



National Inquiry on Missing and Murdered Indigenous Women and Girls

Written Submission

Saskatchewan Advocate for Children and Youth

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Introduction

1. The Saskatchewan Advocate for Children and Youth (ACY) is an independent officer of the Legislative Assembly of Saskatchewan. The Advocate leads a team of professionals to advocate for the rights, interests, and well-being of children and youth in Saskatchewan. Our vision is that the rights, well-being and voice of children and youth are respected and valued. Our mandate is defined by *The Advocate for Children and Youth Act*.¹ We do:
 - i. Advocacy on behalf of children and youth receiving services from a provincial ministry, direct or delegated agency or publicly funded health entity.
 - ii. Investigations into any matter concerning or services provided to children and youth by a provincial ministry, direct or delegated agency or publicly funded health entity.
 - iii. Public education to raise awareness of the rights, interests and well-being of children and youth.
 - iv. Research and advise on any matter relating to the rights, interests and well-being of children and youth.

2. These functions are all interconnected and support the overarching goal to create systemic change for the benefit of the young people in Saskatchewan. In Saskatchewan, as in the rest of Canada, Indigenous children are overrepresented among those involved in the child welfare and youth criminal justice systems. Additionally, they have poorer health outcomes and lower educational achievement, and are at increased risk of violence. It is well-known that these circumstances are the unfortunate consequences of our colonial history. Because Indigenous children – in Saskatchewan and elsewhere – have been placed at such a disadvantage, the ACY has made the fundamental goal of its strategic plan to be part of solutions that result in positive change in the quality of life for First Nations and Métis children and youth.

¹ Government of Saskatchewan, *The Advocate for Children and Youth Act*, SS 2012, c A-5.4 [Available from: <http://www.publications.gov.sk.ca/freelaw/documents/english/Statutes/Statutes/a5-4.pdf>]

3. Although the authority of the ACY does not extend past our provincial borders, addressing the circumstances that lead to Indigenous women and girls going missing or being murdered falls within our purview as we have the second highest population of Indigenous people among the provinces. In Saskatchewan in 2016, 42.5% of the total Indigenous population in Saskatchewan was 19 years old or under, with half of these youth being identified as female.² Furthermore, in the absence of a federally mandated independent body with specific oversight of services to children (as will be further discussed later in this submission), we have been honoured to act as one of the voices for the interests of children and youth on this important topic.

The Child Rights Framework and the Need for the Inquiry to Apply a Child Rights Lens Within a Human Rights-Based Approach

4. All people have human rights. Human rights range from civil and political rights to economic, social and cultural rights. These rights are enshrined in many international conventions, treaties and optional protocols that Canada has ratified – as well as some that it has not. The Inquiry has heard extensively from many expert witnesses and parties with standing about the importance of using a human rights-based approach in its work. In particular, Professor Brenda Gunn,³ in her evidence as an expert on international human rights law as it relates to Indigenous peoples, walked through Canada’s specific legal obligations under many of the human rights treaties it has ratified, as well as under customary international law and general principles of law.
5. The ACY agrees that a human rights-based approach is critical to satisfying the Inquiry’s Terms of Reference calling on it to address the underlying structural inequalities that place Indigenous women, girls and LGBTQ2S individuals at risk of violence. This written

² Statistics Canada, “Data tables, 2016 Census” - 2016 Census of Population, Statistics Canada Catalogue no. 98-400-X2016154 [Available from: <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/dt-td/Rp-eng.cfm?TABID=2&LANG=E&APATH=3&DETAIL=0&DIM=0&FL=A&FREE=0&GC=0&GK=0&GRP=1&PID=110443&PRID=10&PTYPE=109445&S=0&SHOWALL=0&SUB=0&Temporal=2017&THEME=122&VID=0&VNAMEE=&VNAMEF=>] (accessed 13 December 2018)

³ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6 & 7)

submission is meant to emphasize the importance of specifically, and intentionally, applying a child rights lens within a human rights-based approach.

6. The various treaties discussed by Professor Gunn are critical to the Inquiry’s understanding of the human rights framework applying to the circumstances of missing and murdered Indigenous women and girls. The rights protected within these documents are also held by children and youth by virtue of their being human. However, children and youth also have special protections due to their age, limited ability to participate in political processes and dependence upon adults to make decisions for and about them. These protections are enshrined in the *United Nations Convention on the Rights of the Child* (UNCRC),⁴ which Canada ratified in 1991. Corey O’Soup,⁵ Advocate for Children and Youth in the province of Saskatchewan, extensively discussed the application of the UNCRC to the work of the Inquiry while testifying in his personal capacity as an expert in the areas of advocacy for children and youth and First Nation and Métis education. Professor Gunn’s article titled, “Engaging a Human Rights Based Approach to the Murdered and Missing Indigenous Women and Girls Inquiry”⁶ also identifies the UNCRC as one of the international human rights instruments relevant to the work of the Inquiry. It has also been referenced by several other expert witnesses and parties with standing. From our position as the Saskatchewan Advocate for Children and Youth, it is our hope to assist the work of the Inquiry by elaborating somewhat on the specific child rights framework that obligates Canada to implement special measures for Indigenous girls and LGBTQ2S youth to improve their circumstances and well-being – and, thereby protect them from discrimination and violence. It is also our hope to offer some examples of such measures that would help in this endeavour.

7. The UNCRC brings together the various rights across the other treaties that apply specifically to young people, as well as confers upon them additional protections not found elsewhere, such as the right to have their best interests be a primary consideration in *all matters* that

⁴ Part III, Vol. 6, Exh. B9 (Exh. Code P03P02P0301)

⁵ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6 & 7)

⁶ Part III, Vol. 6, Exh. B2 (Exh. Code P03P02P0301)

affect them and the right to development to the *maximum extent possible*. Professor Gunn spoke about international treaties, including the UNCRC, as being “hard law” and, therefore, binding upon States that have ratified them. As such, Canada is legally bound to respect and implement the rights of children and youth contained within the UNCRC. While the UNCRC recognizes the reality that some States must strive for progressive implementation of economic, social and cultural rights, Canada – as a developed nation – cannot hide behind this as an excuse to continue to fail to fully realize the rights of children. The UNCRC is the most widely ratified human rights treaty in the United Nations system, being accepted by all but one member State.⁷ This position has given it “near-universal” status, highlighting the value and importance that the world puts on the rights of children and, subsequently, the onus on Canada to respect them.

