

# JOINT SUBMISSION TO THE EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES

Study on the rights of the Indigenous child under the *United Nations Declaration on the Rights of Indigenous Peoples*

March 1, 2021

**First Nations Health and Social Secretariat of Manitoba (FNHSSM)** supports Manitoba First Nations in achieving and maintaining a cultural, community-based, holistic state of overall wellbeing.

**Manitoba Advocate for Children and Youth (MACY)** is an independent office of the Manitoba Legislative Assembly responsible for representing the rights, interests, and viewpoints of children, youth, and young adults in Manitoba.



FIRST NATIONS HEALTH AND SOCIAL  
SECRETARIAT OF MANITOBA



## INTRODUCTION

1. The First Nations Health and Social Secretariat of Manitoba (FNHSSM) and the Manitoba Advocate for Children and Youth (MACY), make this submission to the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) in response to the resolution of the United Nations (UN) Human Rights Council 33/25 on the rights of the Indigenous child under the *UN Declaration on the Rights of Indigenous Peoples* (UNDRIP) of 2007. This submission is guided and structured according to the priorities of the Indigenous youth of MACY's Youth Ambassador Advisory Squad (YAAS!) and highlights Indigenous-led programs and initiatives as they relate to the realization of Indigenous children's right to health.
2. This report discusses the international and national human rights framework as it relates to structural inequalities and Indigenous children's right to continuous improvement of health with a particular focus on infant mortality and youth suicide in Manitoba, Canada. Specific issues raised for discussion include those suggested in the concept note: the rights to life, physical and mental integrity, liberty and security of person, access to justice (preamble, and articles, 6, 7, 8, 22 and 43) and non-discrimination, health, housing (as part of the right to an adequate standard of living and non-discrimination), culture, and education (articles 14, 17, 21).

## INTERNATIONAL HUMAN RIGHTS CONTEXT

3. Indigenous Peoples have the right to life, physical and mental integrity, liberty and security of person (UNDRIP, Art. 7.1).
4. Indigenous Peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group (UNDRIP, Art. 7.2).
5. States shall take measures, in conjunction with Indigenous Peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination (UNDRIP, Art. 22.2).
6. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right (UNDRIP, Art. 24.2).
7. Indigenous individuals also have the right to access all social and health services without any discrimination (UNDRIP, Art. 24.1).
8. Indigenous Peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information (UNDRIP, Art. 15.1).
9. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination (UNDRIP, Art. 14.2).

## NATIONAL HUMAN RIGHTS CONTEXT

10. The Government of Canada acknowledged the special place of children in society and assumed responsibility for the fulfillment of children's rights by ratifying the *UN Convention on the Rights of the Child* in 1991. In ratifying the *UN Convention on the Rights of the Child*, Canada is not only responsible for ensuring the rights of all Canadian children in the Convention are realized, but also that the rights of Indigenous children are fully protected.<sup>1</sup>
11. Ensuring non-discrimination is a legal obligation of the Government of Canada.<sup>2</sup> The primary source of equality rights is derived from section 15 of the *Canadian Charter of Rights and Freedoms*. Canadian jurisprudence has determined that section 15 is not a general guarantee of equality, rather a guarantee of non-discrimination. Canadian law has reinforced the principle of substantive equality numerous times, but the Canadian Human Rights Tribunal's decision in the case of *Jordan River Anderson* is the most impactful because it established Jordan's Principle as a legal principle in Canada.
12. In Canada, provinces are largely responsible for the delivery of services, including healthcare and education, except in First Nations communities, where the federal government holds responsibility. Child welfare services are currently provincially-funded and implemented through culturally appropriate Authorities and agencies which serve First Nations communities. This structure allows families to receive services through a cultural lens, but can result in jurisdictional disputes which discriminate against First Nations children. Jordan's Principle requires that the federal and provincial governments provide services to First Nations children without service denials, delays, disruptions, or discrimination because of their First Nations status on reserve. This child-first principle considers substantive equality, distinct cultural needs, and historical disadvantages linked to colonization.
13. Recent national reports have brought attention to the injustices perpetrated against Indigenous Peoples in Canada. In 2015, the Truth and Reconciliation Commission of Canada (TRC) released its final report examining Canada's shameful history of forced colonization and assimilation practices committed under the residential school system as well as the resulting harmful reverberations that span generations today.<sup>3</sup> The TRC issued 94 *Calls to Actions* designed to redress the legacy of residential schools and advance the process of reconciliation in Canada.<sup>4</sup> In 2019, *Honouring the Truth, Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (MMIWG) was released. This report brought attention to the historical and ongoing social,

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<sup>1</sup> Committee on the Rights of the Child. (2009). Indigenous children and their rights under the Convention. CRC/C/GC/11.

<sup>2</sup> Canadian Human Rights Act, RSC 1985, c H-6.

<sup>3</sup> Truth and Reconciliation Commission of Canada. (2015). *Honouring the truth, reconciling for the future: Summary of the final report of the Truth and Reconciliation Commission of Canada*. Truth and Reconciliation Commission of Canada.

