PILOTING EARLY CHILDHOOD RIGHTS INDICATORS IN BRITISH COLUMBIA: PROTECTION AGAINST VIOLENCE

FINAL REPORT

GlobalChild

University of Victoria

“We are never too young to lead and never too old to learn.”

Kofi Annan, Secretary-General of the United Nations (1997-2006)

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Definitions

This report adopts the *UN Convention on the Rights of the Child (CRC)* definition of children as under 18 years of age, while adopting the definition of General Comment 7 for the early childhood as the "period below the age of 8."

Article 19 of the *CRC*, and General Comment 13, are both drafted to address child protection within a broader and more comprehensive scope of "protection against violence, neglect and abuse." While violence is often understood to mean only physical harm or intentional harm, the *CRC* and the Committee on the Rights of the Child emphasize that their references to violence must not be interpreted in ways that minimize the impact of, and need to address, non-physical and non-intentional forms of harm (such as neglect and psychological maltreatment). However, within this report, the phrase "child protection" is used to refer to protection from Violence Against Children (VAC) and the collected data did not include the wider scope of article 19 (i.e. the structural commitments in the forms of policies and legislative mandates that includes neglect and diverse forms of abuse).

Acronyms

BC	British Columbia
CFCSA	Child, Family, and Community Service Act
CIHR	Canadian Institutes of Health Research
CRC	Convention on the Rights of the Child
ECD	Early child development
ECRI	Early Childhood Rights Indicators
FLA	Family Law Act
IH	Island Health
IRPA	Immigration and Refugee Protection Act
MCFD	Ministry of Children and Family Development
MSFHR	Michael Smith Foundation for Health Research
NGO	Non-governmental Organization
OHCHR	Office of the High Commission for Human Rights
PI	Principal Investigator
POEY	Provincial Office for the Early Years
RCY	Representative of Children and Youth
RCYA	Representative for Children and Youth Act
SC	Steering Committee
SDG	Sustainable Development Goals
VAC	Violence against Children
UNDRIP	United Nations Declaration of Human Rights of Indigenous Peoples
UNICEF	United Nations Children's Fund

UNCRC FOREWORD

The *Convention on the Rights of the Child*, ratified by 197 States, enshrines the inherent human rights of all children under the age of 18, whether they belong to the younger or the older age cohorts of childhood. However, the reports of the State Parties submitted to the monitoring committee established by the *CRC* demonstrate that the rights of the younger children are often overlooked.

In order to draw the State Parties' and other duty bearers' attention to the rights of young children, the Committee issued a General Comment 7 in 2005: *Implementing child rights in early childhood*, in which the Committee reminds all responsible for young children that young children are entitled to all rights under the *Convention*.

The General Comment laid the groundwork for developing child rights indicators for young children based on human rights. Strong foundations for the development of competencies and personality are required in early childhood. Numerous studies give evidence that material and social investments in early childhood generate remarkable and highly needed social, economic and other life-quality returns for individuals and society. The Committee gratefully accepted the proposal of an expert group, now the authors of this manual, to elaborate a set of indicators inspired by the General Comment, which will help to shed more light on the state of child rights implementation in young childhood.

With high appreciation the Committee sees the product of two years of intense work by members of the expert group who all are under the pressure of other responsibilities but were willing to provide professional expertise and experience for this endeavour. This Manual for Early Childhood Rights Indicators enhances our understanding of the rights of young children with respect to their special needs and vulnerabilities.

It presents a set of seventeen child-right indicators for early childhood that help to assess whether young children's rights are being upheld. It promotes better data collection, more careful analysis of data and consequently more complete reporting and monitoring of young children's rights. The Manual gives comprehensive advice on which questions to ask, which ways and where to find the information and which duty bearers to involve. Data disaggregation will help to better understand the problems of care, development and education in childhood, identify target groups of young children with particular needs and develop policies and programmes that effectively contribute to overcome poverty, poor health, illiteracy and dependency on social welfare.

Most importantly, it will assist State Parties to fulfill their obligation towards the youngest members and rights holders of their societies. The Committee owes particular thanks to the members of the GC 7 expert group from UNICEF, WHO, the Bernard van Leer Foundation, the Aga Khan Foundation, the Human Early Learning Partnership, the Consultative Group on Early Childhood Care and Development, the International Children's Center, the World Bank and the SOS-Kinderdõrfer for their dedicated work.

Yanghee Lee
Chairperson of the UN Committee on the Rights of the Child
April 12, 2011

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EXECUTIVE SUMMARY

This report summarizes the pilot test of the Early Childhood Rights Indicators (ECRI) tool in British Columbia (BC), Canada. This pilot specifically focused on Indicator 8, *The Right of Children to be Free from Violence*. The data collected outline governments' structural capacities, in terms of legislation, to protect young children from violence. These findings highlight the province's strengths as well as identify gaps and areas for improvement. This information will aid policymakers in creating child-friendly policies and practices. Within the context of this report, the term violence against children (VAC) has been considered in its narrow sense and referring to only physical and sexual violence, and not in the broad manner that article 19 is addressing.

The Early Childhood Rights Indicators tool is based on children's rights as defined in the *United Nations Convention on the Rights of the Child*, (hereafter *CRC* or *Convention*). The *CRC* is the most widely ratified human rights instrument in the world. It sets out how governments can work to protect the civil, political, economic, social, and cultural rights of all children. The General Principles of the *Convention* include non-discrimination, best interests of the child, the right to life, survival, and development, and the right to have their views heard. Countries that have ratified the *CRC* are referred to as States Parties. States Parties provide reports on their progress with the *CRC* to the Committee on the Rights of the Child, the group that oversees implementation of the *Convention*. The Committee then recommends how States Parties can improve their commitments to implementation.

The Committee has made several General Comments that supplement the *Convention*, as well as three Optional Protocols that States Parties may choose to adopt. General Comment 7 (GC7), *Implementing child rights in early childhood*, is the main General Comment that informs ECRI. GC7 was a response to the observation that young children were often overlooked in States Parties' reports to the Committee. However, GC7 remained underutilized on its own. As such, a group of experts in early child development (ECD), human rights, and child advocacy formed the GC7 Indicators Group to find a way to make GC7 easier to implement. The group created the Indicators Framework, a monitoring tool for States to assess how well they support young children's rights. Eventually, this framework became digitized into ECRI.

ECRI has seventeen indicator sets that align with various themes in the *CRC*. Each indicator set has three subsets of indicators: Structure, Process, and Outcome (United Nations, 2012a). ECRI was previously piloted in Tanzania, as an example of a low-resource setting, and in Chile, as an example of a middle-resource setting. The purpose of these pilots was to gain insight into the practicality of ECRI before making it available globally. This report focuses on the third and final pilot, which used BC as the example of a high-resource setting.

The BC pilot focused on Indicator set 8. This indicator set, with 51 questions (compared to 10 to 15 questions for other indicator sets), is very comprehensive, as, in addition to GC7, it has also been informed by an operationalized General Comment 13, *The right of the child to be free from violence,* after the Chile pilot in 2012.

The BC pilot took place without a government partnership, unlike those in Tanzania and Chile. From 2016 to 2017, the Principal Investigator (PI) attempted to partner with the Ministry of Children and Family Development (MCFD), the main provincial body responsible for young children, but these attempts were unsuccessful and the pilot proceeded without government support. As the previous pilots

relied on government partnerships for data collection, the purpose and methodology had to be revised for BC. To adjust for limited data collection capacity, this pilot's scope was narrowed to focus solely on the legislative capacities under the structure-related indicators of Indicator set 8.

The revised objectives of the BC pilot were as follows:

1. to evaluate the tool's questions, ease of use, and data collected

2. to collect data and build a baseline measurement of governments' existing structural capacities to prevent VAC

3. to conduct knowledge translation activities to inform stakeholders about the BC pilot and initiate actions to raise awareness about the *CRC*, GC7, and children's right to be free from violence

As the pilot focused specifically on the questions from the Structure category of Indicator 8, it evaluated the ability of existing legislative commitments to address violence against young children. These include federal and provincial laws as well as Indigenous treaties and agreements. Some international laws and human rights instruments were also relevant, such as the *UN Declaration on the Rights of Indigenous Peoples* and the *Canadian Charter of Rights and Freedoms*.

Data was collected along eighteen themes of child protection in legislation (denoted A-R, see the section Children, Violence, and Legislation, or the summary in Appendix IV). Three levels of government—federal, provincial, and Indigenous—were evaluated on whether they had made legal commitments to these themes. Relevant legislation was reviewed to identify gaps in capacity. As a safeguard for the data collected, since the government was not involved in the process, the data were verified with support from the Office of the BC Representative for Children and Youth (RCY).

There were lessons learned with regard to the efficiency of the tool as well as the capacity of the province. In terms of the tool efficiency, the complexity of some questions in Indicator 8 created challenges for the BC pilot. Several questions, although they had been reviewed, were unspecific to the local context and were difficult to answer. As well, some questions were found to be too complex or difficult to interpret, especially those with multiple parts. These questions were revised accordingly during the post pilot period.

Some lessons learned from the attempts to develop a government partnership include the need to invest sufficient time to develop a relationship, and to identify a focal person or champion to guide the team through developing this partnership.

The data collected during this pilot led to the emergence of three thematic gaps in BC's structural capacity to protect children from violence:

1. **BC has not made any structural commitment to provide human rights education to children, caregivers, or decision-makers.** Children and adults are often more prone to rights violation when they do not have adequate knowledge of their rights. In its Concluding Observations on the combined 3rd and 4th periodic report for Canada, the Committee urged Canada to "develop an integrated strategy for training on children's rights for children, caregivers and all professionals including government officials, judicial authorities, and professionals who work with children in health and social services" (United Nations, 2012b). This recommendation is not yet fulfilled in Canada on federal or provincial levels.

   The *Convention,* through its procedural rights, reiterates the significance of human rights training for children, parents, and professionals working for and with children. One of the most important procedural provisions is set out in article 42. Article 42 obligates governments to undertake all measures to make the principles and provisions of the *Convention* widely known, by appropriate and active means, to adults and children alike. Child rights efforts will fail if the adults who care for and work with children are neither familiar with nor mindful of these rights and their own obligations as duty bearers to children. This is why the *Convention* emphasizes the need to educate both children and adults in relation to child rights (UNICEF *Innocenti* Research Centre, 2013). States Parties need a comprehensive strategy to educate all of society about children's rights, including tailoring education efforts to different age groups.

2. **BC also lacks a comprehensive provincial strategy for addressing VAC**. In the absence of this strategy, BC's approach to addressing violence is uncoordinated, and children are at risk of falling through the cracks between the numerous federal and provincial services and policies that are meant to protect them. A comprehensive provincial strategy would help promote and prioritize children's right to live free from harm and would improve coordination between government bodies, non-government organizations, and communities to better fulfill this right under the *CRC*.

3. **BC does not have a strategic agenda for addressing determinants of violence such as poverty.** There are factors in children's lives that can predispose them to experiencing violence, such as poverty. First Call BC's most recent Report Card states that 1 in 5 children in the province live in poverty (BC Child and Youth Advocacy Coalition, 2018). The province needs a positive agenda for violence prevention that recognizes children's right to be free from poverty. Previous Committee recommendations have addressed this need, calling for Canada to create a poverty reduction strategy with explicit, annual targets to reduce child poverty (United Nations, 2012b).

   The *CRC* articulates the right to a standard of adequate living for the child's holistic and optimal development. This refers not only to physical and mental development, but also to spiritual, moral and social development, as defined in article 27. In line with the spirit of the *CRC*, article 27 assigns primary responsibility for living conditions to the family and other caregivers, within their abilities and financial capacities. Likewise the article delegates obligations to States Parties, within their means, to provide material assistance when needed and to support families and

caregivers in the performance of their parental care responsibilities. Hence it is imperative to stress that according to article 27, both the family and other caregivers have responsibilities, but the States Parties are the duty bearers, and they have obligations to respect, protect and fulfil this right for children. It is crucial to point out that States Parties should not use Parental Responsibility to shift their care and protection obligations to parents or other caregivers as a means of reducing their public expenditure bill (Hodgkin & Newell, 2007).

With completion of the three pilots of ECRI, GlobalChild is now working with the Committee on the Rights of the Child to provide global access to ECRI for all States Parties.

The BC Child Rights symposium is the first of this kind in BC, and as the main knowledge translation activity planned for BC pilot, it is intended to:

1. Raise awareness about the status of young children's rights to protection against violence in BC

2. Increase communication and collaboration between child rights and ECD stakeholders

3. Build capacity of stakeholders to promote protection of children from violence as a necessity for well-being

The symposium will ultimately inform future actions to benefit young children in BC.

INTRODUCTION

Children[1] in British Columbia and throughout the world have human rights under domestic and international human rights law, including the *UN Convention on the Rights of the Child* (*CRC*). The *CRC*, ratified by Canada in 1991 and 196 countries to date, emphasizes the importance of providing environments and experiences for children that will lead to their maximum health and well-being. Young children (0-8 years), who are the focus of this report, have equal entitlement to the realization of all rights articulated in the *CRC* and other human rights instruments.

This report adopts the definition of young children, or early years children and early years childhood, found within the UN Committee on the Rights of the Child's (the Committee) *General Comment No. 7: Implementing child rights in early childhood* (GC7) (United Nations, 2006).