8. The UNCRC is a particularly important document for the Inquiry to consider in its work and in the recommendations it will make. First, this is due to the direct inclusion of Indigenous girls and LGBTQ2S young people within its scope. It must be recognized that these are children and any attempts to end discrimination and violence against them must specifically recognize their rights as children. They must receive distinct consideration and not be subsumed under generalized actions to eliminate discrimination and violence.⁸ Holding Canada to its obligations to respect and fulfill the rights enshrined in the UNCRC will protect Indigenous children and youth who are *currently* under the age of 18 from the structural inequalities that lead to violence against them.
9. Secondly, as Professor Gunn and others have so eloquently pointed out, the root causes of violence against Indigenous women are related to denials of economic and social rights throughout their lives. These denials begin in childhood. This was aptly shown by Mr. O’Soup, as well as by Dr. Cindy Blackstock⁹ in her evidence as an expert on Indigenous

⁷ United Nations Human Rights, Office of the High Commissioner. *Status of Ratification Interactive Dashboard*. [Available from: <http://indicators.ohchr.org/>] (Accessed 12 December 2018)

⁸ Bennett, M. (2016). *On the Edge Between Two Worlds: Community Narratives on the Vulnerability of Marginalized Indigenous Girls*. Winnipeg: Office of the Children’s Advocate, Manitoba [Available from: <http://www.childrensadvocate.mb.ca/wp-content/uploads/FINAL-Indigenous-Girls.pdf>]

⁹ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Racism, Part III Vol. 10 & Mixed Parts II & III, Vol. 12

theory, child engagement and the identification and remediation of structural inequalities affecting First Nations children, youth and families. This was also evidenced by Dr. Mary Ellen Turpel-Lafond¹⁰ in her evidence as an expert in the areas of law, legal and investigative practice, with specific expertise in child and family services. Indigenous children grow into adults. Therefore, the realization of their rights within childhood will put them on an equal footing with the rest of society as they mature, thereby continuing to protect them from violence as Indigenous women and LGBTQ2S adults.

10. Because of both the immediate impacts that full respect for the rights under the UNCRC will have on Indigenous children now – and will continue to have as they grow into adults – it is critical that the Inquiry approach its work using a child rights lens.
11. In addition to the “hard law” of the UNCRC, the child rights framework also consists of opinions and conclusions issued by the Committee on the Rights of the Child (the Committee), which is the body that oversees implementation of the UNCRC. The Committee issues *General Comments* discussing certain themes or elaborating on the intention of specific articles to assist State Parties in interpreting and implementing various aspects of the UNCRC. The Committee also issues *Concluding Observations* following consideration of State Party periodic reports. These *Concluding Observations* identify areas of concern and put forward recommendations to improve a State’s compliance with the UNCRC. Together these documents function as “blueprint” for implementing and respecting children’s rights. As discussed by Professor Gunn, opinions of the Committee – along with United Nations declarations (i.e. UNDRIP), and previous decisions of international bodies – are considered “soft law” and, therefore, make up part of the body of international law that Canada, as a State Party to the UNCRC, is expected to follow. This written submission will highlight some of the statements released by the Committee that are particularly relevant to the work of the Inquiry. The child rights framework created by the combined application of the UNCRC and the various “soft law” documents attached to it is important to consider when

¹⁰ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Racism, Mixed Parts II & III, Vol. 13

determining whether Canada is meeting its obligations to respect and fulfill the rights of Indigenous children and youth, as well as to show a path forward when it is found wanting.

Four General Principles of the UNCRC

12. In order to apply a child rights lens within a human rights-based approach, the Inquiry must measure both Canada's compliance to the UNCRC and the Inquiry's own recommendations for improvement against the four general principles of the UNCRC. These general principles have been identified by the Committee in its *General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child*¹¹ as being:

- i. non-discrimination (Article 2);
- ii. the right to have the best interests of children be made a primary consideration in all actions concerning children (Article 3);
- iii. the right to life, survival and development of the child to the maximum extent possible (Article 6); and
- iv. the right for children and youth to participate in all matters affecting them and for their views to be taken seriously (Article 12).

13. These principles represent the underlying requirements that must be present for the full realization of any and all human rights of children. The Committee states in *General Comment No. 5* that a child rights perspective, based on these four general principles, must be applied throughout *all levels* of government, parliament and the judiciary.

Basis for Special Measures for Indigenous Girls and LGBTQ2S Youth in the Human Rights Framework

14. Article 4 of the UNCRC directs that, "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights

¹¹ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2003). *General Comment No. 5 General Measures of Implementation*. [Available from: <https://www.refworld.org/docid/4538834f11.html>]

recognized in the present Convention.” In order to ensure that *all* possible measures are being taken to guarantee that all rights are fulfilled for *all* children, the Committee specifies in *General Comment No. 5* that the principle of non-discrimination does not mean identical treatment. This concept was also discussed by Professor Gunn¹² and Mr. O’Soup.¹³ The Committee directs that the principle of non-discrimination necessitates that States actively identify individual and groups of children who are vulnerable due to having been at a disadvantage. It then directs that “special measures” be taken to eliminate the conditions that cause discrimination, and to allow these children to realize their rights at the same level as other young people. It is clear that Indigenous children and youth in Canada – and particularly Indigenous girls and LGBTQ2S young people – fit into this category. This concept can also be applied to even more specific groups, such as Indigenous girls in the care of the child welfare system, involved in the youth criminal justice system or living on the street.

15. The concept of special measures in international human rights law also aligns with section 15 of the *Canadian Charter of Rights and Freedoms*,¹⁴ which states that, while every individual shall be equal before the law without discrimination:

15(2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of *disadvantaged individuals or groups* including those that are disadvantaged because of *race, national or ethnic origin, colour, religion, sex, age* or mental or physical disability. [emphasis added]

16. As for the areas in which special measures are needed, the UNCRC itself specifically highlighted the need for special measures for Indigenous children in areas such as language, culture, religion and education (Articles 17(d), 29, 30). Subsequent to the adoption of the UNCRC, Indigenous children have been explicitly recognized in soft law as requiring special measures in many other areas as well.