<sup>4</sup> Truth and Reconciliation Commission of Canada. (2015). *Truth and Reconciliation Commission of Canada: Calls to action*. Truth and Reconciliation Commission of Canada.

economic, cultural, and institutional causes of gendered violence perpetrated against Indigenous women and girls in Canada.<sup>5</sup>

14. As recommended in both the TRC and the MMIWG reports, in 2020, *The United Nations Declaration on the Rights of Indigenous Peoples Act* (Bill C-15) was introduced in the Canadian House of Commons.<sup>6</sup> This act – recognizing the basic human rights of Indigenous Peoples along with their rights to self-determination – would bring federal law into alignment with the *United Nations Declaration on the Rights of Indigenous People*.
15. Provincial responses to the introduction of this bill have varied. Six provinces, including Manitoba, urged the federal government to delay the introduction of Bill C-15.<sup>7</sup> British Columbia integrated UNDRIP into provincial legislation prior to Bill C-15, in November 2019.

## MANITOBA'S HUMAN RIGHTS CONTEXT

### Infant Mortality and the Structural and Systemic Inequality Experienced by Indigenous Families

Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person (UNDRIP, Art. 7.1).

16. The Committee on the Rights of the Child (CRC) recognized that “disproportionately high numbers of Indigenous children live in extreme poverty, a condition which has a negative impact on their survival and development. The Committee is furthermore concerned over the high infant and child mortality rates as well as malnutrition and diseases among Indigenous children.”<sup>8</sup>
17. Rates of child poverty in Manitoba are higher than in other parts of Canada, ranging from 12% to 22%. A report on the health of Manitoba’s youth noted that as of 2018, “one in two First Nations children, one in four Metis, one in four Inuit, and one in six non-Indigenous children in Manitoba live in poverty, all higher than in Canada overall.”<sup>9</sup>
18. Sleep-related infant deaths (sometimes referred to as SIDS or SUID), as with other measures of child health, disproportionately affect households experiencing conditions of poverty. In Manitoba, 58% of sleep-related infant deaths occurred in neighbourhoods where the average

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<sup>5</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). (2019). *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. National Inquiry into Missing and Murdered Indigenous Women and Girls.

<sup>6</sup> Bill C-15, *The United Nations Declaration on the Rights of Indigenous Peoples Act*, 2<sup>nd</sup> Session, 43<sup>rd</sup> Parliament, 2020.

<sup>7</sup> Platt, B. (2020, Dec. 4). Six provinces object, but Liberals still move ahead with UN declaration on Indigenous rights. *National Post*. <https://nationalpost.com/news/politics/bill-to-enshrine-un-declaration-on-the-rights-of-indigenous-peoples-in-canadian-law>

<sup>8</sup> Committee on the Rights of the Child. (2009). Indigenous children and their rights under the Convention. CRC/C/GC/11.

<sup>9</sup> Healthy Child Manitoba. (2018). *Child and youth report*. Winnipeg, MB.

household income was less than \$35,000 per year. Furthermore, 25% of infants who died unexpectedly in their sleep in Manitoba did not have a safe surface available in their home, like a crib, bassinette, or culturally appropriate alternative.<sup>10</sup>

*“[We need the] promotion of prenatal parenting preparation and maternal health for young Indigenous pregnant people and expecting co-parents.”*  
– MACY Indigenous Youth Ambassador

- 19.** The CRC voiced their concern about the high rates of mortality among Indigenous children.<sup>11</sup> Indigenous infants are overrepresented in sleep-related infant deaths in Manitoba. According to population projections, Indigenous infants account for between 20-30% of live births in Manitoba between 2009 and 2018, but represent at least 57% of sleep-related infant deaths.<sup>12</sup> This number is almost certainly an underestimate, since Indigenous ancestry is not routinely or systematically collected by all Manitoba government agencies.
- 20.** The First Nations Health and Social Secretariat of Manitoba (FNHSSM) is working to correct the gap in information by telling the stories of First Nations communities in Manitoba through data with initiatives including the Regional Health Survey (RHS) and the Regional Early Childhood, Education, and Employment Survey (REES). In addition, and through a partnership with the Manitoba Centre for Health Policy, FNHSSM is working on an Indigenous People’s Atlas that examines the social determinants of health and healthcare use of First Nations people in the Manitoba Region.
- 21.** The work of FNHSSM is consistent with the First Nations’ principles of ownership, control, access, and possession (OCAP®) of data and information.<sup>13</sup> Traditional ethical standards guide the approval of research with First Nations data at a regional level through the Health Information Research Governance Committee (HIRGC) to ensure respectful research that benefits First Nations.<sup>14</sup>
- 22.** The overrepresentation of Indigenous infants in sleep-related deaths is tied to structural inequality and poverty. Indigenous infants who died in their sleep were less likely to have a safe sleep surface, like a crib or bassinette or culturally appropriate alternative, available in their home than non-Indigenous families.<sup>15</sup> As a result, Indigenous infants who died

<sup>10</sup> Manitoba Advocate for Children and Youth. (2020). *Safe and sound: A special report on the unexpected sleep-related deaths of 145 Manitoba infants*. <https://manitobaadvocate.ca/wp-content/uploads/SafeSleep-Report.pdf>

<sup>11</sup> Committee on the Rights of the Child. (2009). Indigenous children and their rights under the Convention. CRC/C/GC/11.