> Definitions of early childhood vary in different countries and regions, according to local traditions and the organization of primary school systems. In some countries, the transition from preschool to school occurs soon after the child is 4 years old. In other countries, this transition takes place at around 7 years old. In its consideration of rights in early childhood, the Committee wishes to include all young children: at birth and throughout infancy; during the preschool years; as well as during the transition to school. Accordingly, the Committee proposes as an appropriate working definition of early childhood the period below the age of 8 years; States Parties should review their obligations towards young children in the context of this definition. (United Nations, 2006).

In the late 2000s, a group of international experts, supported by the Committee, developed a tool for monitoring *CRC* rights implementation for young children. This group – the GC7 Indicators Group – constructed an Indicators Framework (United Nations, 2012a). Initially, this comment (GC7) arose from the Committee's concern that,

despite the clear definition of a child as under 18 years, many States did not sufficiently report on young children.

The Indicators Framework emerged as an essential tool for facilitating States' monitoring of young child rights implementation and for generating more fulsome UN reports that included young children.

[1] This report adopts the *UN Convention on the Rights of the Child* definition of children as under 18 years of age.

Today, the GC7 Indicators Group's work, extending over 10 years, has shifted to become known as Early Childhood Rights Indicators (ECRI). ECRI is a tool comprised of seventeen indicator sets for monitoring young children's rights implementation. The Committee recommended piloting this tool in low, middle and high-income countries. Pilots of the indicator sets occurred in Tanzania (low-income) and Chile (middle-income), while the third pilot took place in British Columbia (BC), as a high-income area.

The third ECRI pilot, however, differed greatly from the previous two pilots. Initially, the pilot intended to test all seventeen indicator sets; however, it was challenging to develop a partnership with the government, which forced us to amend our methodology, in particular the data collection aspect of the pilot. To accommodate this unforeseen event of collecting data in the absence of government partners, the pilot focused on one indicator, *Indicator 8: Violence against Children* (VAC). This indicator was refined after the two previous pilots and yet needed further development. Indicator 8, in addition to GC7, had been enriched by capturing elements of *General Comment No. 13: the right of the child to be free from violence* (GC13) (United Nations, 2011). This report focuses on the reported information that highlights the structural indicators, i.e., the provincial legislation, Indigenous agreements, and federal legislation relevant to BC children and the issue of violence.[2]

[2] For purposes of this section, legislation – statutory law enacted by governments – is used rather than law which has a broader meaning. The First Nations agreements referenced include signed modern-day treaties and a signed agreement-in-principle. There may be less formal or local agreements not available

Indicator Set 8: Violence against Young Children

Hundreds of thousands, if not millions, of children are subjected to violence all over the world. Often, those who commit these acts of violence go unpunished. Children can be subjected to violence by adults and also by other children. Peer violence among children takes various forms, including:

- Bullying
- Physical attacks
- Name-calling
- Social exclusion

Such violence is prevalent in many countries. It continues partly because children are often reluctant to speak out for fear of punishment. Also,

children's complaints are often not taken seriously.

The relative powerlessness and vulnerability of young children is recognized many times in General Comment 7. The *CRC* also emphasizes States Parties' obligations to protect children from all acts of violence through article 19 and General Comment 13. All forms of corporal punishment are threats to a child's physical and/or emotional integrity. Both the *CRC* (article 18.1) and GC7 (paragraph 18) recognize the primary role of parents and caregivers to protect young children from violence. These documents require States Parties to take measures to prevent and/or criminalize violence and/or degrading punishment or treatment in two important ways:

- Through enacting and enforcing effective laws and administrative measures (*CRC* article 19)
- Through providing information or training and support to parents and caregivers on alternative, non-degrading or non-harmful, positive disciplinary measures (*CRC* article 18.2)

The Committee on the Rights of the Child has also recognized that children need an alternative line that could facilitate seeking help without the requirement of an adult. The Optional Protocol 3 (OP3) of the *CRC* on a Communications Procedure, which entered into force on April 14, 2014, facilitates a direct line of communication between children and the *CRC*. It has established an international procedure for violations of child rights, enabling children to bring complaints of rights violations to the UN Committee on the Rights of the Child if they are unable to find a solution at the national level (Child Rights Connect, 2018). This Optional Protocol not only recognizes the agency of the child but acts to promote and strengthen this agency by permitting children to communicate with the Committee without adults. OP3 also includes an inquiry procedure for the Committee to investigate complaints of systemic violations of children's rights committed by States. Unfortunately, Canada has not yet ratified OP3.

It is particularly important to note the issue of violence towards young children extends to professional fields such as education and law enforcement systems.

for study. Importantly, Indigenous laws – often unwritten and reflecting Indigenous legal orders which are thousands of years old – operate to protect children, but are not reflected in this report.

For example, article 28.2 of the *CRC* obliges the State Party to ensure appropriate discipline in schools and other educational environments. Effective first steps in protecting children against violence of all kinds could include:

- Helplines that are accessible to all children
- Ombudspersons to represent children and protect their interests in courts or other settings

Data collection systems are also central to the implementation of this right. These techniques of data collection should be accompanied by active measures to:

- Promote alternative forms of punishment, reprimand or control
- Protect and rehabilitate children who are victims of violence
- Prosecute parents, caregivers and professionals who violate the rights of young children through abusive or violent disciplinary methods

Note that once the mechanisms to report VAC are improved, the rate of reporting may increase. However, this increase in reporting does not necessarily indicate an increase in the actual incidence of violence. This indicator also includes obligations under article 39 of the *CRC*, that States Parties support the physical and/or psychological recovery of young children affected by violence or abuse. Although it is recognized that certain aspects of violence are subjective, this indicator seeks to include as many forms of abusive, disempowering, or degrading behaviours as possible. These range from the verbal (such as humiliation and shaming) to the physical (ranging from shaking babies to injurious beating, female circumcision and female infanticide).

Violence consists of more than actions: overlooking a problem is also a form of violence. While all children could be subjected to both kinds of violence, factors such as gender increase violent incidents for some children. For example, female children may be subjected to negligence and a lesser quality of care and nurturance. This inequity highlights the importance of disaggregating data during data analysis.

This report elaborates on the outcome of the Indicator 8 pilot test. It provides contextual information on governments' structural capacities in protecting young children against violence, as well as additional information about the tool's usefulness. The report contributes to a big picture view about legislation and what improvements may be needed to address VAC and protect them.

Key Question:

With respect to articles 18.1, 18.2, 19, 28.2 and 39 of the *Convention* on the Rights of the Child, what measures are in place to support parents and other caregivers in preventing violence or abuse towards young children, to hold perpetrators accountable, to facilitate the recovery of affected young children, and to ensure adequate recording of the prevalence of violence or abuse and the impact on prevalence of any preventive measures?

BC AND CANADA: GOVERNMENTS' RESPONSIBILITIES TO CHILDREN

Canada's Decentralized Governance Model

Canada has a parliamentary system within the context of a constitutional monarchy, and is composed of the Sovereign, the Senate, and the House of Commons. Geographically, Canada is divided into thirteen regions: ten provinces and three territories. Its levels of government include federal, provincial and territorial, and municipal, as well as Indigenous governing bodies that interact with both federal and provincial governments for various jurisdictional matters (Clarke, 2007). Canada's decentralized governance model is such that provincial governments can act autonomously in various areas as recognized in the Constitution of Canada (Clarke, 2007). The territories do not have the same constitutional status as the provinces and are thus subject to federal jurisdiction. The federal government has jurisdiction in the areas of foreign affairs, defence, citizenship and immigration, some family law, and criminal law (UNICEF *Innocenti* Research Centre, 2009). The provincial governments each have jurisdiction over health care, education, most family law, and the administration of justice (UNICEF *Innocenti* Research Centre, 2009).

Provincial

The BC government consists of elected officials and public servants with responsibility for public services required by BC citizens, including children. It has responsibilities to Indigenous Peoples, organizations, and to public services provided. The BC government is composed of ministries, agencies, and Crown corporations. There are also boards, commissions and tribunals associated with the government. Public service employees are government employees responsible for carrying out the day-to-day activities of government and for delivering public services to BC citizens. The government has a relationship with other levels of government at local, Indigenous and federal levels.

In BC, the provincial ministry responsible for the well-being of children and their healthy development is the Ministry of Child and Family Development (MCFD). This ministry provides child welfare services under the mandate of the Child, Family, and Community Service Act (CFCSA). Such services include:

- early childhood development and childcare
- children and youth with special needs
- child and youth mental health
- child welfare
- adoption
- youth justice
- supporting youth transitioning to adulthood

These services are coordinated through a provincial office and delivered through thirteen geographic service delivery areas and twenty-four Delegated Aboriginal Agencies, as well as via MCFD's contracts with community social services agencies and foster homes.

MCFD has the lead responsibility for responding to suspected child abuse and neglect. It also delegates authority for child protection and family support to Aboriginal Child and Family Services Agencies, which provide services to their communities (Government of British Columbia, 2017b). Child welfare workers employed by MCFD are delegated under the CFCSA to assess and provide supports as well as collaborate with other service providers such as police, education, and health.

The Provincial Office for the Early Years (POEY), hosted by MCFD, helps families access the services and information they need to help their children grow and develop (Government of British Columbia, 2012). The POEY also builds off of programs administered through the Ministries of Health, Education, and Child and Family Development, and aims to integrate them into a one-agency approach.

Indigenous[3]

Certain Indigenous governments share responsibility with the provincial and federal governments for addressing VAC. While some BC Indigenous governments have signed agreements, which refer to Indigenous child welfare and child protection obligations to children, there are also Indigenous governments that are not participating in the signed treaty process or who are engaged in a particular stage of a six-stage treaty negotiation process. Indigenous governments with signed agreements have endorsed care and protection for children – agreements situated within the context of the *Constitution of Canada* and the *Canadian Charter of Rights and Freedoms.*[4]

[3] The word Indigenous, used throughout the report, may be used interchangeably with First Nations. The word Aboriginal is used when making reference to the *Child, Family and Community Services Act.*

[4] Treaty and agreement may be used interchangeably throughout the report.

MCFD has formal agreements with many Aboriginal communities enabling them to operate their own child and family services agencies with delegated authority under CFCSA (Canadian Child Welfare Research Portal: British Columbia, 2011).

Federal

Constitution of Canada and the ***Canadian Charter of Rights and Freedoms.***[4]

The federal government has a similar structure as the provincial government, which includes policies, initiatives, and service provision impacting children's lives. This government consists of elected officials and public servants with responsibility for public services required by Canadian citizens, including children. The federal government is composed of departments and agencies with boards, commissions and tribunals associated with it. It has a relationship with Indigenous Peoples, organizations and services as well as provincial governments and territories.

Children, Governments and the United Nations

The responsibility for implementation of international law, such as human rights treaties, is shared between the federal and provincial governments in cases where the law affects provincial policies. The ratification of the *United Nations Convention on the Rights of the Child (CRC)* took place at the provincial level, but, since neither the federal nor provincial government is solely assigned the responsibility of children, both must interact to protect children as per their jurisdictional divisions (Clarke, 2007).

This shared responsibility for children's rights and well-being across federal and provincial departments, and with Indigenous governing bodies, poses a challenge to effective coordination and successful compliance with the *CRC*.

The Senate of Canada has stated that Canada lacks uniform national standards in several key areas for children's rights. A few examples of such areas are: the minimum age for employment, provision of public health care for autistic children, and the age at which child protection laws apply (Standing Senate Committee on Human Rights, 2007).

The provincial and federal governments are responsible for reporting to the UN on child rights implementation. The federal government's Department of Canadian Heritage takes the lead on preparing and submitting Canada's reports to the UN, with contributions from the provinces. This department also provides public information on human rights, including about the *CRC* and its protocols. While the *CRC* reports of Canada going to Geneva are compilations of the reports from all thirteen regions, the Concluding Observations[5] are directed to Canada as a whole country and do not address issues region by region.

The rights of Indigenous children as set out in the *CRC* have yet to be articulated in any federal

[5] Concluding Observations (CO) are the guiding documents developed and set to the governments of all States Parties in response to their reports to the UN Committee. Through COs, the Committee outlines progresses made and challenges remaining, and proposes some ways to move forward and meet those challenges.

legislation with regard to Indigenous Peoples (UNICEF *Innocenti* Research Centre, 2009). Several provinces, including British Columbia, have developed closer relationships with Indigenous governing bodies in order to fill these gaps. British Columbia's MCFD works with Directed Aboriginal Agencies (DAAs) and with Indigenous communities to provide culturally respectful and accessible services for children, youth, and families (Ministry of Children and Family Development, 2014). DAAs have been given authority under BC's CFCSA to provide family support and child safety services (Ministry of Children and Family Development, 2014).

Lastly, the First Nations Health Authority, established in 2013 as the first province-wide health authority of its kind in Canada, is part of the First Nations health governance structure. This governance structure works in close partnership with BC First Nations to improve the health and well-being of First Nations and Aboriginal people in British Columbia.