¹² National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6), pp. 16

¹³ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6 & 7)

¹⁴ Government of Canada. *Canadian Charter of Rights and Freedoms* [Available from: <https://laws-lois.justice.gc.ca/eng/const/page-15.html>]

17. For example, in *General Comment No. 11 (2009) Indigenous children and their rights under the Convention*¹⁵ the Committee specifies that:

[...] indigenous children are among those children who require positive measures in order to eliminate conditions that cause discrimination and to ensure their enjoyment of the rights of the Convention on equal level with other children. In particular, States parties are urged to consider the application of special measures in order to ensure that indigenous children have access to culturally appropriate services in the areas of health, nutrition, education, recreation and sports, social services, housing, sanitation and juvenile justice.¹⁶

18. The Committee further directs that special measures for Indigenous children “should be undertaken in consultation with the communities concerned and with the participation of children in the consultation process.”¹⁷ Additionally, when designing special measures, it says States should consider differences between urban and rural situations, as well as the needs of Indigenous children who face multiple facets of discrimination, with “[p]articular attention [...] given to girls in order to ensure that they enjoy their rights on an equal basis as boys.”¹⁸ This consideration would also extend to LGBTQ2S youth, youth with disabilities and other sub-groups of Indigenous children.

19. Additionally, Articles 21.2 and 22 of the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*,¹⁹ of which the Canadian government became a full supporter “without qualification” in 2016,²⁰ specifically identifies Indigenous children and youth as a distinct group for whom the State must implement special measures in order to meet their needs, improve their economic and social conditions and protect them from all forms of violence.

¹⁵ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2009). *General Comment No. 11 (2009) indigenous children and their rights under the Convention*. [Available from: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f11&Lang=en]

¹⁶ Ibid, para. 25

¹⁷ Ibid, para. 20

¹⁸ Ibid, para. 29

¹⁹ Part III, Vol. 6, Exh. B3 (Exhibit Code P03P02P0301)

²⁰ Government of Canada. (2017-08-03) *United Nations Declaration on the Rights of Indigenous Peoples*. [Available from: <https://www.aadnc-aandc.gc.ca/eng/1309374407406/1309374458958>] (Accessed 11 December 2018)

20. Furthermore, the Committee on the Rights of the Child has consistently criticized Canada for failing in its obligations to Indigenous children and youth on numerous fronts in its Concluding Observations to Canada’s periodic reports on its implementation of the UNCRC, most recently in its *Concluding observations on the combined third and fourth periodic report of Canada, adopted by the Committee at its sixty-first session (17 September – 5 October 2012)*.²¹ This commentary included concerns and recommendations related to the overrepresentation of Indigenous children and youth in the child welfare and juvenile justice systems, the need for a gender perspective in the development and implementation of programs aimed at improving the marginalization of disadvantaged communities, the need to address violence against Indigenous women and girls, the profound impact of poverty on Indigenous children and the need for a child-centred national poverty reduction strategy, the failure to take action to address sexual exploitation and abuse as it affects Indigenous children and, specific to this Inquiry, the failure to fully investigate and punish perpetrators in cases of missing and murdered Indigenous girls.

Examples of Special Measures to address and prevent discrimination and violence against Indigenous girls and LGBTQ2S Youth

21. The principle of non-discrimination is not unique to the UNCRC, which highlights its importance and its general application to the full scope of the Inquiry. It is found within many international treaties, as well as domestic Canadian human rights legislation. The concept of special measures, or perhaps “distinct measures” as termed by expert witness Dr. Dalee Sambo Dorough,²² as they relate specifically to Indigenous children, however, provides a backdrop for the recommendations presented to the Inquiry by Corey O’Soup, and which are echoed by the Saskatchewan Advocate for Children and Youth. Mr. O’Soup’s recommendations, if implemented by Canada, will serve to specifically strengthen the protections of Indigenous children and youth from violence by fully developing the structures required to meet Canada’s obligations under Article 4 of the UNCRC to “undertake *all*

²¹ Part III, Vol. 6, Exh. B10 (Exhibit Code P03P02P0301)

²² National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6 & 7)

appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the [UNCRC].” [emphasis added]

Special Measures in Education

22. As stated by Mr. O’Soup, education is the key to breaking the negative cycles that Indigenous children and families face as a result of our colonial history. Under Articles 28 and 29 of the UNCRC, Indigenous children and youth have a right to education of an equal quality to that of other children, as well as a right to education that respects the development of their cultural identity, language and values. Furthermore, Article 28(e) of the UNCRC specifically requires that States “[t]ake measures to encourage regular attendance at schools and the reduction of drop-out rates.” Yet, we have seen through the evidence presented by Mr. O’Soup and Dr. Blackstock that Indigenous youth in Canada who live on reserve continue to face discrimination with respect to funding for education, and Indigenous youth are significantly less likely than non-Indigenous youth to graduate from high school. Therefore, it was a recommendation of Mr. O’Soup that the government ensure the education system is culturally-responsive and meets the unique needs of Indigenous children, youth and their families. In his testimony, he also identified the need to change the way success is defined for Indigenous youth through collaborating with Indigenous peoples to understand its definition in a culturally meaningful way. The Saskatchewan Advocate for Children and Youth supports these recommendations.

23. Moreover, education for Indigenous children is another area where special measures are specifically identified as being required within the international human rights framework. The Committee on the Rights of the Child stated in *General Comment No. 11* that:

In order for indigenous children to enjoy their right to education on equal footing with non-indigenous children, States parties should ensure a range of special measures to this effect. States parties should allocate targeted financial, material and human resources in order to implement policies and programmes which specifically seek to improve the access to education for indigenous children. As established by article 27 of the ILO

Convention No. 169, education programmes and services should be developed and implemented in cooperation with the peoples concerned to address their specific needs.²³

24. These steps necessitate the inclusion of information on children’s rights (which is required by Articles 29 and 42 of the UNCRC), as well as on historical and contemporary Indigenous issues (such as those related to violence against Indigenous women, girls and LGBTQ2S youth) within the K-12 curriculum. Mr. O’Soup’s recommendations in this regard further reflect direction given by the Committee’s *General Comment No. 11*, as it says:

States Parties should ensure that public information and educational measures are taken to address the discrimination of indigenous children. The obligation under article 2 in conjunction with articles 17, 29.1(d) and 30 of the Convention requires States to develop public campaigns, dissemination material and educational curricula, both in schools and for professionals, *focused on the rights of indigenous children and the elimination of discriminatory attitudes and practices, including racism.*²⁴ [emphasis added]

25. In response to Mr. O’Soup’s testimony, the Government of Saskatchewan presented the Inquiry with a document titled “Truth and Reconciliation addressed in current curriculum”²⁵ outlining improvements in Saskatchewan’s education system over recent years. These are positive steps. However, as even the government representative acknowledged in the hearing, they “still have work to do”.²⁶

²³ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2009). *General Comment No. 11 (2009) indigenous children and their rights under the Convention*. Para. 60 [Available from: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f11&Lang=en]

²⁴ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2009). *General Comment No. 11 (2009) indigenous children and their rights under the Convention*. Para. 27 [Available from: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f11&Lang=en]