<sup>12</sup> Manitoba Advocate for Children and Youth. (2020). *Safe and sound: A special report on the unexpected sleep-related deaths of 145 Manitoba infants*. <https://manitobaadvocate.ca/wp-content/uploads/SafeSleep-Report.pdf>

<sup>13</sup> First Nations Information Governance Centre. (n.d.). *The First Nations principles of OCAP*. <https://fnigc.ca/ocap-training/>

<sup>14</sup> First Nations Health and Social Secretariat of Manitoba (n.d.). *Health information research governance committee (HIRGC)*. <https://www.fnhssm.com/hirgc>

<sup>15</sup> Manitoba Advocate for Children and Youth. (2020). *Safe and sound: A special report on the unexpected sleep-related deaths of 145 Manitoba infants*. <https://manitobaadvocate.ca/wp-content/uploads/SafeSleep-Report.pdf>

unexpectedly in their sleep are significantly more likely than non-Indigenous infants to have been placed to sleep on an unsafe surface, such as an adult mattress or couch.<sup>16</sup>

23. Research has demonstrated that smoking during pregnancy and the post-partum period is related to an increased risk of sleep-related infant deaths. There are multiple and complex reasons why smoking rates are higher for Indigenous Peoples, and most are associated with the social determinants of health and lack of access to effective and culturally appropriate smoking cessation interventions.<sup>17</sup> In Manitoba, Indigenous infants that died unexpectedly in their sleep were significantly more likely than non-Indigenous infants to have been exposed to tobacco smoke.<sup>18</sup> Findings are consistent with studies in the United States and New Zealand which also report a link between the overrepresentation of Indigenous infant deaths and the higher rates of smoking in Indigenous communities.<sup>19</sup>
24. Counselling services specific to smoking cessation and incentive-based interventions during pregnancy have been found to be effective in reducing or eliminating smoking during the prenatal and postnatal periods. Manitoba currently has no smoking cessation programs specifically for expectant mothers.
25. Sleep-related deaths can be prevented with interventions that provide parents with the information, resources, and supports they need.<sup>20</sup> However, currently, only 24 of 63 First Nations communities in Manitoba have maternal-child health programs, some of which are ‘pilot’ programs that lack permanent and sustainable funding.
26. The CRC notes it is the responsibility of states to assist caregivers to ensure Indigenous children enjoy the right to an adequate standard of living “by providing culturally appropriate material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”<sup>21</sup> Yet, policies and public health information materials in Manitoba do not provide parents and caregivers with all of the safe sleep information they need to ensure the health and wellbeing of infants. No current provincial resources in Manitoba are available in Indigenous languages.

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<sup>16</sup> Manitoba Advocate for Children and Youth. (2020). *Safe and sound: A special report on the unexpected sleep-related deaths of 145 Manitoba infants*. <https://manitobaadvocate.ca/wp-content/uploads/SafeSleep-Report.pdf>

<sup>17</sup> Walker, R. C., Graham, A., Palmer, S. C., Jagroop, A., & Tipene-Leach, D. C. (2019). Understanding the experiences, perspectives and values of Indigenous women around smoking cessation in pregnancy: systematic review 101 and thematic synthesis of qualitative studies. *International Journal for Equity in Health*, 18(1), 1-10.

<sup>18</sup> Manitoba Advocate for Children and Youth. (2020). *Safe and sound: A special report on the unexpected sleep-related deaths of 145 Manitoba infants*. <https://manitobaadvocate.ca/wp-content/uploads/SafeSleep-Report.pdf>

<sup>19</sup> Heris, C. L., Chamberlain, C., Gubhaju, L., Thomas, D. P., & Eades, S. J. (2019). Factors influencing smoking among Indigenous adolescents aged 10–24 years living in Australia, New Zealand, Canada, and the United States: a systematic review. *Nicotine & Tobacco Research*, 22(11), 1946-1956.

<sup>20</sup> Task Force on Sudden Infant Death Syndrome. (2016). SIDS and other sleep-related infant deaths: updated 2016 recommendations for a safe infant sleeping environment. *Pediatrics*, 138(5).

<sup>21</sup> Committee on the Rights of the Child. (2009). Indigenous children and their rights under the Convention. CRC/C/GC/11.

27. A Manitoba study found “First Nations infants had higher rates of preterm births, large-for-gestational-age births and newborn readmissions and lower rates of breastfeeding compared to all other Manitoba infants. Higher rates of stillbirths and child mortality were found among First Nations children compared to all other Manitoba children. Children living on-reserve had a higher mortality rate than those living off-reserve.”<sup>22</sup> Responses to the severe gap in health outcomes must be self-determined, planned, and implemented by First Nations.