UN CONVENTION ON THE RIGHTS OF THE CHILD

The *CRC*, which informs the ECRI monitoring tool, is a core human rights instrument specific to children and their lives. It is supported by other international human rights instruments containing provisions intended to promote children's well-being. The *CRC* is the most widely ratified and agreed upon international human rights instrument within the international community, offering legal assurances to children, including young children, that States will respect, protect, and fulfill children's civil, political, economic, social, and cultural rights (United Nations, 1990).

The *CRC* core principles relevant to all children, including young children, are right to life, survival and development (article 6); right to non-discrimination (articles 2, 23); best interests of the child (article 3); and respect for views (articles 9, 12). The authority for requiring state implementation of *CRC* articles, including core principles, is found in article 7, which requires States to ensure rights implementation for young children, and article 4, which refers to general rights implementation for all children under 18 years of age. While article 6 recognizes children's right to life, the *CRC* requires safeguarding for children and special protection measures under a myriad of articles and topics.

The CRC has three Optional Protocols: the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000); the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (2005); and the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure. While Canada has ratified the CRC and two of its Optional Protocols, it has yet to ratify the communications protocol. All these protocols have relevance to VAC and all put report writing obligation upon the state.

While children are rights holders, persons with responsibilities for children realizing their rights under the *CRC* are duty bearers. Canada's federal government, as well as the provincial and territorial governments, are considered the primary duty bearers with responsibilities to implement the *CRC*. "Depending on context, individuals, organizations, private companies, media and institutions can also have a similar duty" (The Canadian Bar Association, 2018).

Child's Right to Freedom from Violence

Indicator 8 of ECRI is directed at capturing information related to VAC. The Committee states that VAC refers to "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse" (United Nations, 1990; 2007).

While violence is often understood to mean only physical harm or intentional harm, the Committee emphasizes that their references to violence must not be interpreted in ways that minimize the impact of, and need to address, non-physical and non-intentional forms of harm such as neglect and psychological maltreatment (United Nations, 2011).

CRC articles make specific reference to young children while also addressing the broad theme of VAC. *CRC* article 19, a core protection article, states:

1. The States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

CRC special protection measures for children fall within various themes such as children in families, associated with institutions, in emergency situations, in conflict with the law, in situations of exploitation, and belonging to a minority or an Indigenous group. In addition to article 19, *CRC* articles protecting children from harm include articles 3, 20, 22, 28 and 32-37, which refer to protecting certain child groups from harm. With forced migration and increasing refugee claims, article 37 has become increasingly relevant to young children who may be held in refugee or immigration detention centres with or without an accompanying adult.

The *Special Rapporteur on the Sale of Children, Child Prostitution, and Child Pornography* reports on the increased vulnerability of children to sale, trafficking, and exploitation in natural disasters (Maalla M'jid, 2011), and how, in the absence of adult protection, these children become easy targets for exploitation, sexual abuse, and trafficking. The circumstances these children encounter bring several articles into effect, with the result that a child experiencing violence may experience human rights violations under several articles. In addition, the UN High Commissioner for Refugees has published guidelines for the care and protection of child refugees (UNICEF, 1994).

The Committee has issued state guidance on how to interpret the *CRC* so as to prevent and address VAC. For example, GC13, the right of the child to freedom from all forms of violence, is based on fundamental principles, such as "no violence against children is justifiable; all violence against children is preventable" (United Nations, 2007). While GC13, similar to all Committee comments, does not require States to report under it, the comment does provide clear and authoritative guidelines for addressing VAC.

States, as primary duty bearers, have a responsibility to address VAC within all spheres of children's lives (the environments that they are born, live, grow, play, and learn). For example, *CRC* article 28.2 obliges States to ensure appropriate school discipline while other methods for addressing violence might include:

- promoting alternative forms of punishment
- protecting and rehabilitating child victims of violence
- prosecuting those who violate children's rights
- making Helplines available to children
- ensuring children's independent institutions exist
- collecting data about children's experiences and rights implementation

The *CRC*, informed by GC13, obliges States to prevent and/or criminalize VAC by enacting and enforcing laws and administrative measures (article 19), and by providing education to parents and guardians about alternative, non-harmful disciplinary measures (article 18.2).

In addition to the state as duty bearer, parents, caregivers, professionals and public institutions have responsibilities for ensuring children's safety and protection from harm. Parents must act in the best interests of the child when making decisions that affect their children (article 3, *CRC*). Governments have the responsibility to assist families in raising their children to ensure that parents are upholding children's rights and creating environments where children can grow and reach their maximum potential (articles 5, 18, *CRC*). Educators' actions and school discipline procedures must be consistent with children's human dignity and rights under the *CRC* (article 28.2).

The *CRC* makes clear that States have duties to support the physical and psychological recovery of children affected by violence and abuse (articles 19.2 and 39). States must take all appropriate and required steps to promote the "physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts." Such recovery and reintegration shall take place in an environment which "fosters the health, self-respect and dignity of the child" (articles 19.2 and 39).

Child Rights Implementation, Monitoring, and Reporting

CRC articles 4, 42, and 44 provide authority for implementing child rights guided by the Committee's General Comment 5 (GC5), general implementation, and General Comment 7 (GC7), implementation of the *CRC* during the early childhood. The Committee's GC7, for example, responded to the Committee's observation that young children were often overlooked in States' *CRC* reports. The Committee considered that this oversight might indicate States were neglecting their obligations to young children and possibly failing to identify them as rights holders. GC7 was developed, therefore, as an authoritative guidance to States about how to fulfill their *CRC* obligations to those children.

The Committee has the responsibility for external monitoring of child rights implementation pursuant to article 44. Under this same article, Canada has legal obligations to report on its *CRC* implementation, including on its special protection measures for children and addressing violence. Canada has been reporting to the Committee since 1993 and, in response, the Committee has made recommendations to Canada about how to improve its child rights implementation.

In its 2012 Concluding Observations to Canada, for example, the Committee recommended that Canada conduct "a study to provide an equity impact analysis of current expenditures on early childhood policies and programs, including all child benefits and transfers, with a focus on children with higher vulnerability in the early years" (United Nations, 2012b). Under special protection measures, the Committee also made particular appeals to Canada about asylum-seeking and refugee children; children in armed conflict; children subjected to economic exploitation; and the sale, trafficking and abduction of children. The Committee also urged Canada to provide funding for helplines for children subjected to harm (United Nations, 2012).

As to legislation, the Committee noted that its previous recommendations as to legislation had not been fully implemented and, in its 2012 Concluding Observations, stated in paragraph 10:

> While welcoming numerous legislative actions related to the implementation of the *Convention*, the Committee remains concerned at the absence of legislation that comprehensively covers the full scope of the *Convention* in national law. In this context, the Committee further notes that given the State Party's federal system and dualist legal system, the absence of such overall national legislation has resulted in fragmentation and inconsistencies in the implementation of child rights across the State Party, with children in similar situations being subject to disparities in the fulfillment of their rights depending on the province or territory which they reside in.

The Committee recommended, therefore, that Canada adopt a comprehensive legal framework that "fully incorporates the provisions of the *Convention* and its Optional Protocols and provides clear guidelines for their consistent application" (paragraph 11).

Violence against children (VAC) is an acute worldwide problem, and "all VAC is preventable." (Human Dignity Foundation, *Theory of Change 2017-2021*).

In 2015, building on the momentum from the Millennium Development Goals, global leaders created the 2030 Sustainable Development

Agenda. The Agenda has seventeen global goals to be achieved by 2030 in order to improve global health, fight poverty and inequality, and combat climate change (United Nations, n.d.). Some Sustainable Development Goals (SDG), such as SDG3, *Good Health and Well-being*, focus on ensuring healthy lives for people of all ages. SDG3 includes targets to reduce global child mortality and improve vaccination rates, and has indirect reference to VAC, SDG16, *Peace, Justice, and Strong Institutions,* specifically aims to address VAC with a target to "end abuse, exploitation, trafficking and all forms of violence against and torture of children."

TRUTH AND RECONCILIATION OF CANADA: CALLS TO ACTION

The topic of children and violence is situated within the context of Canada's completed Truth and Reconciliation process, the result of which has significant implications for today's Indigenous children. The *Truth and Reconciliation of Canada: Calls to Action* report, for example, refers to child welfare, education and justice (Truth and Reconciliation Commission of Canada, 2012). It recommends that governments fully adopt and implement the *UN Declaration on the Rights of Indigenous Peoples*. The *Calls to Action* begin by addressing the relationship between the legacy of residential schools and child welfare. The first Call is to all levels of government to commit to reducing the number of Aboriginal children in care, through recognition of the impacts of residential schools and the value of culturally appropriate care. There are Calls to amend legislation for Aboriginal children in care that would prioritize the best interests of these children in situations of violence, neglect, or other forms of abuse, such as Jordan's Principle. It also includes a Call for transparency in child welfare, which would provide the data necessary to monitor how VAC is being addressed. The Calls to Action for education include a call to repeal the section of the *Criminal Code* that permits corporal punishment, which aligns with Article 19 of the *CRC*.

The Calls to Action pertaining to child welfare and VAC have many components that are relevant to this report:

- We call upon the federal, provincial, territorial, and Aboriginal governments to commit to reducing the number of Aboriginal children in care
- We call upon the federal government, in collaboration with the provinces and territories, to prepare and publish annual reports on the number of Aboriginal children (First Nations, Inuit, and Métis) who are in care, compared with non-Aboriginal children, as well as the reasons for apprehension, the total spending on preventive and care services by child-welfare agencies, and the effectiveness of various interventions
- We call upon all levels of government to fully implement Jordan's Principle
- We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases
- We call upon the federal, provincial, territorial, and Aboriginal governments to develop culturally appropriate parenting programs for Aboriginal families
- We call upon the Government of Canada to repeal Section 43 of the *Criminal Code of Canada*

EARLY CHILDHOOD RIGHTS INDICATORS (ECRI): BACKGROUND

In mid 2003, the Committee observed that many States did not report consistently about their young children. In 2004, the Committee held a Day of Discussion reaffirming the importance of a holistic approach to early childhood and making several recommendations regarding young children. Despite the Committee's many reminders to States about their lack of specific reporting about this group, the lack of reporting persisted. In 2005, the Committee issued GC7, but despite its authoritative guidance to duty bearers, it had very limited practical use and remained underutilized.

In 2006, an international group of experts in early childhood development, human rights and child advocacy, led by the late Professor Clyde Hertzman (OC) of Canada and Professor Lothar Krappmann of Germany, approached the Committee to suggest that, while GC7 was a comprehensive authoritative resource, it remained theoretical and not sufficiently applied. The group highlighted States' need to implement GC7. The following year, the Committee invited the expert group to develop indicators that would facilitate GC7's use (see Appendix I). In response, the Early Childhood Rights Indicators Group (GC7 Indicators Group) formed to put GC7 into use by developing a practical tool for all States with UN reporting responsibilities.

GC7 Indicators Group

The GC7 Indicators Group created a monitoring tool, the Indicators Framework, for States to use to assess and monitor child rights implementation in early childhood and facilitate their *CRC* reporting obligations. This consisted of seventeen indicator sets verifying the status of seventeen rights relevant to young children, such as the right to birth registration, breast feeding, and freedom from violence. In addition to highlighting young children's rights under the

CRC, the framework drew attention to States' obligations to recognize young children as rights holders. In 2008, group representatives presented the framework to the Committee. The Committee renewed its support and encouraged the GC7 group to pilot the framework within low, middle and high-income countries before making the framework available to all state signatories to the *CRC* (see Appendix II). Subsequently, the *Manual of the Indicators of General Comment 7* was created (Vaghri et al., 2010).

First Pilot Initiative

In 2009, the first pilot in Tanzania (as a low-income country) used the *Manual of the Indicators of General Comment 7*. Piloting the GC7 indicators in Tanzania demonstrated that the indicators could work as a method for national and intersectoral self-study to identify policies, programs, and outcomes related to children's rights and development in early childhood. It also proved valuable as a tool to assess whether conditions for child rights implementation existed. However, the lack of supporting documented evidence for the outcome questions limited the conclusions that

could be drawn about children's lives. Upon completion of the Tanzania pilot, the GC7 indicators were digitized and the web-based tool was named the Early Childhood Rights Indicators (ECRI).

Second Pilot Initiative

Subsequent to the Tanzania pilot, the indicator questions were revised. Some questions were simplified, some were deleted, and some were broken into two questions, based on the experience of the first pilot. The new indicators were digitized to create ECRI, which included a Spanish version. The Spanish-ECRI was piloted in Chile as a middle-income country. Subsequent to the Chilean pilot review, additional ECRI structural changes were implemented. Piloting ECRI in Chile raised awareness about child rights and contributed to capacity building as the Chilean government and UNICEF continued to use the pilot's collected data.

Shortly after the Chilean pilot, its partners published a policy brief, which served as a discussion paper when pediatricians from Latin American countries met in Colombia in 2012. This initiative resulted in other Latin American countries learning about the pilot and expressing interest in implementing it. In 2012, in recognition and celebration of the Universal Child Day, ECRI was launched to the public (Early Childhood Rights Indicators, 2018).

In 2013, the Public Health Agency of Canada invited Dr. Vaghri, a GC7 Indicators Group member, to address the Organization of American countries on ECRI. The following year, the President's office in Panama invited Dr. Vaghri to present ECRI to government officials and participate in a dialog on implementing ECRI in Panama. A number of other Latin American and East European countries have expressed interest in implementing ECRI – the status of which is beyond the scope of this report.