²⁵ Part III, Vol. 7, Exh. 31 (Exhibit Code P03P02P0401)

²⁶ Part III, Vol. 7, pp. 71

Special Measures in Mental Health

26. Mr. O'Soup also spoke about a general lack of appropriate and available mental health services for children and youth in Saskatchewan, but – more specifically – how this situation is intensified for Indigenous children and youth in the northern part of the province. This issue, however, is not unique to Saskatchewan. Sufficient mental health services are necessary for all young people and access to such is their right under Article 24 of the UNCRC. Considering both the existing barriers to receiving adequate services and the intergenerational trauma experienced by Indigenous children and youth, this is another area where special measures are required.
27. The issue of mental health is particularly relevant to this Inquiry, as Mr. O'Soup presented evidence through a report of the Saskatchewan Advocate for Children and Youth titled *Shhh...LISTEN!! We Have Something to Say: Youth Voices from the North: A Special Report on the Youth Suicide Crisis in Northern Saskatchewan*²⁷ that indicates Indigenous children and youth – particularly Indigenous girls – in our province are at a significantly higher risk for suicide than their non-Indigenous counterparts. The rate of suicide of First Nations girls aged 10-19 in Saskatchewan has been found to be 29.7 times times higher than that of non-First Nations girls of the same age.²⁸
28. As the Terms of Reference for this Inquiry state that it is to inquire into and to report on the systemic causes of *all forms* of violence against Indigenous women and girls in Canada, we appreciate that the Inquiry is exploring suicide as a form of colonial violence against

²⁷ Part III, Vol. 6, Exh. B11 (Exhibit Code P03P02P0301)

²⁸ In *Shhh...LISTEN!!*, which was released by the ACY in December 2017, the rate of suicide for female Indigenous youth was reported to be 26 times higher than that of non-Indigenous female youth. Subsequent to the release of that report and its entry into evidence at the Inquiry, additional information from the Office of the Chief Coroner of Saskatchewan became available which reflected the rate to be 29.7 times higher. This information was reported in: Federation of Sovereign Indigenous Nations. (24 May 2018). *Saskatchewan First Nations Suicide Prevention Strategy*. Saskatoon: Author. [Available from: <https://www.fsin.com/wp-content/uploads/2018/05/SFNSPS-FINAL-2018-May-24.pdf>]

Indigenous girls and LGBTQ2S youth within its mandate. This inclusion is supported within the child rights framework. Article 19 of the UNCRC states that children and youth have the right to be protected from “all forms of physical or mental violence”. The Committee on the Rights of the Child specifically identified suicide in its *General Comment No. 13 (2011) The right of the child to freedom from all forms of violence*²⁹ as a form of violence about which it is particularly concerned.³⁰

29. As discussed earlier, special measures for the protection of Indigenous children and youth from violence are specifically identified as necessary in UNDRIP. This would extend to protection from the violence of suicide. Furthermore, special measures specific to protecting Indigenous youth from suicide are required by the Committee’s *General Comment No. 11*, which directs that, in circumstances where suicide rates for Indigenous children are disproportionately high, there is a need for States to:

[E]nsure 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. In order to analyse and combat the root causes, the State party should establish and maintain a dialogue with the indigenous community.³¹
[emphasis added]

30. The contributing factors to risk of suicide identified directly by youth in northern Saskatchewan throughout the *Shhh...LISTEN!!* report reflect a denial of rights in many areas and mirror the underlying causes to the situation of Indigenous women and girls going missing or being murdered as identified in the foundational documents of this Inquiry, as well as by the many expert and family witnesses it has heard from. If we can find solutions to suicide by Indigenous children and youth, we will find solutions to the situation of missing

²⁹ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2011). *General Comment No. 13 (2011) The right of the child to freedom from all forms of violence*. [Available from: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqIkirKQZLK2M58RF%2F5F0vFKtnY3RFBX0eVOrGEVYulm9CsHNwh1HrjED9fVmGn%2BaZ1TGy6vH1Iek6kukGyB%2FFCGBbSOP0uwpKf24vcxkEnv>]

³⁰ Ibid, para. 28.

³¹ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2009). *General Comment No. 11 (2009) indigenous children and their rights under the Convention*. Para. 55 [Available from: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f11&Lang=en]

and murdered Indigenous women and girls – and vice versa. As the youth point out in *Shhh...LISTEN!!*, preventing Indigenous youth suicide is not just about funding more mental health services. It is about addressing the structural inequalities they live with every day that can leave them with little hope for the future.

31. The Calls to Action for the prevention of youth suicide identified by Indigenous youth themselves in the *Shhh...LISTEN!!* report will be relevant to the Inquiry when making its recommendations in this regard. Although these Calls to Action were made by youth in northern Saskatchewan, most of what they told us is not region-specific. The report highlights how they echo recommendations made by youth in other parts of the province and across the country. It is of utmost importance that we listen to the voices of youth on matters such as this and that we respect their right under Article 12 of the UNCRC to have their views taken seriously.

Special Measures to Ensure a Holistic and Multi-Sectoral Approach

32. In her discussion of a human rights-based approach, Professor Gunn described the principle that all human rights are interrelated, interdependent and indivisible.³² This concept was reiterated by Dr. Dalee Sambo Dorough³³ in her evidence as an expert in the area of the development and evolution of international human rights standards. This means that in order to fully implement one right, all other rights must also be fully realized. Similarly, the denial of one right adversely impacts the enjoyment of other rights. For example, as illustrated by Mr. O'Soup, Indigenous youth cannot be protected from the violence of self-harm and suicide under Article 19 of the UNCRC if their right to the highest attainable standard of health – including mental health – under Article 24 is not realized.
33. Dr. Blackstock made the same point when she spoke of the inability to separate child welfare from education, from health and so on. She stated that we can no longer continue to accept

³² National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6), pp. 15-16

³³ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6), pp. 249

“incremental equality” and attempts to lift Indigenous children and youth out of historical disadvantage one program at a time.³⁴ If we continue along that path, there will never be equality for Indigenous children.