28. *Sacred Babies* is an Indigenous-led infant survival curriculum developed by the Strengthening Families Maternal Child Health Program (First Nations Health and Social Secretariat of Manitoba), Cree Nation Tribal Council, and Little Black Bear and Associates, with significant input by Indigenous Elders and Knowledge Keepers. The curriculum is a culturally appropriate, easy flow guide that is family-centered with the goal of providing families with best practice information on how to keep their babies safe in their first year of life and beyond. The curriculum is delivered through a home visitation program that is available in 24 of the 63 Manitoba First Nations. A jurisdictional scan of safe sleep resources found *Sacred Babies* highly adhered to the American Academy of Pediatrics best practice recommendations,<sup>23</sup> and also considered the unique and diverse Indigenous cultures in Manitoba.<sup>24</sup> It is one of a few Indigenous developed curriculums available in Canada.

## Indigenous Youth Suicide in Manitoba

Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health (UNDRIP, Art. 24.2).

29. Globally, Canada has been ranked in the top five for youth suicide rates. Death by suicide remains the second leading manner of death for young people ages 10-24 in Canada,<sup>25</sup> and is the leading manner of death for youth ages 10-17 in Manitoba.<sup>26</sup>

30. The CRC recognizes that in many countries the “suicide rates for Indigenous children are significantly higher than for non-Indigenous children.”<sup>27</sup> Canada is one of these countries in which the suicide rates are substantially higher for Indigenous youth compared to their non-

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<sup>22</sup> Chartier M., Brownell M., Star L., Murdock N., Campbell R., Phillips-Beck W., Meade C., Au W., Schultz J., Bowes J.M., Cochrane B. *Our children, our future: The health and well-being of First Nations children in Manitoba*. (2020). Winnipeg, MB. Manitoba Centre for Health Policy.

<sup>23</sup> Task Force on Sudden Infant Death Syndrome. (2016). SIDS and other sleep-related infant deaths: updated 2016 recommendations for a safe infant sleeping environment. *Pediatrics*, 138(5).

<sup>24</sup> Manitoba Advocate for Children and Youth. (2020). *Safe and sound: A special report on the unexpected sleep-related deaths of 145 Manitoba infants*. <https://manitobaadvocate.ca/wp-content/uploads/SafeSleep-Report.pdf>

<sup>25</sup> Mental Health Commission of Canada. (2017). *Suicide prevention*. <https://www.mentalhealthcommission.ca/English/what-we-do/suicide-prevention>

<sup>26</sup> Manitoba Advocate for Children and Youth. (2020). *Stop giving me a number and start giving me a person: How 22 girls illuminate the cracks in the Manitoba youth mental health and addiction system*. <https://manitobaadvocate.ca/wp-content/uploads/MACY-Special-Report-Suicide-Aggregate-2020.pdf>

<sup>27</sup> Committee on the Rights of the Child. (2009). Indigenous children and their rights under the Convention. CRC/C/GC/11.

Indigenous counterparts.<sup>28</sup> In 1995, the Royal Commission on Aboriginal Peoples estimated that the national rate of suicide among Indigenous youth was five to six times higher than non-Indigenous youth.<sup>29</sup>

31. Research indicates that the overrepresentation of Indigenous youth among deaths by suicides in Canada remains unchanged over the past three decades. For example, a report recently published by the Manitoba Advocate for Children and Youth found that 20 of the 22 female youth (ages 10-17) who died by suicide in Manitoba, and who were involved in the child welfare system between 2013 and 2019, were Indigenous (First Nations or Metis).<sup>30</sup> Furthermore, a report submitted by the Standing Committee on Indigenous and Northern Affairs found that health service providers who responded to the electronic consultation noted Indigenous youth continue to be at high risk of suicide.<sup>31</sup>

*“I’ve lost friends to suicide up there [in remote communities]. [There] wasn’t anywhere to go for help...It’s like being kept in a box and no one can speak about it.”*

– MACY Indigenous Youth Ambassador

32. The mental wellness of Indigenous children, youth, and their families must become a top priority for governments. This priority must align with their inherent and fundamental rights as laid out in the UNCRC and the UNDRIP.<sup>32</sup>
33. In 2019, children’s advocacy offices across Canada called for the development of a National Youth Suicide Prevention strategy through meaningful partnerships with First Nations, Metis, and Inuit communities.<sup>33</sup>

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<sup>28</sup> Statistics Canada. (2017). Aboriginal identity population by both sexes, total-age, 2016 counts, Canada, provinces and territories, 2016 Census – 25% Sample data. Catalogue no. 98-402-X2016009.