ECRI Structure and Characteristics

ECRI emerged as an electronic tool, subsequent to the Tanzanian pilot, for States' internal assessment of their *CRC* implementation, including environmental factors, and for reporting to the UN on rights implementation for young children. The seventeen indicator sets align with *CRC* clusters in the States Parties reporting guidelines and include various themes, related to:

- recognizing young children as rights holders and active social participants
- States Parties' obligations to provide appropriate and adequate support for caregivers of young children
- the need for integrated service provision in support of holistic approaches to child development
- the need to support and empower the evolving capacities of young children
- empowering and positive education, preschool, and play experiences
- freedom from social exclusion by virtue of young age, gender, race, disability

- freedom from violence
- understanding of the particular vulnerability of young children

All seventeen ECRI indicators sets are comprised of three main indicator sets – structure, process, and outcome – consistent with the recommendations of the Office of the High Commission for Human Rights (OHCHR) for human rights measurement and implementation, as outlined below (United Nations, 2012a).

Structure indicators gather data that helps States, such as Canada, assess their commitment to *CRC* implementation. This commitment is reflected in law, policies and institutional mechanisms that, for example, protect children's right to be free from violence. Structural indicators examine whether law incorporates *CRC* standards, institutional mechanisms exist to enact those standards, and strategies contribute to rights realization. Indicators that government is meeting its human rights obligations may include international human rights instrument ratification and national policies with time frames.

Process indicators gather data to measure States' efforts to transform their *CRC* commitments, such as preventing and addressing VAC, into desired results. These indicators assess processes and measures taken to implement states commitments to rights. Process indicators are situated between the state's commitment and the results or outcome. These indicators also measure the progressive implementation or realization of a right or the process of protecting a right. They may include budget allocations, programs, redress mechanisms, education, and the establishment of a functional National Human Rights Institution.

These indicators should link structure indicators to corresponding outcome indicators. For example, the right to be free from violence, and to redress, requires a national policy on preventing/addressing VAC to link through education about violence prevention/remedies, as a process indicator, to numbers of children experiencing violence as an outcome indicator. The indicators should also reveal duty bearer efforts to meet their obligations, through questions that ask about the "proportion of X" when examining those efforts.

Outcome indicators gather data to capture individual and collective outcomes that highlight whether rights have been implemented within particular contexts. An outcome indicator unifies the impact of underlying processes over a period of time. These indicators gather data on the resultant and measurable changes experienced either in the rights environment or directly in the state of the early childhood development.

As a child rights monitoring tool, ECRI facilitates government obtaining data specific to these three big theme indicators by focusing on information specific to legislation, policies, programs, initiatives, budgetary allocations and other forms of commitments and processes that support young children's rights.

In doing so, the tool makes it possible for governments to identify where gaps exist and where improvements can be made that benefit children as well as assess their child rights implementation status in compliance with its UN reporting obligations.

BC ECRI PILOT

The following section details the BC pilot's intended benefits, location, purpose, timeline, governance structure, and methodology. Due to complications arising from initiating the pilot in BC, the pilot's original purpose – to pilot all seventeen indicators - shifted to accommodate these complications. Upon the BC pilot's Steering Committee recommendation, the pilot focused on one indicator – indicator 8 - because it:

- is the most comprehensive indicator among ECRI's seventeen indicators
- is informed by the Committee's General Comments 7 as well as 13
- has more than 50 questions (while other indicators have 10 to 20 questions)
- permits data collection and analysis, making feasible a report that provides a comprehensive overview of the BC government's capacity for addressing the issue of young children and violence

The revised approach to the BC pilot is different from the approaches taken in Tanzania and Chile. The two previous pilots consisted of seventeen indicator sets, each comprised of 10 to 15 questions informed by GC7. The BC pilot also incorporates the GC13 guidance, and GC13's relationship to Indicator 8, which means that the questions associated with Indicator 8 expanded from eleven questions in the original GC7 indicators to 51 questions.

Location

The Committee had recommended that the original GC7 indicator Group pilot their framework in low, middle and high-income countries. As stated earlier, Canada was chosen as a high-income country for the third pilot. Due to Canada's vastness and federal structure, it was decided to restrict the pilot to one Canadian province. As BC is a high-income province and the pilot's Principal Investigator resided in BC, this province was chosen. The Principal Investigator received grants from the Michael Smith Foundation for Health Research and the Vancouver Island Health Authority to conduct the pilot.

Consistent with the established methodology, the BC pilot initially planned to test the ECRI tool in collaboration with government. An inventory of information described earlier would result from data gathered in response to questions within each indicator set. A task force, consisting of individuals from different government ministries, would collect the data and assure data quality due to their familiarity with the questions' content and existing data relevant to the indicator questions.

Pilot Purpose

Early childhood is recognized as a seminal time in children's lives for rapid growth and development, requiring healthy early experiences for positive outcomes. Young children, however, may be particularly vulnerable to violence, which needs to be prevented and addressed so those children can fully maximize their potential (Global Partnership to End Violence Against Children, 2017). The Steering Committee considered this a critical issue, therefore, for children and rights implementation.

The academic literature has cited poverty, lower educational attainment, and gender inequity as examples of predisposing factors related to violence. Conversely, factors exist to protect children and prevent violence, such as adherence to the concept of indivisibility and interconnectedness of human rights. To fulfill children's right to protection against violence, education, non-discriminatory treatment, and

basic material needs (including proper housing) are effective steps to address violence at its root causes. Indicator 8 is informed by these understandings, addressing the predictors and preventers of VAC.

With a focus on Indicator 8, the BC pilot's original purpose was revised to:

- evaluate the tool's questions, ease of use (including time required), and data collected
- collect data and build a baseline measurement of governments' structural (legislations) existing capacities to prevent VAC using Indicator 8
- conduct a series of knowledge translation activities to inform stakeholders about the BC pilot and initiate actions that would raise general awareness about the *CRC*, GC7 and the importance of early childhood rights realization, data collection, and the rights monitoring process

These last two goals intended to benefit the BC government and other children's service providers, anticipating that the tool's repeated, subsequent use would make it possible for the BC government to monitor changes as well as assess the impact of policies and practices on children through longitudinal data collection specific to children and violence. The tool can also be used to assist the BC government with its UN reporting obligations. The ultimate intended beneficiaries from the tool's use, however, are children.

As to knowledge translation activities, when this report was prepared, the Principal Investigator's research program, GlobalChild, in partnership with the BC Office of Representative of Children and Youth (RCY) and Island Health (IH), received a grant for BC pilot knowledge translation activities through the Reach competition of the Michael Smith Foundation for Health Research.

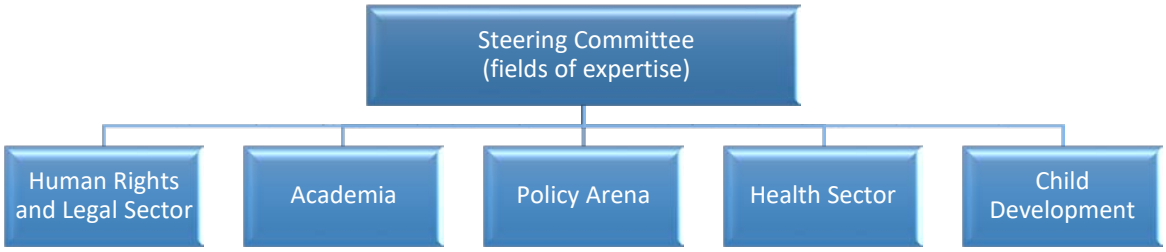
Timeline

The BC pilot was initiated in October 2015 and the data collection process completed in June 2017.

Governance Structure

The BC pilot governance structure consisted of:

- the University of Victoria team (the Principal Investigator and their team)
- the task force comprised of a Field Coordinator, volunteer graduate students from the Faculty of Human and Social Development; a part-time researcher (in-kind contribution from IH as the pilot partner)
- the Steering Committee comprised of senior professionals with expertise in different fields of children's lives (Appendix V)



Methodology

It was expected that the BC pilot methodology would mirror the Tanzanian and Chilean pilot approaches by establishing a close partnership with a government ministry with primary responsibilities for services to young children. It was anticipated this ministry would coordinate the work and data collection by other government ministries involved in the pilot. The MCFD was identified as the potential coordinating ministry. The Principal Investigator's attempts to partner with MCFD in the pilot test, however, were not successful. As a result, after over a year of time lapse, it was decided to proceed with the pilot without the government partnership. Therefore, the pilot's original methodology was modified, representing a departure from the two previous pilots' methodology (see below).

Questions

Indicator 8 questions were developed from the online materials used in the Chilean pilot for this indicator and initially consisted of eleven questions. Subsequent to the Chilean pilot, the GC7 Indicators Group added questions informed by the Committee's new GC13. The BC pilot took place with a new Indicator 8 and questions that were being tested for the first time.

During the BC pilot, however, several questions needed to be reformulated to improve their clarity, reduce their complexity, and make them more relevant to the BC context. The phrasing of some questions did not apply to BC or did not make it possible to capture the extent of data relevant to the issue of VAC. While this process did not constitute a question validation process, it did result in some questions being amended to make them clearer, narrower and specific to BC, while retaining the original questions' intent and not substantively changing the questions.

Similar to the Chilean pilot, many individual questions contained several inter-related components making the individual questions complicated and difficult (too detailed) to answer in a succinct way. As a result, it was observed that the data for these multi-component questions was likely quite extensive. It was noted that the questions required significantly more answers than it first appeared, because single questions were multilayered. Despite reformulating certain questions to make them clearer and relevant to the BC context, the number of questions

The Tanzania and Chile Pilots involved the following stages:

1. Stakeholder meeting and establishment of a steering committee; first trip of the project team to the pilot field, which included recruitment of a Field Coordinator
2. Preparatory Stage I. Formation of a working Task Force (TF), both pilot field-based (on-site) and GC7 Group (off-site)
3. Orientation of Field Coordinator
4. Training of TF members and over-the-net face validation of the indicators
5. Pilot launch
6. Mid-term evaluation
7. Data collection and pilot completion
8. Data analysis and review of indicators by both onsite and off-site team
9. Presentation of learnings from the pilot to the UNCRC.
10. Discussion of results and wrap-up meeting in Santiago

remained largely the same. This observation, however, had implications for the data collection and reporting process.

Data collection process and data verification

The task force was engaged in a data collection process and, when this process was completed, the Principal Investigator (PI), guided by the Steering Committee (SC), contacted RCY, with the representative agreeing that his office would assist with data verification. Around this time, MCFD recommended an inter-ministerial meeting to discuss their potential for collaborating in the pilot test, however, this meeting did not materialize. The PI concluded that setting up such a meeting would be a lengthy process with no predictable outcome as to government participation.

At that stage, the SC advised the PI to proceed with RCY and their contributions to the data collection process. In Spring 2017, the PI and Field Coordinator met with RCY staff to review data collected in response to indicator questions. RCY staff confirmed some data, added new data, and made recommendations that MCFD provide data not found in the public domain. The University of Victoria team agreed to summarize the questions requiring MCFD's contribution and submit them to RCY, who would contact MCFD and ask them to provide the information. This process was initiated, however, due to time constraints the information was not acquired.

A Senior Consultant was contracted to assist with drafting the fist draft of pilot report. At that time, the PI and Senior Consultant reviewed the indicator questions and made adjustments. Additional data collection was required. For example, there was a need to expand the focus on two governments with obligations to BC children (provincial and federal) to three governments with duties to BC children (provincial, federal and Indigenous). Due to the volume of data subsequently collected, and the lack of feasibility to have all the collected data verified, it was decided that the current report would focus on the legal data. Experts in child, family and children's human rights law as well as Indigenous law reviewed this information. Below is a summary of the collected legal data.

The inability to establish a partnership with government meant the pilot plan shifted to a focus on Indicator 8, with non-government individuals collecting information within the context of limited time and resources.

While the pilot task force (the team trained to collect data) collected significant amounts of information, the data collected without a government member's presence in the task force required verification to assure its accuracy. This was a critical but also difficult task that had implications for data analysis and reporting on the data collection outcome. To make the task manageable, it was decided to focus on the data collected on the structural capacity of the province in terms of child protection, i.e. the legislative framework. This data is summarized in Appendix 4. This data on the legislative framework of the province has been essential information to obtain because it contributes to understandings about the structural commitments of the government for protecting children's right to be free from violence and whether the legislation, for example, incorporates *CRC* standards from which action will flow.

Domestic and international laws consist of standards, principles and procedures that govern how society must conduct itself and ensure justice. These laws include a formal system of rules contained in legislation that is created under federal or provincial government jurisdiction as determined by Canada's Constitution and enforced through the courts and administrative bodies. Indigenous treaties and agreements are also included in these laws.[6]

The Canadian constitution protects Indigenous laws under s. 35 of the *Constitution Act, 1982*, and protects them as part of the Canadian common law. Indigenous laws address the protection of children but are unique to each Indigenous Nation and generally are not written or publicly accessible, thus are not covered in this report.