34. As discussed above, Article 6 of the UNCRC codifies the right to life of every child. This right is not unique to the UNCRC and is inherent to every person, no matter their age. What is unique about Article 6 is that it also directs that States “shall ensure to the *maximum extent possible* the survival and *development* of the child.” [emphasis added] This text recognizes the distinctiveness of childhood and adolescence as being a time of growth – and the right of children to have measures put in place to not only protect but to *facilitate* that growth. The Committee on the Rights of the Child expects States to interpret “development” in a broad and holistic sense, encompassing children’s physical, emotional, spiritual and psychological development.³⁵ In this way, Article 6 clearly shows the interrelatedness and indivisibility of the rights in the UNCRC as the fulfilment of almost every other right directly contributes to a child’s optimal development. The fact that this concept of growth is unique to the UNCRC is further evidence to the importance of intentionally applying a child rights lens within the work of the Inquiry and in all matters involving Indigenous children and youth.

35. This principle of interrelatedness and indivisibility was also reflected in the recommendations of Mr. O’Soup, specifically in that a holistic and multi-sectoral approach is required – in order to truly eliminate the causes of discrimination towards Indigenous children and youth. A report of the Canadian Council of Child and Youth Advocates titled *Aboriginal Children and Youth in Canada: Canada Must do Better*³⁶ was entered into the Inquiry’s record through both Mr. O’Soup and Dr. Turpel Lafond. This report was released in 2010 and urged provincial, territorial, federal and Indigenous governments to take coordinated action to improve the living and social conditions of Indigenous child and youth

³⁴ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Racism (Vol. 10) pp. 233

³⁵ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2003). *General Comment No. 5 General Measures of Implementation*. [Available from: <https://www.refworld.org/docid/4538834f11.html>]

³⁶ Part III, Vol. 6, Exh. B13 (Exhibit Code: P03P02P0301)

in Canada. This was not the first time this plea has been made, and it has not been the last. It is time this action is taken.

36. Special measures – financial and otherwise – must, therefore, be taken to guarantee the protection of the rights of Indigenous children by ensuring culturally-appropriate access to equal and quality services in *all* areas. In addition to supporting the success of Indigenous children and youth in education, this includes meaningfully addressing their overrepresentation in the child welfare, juvenile justice and health systems, as well as addressing their overrepresentation among those living in poverty. The various documents included in the Inquiry’s Terms of Reference, as well as evidence provided by many experts and witnesses to the Inquiry, showed the connection of these circumstances to the issue of missing and murdered Indigenous women and girls.³⁷ What has historically been a wholesale assault on their rights requires a holistic remedy.

Special Measures in Budget Considerations

37. Holistic remedies require organization and appropriate planning. Dr. Blackstock presented a tangible way to move forward in this regard through the *Spirit Bear Plan*,³⁸ as developed by the First Nations Child and Family Caring Society. In the absence of a plan by the federal government to address all inequities faced by Indigenous children and youth outside of those in child welfare or otherwise falling under Jordan’s Principle, the *Spirit Bear Plan* asks the government to cost out the inequities in every single public service, work with First Nations communities to determine how to address the identified gaps and immediately end all inequalities across the spectrum of public services. Canada’s legal obligation under international and national law to not discriminate against children based on race, or national or ethnic origin, and its obligation to implement special measures to ensure full respect for the rights of vulnerable groups – including Indigenous girls and LGBTQ2S youth – would require nothing less.

³⁷ Part III, Vol. 6, Exh. B13 (Exh. Code P03P02P0301) and Dr. Mary Ellen Turpel Lafond (Part III, Vol. 6, pp. 223)

³⁸ Mixed Parts II & III, Vol. 12, Exh. 28 P02-03P0301)

38. We also emphasize that Indigenous children and youth must be involved in discussions where gaps are identified and solutions are proposed. This is their right under Article 12 of the UNCRC. We urge the Inquiry to consider recommending that all levels of government immediately undertake a process such as that outlined in the *Spirit Bear Plan*, while including the voice and ideas for change of Indigenous children and youth.
39. Action like that proposed in the *Spirit Bear Plan* is also supported by the Committee on the Rights of the Child in its *General Comment No. 19 (2016) on public budgeting for the realization of children’s rights*.³⁹ The Committee directed that a State’s obligation under Article 4 of the UNCRC to take *all* appropriate measures to realize children’s rights includes prioritizing children’s rights in public budgets at the national and sub-national levels. In particular, the Committee states that this process includes identifying groups of children that qualify for special measures (i.e. Indigenous children and youth and, in particular, Indigenous girls and LGBTQ2S youth) and addressing existing inequalities by increasing or re-prioritizing parts of the public budget. The decision of the Canadian Human Rights Tribunal on inequitable funding for child welfare as discussed by Professor Naomi Metallic⁴⁰ and Dr. Blackstock, as well as Dr. Blackstock’s discussion of the 2008 Auditor General’s Report⁴¹ and (formerly) AANDC’s “Cost Drivers”⁴² report, are important to consider in this regard. With respect to making decisions around the “re-prioritizing” of budgets, this evidence makes it clear that substantive equality will never be achieved for Indigenous children if they continue to be disadvantaged in certain economic or social areas (i.e. schools, water treatment) in order to pay for services in another (i.e. child welfare).

³⁹ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2016). *General Comment No. 19 (2016) on public budgeting for the realization of children’s rights*. [Available from: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICaqhKb7yhsqIkirKQZLK2M58RF%2F5F0vHXnExBBGbm8arvsXpbQtFqy5IM9wjdpzdQWNBmhRXy5GddCXwk43ItcbNBFLtyueX%2B6YpzPjHmwp3k68ATyNj>]

⁴⁰ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 4 & 5)

⁴¹ Part III, Vol. 10, Exh. 56 (Exhibit Code: P03P03P0301)

⁴² Part III, Vol. 10, Exh. 66 (Exhibit Code: P03P03P0301)

40. The Committee further directs in *General Comment No. 19* that budget allocations for the realization of children’s rights must be sustainable and that, in times of financial restraint, children – especially those in vulnerable situations – must be the last to be affected.