<sup>29</sup> Royal Commission on Aboriginal Peoples (1995). *Choosing life: Special report on suicide among Aboriginal people.*

<sup>30</sup> Manitoba Advocate for Children and Youth. (2020). *Stop giving me a number and start giving me a person: How 22 girls illuminate the cracks in the Manitoba youth mental health and addiction system.* <https://manitobaadvocate.ca/wp-content/uploads/MACY-Special-Report-Suicide-Aggregate-2020.pdf>

<sup>31</sup> Canada, Parliament, House of Commons. (2017, June). *Breaking point: The suicide crisis in Indigenous communities – Report of the Standing Committee on Indigenous and Northern Affairs.* 42 Parl., 2nd sess. Ottawa, ON. <http://www.ourcommons.ca/Content/Committee/421/INAN/Reports/RP8977643/inanrp09/inanrp09-e.pdf>

<sup>32</sup> Canadian Council of Child and Youth Advocates (CCYA). (2019). *National paper of youth suicide.* <http://www.cccya.ca/Images/english/pdf/CCYA%20National%20Suicide%20Paper%20Final%20September%2025%202019.pdf>

<sup>33</sup> Canadian Council of Child and Youth Advocates (CCYA). (2019). *National paper of youth suicide.* <http://www.cccya.ca/Images/english/pdf/CCYA%20National%20Suicide%20Paper%20Final%20September%2025%202019.pdf>

34. Culture is an extremely important part of healing as an Indigenous approach to life promotion, one that addresses the whole individual in the context of family, community, land, history, and the spiritual world.<sup>34</sup> There is not a single approach that fits all communities in this area and it is specific to their culture, local teachings, and practices.<sup>35</sup> For example, FNHSSM has worked on a suicide intervention skills training called *Na Ki Chi Toon Pimatiziwin* after finding existing suicide intervention skills training did not meet the specific needs of Indigenous People in Manitoba. Material for this training was developed from information provided directly by First Nations frontline workers, verified by youth and Elders/Knowledge Keepers, and taken to ceremony. Other examples include *Wise Practices for Life Promotion*, a website which focuses on ‘leading with the language of life’ rather than relying on deficit-centred language or risk factor-based approaches.<sup>36</sup> The site was compiled to share wise practices for promoting life across Canada and knowledge on life promotion. *We Matter* is a youth-led organization that gathers positive messages from across Canada to offer support to Indigenous youth in addition to providing workshops and trainings.<sup>37</sup>
35. In 2021, FNHSSM is hosting the third Biennial World Indigenous Suicide Prevention Conference.<sup>38</sup> This international event is held to bring Indigenous nations together to validate cultural norms and realities. The goal is to contribute to reducing suicide and the impacts on Indigenous Nations. This conference’s theme is “Strength in our Communities” and it will focus on protective factors through building identity, resilience, and culture; ways of preventing suicide and reducing risks; and showcasing wise practices on the spectrum forum of prevention and intervention encompassed by culture and Indigenous knowledge.

## Lack of Remote, Rural, and Culturally Appropriate Mental Health Resources

Indigenous individuals also have the right to access, without any discrimination, to all social and health services (UNDRIP, Art. 24.1).

36. The CRC reminds us that because “Indigenous children frequently suffer poorer health than non-Indigenous children due to inter alia inferior or inaccessible health services...states parties should design and implement a policy for preventive measures and ensure that additional financial and human resources are allocated to mental health care for Indigenous children in a culturally appropriate manner, following consultation with the affected community.”<sup>39</sup>

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<sup>34</sup> Wise Practices. (2020). *Action guide for communities. Bringing Wise Practices to life*. Vol. 1.4. [https://wisepractices.ca/wp-content/uploads/2020/08/WisePractices\\_ActionGuide\\_v14.pdf](https://wisepractices.ca/wp-content/uploads/2020/08/WisePractices_ActionGuide_v14.pdf)

<sup>35</sup> Wise Practices. (2020). *Action guide for communities. Bringing Wise Practices to life*. Vol. 1.4. [https://wisepractices.ca/wp-content/uploads/2020/08/WisePractices\\_ActionGuide\\_v14.pdf](https://wisepractices.ca/wp-content/uploads/2020/08/WisePractices_ActionGuide_v14.pdf)

<sup>36</sup> Wise Practices (n.d.). *Wise Practices for life promotion. Indigenous leadership for living life well*. <https://wisepractices.ca/>

<sup>37</sup> We Matter (n.d.). *We Matter*. <https://wemattercampaign.org/>

<sup>38</sup> World Indigenous Suicide Prevention Conference (2021). *The conference*. <https://wispc2021.ca/>

<sup>39</sup> Committee on the Rights of the Child. (2009). Indigenous children and their rights under the Convention. CRC/C/GC/11.

37. Rural and remote communities throughout Manitoba experience limited access to services and supports due to their location and the availability of service providers. This leads to unequal access to provincial services for Indigenous Peoples, which is a children’s rights and Indigenous rights issue.