There is international human rights law (which includes customary international law and state practice) with application to BC children. In addition to the *CRC* and its protocols, these laws include the *Hague Convention on the Civil Aspects of International Child Abduction*; *UN Convention on the Rights of People with Disabilities* (i.e. articles 15 and 16); *UN Declaration on the Rights of Indigenous Peoples* (i.e. article 7, 17, 21, 22); *UN Convention Relating to the Status of Refugees*; *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* and the *UN Declaration of Human Rights (Appendix III) (UNDRIP)*. The federal government has committed to implementing the *UNDRIP*, and this fact should inform discussions about laws relating to the protection of children.

The *CRC* preamble acknowledges the *CRC*'s interrelationship with other human rights instruments. While the international human rights law is not referenced below, it remains pertinent to the broader legal human rights framework within which legislation/First Nations agreements applicable to BC children are situated. The legislation/agreements are multi-dimensional and at times intersecting, with the data below showing their relationship with prohibiting, preventing, identifying, reporting, addressing, treating and remedying VAC (United Nations, 2012b). The Committee's GC7 and GC13 (see earlier section) inform the data's organizing themes that, in turn, capture

[6] "Treaty" and "agreement" are used interchangeably throughout this section.

relevant BC provincial legislation, First Nations agreements, and federal legislation.

Historical treaties signed in BC include a set of fourteen pre-Confederation treaties on Vancouver Island (the Douglas Treaties) and Treaty 8 in North-Eastern BC. In the 1990s, the BC Treaty Commission was established to negotiate new modern-day treaties with First Nations throughout BC. Many BC Indigenous governments are involved in tri-partite treaty negotiations with the provincial and federal governments. Many of these Indigenous governments are working through a staged treaty process that leads to a Final Agreement and implementation of Indigenous self-government. Under Final Agreements, Indigenous, provincial and federal statutory laws apply concurrently, or where they conflict, one prevails according to the Agreement.

Under this concurrent law model, the treaties facilitate Indigenous lawmaking in specific domains such as child welfare and child protection. Provincial and federal legislation continues to exist and apply concurrently in addition to the treaties.[7] A significant number of BC Indigenous people are opposed to what they see as the extinguishment requirements of the BC treaty process and have refused to enter treaty negotiations with the federal and provincial governments on this basis.

Indigenous agreements and legislation may intersect when issues arise that pertain to violence and child protection, including child identification (identifying harm or possible harm to children), reporting, investigation, advocacy, support, and referral (Kay, 2013). As to human rights, in Canada there is a presumption in law that the *Canadian Charter of Rights and*

[7] The information in this section is current at the time of writing, however, legislation and treaty status may change with the passage of time.

Freedoms will provide children with protection equal to the international human rights instruments Canada has ratified, such as the *CRC*. There is also a presumption that the Charter's comparable provisions will conform to the *CRC*.

Lastly, there is the potential for intersection between federal and provincial legislation with regard to child protection. The issue of corporal punishment provides a good example of this intersection and the overlap it can create (Flood, 2013). For example, the federal government permits corporal punishment by parents and teachers as per Section 43 of the *Criminal Code* on the grounds of "reasonable chastisement" (Standing Senate Committee on Human Rights, 2007). Due to jurisdictional overlap, though, provincial Education Acts and foster care standards also impact the permissibility of corporal punishment (Standing Senate Committee on Human Rights, 2007). Alberta, Ontario, and Manitoba have not explicitly prohibited corporal punishment in their Education Acts, demonstrating how the jurisdictional and provincial differences in standards could lead to discrimination against some children because they live in a certain province (Standing Senate Committee on Human Rights, 2007). The following section provides a brief review of the collected data on the existing structures of laws and legislation on different aspects of child protection in different BC governments. This section is summarized in Appendix IV.

A. Legislation prohibiting and remedying all forms of violence against young children

In BC, there is legislation prohibiting and remedying VAC. There is also international human rights law with the same objective, including UN treaties and other human rights instruments that Canada has ratified.

A.I. Provincial legislation

The *CFCSA* and the *Family Law Act* (*FLA*) address harm to children and domestic violence (Government of British Columbia, 1996). While other provinces and territories have specific legislation on family violence, there is no specific provincial family violence legislation in BC. However, the *FLA* provides for family violence protection orders and conduct orders (Government of British Columbia, 2017a).[8] The *Adoption Act* refers to considering children's safety as well as their physical and emotional needs when adoptions are considered (Government of British Columbia, 1996).

The *Child Care Licensing Regulation* (see *Community Care and Assisted Living Act*) has a section (52) entitled Guidance and Treatment of Children, which stipulates that children must not be subjected to certain treatment, such as corporal punishment, other physical abuse, or emotional or verbal abuse, when under the care or supervision of a licensee (Government of British Columbia, 2018a). The Regulation's *Schedule H* defines reportable incidents, which include, for example, physical, sexual and emotional abuse and neglect.

[8] In 2017, a BC legislature member introduced a private member's bill to the legislature - the *Safe Care Act* - that would permit the involuntary confinement of children and youth with severe substance misuse issues or those being sexually exploited.

The *Representative for Children and Youth Act* (*RCYA*) may be interpreted as contributing to remedying violence against young children under its legislated mandate. This mandate includes the power to "review, investigate and report on the critical injuries and deaths of children," to "monitor, review, audit and conduct research" regarding public designated services; and to address any "other prescribed functions" (Government of British Columbia, 2006).

Federal legislation could consider *A By-Law for the Care of Our Indian Children: Spallumcheen Indian Band By-law #3-1980*, which is a by-law passed under the *Indian Act*.

A.II. Indigenous agreements[9]

Three signed First Nations modern-day treaties are referenced below. There are other modern treaties (such as the Tla'amin Final Agreement or *Sechelt Indian Band Self-Government Act*, which reference child protection). A fourth Indigenous agreement in principle is mentioned as an example of some Indigenous approaches to child welfare and child protection.

A.II.1. Nisga'a Final Agreement (Nisga'a Treaty)

The *Nisga'a Final Agreement* was completed as BC's first modern-day treaty (*Nisga'a Final Agreement, n.d.)*.

All Nisga'a laws operate alongside federal and provincial laws, similar to other jurisdictions in Canada where Canadians are subject to federal, provincial and municipal laws simultaneously. The treaty includes important rules, which set out what will happen to address any conflicts or inconsistencies between laws.

In addition, many Nisga'a Government authorities are subject to federal or provincial standards, where a meet or beat approach is taken. This approach is taken in a number of areas, including education, child and family services, adoption, and forestry. Child welfare is a good example of how this works. Nisga'a laws have priority if they meet or exceed provincial standards for child protection — but federal and provincial laws requiring the reporting of children in care continue to apply. The provincial government can continue to act as needed to protect a child at risk within the agreement between the Nisga'a and BC (Nisga'a Lisims Government, n.d.).

Nisga'a Lisims Government "may make laws in respect of child and family services on Nisga'a Lands, provided that those laws include standards comparable to provincial standards intended to ensure the safety and well-being of children and families" and "[a]t the request of Nisga'a Lisims Government, Nisga'a Lisims Government and British Columbia will negotiate and attempt to reach agreements in respect of child and family services for Nisga'a children who do not reside on Nisga'a Lands" (*Nisga'a Final Agreement, n.d.)*.

[9] Note: Agreements between the three parties. Indigenous Peoples have their own laws (though perhaps not resources to implement them) to protect children and address violence.

A.II.2. Tsawwassen First Nation Final Agreement (Tsawwassen Treaty)

Tsawwassen First Nation has a signed *Tsawwassen First Nation Final Agreement (*Indian and Northern Affairs Canada, 2010). Within the agreement, there is reference to international legal obligations, international treaties, and specific Tsawwassen First Nation entitlements within these contexts.

In relation to child protection services, the agreement stipulates that the Tsawwassen government can make laws regarding child protection services on Tsawwassen lands. These laws must apply to Tsawwassen children and, secondly, non-Tsawwassen children if there is a clause 75 agreement between Tsawwassen First Nation and the province. Within this context, these laws must make the Tsawwassen children's safety and well-being the paramount consideration as "[a] Tsawwassen Law made under clause 69 prevails to the extent of a Conflict with a Federal or Provincial Law" (paragraph 74).

Tsawwassen First Nation has passed the *Children and Families Act (2009)* to take over jurisdiction in this area.

A.II.3. Maa-nulth First Nations Final Agreement (Maa-nulth Treaty)

The *Maa-nulth First Nations Final Agreement* is Vancouver Island's first modern-day treaty (Indian and Northern Affairs Canada, Maa-Nulth First Nation, & Government of British Columbia, 2009). Each of the five Maa-nulth First Nations - Huu-ay-aht First Nations; Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations; Toquaht Nation; Uchucklesaht Tribe; and Yuułuʔiłʔatḥ - are parties to agreement. The treaty refers to providing advocacy support to families in the courts and child protection system and makes explicit that First Nations have law making authority over child protection, child custody, adoption and child care on Maa-nulth First Nations lands (Indian and Northern

Affairs Canada, Maa-Nulth First Nation, & Government of British Columbia, 2009).

Under the treaty, the safety and well-being of children are paramount considerations and, secondly, the law does not preclude child protection reporting under provincial laws. If and when a Maa-nulth First Nations child requires protection and the First Nation has not or is unable to respond in a timely way, the province may act to protect the child, referring to the First Nation after the emergency. The same situation arises if a child under the province's authority requires an emergency response in that the First Nation may respond and refer to the province after the emergency. While Maa-nulth First Nation law prevails, it does not replace provincial or federal law (Indian and Northern Affairs Canada, Maa-Nulth First Nation, & Government of British Columbia, 2009).

The Maa-nulth First Nations are limited to

making child protection laws applicable to their Treaty Lands only, although First Nations children may live in places located outside those lands. In that instance, the First Nations and the province must negotiate approaches to child protection. The treaty makes specific reference to a core *CRC* principle – children's best interests – and relevant factors associated with determining best interests such as children's safety, their views and cultural identity. In the future, therefore, if and when First Nations make child protection law, it must be guided by treaty provisions (Indian and Northern Affairs Canada, Maa-Nulth First Nation, & Government of British Columbia, 2009).

A.II.4. Te'mexw Treaty Association Agreement in Principle

The *Te'mexw Treaty Association Agreement in Principle* is an example of an agreement in principle (Te'mexw Treaty Association, 2015), illustrating areas relating to children and violence that the three governments are negotiating through the treaty process. The Te'mexw Treaty Association (representing five member bands)[10] has negotiated an agreement that makes specific reference to children, childcare, child protection and child protection services. It states, for example, that the "safety and well-being of children" is consistent with the *CFCSA* section 2 Guiding Principles.

The agreement has a Child Protection Services section indicating that six months before enacting a law relating to child protection services it will advise the province. Under this agreement, for example, the "Te'mexw Member First Nation Government may make laws in respect of child protection services with respect to Te'mexw Member First Nation Families resident on Treaty Settlement Lands" (paragraph 84) (Te'Mexw Treaty Association, 2015). Those laws must require that the safety and well-being of children is the paramount consideration when interpreting and administering the law and, secondly, the law must not preclude child protection reporting under provincial law. The relevant sections are quoted below:

> 86. If the Te'mexw Member First Nation Government makes laws under paragraph 84 of this chapter, the Te'mexw Member First Nation Government will:
>
> (a) develop operational and practice standards intended to ensure the Safety and Well-Being of Children and Te'mexw Member First Nation Families;
>
> (b) participate in British Columbia's information management systems, or establish an information management system that is compatible with British Columbia's information systems, concerning Children in Need of Protection and Children in Care;
>
> (c) allow for mutual sharing of information concerning Children in Need of Protection and Children in Care with British Columbia; and
>
> (d) establish and maintain a system for the management, storage and disposal of Child Protection Services records and the safeguarding of personal Child Protection Services information.
>
> 87. Notwithstanding any laws made under paragraph 84 of this chapter, if there is an emergency in which a Te'mexw Member First Nation Child

[10] These five nations are Malahat, Scia'new (Beecher Bay), Songhees, Snaw-aw-as (Nanoose), and T'souke First Nations.

on Treaty Settlement Lands is in need of protection, and the Te'mexw Member First Nation has not responded or is unable to respond in a timely manner, British Columbia may act to protect the Te'mexw Member First Nation Child and, in those circumstances, unless British Columbia and the Te'mexw Member First Nation Government otherwise agree in writing, British Columbia, as appropriate, will refer the matter to the Te'mexw Member First Nation Government after the emergency.

88. A Te'mexw Member First Nation Law under paragraph 84 of this chapter prevails to the extent of a Conflict with a Federal or Provincial Law (Te'Mexw Treaty Association, 2015).

A.III. Federal legislation

Existing federal legislation addresses VAC through the *Criminal Code,* enforced in the courts by the Public Prosecution Service of Canada and relevant provincial Justice Departments across the country who serve as prosecutors. There are offences against human trafficking, abduction and forcible confinement, physical and sexual exploitation (including child pornography and luring children over the internet), failure to provide the necessities of life, homicide, abandonment, and criminal negligence causing bodily harm. The *Criminal Code* section 43, however, contentiously allows parents and teachers to use "reasonable force" to discipline a child. Despite that, assault, including sexual assault, is also a criminal offence under the *Criminal Code (*Truth and Reconciliation Commission of Canada, 2012).