Special Measures in Accountability and Oversight

41. As mentioned above, the human rights framework requires that a child rights perspective (based on the four general principles of the UNCRC) must be applied throughout all levels of government, parliament and the judiciary. Accordingly, as discussed by Mr. O’Soup⁴³ in his expert testimony, decision-makers at all levels of government are obligated under Articles 3 and 4 of the UNCRC to evaluate every decision that will affect Indigenous children through a child rights lens with the children’s best interests as a primary consideration. The Committee directs in *General Comment No. 5* that:

[e]very legislative, administrative and judicial body or institution is required to apply the best interests principle by systematically considering how children’s rights and interests are or will be affected by their decisions and actions – by, for example, a proposed or existing law or policy or administrative action or court decision, including those which are not directly concerned with children, but indirectly affect children.⁴⁴

42. This evaluation can be done through a Child Rights Impact Assessment, such as the one developed by UNICEF (<http://criacommunity.org/>). Such an evaluation should not, however, end with an initial assessment. The Committee calls for a continuous process of both assessing the impact of proposed changes on children, as well as evaluating the *actual* impact of their implementation. Within these assessments and evaluations, special attention should be paid to the rights and interests of Indigenous children – in particular girls and LGBTQ2S youth. The federal government is already experienced in assessing the impact of policy decisions using a Gender-Based Analysis Plus (GBA+), which is an “analytical process designed to help [it] ask questions, challenge assumptions and identify potential impacts,

⁴³ National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Human Rights Framework (Vol. 6), pp. 138

⁴⁴ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2003). *General Comment No. 5 General Measures of Implementation*. [Available from: <https://www.refworld.org/docid/4538834f11.html>]

taking into account the diversity of Canadians”.⁴⁵ In light of the government’s obligation to ensure all its actions also respect the rights of children and – deliberately – work to improve the circumstances and well-being of Indigenous children, a similar systematic process should be engaged with their distinct interests in mind.

43. To properly engage in a child rights impact assessment and to know where to allocate budgetary resources, another special measure identified by the Committee on the Rights of the Child in its *General Comment No. 11* is the need for “data collection to be disaggregated to enable discrimination or potential discrimination to be identified”.⁴⁶ The need for disaggregated data has been put before the Inquiry in many documents and by many parties, such as in the evidence of Professor Gunn⁴⁷ and Mr. O’Soup.⁴⁸ It is our submission that any recommendations from the Inquiry in this regard specifically include the need for child-specific data. In addition to assisting in the identification of discrimination and knowing where to direct budget allocations, this would also facilitate the measurement and reporting of outcomes for Indigenous children and youth.
44. Additionally, while self-monitoring is an important obligation of government, independent oversight is also required to ensure respect for Indigenous children’s rights, especially when they have been disrespected for so long.⁴⁹ In this regard, implementation of Mr. O’Soup’s recommendation that Canada create a National Children’s Commissioner would also serve as a special measure to strengthen the framework of accountability for the rights of Indigenous children in Canada and, thereby, protect them from violence. This body would act as a counterpart to the child advocate offices that exist in nearly all provinces and territories. Ideally, it would also have an overarching function to critically examine thematic issues or trends that span provincial/territorial borders and affect children and youth in particular

⁴⁵ Status of Women Canada. (04 Dec 2018). *What is a GBA+?*. Ottawa: Government of Canada [Available from: <https://www.swc-cfc.gc.ca/gba-acis/index-en.html>] (Accessed 12 December 2018)

⁴⁶ Ibid, para. 24

⁴⁷ Part III, Vol. 6, pp. 29

⁴⁸ Part III, Vol. 6, pp. 115

⁴⁹ SK ACY Rule 33 Submission (submitted 15 November 2018): Committee on the Rights of the Child. (2003). *General Comment No. 5 General Measures of Implementation*. [Available from: <https://www.refworld.org/docid/4538834f11.html>]

regions and/or across the country, with a special focus on improving the well-being, circumstances and the realization of the rights of Indigenous children and youth. As an independent oversight mechanism, a National Children’s Commissioner would provide an extra layer of accountability on the federal government. Since the provision of services to Indigenous children and youth, particularly those living on-reserve, is largely the responsibility of the federal government, the current disparity in accountability for services between provincial/territorial and federal jurisdiction is unacceptable and discriminatory.

45. As Mr. O’Soup and many other organizations have pointed out, including the Committee on the Rights of the Child in its *Concluding Observations*⁵⁰ to Canada, the Canadian Human Rights Commission, while an important tool in our society, is not sufficient to fill this gap. Its mandate is limited to complaints of discrimination, it does not have a unit specialized in children’s rights and it does not offer meaningful remedies for breaches of other rights under the UNCRC, such as many economic and social rights, that are not yet justiciable in the Canadian legal system. As the Inquiry has seen, it is largely the denial of economic and social rights that creates the circumstances leading to Indigenous women, girls and LGBTQ2S being vulnerable to violence. Yet, in Canada’s current legal system, there is nowhere for Indigenous children to turn to claim these rights. Accordingly, a National Children’s Commissioner would help fill this void, as well as help to fulfill Canada’s obligation under Article 21.2 of UNDRIP to:

[...] take effective measures and, where appropriate, *special measures* to ensure continuing improvement of [indigenous peoples’] *economic and social conditions*. Particular attention shall be paid to the rights and special needs of indigenous elders, women, *youth, children* and persons with disabilities.⁵¹ [emphasis added]

46. It would do this by supporting the government in the exercise of its functions by providing expert advice through a child rights lens, providing a platform for the voices of youth on the national stage and filling the accountability gap currently present at the federal level. Furthermore, it would act as a special measure to ensure non-discrimination against

⁵⁰ Part III, Vol. 6, Exh. B10 (Exhibit Code P03P02P0301)

⁵¹ Part III, Vol. 6, Exh. B3 (Exhibit Code P03P02P0301)

Indigenous children and youth by taking a national view to eliminating the barriers they face in having their rights fully realized.

47. In her expert evidence to the Inquiry, Dr. Mary Ellen Turpel Lafond⁵² agreed that a National Children’s Commissioner (with proper access to information) is needed as a federal focal point of leadership for making sure the recommendations made by the Inquiry with respect to Indigenous children and youth are implemented in a timely manner. It was the opinion of both Dr. Turpel Lafond and Mr. O’Soup that a National Children’s Commissioner should be an Indigenous person.
48. The accountability structure in regard to the realization of the rights of Indigenous girls and LGBTQ2S youth would also be further strengthened if Canada were to ratify the 3rd *Optional Protocol to the Convention on the Right of the Child on a communications procedure*,⁵³ as recommended by Mr. O’Soup and in the article submitted by Professor Gunn.⁵⁴ By not signing on to and ratifying the Optional Protocol, Canada is denying children and youth the opportunity to address serious forms of violence, exploitation and discrimination at the international level when national remedies are not available or not effective.
49. For example, had Indigenous children in Canada had these accountability mechanisms in place, it may not have taken as long to make progress on issues such as the First Nations Child and Family Caring Society’s complaint to the Canadian Human Rights Commission or for the calling of this Inquiry into the national crisis of missing and murdered Indigenous women and girls.