*“People discriminate against us.”*  
– MACY Indigenous Youth Ambassador

38. The current mental health and addictions services in our province have many gaps and cracks through which children and youth fall. In fact, based on the responses to a quantitative data survey, the Virgo Report identified 15 challenges, some with multiple sub-themes, in the delivery of mental health services and supports, as noted by Manitobans.<sup>40</sup> An additional 24 challenges were identified in the delivery of mental health services and supports to Indigenous populations.
39. Those involved in the creation of Health Canada’s First Nations Mental Wellness Continuum Framework cited a lack of access to children and youth mental wellness programming, locally available services for those who reside in First Nations communities, provincially delivered services that are not culturally competent or safe, and found that services are delivered by community workers who receive little or no training, supervision, or support.<sup>41</sup> It is of vital importance that these and other gaps be eliminated to create a child-focused and child-centred system.
40. Regarding mental health and access to services, a Manitoba study found “First Nations children had higher rates of attention-deficit hyperactivity disorder (ADHD), substance use disorders, schizophrenia, suicide attempts and suicidal deaths compared to all other Manitoba children. Rates of ADHD and mood/anxiety disorders were lower on-reserve compared to off-reserve; however, hospitalization for suicide attempts was more common on-reserve compared to off-reserve. Despite the higher rates of suicide attempts and deaths, no differences in mood/anxiety disorder rates were found between First Nations children and other Manitoba children, suggesting a lack of mental health services for First Nations children.”<sup>42</sup>

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<sup>40</sup> Virgo Planning. (2018). *Improving access and coordination of mental health and addiction services: A provincial strategy for all Manitobans*. [https://www.gov.mb.ca/health/mha/docs/mha\\_strategic\\_plan.pdf](https://www.gov.mb.ca/health/mha/docs/mha_strategic_plan.pdf)

<sup>41</sup> Health Canada. (2015). *First Nations Mental Wellness Continuum Framework*. [https://thunderbirdpf.org/wp-content/uploads/2015/01/24-14-1273-FN-Mental-Wellness-Framework-EN05\\_low.pdf](https://thunderbirdpf.org/wp-content/uploads/2015/01/24-14-1273-FN-Mental-Wellness-Framework-EN05_low.pdf)

<sup>42</sup> Chartier M., Brownell M., Star L., Murdock N., Campbell R., Phillips-Beck W., Meade C., Au W., Schultz J., Bowes J.M., Cochrane B. *Our children, our future: The health and well-being of First Nations children in Manitoba*. (2020). Winnipeg. MB. Manitoba Centre for Health Policy.

41. The FNHSSM is assisting eHealth and telehealth innovations in healthcare by building capacity and supporting activities in Manitoba First Nations. The purpose is to strengthen physical, mental, emotional, and spiritual health, using health-related applications and technology. Activities are guided by a Long Term Strategy – A Plan for Action 2012-2022, which ensures a First Nations-driven process through sovereignty and control of information systems.

## Indigenous Children and Youth in Manitoba’s Child Welfare System

Indigenous Peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group (UNDRIP, Art. 7.2).

42. Overall, First Nations children have higher rates of involvement with child and family services, including apprehensions, compared to all other children in Manitoba.<sup>43</sup> Indeed, close to one-third of all First Nations children in Manitoba spend some time in the care of child and family services during childhood.<sup>44</sup>

*“I am sick of [the] taking of native children and putting them in CFS [child and family services]...tired of what happens, it teaches them how to be homeless...that is all they expect us to be in the end.”*  
– MACY Indigenous Youth Ambassador, with experience in the child welfare system

43. Indigenous children and youth are overrepresented in Manitoba’s child welfare system. For example, while approximately 26% of the child population in Manitoba are Indigenous, they account for approximately 90% of children in the care of child and family service agencies.<sup>45</sup> This overrepresentation reflects the larger structural inequalities, systematic racism, current child welfare policies, and the legacy of the residential school system and Sixties Scoop.

44. 78% of children, youth, and young adults served by the Manitoba Advocate for Children and Youth through ongoing advocacy supports during the 2019/20 fiscal year were Indigenous. The vast majority of these Indigenous children and youth had an open file with a child and family service agency.<sup>46</sup>

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<sup>43</sup> Chartier M., Brownell M., Star L., Murdock N., Campbell R., Phillips-Beck W., Meade C., Au W., Schultz J., Bowes J.M., Cochrane B. *Our children, our future: The health and well-being of First Nations children in Manitoba*. (2020). Winnipeg, MB. Manitoba Centre for Health Policy.

<sup>44</sup> Brownell M, Nickel N, Turnbull L, Au W, Ekuma O, MacWilliam L, McCulloch S, Valdivia J, Boram Lee J, Wall-Wieler E, Enns J. (2020). *The overlap between the child welfare and youth criminal justice systems: Documenting “cross-over kids” in Manitoba*. Winnipeg, MB. Manitoba Centre for Health Policy.

<sup>45</sup> Healthy Child Manitoba. (2018). *Child and youth report*. Winnipeg, MB.

<sup>46</sup> Manitoba Advocate for Children and Youth. (2020). *Amplifying youth voices. Annual report 2019-2020*. <https://manitobaadvocate.ca/wp-content/uploads/AnnualReport-ENG-2020.pdf>

## Indigenous Youth in Manitoba's Justice System

States shall take measures, in conjunction with Indigenous Peoples, to ensure that Indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination (UNDRIP, Art. 22.2).