With respect to protecting child victims of violence, the *Criminal Code* has special provisions that allow criminal courts to impose conditions on an accused person. These conditions include no contact with victims until the trial or appeal, peace bonds, or recognizances (which require a person to agree to certain conditions to keep the peace). Special consideration is given to harm associated with violence; it can be an aggravating factor in sentencing, for example, when violence involves a child under 18 years or a person abuses their position of trust or authority. Conditional sentences allowing an offender to serve a sentence in the community are limited.

A.III.1. The Canadian Charter of Rights and Freedom is applicable to children who may be subjected to violence: "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice" (Government of Canada, 2018). Also "[e]veryone has the right not to be subjected to cruel and unusual treatment or punishment,"[11] while everyone also has "equal right to protection under the law and equal benefit of the law without discrimination,"[12] including discrimination on the basis of age (Government of Canada, 2018). These sections may also apply to the young children of mothers held in detention.

A.III.2. The Canadian Victims Bill of Rights (Government of Canada, 2015), which applies to BC children, ensures victims of crime have the right to be protected from intimidation and retaliation at all stages of the criminal justice process. This provision applies to young children who, for example, are victims of violence or who have witnessed violence and who may appear as witnesses during criminal trials. They also have a

[11] section 12

[12] section 15

right to privacy protection.

A.III.3. The Immigration and Refugee Protection Act (IRPA) protects refugee and immigrant children in BC provided they meet criteria established under that legislation (Government of Canada, 2001), and precludes, for example, human smuggling and trafficking. Under the legislation, separated children, such as young children in a teenage sibling's care, have special protection. Currently, the *IRPA* permits the detention of children, such as minor children and children of parents in detention, and remains unclear about protection issues within this context (Guidelines for Implementation of Mother-Child Units in Canadian Correctional Facilities, 2015).

A.III.4. Bill C-22; an Act Respecting the Mandatory Reporting of Internet Child Pornography by Persons who Provide an Internet Service, makes it mandatory for those who supply an internet service to report online child pornography. Under this legislation, those who provide internet services to the public are required to:

- report tips they receive, regarding Web sites where child pornography may be publicly available, to the Canadian Centre for Child Protection (through its Cybertip.ca program)
- notify police and safeguard evidence if they believe that a child pornography offence has been committed using an internet service that they provide (CyberTip!Ca., n.d.):

  "Internet services providers are not required to send personal subscriber information pursuant to this legislation. Since this legislation was also designed to limit access to child pornography and avoid creating new consumers of this type of material, nothing in the Act requires or authorizes a person to seek out child pornography." (CyberTip!Ca., n.d.).

A.III.5. The Canadian Human Rights Act also exists to protect Canadians, including children, from discriminatory practices, such as inequitable education and child welfare funding and support to Indigenous children living on reserve (Canadian Human Rights Tribunal, n.d).

A.III.6. The Family Homes on Reserves and Matrimonial Interests or Rights Act (Government of Canada, 2013) states as follows:

> Whereas measures are required to provide spouses or common-law partners with rights and remedies during a conjugal relationship, when that relationship breaks down or on the death of a spouse or common-law partner in respect of the use, occupation and possession of family homes on reserves, including exclusive occupation of those homes in cases of family violence, and the division of the value of any interests or rights that they hold in or to structures and lands on those reserves;
>
> Whereas it is important that, when spouses or common-law partners exercise those rights and seek those remedies, the decision-maker take into account the best interests of the children, including the interest of any child who is a First Nation member to maintain a connection with that First Nation, and be informed by the First Nation with respect to the cultural, social and legal context in the circumstance (Government of Canada, 2013)

B. Legislation prohibiting VAC and making references to the *CRC*, including the *CRC*'s four core principles[13]

B.I. Provincial legislation

While the *CFCSA* does not make specific reference to the *CRC*, it does refer to the *CRC* core principle specific to best interests, stating that children's best interests must be a factor when considering children's safety, their physical and emotional needs, their developmental stage, and their views. For Aboriginal children, the *CFCSA* recognizes that preserving Aboriginal children's cultural identity constitutes acting in their best interests. Best interests is also a consideration in other contexts under the legislation, including when a child requires protection from another person. Also, the *CFCSA* provides that the "director may apply under section 204 (2) of the *Family Law Act (FLA)* to the court, as defined in that Act, for leave to intervene in a proceeding under that Act if the director considers it is in the best interests of a child to do so" (Government of British Columbia, 1996).

There is no specific reference to non-discrimination. The *CFCSA* does refer to children's development, requiring that when the *CFCSA* makes reference to children's best interests, that child's level of development must be a consideration. It also states that protection may be needed if the child's development is "likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment" (Government

[13] These four core principles include: life, survival and development non-discrimination; best interests; and child views.

of British Columbia, 1996).[14]

Regarding child views, as a guiding principle the *CFCSA* states that "the child's views should be taken into account when decisions relating to a child are made" and children's views must be taken into account when considering their best interests (Government of British Columbia, 1996).[15] Children's views also must guide voluntary care agreement decisions and plans of care, with children in care, in particular, having the right to "be consulted and to express their views, according to their abilities, about significant decisions affecting them" (Government of British Columbia, 1996).[16]

The *FLA* makes the child's best interests the only consideration when agreements or orders are made about a child's guardianship, parenting arrangements or contact with a child, specifying needs and circumstances relevant to that determination (see section 37). In assessing family violence, the court must consider various factors relevant to children's best interests. Best interests are also relevant when the court is determining parenting arrangements, in the context of guardian exercising their responsibilities, appointing a guardian, agreements regarding contact and relocation, and extra-provincial orders.

The *FLA* does not refer to non-discrimination. It does, however, require that children's development stage is correlated with their best interests and that parents have responsibility for nurturing children's development. As to children's views, the *FLA* stipulates that children's views must be considered when determining their best interests "unless it would be inappropriate to do so" (Government of British Columbia, 1996).[17]

The *Adoption Act* stipulates that "all relevant factors must be considered when determining a

[14] section 13(1)(g)

[15] section 2(d)

[16] section 70(1)(c)

[17] section 37(2)(b)

child's best interest," including such factors as children's safety, their "physical and emotional needs and level of development," the "importance of a child's development to having a positive relationship with a parent," and the child's views (Government of British Columbia, 1996).[18] There is no particular reference to non-discrimination.

The *Child Care Licensing Regulation* stipulates that "a licensee who is applying to temporarily place or retain in a care program a child who would not otherwise be eligible for the care program must show that (a) the temporary placement or retention is in the best interests of the child" (Government of British Columbia, 2018a).[19] There is no reference to non-discrimination or children's views. The regulation makes numerous references to children's development, including that a license must "(a) ensure that behavioural guidance is appropriate to the age and development of the child who is receiving the guidance, and (b) provide to employees and parents a written statement of the licensee's policy on behavioural guidance" (Government of British Columbia, 1996).[20]

B.II. Indigenous agreements

The agreements described above do not make specific reference to the *CRC*. As to the *CRC* core principles, the Nisga'a Treaty; the Tsawwassen Treaty; and the *Te'mexw Treaty Association Agreement in Principle* refer to children's best interests within the adoption context.

The Maa-nulth Treaty states that all relevant factors must be considered when considering a child's best interests, including their views, and in any action taken under Chapter 13 of the treaty. These factors are also relevant in any action taken outside the treaty context and under the *Adoption Act* and the *CFCSA.*

B.III. Federal legislation

There is no reference to the *CRC* in the *Criminal Code,* nor is there any reference to the *CRC's* core principles and children with the exception of the *Criminal Code* reference to children as witnesses in a judicial proceeding.

The *IRPA* "ensures that decisions taken under this Act are consistent with the *Canadian Charter of Rights and Freedoms*, including its principles of equality and freedom from discrimination" and "complies with international human rights instruments to which Canada is signatory", including the *CRC* (Government of Canada, 2001)[21]. The *IRPA* states children's best interests must be taken into account in specific circumstances whereas the *CRC* requires the best interests principle apply as a primary consideration in all actions (Government of Canada, 2001).[22]

The IRPA Regulations also have relevance along with the *Divorce Act* (i.e. factors in custody matters), and the *Citizenship Act* (i.e. factor in granting of citizenship to a person who was adopted while a minor) (The Canadian Bar Association, 2018).

[18] section 3

[19] section 5(2)

[20] section 51(1)

[21] sections 3(d) and 3(f)

[22] See sections 25(1), 28(2)(2), 60, 67(1)(c)

C. Legislation requiring detection of VAC (identifying harm or possible harm to children), reporting, investigation and referral

C.I. Provincial legislation

The *CFCSA* defines the circumstances under which a child may need protection. The Act specifies that a person who believes a child may need protection has a duty to report and that the Director of Child Protection may investigate children's need for protection after an initial assessment of a child protection report (Government of British Columbia, 1996).[23]

As to referrals, the *CFCSA* "delegates child protection workers to assess reports; provide support services; provide a family development response or investigate as needed; and collaborate with other service providers, such as police, school personnel, health practitioners, etc. to help ensure the safety and well-being of children" (Government of Canada, 2016). Other legal interventions applicable to family violence situations may include:

- offering support services to parent(s) and children
- applying for a Protective Intervention Order to protect a child from contact with someone
- applying for a Supervision Order to child protection workers can supervise children's care, (breaches enforceable under the *Criminal Code)*
- agreements where a friend/family member not involved with violence is given care for children
- authority to remove a child if their health or safety is in immediate danger, or there is no other less disruptive measure to protect the child
- authority for police to enter premises to ensure children's safety and well-being (Government of Canada, 2016)

The provincial police have legal obligations under the *CFCSA* and their own provincial policies specific to domestic violence. There are also protocols among various agencies and government and all adults, including professionals and various service providers, in contact with children, have legal child protection reporting obligations.

The *RCYA* requires advocacy support for children, including those children who may be vulnerable to violence. Within that context, persons working as advocates for children have reporting obligations. The *RCYA* also provides for systemic reviews and investigations into VAC along with the external monitoring of MCFD child protection services.

The *Child Care Licensing Regulation* includes what constitutes "reportable incidents," such as physical, sexual and emotional abuse and neglect.

C.II. Indigenous agreements

The agreements indicated above articulate child protection duties that correlate with provincial and other federal legislation relating to children and violence.

There is also the *Spallumcheen Band By-law* (Spallumcheen Indian Band, 1980), an agreement between the band and the BC Ministry of Human Resources, which makes provision for the band to have full control over the care and welfare of their children.

[23] sections 13, 14, 16

C.III. Federal legislation

The *Criminal Code* and the *IRPA* can be interpreted as laws requiring VAC identification (identifying harm or possible harm to children), reporting, and investigation.

D. Legislation ensuring children and their caregivers have access to child-friendly information and non-legal/legal advocacy, including support for self-advocacy, about remedies when children witness or experience violence

D.I. Provincial legislation

The *CFCSA* articulates service delivery principles, which state that "families and children should be informed of the services available to them and encouraged to participate in decisions that affect them" (Government of British Columbia, 1996).[24] Under Section 70, children in state care have the right to be informed about their care plan and "to be informed of the standard of behaviour expected by their caregivers or prospective adoptive parents and of the consequences of not meeting the expectations of their caregivers or prospective adoptive parents, as applicable," to be informed about RCY (and its advocates), the Ombudsperson, and to be informed about their rights under the *CFCSA* (which include, for example, the right to be free from harm) (Government of British Columbia, 1996).[25]

The *RCYA* requires the representative in section 6(1)(a) to:

> support, assist, inform and advise children and their families respecting designated services, which activities include, without limitation,
>
> (i) providing information and advice to children and their families about how to effectively access designated services and how to become effective self-advocates with respect to those services
>
> (ii) advocating on behalf of a child receiving or eligible to receive a designated service
>
> (iii) supporting, promoting in communities and commenting publicly on advocacy services for children and their families with respect to designated services (Government of British Columbia, 2006).[26]

D.II. Indigenous agreements

There is no requirement in the agreements mentioned above that children or their caregivers have access to child-friendly information and advocacy relating to violence prevention and remedies when violence occurs.

D.III. Federal legislation

There is no requirement in the *Criminal Code* or the *Canadian Charter of Rights and Freedoms* that children or their caregivers have access to child-friendly information and advocacy relating to violence prevention and remedies when violence occurs. While the *Canadian Victims Bill*

[24] section 3

[25] section 70

[26] section 6(1)(a)

of Rights does not make specific reference to child-friendly information or advocacy about violence prevention and remedies, it does stipulate that every victim has the right to request information "about the criminal justice system and the role of victims in it, to services/programs available to them as a victim, and to file a complaint if their rights are infringed under this legislation" (Government of Canada, 2015).[27]

E. Legislation ensuring children/their caregivers have access to child-centred, independent complaints procedures and to the courts with necessary legal representation when children witness or experience violence

For purposes of this report, complaints procedures are defined as public services administrative procedures designed to address complaints about violence children experience. Legal support is interpreted as legal services, or legal representation, for children who witness or experience violence.

E.I. Public services administrative complaints procedures: provincial, federal legislation and Indigenous agreements

When children witness or experience violence, the above-mentioned legislation is applicable in those circumstances and independent complaints procedures are not the typical process for addressing this type of circumstance.