⁵² National Inquiry on Missing and Murdered Indigenous Women and Girls, Part III Expert & Knowledge-Keeper Panel: Racism, Mixed Parts II & III, Vol. 13 (pp. 147-148, 185)

⁵³ SK ACY Rule 33 Submission (submitted 15 November 2018). *Optional Protocol to the UNCRC on a communications procedure*. [Available from: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPICCRC.aspx>]

⁵⁴ Part III, Vol. 6, Exh. B2 (Exh. Code P03P02P0301)

Special Measures to Address Sexual Exploitation and Trafficking

50. As mentioned in *Invisible Women: A Call to Action - A Report on Missing and Murdered Indigenous Women in Canada*, one of the foundational documents of the Inquiry, young Indigenous girls are methodically targeted by traffickers who know how to exploit their vulnerabilities. Many are only 13 years old when they are first trafficked for the purposes of sexual exploitation.⁵⁵ It is for this reason that a child rights lens must be taken by the Inquiry in making its recommendations, and by all levels of government when determining how best to prevent this form of violence.
51. Under Canada's Criminal Code, there are a number of offences related to the sexual exploitation and trafficking of children. Additionally, Articles 34 and 35 of the UNCRC specifically protect children from sexual exploitation and trafficking, and Canada has ratified the *Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography*.⁵⁶ Yet, Canada has not done enough to fully incorporate the necessary protections for children and youth into domestic legislation and on-the-ground practices.
52. The contributing factors to child exploitation recognized in the preamble to the Optional Protocol mirror those underlying the circumstances of missing and murdered Indigenous women and girls in Canada. Therefore, the Optional Protocol is a particularly relevant document to the Inquiry, and the Inquiry should hold Canada to account for fully implementing it, as recommended by Mr. O'Soup⁵⁷ – and as called for by the Committee on the Rights of the Child.⁵⁸

⁵⁵ Canada, Parliament, House of Commons. Special Committee on Violence Against Indigenous Women. (2014). *Invisible Women: A Call to Action – A Report on Missing and Murdered Indigenous Women in Canada*. 41st Parl., 2nd sess. Ottawa, ON: Author. pp. 9 [Available from: http://publications.gc.ca/collections/collection_2014/parl/xc2-411/XC2-411-2-1-1-eng.pdf]

⁵⁶ SK ACY Rule 33 Submission (submitted 15 November 2018). *Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography*. [Available from: <https://www.ohchr.org/en/professionalinterest/pages/opscrcr.aspx>]

⁵⁷ Part III, Vol. 6, Exh. B12 (Exhibit Code P03P02P0301)

⁵⁸ Part III, Vol. 6, Exh. B10 (Exhibit Code P03P02P0301)

53. Some articles of the Optional Protocol that will be particularly pertinent to the Inquiry when making its recommendations include:

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;

[...]

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.

Article 10

3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

54. Meeting the standards set by the Optional Protocol would, therefore, require a holistic approach to preventing these crimes (i.e. addressing poverty and underdevelopment of Indigenous peoples), rather than ‘siloing’ the issue within the realm of criminal justice. It would also require the strengthening of legislation and the provision of adequate training to all professionals involved in the justice system to enhance awareness of child trafficking, best practices in investigation processes involving children and specific instructions on the rights and protections of child victims. In particular, pursuant to Article 9(1), it will require special measures for the protection of Indigenous girls and youth.

55. The need for enhanced training on best practices in investigation for child victims is supported by the evidence of Dr. Mary Ellen Turpel Lafond and the report she discussed titled, *Too Many Victims: Sexualized Violence in the Lives of Children and Youth in Care*.⁵⁹ That evidence described examples of poor practices in policing, questioning and investigation that are not child-centred and that make young girls less likely to report their victimization.
56. Furthermore, as mentioned above, in its Concluding Observations to Canada’s last report on the implementation of the UNCRC, the Committee on the Rights of the Child stated that it “is gravely concerned about cases of Aboriginal girls who were victims of child prostitution and have gone missing or were murdered and have not been fully investigated with the perpetrators going unpunished.”⁶⁰ Therefore, fulfilling the rights of Indigenous children to be safe from this form of violence would also include systemic improvements to ensure adequate prosecution and sentencing.

Special Measures to Ensure the Voices of Indigenous Children and Youth Are Heard

57. As mentioned above, one of the rights guaranteed by the UNCRC is that of children and youth to participate in matters that affect them and for those in decision-making roles to listen to their opinions and take them seriously. Article 12 directs that:
1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
58. While all rights are interrelated, interdependent and indivisible and, therefore, do not exist in a hierarchy, the fact that the Committee on the Rights of the Child has included Article 12 among the general principles of the UNCRC does emphasize the value that hearing the voices of children and youth will add to the process of ensuring the broad spectrum of their rights are respected.

⁵⁹ Mixed Parts II & III, Vol. 13, Evidence of Mary Ellen Turpel Lafond & Exh. 39 (Exhibit Code P02-03P03P0401)

⁶⁰ Part III, Vol. 6, Exh. B10, pp. 10 (Exhibit Code P03P02P0301)

59. Furthermore, in regard to the obligation to implement special measures for vulnerable groups, it is imperative that space be made specifically for Indigenous girls and LGBTQ2S youth to be meaningfully involved in the systemic change that will result from this Inquiry. As recommended by Mr. O'Soup⁶¹ in his expert testimony, this process would be facilitated by the creation of a national Indigenous children and youth participation initiative. This initiative should include training of youth on their rights, leadership skills and how to effectively use their voice and participate in civic processes.

60. In the words of the Indigenous youth who contributed to the *Shhh...LISTEN!!* report:

[...] you're not going to change youth without talking to the youth about it.⁶²

I think we are the solution. Without us, there would be no change even possible. With our generation alone you can see how much is changing because we did something about it, instead of talking about it. We put [...] words into actions and we got progress out of it. And I think by continuing that stride it's only going to get better. [...].⁶³

61. Although these statements were initiated by a discussion on youth suicide, they apply to any issue in which youth are affected.

Conclusion

62. This submission has sought to emphasize the need for both this Inquiry and all levels of government to explicitly and deliberately apply a child-rights lens within a human rights-based approach to addressing the structural inequalities that have resulted in the increased vulnerability to violence experienced by Indigenous women, girls and LGBTQ2S individuals. Indigenous girls and youth have distinct needs that require distinct consideration, rather than being subsumed under the rubric of "Indigenous women and children". Doing so will have both immediate and long-term positive impacts.

