. By placing severe pressures on communities' coping mechanisms and exacerbating drivers of insecurity, the impacts of climate change also increase children's exposure to violence, exploitation and abuse.”

A large majority of children and youth in Canada are environmentally aware and concerned. For instance, 75% of children and youth in Canada reported that they notice the impacts of climate change weekly or daily, and only 6% are not taking any sort of action to combat it.

The Organisation for Economic Cooperation and Development's (OECD) international benchmark of environmental literacy is used to assess the ability of young people to explain five (5) of seven (7) environmental issues: 1) greenhouse gases in the atmosphere; 2) genetically modified organisms; 3) nuclear waste; 4) implications of clearing the forest for other land use; 5) air pollution; 6) extinction of plants and animals; and 7) global water shortage. In Canada, 71% of 15 year-olds are familiar with, or know something about, five (5) or more of these environmental issues, which is well above the OECD country average of 62%.

Children are also more sensitive than adults to deprivations, toxins and air pollution, and can be particularly vulnerable to environment-related disasters, which can displace them from their homes and communities, and disrupt their education, health and future. As noted by the Special Rapporteur on Human Rights and Hazardous Substances and Wastes in his end-of-visit statement to Canada in June 2019, "[t]he impacts of [toxic] exposure by children during sensitive periods of development are unique and multifaceted. The silent pandemic of diseases and disabilities linked to childhood exposure is adversely affecting the full realization of human rights at various stages of life, with profound economic costs on individuals regarding health care, lost productivity and more."

However, environmental concerns can have additional and compounding negative effects on children from marginalized communities due to socioeconomic disadvantage and environmental racism. For instance, African Canadian and Indigenous communities often experience environmental racism, whereby landfills, waste dumps and other environmentally hazardous activities are disproportionately situated near their neighbourhoods, creating serious health risks. The chemicals and toxins from these activities contaminate the air, water and land surrounding these communities, and as a result, the constant exposure can lead to negative health impacts and, in some instances, potential life-threatening illnesses.

Recommended Question #13: Please provide details of efforts being taken to address the concerns and environmental well-being of children and youth in Canada, particularly in relation to those in marginalized communities.

CANADA'S IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS (ARTICLE 4)

The CHRC continues to be of the view that the current system for implementation of Canada's international human rights obligations, including those under the CRC, is both structurally inadequate and practically ineffective.

This system continues to contribute in a substantial way to a demonstrable lack of progress in implementing the recommendations that have emanated from the international human rights system, including those made by this Committee. To close the gap between aspiration and reality, Canada must find a new way of working by both enhancing existing systems and creating new ones.

The CHRC appreciates the voluntary commitments made by Canada during its 3rd Universal Periodic Review, including to: strengthen intergovernmental cooperation and public dialogue on human rights through the development of a protocol for following up on the recommendations Canada has received from international human rights bodies; enhance federal/provincial/territorial (FPT) collaboration on human rights implementation through the creation of a senior-level intergovernmental mechanism; and hold future FPT human rights ministerial meetings.

While the CHRC welcomes its designation as the body responsible for monitoring the Government of Canada's compliance with the CRPD, the CHRC remains concerned that the current system continues to perpetuate a patchwork approach to progress without a foundational structure of monitoring and implementation of

interdependent, interrelated, and indivisible human rights. Therefore, the CHRC believes strongly that, in order to effectively implement the recommendations made to Canada during this and other reviews, and so that all children in Canada are able to enjoy their rights fully and equally, it is imperative that substantial, meaningful and coordinated progress be made in ensuring a robust implementation and monitoring framework.

Recommended Question #14: What progress has been made in ensuring a robust implementation and monitoring framework for Canada's international human rights obligations, including those under the CRC?