There is no legislated complaint procedure for children or their caregivers to access when children witness or experience violence. There is a duty under the *CFCSA*, however, for adults to report concerns about a child's possible need for protection as defined within that Act. Children in state care may initiate a complaint about harm to themselves, as a possible rights violation under the *CFCSA,* which stipulates that children in state care have the right to be free from corporal punishment. This complaint may be addressed initially through a MCFD complaints process and with advocacy support from RCY.

There is no reference in the Indigenous agreements or federal legislation to administrative complaints procedures for children who witness or experience violence.

E.II. Access to courts

Under provincial and federal legislation, children have access to courts when they experience violence, although there is significant evidence that many barriers exist for children and adults who want or need access to justice (Action Committee on Access to Justice in Civil and Family Matters, 2013). While young people who commit a crime are represented in court by a lawyer funded by government, there is no BC

[27] section 6

public office legislated to ensure children have legal representation in court for other matters, which may constitute a barrier for children seeking justice (Bauman, 2017).[28]

The Indigenous agreements do not refer to children having access to the courts when they witness or experience violence. It is possible, however, that children's issues relating to violence may be addressed through alternative justice approaches, such as healing, peacemaking, and sentencing circles, restorative justice, mediation, and Elder's councils.

E.III. "Legal and other support:" provincial, federal legislation and Indigenous agreements

There is no Indigenous agreement provision stipulating that children must be appointed or have access to state-funded legal services, including legal advocacy, within this particular context.

As to provincial legislation, the *Legal Services Society Act* stipulates that legal support may be provided to all persons, including children, who meet the low-income threshold, although the Act limits the amount of legal assistance that can be provided (Legal Services Society, 2018). This legal assistance may be given within the context of child protection matters falling under the *CFCSA* and family law matters under the *FLA*.

The *FLA* stipulates that the "Attorney General may appoint a person who is a member in good standing of the Law Society of British Columbia to be a family advocate" (Government of British Columbia, 1996).[29] This family advocate may attend proceedings under the *FLA* and the *CFCSA*, for example, and "may intervene at any stage in the proceeding to act as counsel for the interests and welfare of the child" (Government of British Columbia, 1996).[30] The *FLA* also allows courts to appoint a lawyer for a child if "(a) the degree of conflict between the parties is so severe that it significantly impairs the capacity of the parties to act in the best interests of the child, and (b) it is necessary to protect the best interests of the child" (Government of British Columbia, 1996).[31]

The provincial *CFCSA* makes provision for support services, however, it does not specifically refer to legal or non-legal advocacy support. *RCYA* does not make specific reference to that function in its legislation, however, the effect may be the same for those children who fall within the scope of its legislative provisions.

Under the federal *IRPA,* unaccompanied minors/separated children must be appointed a representative. Special Advocates may act "to protect the interests of the permanent resident or foreign national in a proceeding under any of sections 78 and 82 to 82.2 when information or other evidence is heard in the absence of the public and of the permanent resident or foreign national and their counsel" (Government of Canada, 2001).[32] A Special Advocate may challenge a government Minister, for example, if the disclosure of information will endanger the safety of a person, including children.

There are several First Nations courts dealing with criminal matters (including violence and young offenders), and a pilot project dealing with *CFCSA* matters out of recognition of the

[28] There is a newly formed provincial child and youth legal centre, however, there is no legal requirement that children receive public-funded legal services when required.

[29] section 2

[30] section 2(1)

[31] section 203

[32] section 85.1(1)

special cultural considerations necessary in dealing with Indigenous Peoples, including children.)

F. Legislation requiring treatment for children who are victims of violence

Treatment for children who are victims of violence is supplied through public services, such as counselling and housing services, provided through health, child welfare and justice ministries, and funded by the provincial and/or federal governments. Indigenous communities may also provide treatment services to children through independent and/or joint provincial-federal funding initiatives mandated under statutory law and agreements and/or in accordance with Indigenous laws and cultural traditions.

F.I. Provincial legislation

Specifically, the *CFCSA* makes provision for services for children to receive various services, including "services to support children who witness domestic violence" (Government of British Columbia, 1996). [33]

F.II. Indigenous agreements

Under Indigenous agreements, there is no specific provision stating that children must be provided treatment when they witness or experience violence, although that requirement may be implicit or the effect of treaty provisions stating that Indigenous laws will address issues specific to child and family services, including child protection services.

F.III. Federal legislation

As victims of violence, children may receive health care or treatment services in publicly funded health care services made available under the *Medicare Protection Act* and the *Health Care Services Regulations*. The *Victims of Crime Act* and the *Canadian Victims Bill of Rights* provides legal rights for BC children who are victims of crime. Those rights include a victim's right to receive information about victim services, such as counselling and housing services.

G. Legislation addressing the gender dimensions of violence against young children

G.I. Provincial legislation

There is no provincial legislation that specifically addresses the gender dimensions of VAC.

G.II. Indigenous agreements

The Indigenous agreements do not specifically address the gender dimensions of VAC.

G.III. Federal legislation

[33] section 5

The *Charter* states that "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, *sex*, age or mental or physical disability" (emphasis added, Government of Canada, 2018). The *Charter* also says that "notwithstanding anything in this *Charter*, the rights and freedoms referred to in it are guaranteed to male and female persons" (Government of Canada, 2018).

The *Family Homes on Reserves and Matrimonial Interests or Rights Ac*t makes provision for an emergency protection order if a judge determines that family violence has occurred. In making the order, the judge must consider the "best interests of any child in charge of either spouse or common-law partner, including the interest of any child who is a First Nation member to maintain a connection with that First Nation" (see section 16(4)(c)).

A court may also order that an applicant is granted exclusive occupation of and reasonable access to the family home. In this instance, the court must consider the "best interests of any children who habitually reside in the family home, including the interest of any child who is a First Nation member to maintain a connection with that First Nation" (see section 20(3)(a)).

H. Legislation protecting children's right to protection, privacy and dignity in the media, including protecting children from risks associated with information and communication technologies (i.e. internet)

H.I. Provincial legislation

The *CFCSA* and the *Freedom of Information and Protection of Privacy Act* protect privacy and confidentiality in general. Children's right to protection, privacy and dignity in the media has been upheld by Canadian courts but is not a right articulated in any legislation (Canada, 2012).

H.II. Indigenous agreements

There is no particular reference in the Indigenous agreements to children's right to protection, privacy and dignity in the media, including protecting children from information and communication technologies.

H.III. Federal legislation

The Charter protects children's privacy as a principle of fundamental justice. Legal provisions in the Privacy Act, Personal Information Protection and Electronic Documents Act, and Youth Criminal Justice Act also protect children's privacy (The Canadian Bar Association, 2018).

The protection of children from risks associated with information and communication technologies is addressed primarily under the *Criminal Code,* although it is questionable whether the legislation anticipates it may apply to young children. It does, however, make child pornography and the distribution of child sexual images online an offence, which has direct relevance to young children. The federal *Bill C-13: An Act to amend the Criminal Code, the*

Canada Evidence Act, the Competition Act, and the *Mutual Legal Assistance in Criminal Matters Act* make it illegal for an individual to distribute online images (Library of Parliament, n.d), including images about children, without the person's consent.

The *Canadian Victims Bill of Rights* states that "every victim has the right to have their privacy considered by the appropriate authorities in the criminal justice system" and "the right to request that their identity be protected if they are a complainant to the offence or a witness in proceedings relating to the offence" (Government of Canada, 2015). [34]

I. Legislation specifying consequences for offenders who commit acts of VAC

I.I. Provincial legislation

If a person commits an act of VAC, depending upon the act and situation, the federal *Criminal Code* will apply. If the matter relates to a child protection matter falling within the *CFCSA*, the *FLA* or both, the Acts specify the steps that government must take under those circumstances. If there is VAC, the *Child Care Licensing Regulation,* as well, requires adults to make reports, which will be addressed under the *Criminal Code* and/or the *CFCSA*.

I.II. Indigenous agreements

The Indigenous agreements do not make explicit reference to consequences for offenders who commit acts of VAC.

I.III. Federal legislation

The *Criminal Code* has special provisions that allow criminal courts to impose conditions upon an accused person. These conditions include no contact until the trial or appeal, peace bonds, or recognizances (which require a person to agree to certain conditions to keep the peace). Harm associated with violence can be an aggravating factor in sentencing, for example, when violence involves a child or there is abuse of a position of trust or authority. Conditional sentences allowing an offender to serve a sentence in the community are limited.

The *IRPA* specifies offences relating to offenders who engage in human trafficking and smuggling,

[34] sections 11, 12

which may involve children and take place within the province, across provincial boundaries or on an international level.

The Canadian Victims Bill of Rights makes provision for victims of crime to ask the court to make a restitution order against an offender and to have the order made enforceable (see sections 16, 17) (Government of Canada, 2015).

J. Legislation requiring children to be heard and to have their views taken seriously in all matters and at all stages when addressing VAC

Outside of formal statutory processes, Indigenous Peoples may have their own laws and traditions for hearing the voices of children. These laws and traditions may not be reflected in Canadian laws and policies.

J.I. Provincial legislation

The *CFCSA* includes Guiding Principles stating that "the child's views should be taken into account when decisions relating to a child are made" (Government of British Columbia, 1996).[35] As to best interests of the child, the legislation states that the child's views must be considered in making best interests decisions about children (Government of British Columbia, 1996).[36] When developing voluntary care agreements, the child's views about the agreement must be taken into account. When developing plans of care and during family conferences, the views of children over 12 years must be taken into account, although the Act does not place an age limit on children expressing their views as family members. Children in state care have the right to be "be consulted and to express their views, according to their abilities, about significant decisions affecting them" (Government of British Columbia, 1996).[37]

Notice at stages of the child protection process (if practicable, at the presentation stage; always at the protection stage) allows Aboriginal communities to become involved in legal proceedings, where they can advocate for their child members and help to ensure their voice is heard.[38]

J.II. Indigenous agreements

As indicated above, the Maa-nulth Treaty states that children's views must be a consideration when considering relevant factors informing what constitutes a child's best interests.

J.III. Federal legislation

There is no provision in the *Criminal Code* for directly hearing from children. If a child is the accused (not applicable to young children), that child has the right to be heard through a lawyer, or directly in justice processes, or both. If a child is a witness (which may occur for young children), then that child may be heard through their evidence given during a criminal proceeding.

Under the *Canadian Victim Bill of Rights*, it states that "every victim has the right to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victim's rights under this

[35] section 2

[36] section 4

[37] section 70

[38] The *CFCSA,* read in conjunction with the *UN Declaration on the Rights of Indigenous Peoples*, requires that children are heard about how to preserve their cultural heritage while having an overall right to be protected according to their Indigenous Peoples' own laws and traditions.

Act and to have those views considered" (Government of Canada, 2015).[39] It also provides that "every victim has the right to present a victim impact statement to the appropriate authorities in the criminal justice system and to have it considered" (Government of Canada, 2015).[40]

K. Legislation requiring all public and private institutions providing services to children, such as pre-schools, daycare centres, and residential facilities, to have child-friendly child protection policies and procedures

There are no provincial or federal legislation or Indigenous agreements that require all public and private institutions to have child-friendly child protection policies and procedures.

L. Legislation requiring government to provide education to *children* about their rights, including their right to protection from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs

L.I. Provincial law

Provincial legislation specific to educating children about claiming their rights is limited to what the *CFCSA* requires that is specific to children in state care. The legislation states that these children have the right "to be informed of their rights, and the procedures available for enforcing their rights, under (i) this Act, or (ii) the *Freedom of Information and Protection of Privacy Act*" (Government of British Columbia, 1996).[41]

Where a plan of care is in place under the *CFCSA* to protect a child's Aboriginal culture, there is no practical mechanism to regularly review and implement those provisions.

While the *RCYA* does not explicitly state that children must receive information about claiming their rights – *CRC* rights, for example – it does state that RCY has responsibility for providing information to children and their families about how to become "effective self-advocates." This provision facilitates RCY educating children about their *CRC* rights, so children are able to self-advocate with that particular knowledge.

No provincial legislation states explicitly that children must be educated about what constitutes positive child-rearing on the part of their parents or care givers, or states explicitly that children must educated about what remedies are available to them when violence occurs, although children in state care have the right to be, "informed of the standard of behaviour expected by their caregivers or prospective adoptive parents" (Government of British Columbia, 1996).

L.II. Indigenous agreements

The Indigenous agreements do not refer to children's education in these areas.

[39] Section 14

[40] section 15

[41] section 70

L.III. Federal legislation

The federal legislation does not refer to children's education in these areas.

M. Legislation requiring government to provide support to children in claiming their rights, including their right to protection from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs

Support is interpreted as financial, counselling, non-legal advocacy and educational support within these contexts. It is also seen as important to the preservation of cultural identity and connections for Indigenous children, whose connections to their cultures and communities is essential for avoiding severe and long-lasting adverse social impacts.

M.I. Provincial legislation

The *CFCSA* makes provision for children to receive services, including counselling services and services for children who witness domestic violence (Government of British Columbia, 1996). If the director receives a report that a child requires protection, however, the director must offer support services as one of four options available under the Act. The *RCYA* includes providing advocacy services for children, although this Act does not explicitly refer to advocacy support to children with rights claims under the *CRC* or support for pursuing a remedy when children witness or experience violence.