⁶¹ Part III, Vol. 6, Exh. B12 (Exhibit Code P03P02P0301)

⁶² Part III, Vol. 6, Exh. B11, pp. 36 (Exhibit Code P03P02P0301)

⁶³ Part III, Vol. 6, Exh. B11, pp. 36 (Exhibit Code P03P02P0301)

63. This submission has also drawn attention to the specific obligations on Canada that exist under international and domestic law (both “hard” and “soft” law) to implement special measures in order to ensure the rights of Indigenous girls and LGBTQ2S youth are realized. It is not enough to simply begin to provide funding and services equal to that received by other children in Canada. *More* is required to make up for the damage that has been caused by generations of discrimination and marginalization. In this document, we have also put forward recommendations for tangible measures that can be taken to ensure this is done. Not only are these efforts required, but they must be made a priority. They must be sustainable and not subject to election cycles.
64. The Saskatchewan Advocate for Children and Youth is extremely grateful for the work of the Inquiry and for the opportunity to – along with other esteemed witnesses and parties with standing – have contributed a child rights perspective to the record.
65. One limitation of this submission has been its focus on the vulnerabilities of Indigenous girls and LGBTQ2S youth without a corresponding recognition of their strength and resilience. Acknowledging and drawing upon these attributes will be as important to moving forward as has been drawing out and naming the challenges that have existed for them thus far. One of the most important ways to honour their strength and the value of their perspective is to continue, and always strive to improve, processes in which we invite, hear and respect the voices of Indigenous children and youth.

Respectfully,



Corey O'Soup
Advocate for Children and Youth of Saskatchewan

APPENDIX A - Recommendations

Recommendations for consideration by the National Inquiry into Missing and Murdered Indigenous Women and Girls

Saskatchewan Advocate for Children and Youth⁶⁴

To the Commissioners of the National Inquiry into Missing and Murdered Indigenous Women and Girls:

1. A child's rights lens should be applied when formulating recommendations specifically targeted toward Indigenous youth⁶⁵, measured against the four foundational principles of the *United Nations Convention on the Rights of the Child* (UNCRC). The best interests of Indigenous children and youth must be a primary consideration.

For consideration when making recommendations to government:

2. Ensure special consideration and special measures are provided to Indigenous youth to eliminate the causes of discrimination and ensure they can fully enjoy their rights at the same level as other children and youth.
 - a. Taking into account the interrelatedness and indivisibility of children's rights under the UNCRC, a holistic and multisectoral approach is required to ensure the protection of Indigenous youth's rights by ensuring culturally-appropriate access to quality services in areas including, but not limited to health, protection from violence (including suicide), education, recreation, social services, housing, sanitation and juvenile justice.
3. Ensure the education system is appropriate for all children and youth and meets the unique needs of Indigenous children, youth and their families. Access to quality primary and secondary education is a way to empower Indigenous children, youth and communities and prevent violence when used as a preventive tool.
4. Within the newly released national poverty reduction strategy, implement a dedicated focus on eliminating child poverty, incorporating specific indicators and annual targets in this regard. This strategy should place particular attention on the elimination of Indigenous child poverty.
5. All levels of government and public services must conduct a Child Rights Impact Assessment (CRIA) when making changes to policy, practice or legislation to systematically consider how

⁶⁴ Please note: These recommendations mirror those submitted by Corey O'Soup while testifying in his personal capacity on the Expert & Knowledge Keeper Panel: Human Rights Framework (Part III, Vol. 6, Exh. B12 – Exhibit Code P03P02P0301), with a minor amendment to Recommendation 4 to reflect the national poverty reduction strategy released subsequent to his testimony.

⁶⁵ For brevity, the term "Indigenous youth" is used in this document to be inclusive of Indigenous girls, transgender, LGBTQ and Two-Spirited Indigenous young persons.

children's rights and interests are, or will be, affected by their decisions and actions. Particular attention should be paid to the rights and interests of Indigenous youth. These assessments should take place whether the proposed changes directly or indirectly affect children. There must also be continuous process of assessment evaluating the actual impact of their implementation.

6. Indigenous youth must be given opportunities to participate and have their voices heard in all matters that affect them, pursuant to their right under Article 12 of the UNCRC. All levels of government should ensure effective and meaningful processes for this participation.
 - a. For example, strengthening the quality of interventions to prevent Indigenous youth suicide should incorporate the participation of Indigenous youth. Specific consideration should be given to the Calls to Action regarding youth suicide prevention identified by Indigenous youth in the report *Shhh...LISTEN!! We Have Something to Say* (2017)⁶⁶ and other bodies of work inclusive of youth voice.
 - b. Creation of a national Indigenous children and youth participation initiative, with training on child and youth rights, leadership, voice, and civic participation, to fully implement the *United Nations Convention on the Rights of the Child* and reduce vulnerability.
7. Federal and provincial governments work with national and regional Indigenous organizations to develop culturally-appropriate programming and initiatives for Indigenous youth, including but not limited to youth suicide prevention strategies. This process must include the participation of Indigenous youth.
8. Canada must take immediate steps to sign and ratify the 3rd *Optional Protocol to the United Nations Convention on the Rights of the Child on a communications procedure*.
9. Effort and coordination is required by federal and provincial/territorial governments to improve education and awareness of the UNCRC and its Optional Protocols among the general public, children and youth themselves, and various professionals working with children and youth.
10. Jordan's Principle be fully implemented, through collaboration between the federal and provincial/territorial governments and First Nations communities, to ensure all rural and remote communities are aware of the process and have the capacity to make claims for services under the principle.
11. All levels of government establish effective budgetary frameworks that incorporate the needs of children, particularly vulnerable groups such as Indigenous children and youth. They must ensure protections for the rights of children are given priority, are well-resourced and sustainable, and include budgetary safeguards in situations of fiscal restraint.
12. Create a statutory "National Children's Commissioner" independent from the federal government, but accountable to the Parliament, with particular emphasis on Indigenous children and youth and the national dimension of the work on programs, evaluation and outcomes. This body should adhere to the Principles relating to the Status of National Institutions (Paris Principles).
13. A national initiative to measure and report on child welfare, education and health outcomes for Indigenous children and youth. This will require creation and coordination of data, and clear assignment of roles and accountabilities.

⁶⁶ Part III Vol. 6 Exh. B11 (Exhibit Code P03P02P0301)

14. That the federal government adopt all necessary measures to ensure the full inclusion of the *Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography* into its domestic legal system.
15. The federal government should provide adequate training to law enforcement officials and prosecutors with the aim of protecting all child victims of trafficking and improving enforcement of current legislation. Training should incorporate enhancing awareness on legislation criminalizing child trafficking, best practices in investigation processes, and specific instructions on the rights and protections of child victims.

Respectfully,



Corey O'Soup
Advocate for Children and Youth of Saskatchewan

MM/wg

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