45. A study of the overlap between Manitoba's child welfare and justice systems found that close to one-third of children in care were later charged with a crime as a youth (age 12-17). This study confirmed that the child welfare system in Manitoba serves as a 'pipeline' to the youth criminal justice system by providing quantitative evidence that child welfare involvement is "a strong risk factor for contact with the youth criminal justice system as a person accused of a crime."<sup>47</sup>
46. The same study recognized that "Indigenous identity itself is not a risk factor for involvement in either or both systems, rather, it is the many social and societal forces that Indigenous Peoples in Manitoba must contend with that put their children at greater risk of child welfare system and youth criminal justice system involvement. The culture and laws of the First Peoples on this land viewed children as sacred and worthy of respect, protection and support since before Manitoba joined Confederation and long before Euro Canadian standards evolved beyond considering children as chattels, without rights of their own."<sup>48</sup>
47. Because Indigenous children are overrepresented in the child welfare system, it is not surprising that they are also overrepresented in the youth justice system – a trend that is increasing over time.<sup>49</sup> First Nation youth have 24 times the odds of being involved in both systems compared to all other Manitoba children and youth groups.<sup>50</sup>

*"I am even afraid of the cops. I've had cops beat me. They didn't tell me why I was detained...I woke up and I was sore. It was terrifying...We need to be educated better because the government doesn't teach us anything about [our rights]."*

– MACY Indigenous Youth Ambassador

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<sup>47</sup> Brownell M, Nickel N, Turnbull L, Au W, Ekuma O, MacWilliam L, McCulloch S, Valdivia J, Boram Lee J, Wall-Wieler E, Enns J. (2020). *The overlap between the child welfare and youth criminal justice systems: Documenting "cross-over kids" in Manitoba*. Winnipeg, MB. Manitoba Centre for Health Policy.

<sup>48</sup> Brownell M, Nickel N, Turnbull L, Au W, Ekuma O, MacWilliam L, McCulloch S, Valdivia J, Boram Lee J, Wall-Wieler E, Enns J. (2020). *The overlap between the child welfare and youth criminal justice systems: Documenting "cross-over kids" in Manitoba*. Winnipeg, MB. Manitoba Centre for Health Policy.

<sup>49</sup> Brownell M, Nickel N, Turnbull L, Au W, Ekuma O, MacWilliam L, McCulloch S, Valdivia J, Boram Lee J, Wall-Wieler E, Enns J. (2020). *The overlap between the child welfare and youth criminal justice systems: Documenting "cross-over kids" in Manitoba*. Winnipeg, MB. Manitoba Centre for Health Policy.

<sup>50</sup> Brownell M, Nickel N, Turnbull L, Au W, Ekuma O, MacWilliam L, McCulloch S, Valdivia J, Boram Lee J, Wall-Wieler E, Enns J. (2020). *The overlap between the child welfare and youth criminal justice systems: Documenting "cross-over kids" in Manitoba*. Winnipeg, MB. Manitoba Centre for Health Policy.

48. Nationally, Indigenous youth comprise 47% of the male youth, and 60% of the female youth in custody, while in Manitoba the numbers are significantly greater at 81% and 82%, respectively. Indigenous youth in Manitoba are 16 times more likely to be incarcerated than non-Indigenous youth. This overrepresentation signals the persistent legacies that colonization and residential schools have had on Indigenous Peoples.<sup>51</sup>

## Underfunding of Indigenous Schools

Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination (UNDRIP, Art. 14.2).

49. The Manitoba First Nations School System manages elementary and secondary education programs and services for roughly 1,700 students. The students come from 10 participating First Nations that previously ran their own independent schools.<sup>52</sup>

*“Go see it for yourselves. The [government] needs to send people to see. They should do a school inspection in all schools in the rez [reservations].”*

– MACY Indigenous Youth Ambassador

50. In Canada, funding for First Nations schools is the responsibility of the federal government; provincial governments are responsible for funding the other schools. According to a 2013 study, the funding gap between First Nations schools vs. other schools across Canada averages around 30%.<sup>53</sup> In Manitoba specifically, the report found First Nation school divisions receive an average of \$6,000 instructional dollars per student, whereas provincially-funded divisions receive an average of \$7,000.<sup>54</sup>

51. In 2016, only 48% of Indigenous students graduated high school “on-time”, compared to 86% of their non-Indigenous counterparts.<sup>55</sup> Moreover, a study released in 2020 found education outcomes were better for children living off-reserve compared to on-reserve.<sup>56</sup>

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<sup>51</sup> Manitoba Advocate for Children and Youth. (2019). *Learning from Nelson Mandela: A report on the use of solitary confinement and pepper spray in Manitoba youth custody facilities*. <https://manitobaadvocate.ca/wp-content/uploads/2019/05/Nelson-Mandela.pdf>

<sup>52</sup> Government of Canada. (2019). *Manitoba First Nations School System celebrates first-year successes*. <https://www.sac-isc.gc.ca/eng/1548423627588/1548423649819>

<sup>53</sup> Drummond, D., & Rosenbluth, E. K. (2013). The debate on First Nations education funding: Mind the gap. *Queen’s University Policy Studies. Working Paper, 49*, 1-22.

<sup>54</sup> Drummond, D., & Rosenbluth, E. K. (2013). The debate on First Nations education funding: Mind the gap. *Queen’s University Policy Studies. Working Paper, 49*, 1-22.

<sup>55</sup> Healthy Child Manitoba. (2018). *Child and youth report*. Winnipeg, MB.

<sup>56</sup> Chartier M., Brownell M., Star L., Murdock N., Campbell R., Phillips-Beck W., Meade C., Au W., Schultz J., Bowes J.M., Cochrane B. *Our children, our future: The health and well-being of First Nations children in Manitoba*. (2020). Winnipeg, MB. Manitoba Centre for Health Policy.

## RECOMMENDATIONS

52. The experiences of Indigenous children and youth in Manitoba show that work is needed in multiple areas and systems including the child welfare, justice, and health systems to fulfill the rights of Indigenous children, and particularly the right to health. This is an urgent task that must be the priority of governments and which must be implemented by and for First Nations people, in alignment with the right to self-determination.<sup>57</sup> In drafting the report on the rights of the Indigenous child, we urge the Expert Mechanism on the Rights of Indigenous Peoples to consider the following recommendations:

- **ONE:** Take steps to include the voices, experiences, perspectives, and testimony of Indigenous children and youth to the largest extent possible in any decision or work that may affect them, as enshrined by Article 12 of the UN Convention of the Rights of the Child.
- **TWO:** Acknowledge the ongoing work towards reconciliation and the fulfillment of Indigenous children's rights in Canada by evaluating and commenting on the Government of Canada's compliance with the Truth and Reconciliation Commission of Canada's 94 *Calls to Actions* designed to redress the legacy of residential schools and advance the process of reconciliation in Canada<sup>58</sup> and recommendations made in *Honouring the Truth, Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*.<sup>59</sup>
- **THREE:** Recognize the self-determination of Indigenous Peoples by highlighting Indigenous-led initiatives to fulfill the rights of Indigenous children including maternal-child health programs and youth suicide prevention programs that provide children with the culturally appropriate services they are entitled to receive.
- **FOUR:** Through the development of this study, create opportunities for Indigenous practitioners and advocates around the world to come together to generate connections, and share information and best practices.

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<sup>57</sup> Chartier M., Brownell M., Star L., Murdock N., Campbell R., Phillips-Beck W., Meade C., Au W., Schultz J., Bowes J.M., Cochrane B. *Our children, our future: The health and well-being of First Nations children in Manitoba*. (2020). Winnipeg. MB. Manitoba Centre for Health Policy.

<sup>58</sup> Truth and Reconciliation Commission of Canada. (2015). *Truth and Reconciliation Commission of Canada: Calls to action*. Truth and Reconciliation Commission of Canada. [http://trc.ca/assets/pdf/Calls\\_to\\_Action\\_English2.pdf](http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf)

<sup>59</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). (2019). *Master list of report recommendations*. National Inquiry into Missing and Murdered Indigenous Women and Girls. <https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/National-Inquiry-Master-List-of-Report-Recommendations-Organized-By-Theme-and-Jurisdiction-2018-EN-FINAL.pdf>

- **FIVE:** In order to understand the differential experiences of Indigenous children and youth, the challenges they face, as well as existing gaps in the social determinants of health, it is imperative that governments systematically collect data on Indigenous ancestry, with attention to the principles of ownership, control, access, possession (OCAP®) and principles of Ethical Métis Research.<sup>60</sup> Currently, this gap in information prevents a full understanding of the structural inequalities facing Indigenous children and youth.
- **SIX:** Ensure ethical considerations are upheld and respected in all aspects of this study and any research or data collection involving Indigenous Peoples, and Indigenous children in particular, conducted by governments and other parties. Ethical considerations concerning research for and by Indigenous Peoples should involve free prior informed consent on a collective and individual basis; principles are followed to ensure Indigenous ownership, control, access, and possession of their own data and information; and all research should be respectful and benefit Indigenous Peoples.<sup>61</sup>
- **SEVEN:** Examine the role of fiscal policies that continuously underfund services for Indigenous infants, children, and their families (including schools, mental health services, and prenatal and postnatal supports) as a barrier for the realization of Indigenous children’s right to health.
- **EIGHT:** Recognize the centrality of addressing Indigenous child poverty at the national level as a necessary condition of fulfilling Indigenous children’s right to non-discrimination and health.
- **NINE:** Prioritize analysis of the role of the child welfare system and ongoing apprehension of Indigenous children from their families as this is in direct violation of the right of Indigenous children to a family life, to health, to culture, and to a future.

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<sup>60</sup> First Nations Information Governance Centre. (n.d.). *OCAP and information governance*. <https://fnigc.ca/what-we-do/ocap-and-information-governance/>; National Aboriginal Health Organization (n.d.). *Principles of ethical Métis research*. [https://achh.ca/wp-content/uploads/2018/07/Guide\\_Ethics\\_NAHOMetisCentre.pdf](https://achh.ca/wp-content/uploads/2018/07/Guide_Ethics_NAHOMetisCentre.pdf)

<sup>61</sup> First Nations Health and Social Secretariat of Manitoba. (n.d.). *Health Information Research Governance Committee (HIRGC)*. <https://www.fnhssm.com/hirgc>