M.II. Indigenous agreements

The Indigenous agreements make provision for developing Indigenous law specific to child welfare, for example, and for working in partnership with the province/federal governments to provide support services related to children and violence.

M.III. Federal legislation

The federal legislation does not refer to children's support in these areas.

N. Legislation requiring government to provide education to *parents, caregivers and families* about children's rights, including children's right to be protected from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs

N.I. Provincial legislation

Provincial law is not specific about educating parents, caregivers and families about children's rights, although the *CFCSA* may be interpreted to contain sections that entitle parents and caregivers to receive information. The *CFCSA*, for example, provides for support services, including parenting programs, and requires "plans of care" for children falling under its legislation. These services and plans of care may be interpreted as educational guides for what is consider positive ways to raise children.

The *RCYA* may also be interpreted as the representative having the mandate to provide education to parents/caregivers and families about children's rights, including their rights as stated above.

N.II. Indigenous agreements

The Indigenous agreements do not refer to parent or caregivers' and families' education in these areas.

N.III. Federal legislation

The federal legislation does not refer to parent or caregivers' and families' education in these areas.

O. Legislation requiring government to provide support to *parents/caregivers and families* for protecting children's rights, including children's right to be protected from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs

O.I. Provincial legislation

Under the *CFCSA,* the director may make written agreements with parents to provide or assist parents with acquiring support services, such as parenting programs and counselling services, that assist with caring for a child. The Act provides that the "director may provide preventive and support services for families to promote the purposes of this Act" (Government of British Columbia, 1996).[42] Under this Act, the director may make agreements "with the Nisga'a Nation, a Nisga'a Village, a treaty first nation, an Indian band or a legal entity representing an Aboriginal community for the provision of services" (section 93(g)(iii)), which may include parent or caregiver and families' support services.

The *FLA* provides that the Attorney General may appoint a family court counsellor who may offer advice to families involved in a proceeding under the Act and who, in turn, may refer parties to counselling services.

The *RCYA* provides for non-legal advocacy and educational support for parents or caregivers and families within specified contexts related to designated public services as defined under this Act. There may be an implicit statutory interpretation that connects this advocacy function to promoting positive child-rearing and

[42] sections 93(1)(a)(f) and (h)

violence prevention.

As for support for parents, caregivers and families seeking remedies for VAC, the *CFCSA*'s provisions as stated above include qualified support for families and communities seeking remedies for VAC. The *FLA* and the *RCYA* may also be interpreted as ensuring support. The *RCYA* functions, for example, may include support for children/their caregivers to access MCFD's internal administrative complaints process.

O.II. Indigenous agreements

Under the *CFCSA*, the provincial government may "make agreements, including but not limited to agreements (iii) with the Nisga'a Nation, a Nisga'a Village, a treaty first nation, an Indian band or a legal entity representing an Aboriginal community for the provision of services" (Government of British Columbia, 1996).[43]

O.III. Federal legislation

The federal legislation does not refer to parent or caregivers' and families' support in these areas. As to remedies for VAC, there is no legal reference to financial, counselling, non-legal advocacy and educational support for families within federal legislation.

P. Legislation requiring support for communities in promoting children's rights, including positive child-rearing/preventing VAC and seeking remedies for violence

P.I. Provincial legislation

The *CFCSA* provides that the director may "establish services to assist *communities* to strengthen their ability to care for and protect their children" and "promote and encourage the participation of the community in the planning, development and delivery of services" (Government of British Columbia, 1996).[44] The director may also offer support services to the child in response to receiving a report that a child needs protection.

Aboriginal communities have the right to be involved as full legal parties in matters involving their child members under the *CFCSA*. Matters can be referred to an Aboriginal specific traditional alternative dispute resolution process.

Also, the province could create an Aboriginal community-based tribunal to hear and adjudicate child protection matters (s. 104) but has not yet done so. In practice, First Nations courts do involve Aboriginal community members to some extent.

The *RCYA* provides for the representative to be involved in "supporting, promoting in communities and commenting publicly on advocacy services for children and their families with respect to designated services" (Government of British Columbia, 2006).[45]

[43] section 93(1(g)

[44] section 93(1)(f) and (h)

[45] section 6

P.II. Indigenous agreements

The agreements do not make explicit provision for this type of support, although support may be provided under treaty law.

P.III. Federal legislation

There is no federal law requiring support for communities within this context.

Q. Legislation requiring education about children's human rights, including education about children's rights to be protected from violence and to remedies when violence occurs, for *children's service providers and policy makers*

There is no provision made within provincial or federal legislation or the Indigenous agreements on this topic.

R. Legislation designating that financial, human and technical resources are allocated to addressing VAC

Within provincial legislation, Indigenous agreements, and federal legislation, provision is made for financial resources (presumably applied to human and technical resources) to address VAC through services, programs and initiatives.

R.I. Provincial legislation

The provincial government administers legislation and distributes resources through its ministries, agencies and other government-funded entities. The legislative assembly approves the government's budget.

R.II Indigenous agreements

Indigenous agreements make provision for resources, including resources received from the provincial and federal governments, in accordance with their Final Agreements.

RIII. Federal legislation

The federal government administers legislation and distributes resources through its departments, agencies and other government-funded entities. Parliament approves the federal government budget. The federal government and Indigenous reserve communities have a funding relationship, which includes funding related to child welfare and other services.

LESSONS LEARNED

The lessons learned from this pilot should be discussed in view of the objectives of the pilot. Initially, it was intended that the ECRI tool pilot, using all seventeen indicators, would:

- result in the tool's evaluation so improvements could be made
- provide data that would help governments/children's service providers identify the gaps in capacities
- engage governments and observe their reaction to the tool and their buy-in for the use of ECRI as a tool to compile data that could
- assist government with its UN reporting obligations on child rights implementation during the early years and,
- set base line data that could make it possible through repeated use to monitor changes as well as the impact of policies and practices on children through longitudinal data collection;
- inform knowledge translation activities.

However, as the pilot's focus shifted to Indicator 8 only, the intended benefit altered to focus on the same goals but with data collection limited to data that would provide a portrait of existing BC structural capacities to address VAC. In the end, the pilot has identified lessons learned and revealed information about particular BC structural capacities related to children, violence and the legislation. The following sections will briefly summarize the lessons learned in regard to the above-mentioned objectives.

It is anticipated that general awareness raising about the *CRC*, GC7, early childhood rights realization, data collection and the rights monitoring process will occur through the report's dissemination, the major knowledge transfer activity of the pilot (i.e. Child Rights Symposium), as well as the other knowledge transfer activities. Ultimately, it is hoped that BC children will benefit from this contribution.

I. Tool Related Lessons

The BC pilot reveals lessons about Indicator 8. These lessons relate to the indicator questions, their relationship with the data collection process, and the resultant data.

The pilot is unable to contribute, however, to an evaluation of the ECRI tool's ease of use, and the reaction of the stakeholders to the tool, because the stakeholders were not the ones who collected the data in BC pilot.

Below are some general observations regarding some of the questions.

1. Indicator questions related lessons

A number of indicator questions appeared to be difficult to interpret, too multilayered, and/or not sufficiently relevant to the BC context. Similar to previous pilots, this pilot found that it

is challenging to find language and concepts that are generally and universally known while also relevant to a local context.

Relevance to the cultural and context would have been verified via context validation of indicator questions, if the pilot had been conducted based on its original methodology. In the two previous pilots, the government officials as the members of the pilot Task Forces reviewed the indicator questions before the data collection process began in order to assess the questions' relevancy as to culture and context. During this process, a few questions were deleted or amended. The BC pilot did not include this validation as the students collecting the data were not qualified to judge the context relevance of the questions

Another issue related to indicators was about the inadequacy of the wording of some questions. For example, the distinction between government and government-funded entities was not sufficiently recognized by some questions nor were the relationships among the provincial, Indigenous and federal governments. The questions require revisions to make them applicable for States with decentralized governments or federation systems. As the previous two pilots were conducted in countries with one central government, this particular indicator questions issue did not emerge through those two pilots.

Although the indicator questions were refined and rephrased to add more clarity to them subsequent to the Chile pilot, a few questions remained that were still multi-level questions. These questions made data collection a bit more challenging. These questions have been identified to be reviewed and revised.

2. Methodology related lessons

The experience of modifying the methodology of this pilot, while revealing the importance of flexibility and adaptability to individual contexts, highlighted the importance of staying focused on the tool's purpose and ensuring that the revised methodology facilitated identifying the status of child rights implementation and collecting relevant data.

A lesson about the data collection process is that lack of government participation and adequate resources (i.e. individuals to work on the data collection and time) makes the process more challenging. In the Chilean pilot, for example, government engagement in their pilot meant that many government officials associated with different indicator areas contributed to the data collection.

Other lessons learned are that several individuals are required to collect data. These individuals require specialized knowledge relevant to the tool's content, and sufficient time needs to be set aside for the data collection. While the BC pilot focused on one indicator, it was an indicator with significant breadth and government involvement, such as the three governments and their individual ministries, agreements and departments. Because so few people were involved in pilot data collection process, however, data collection efficiency was compromised with implications for what data was collected and included in the report.

One important lesson is that a substantial amount of data exists, and yet the lack of a provincial, centralized and coordinated database about *all* violence and children meant the data collection process was challenging and time consuming.

The availability of information about legislation in the public domain, however, made it possible to gather information pertinent to the legal framework, which is a relevant structural consideration when addressing VAC. It is anticipated that this information will be useful to governments and services providers as they develop policies, programs and initiatives, including research initiatives, directed at preventing and responding to VAC.

II. Lessons in Regard to BC's Capacities for Protection of Children against Violence

As a general rule in research, complications in the data collection process impact the outcome, including data quality and analysis, as well as the report, and the BC pilot was no exception to this rule. Because of those complications, this report is limited to BC's capacities specific to the legislation in support of child protection. This is important information, however, because it provides a snapshot of the structural capacities of the province in support of children's right to protection against violence, neglect and abuse (article 19, *CRC*), revealing what exists and what improvements are needed so that BC and Canadian legislation is fully compliant with the *CRC*.

This data was collected along various themes relevant to Indicator 8's Structure indicators, which are specific to legislation that will help governments, for example, assess their *CRC* implementation obligations for addressing VAC. From this information, it is not hard to see that the complex existing governance structure, comprised of layers of governments, complicates the jurisdictions covered by different legislations. The three levels of government (provincial/territorial, Indigenous

and federal) along with all children's service providers, have the mandate of preventing as well as addressing VAC. Such decentralized and multilayered governance models also make the coordination of addressing VAC challenging yet imperative.

From the collected data, a few gaps in the capacity of the province related to child protection were apparent. These are as follows:

1. The lack of a comprehensive provincial strategy for addressing *all* VAC.

This strategy would assist governments in their strategic coordination to eliminate VAC. Currently, Canada's *Criminal Code* serves as the guiding document in the absence of a BC strategic document for prevention and protection of children against violence. This is the case across Canada. New Brunswick is the only province in Canada that has a provincial strategy that focuses on protecting children and youth from violence, called *Keeping Children and Youth Safe from Harm in New Brunswick: A Five Year Strategy by New Brunswickers*. The strategy was initiated in 2013 by the Office of the Child and Youth Advocate (1) to promote children's right to live free from all harm, and (2) to improve coordination between governments, non-governmental organizations, communities, researchers and families to better fulfill legal obligations under the *CRC* (Province of New Brunswick, 2015).

The advantages of having a provincial strategy are providing a detailed picture of harms that children and youth can experience, and building specific strategies and services to address them.

Relying on Canada's *Criminal Code* to protect children from harm leaves a gap because it is an anti-deficit approach, does not facilitate a positive agenda for children, and does not address international rights that children have under the *CRC*.

Relying on criminal prosecution is punitive rather than preventive, and does not ensure safe environments in which children can grow, learn, and live.

Comprehensive provincial strategies, such as the one in New Brunswick, raise awareness and address all categories of harm, including violence, neglect, and abuse; emphasize the

importance of engaging diverse children and youth in the decisions made for the purpose of child and youth protection; blend children's rights with a social determinants of health approach to well-being; and seek to build child and youth resilience by increasing protective factors and decreasing risk factors.

The crucial tasks of monitoring and evaluating a provincial strategy can be done through strategic actions and indicators specified for each category of harm, such as support for youth in the criminal justice system, needs of First Nations children, housing of vulnerable populations, health and nutrition, sexual violence, and bullying and cyber violence.

2. Lack of any structural commitments to human rights and child rights education.

The existing evidence indicates that children and adults often point out that, because they have not been taught about their rights and how to pursue them, their rights are prone to being violated. Their lack of knowledge about human rights acts as a major hindrance to the fulfillment of their rights. It is, in part, due to the existence of such an association between human rights education and rights fulfillment or violation that the *CRC*, and a few other human rights treaties, declare human rights education a fundamental right of every child.

The *Convention* sets out important obligations upon governments, as the primary duty bearers under the *CRC*, and through a number of the procedural provisions under Part II of the treaty. Through these procedural articles, the *Convention* reiterates the significance of human rights training for children, parents, and professionals working for and with children. One of the most important procedural provisions is set out in article 42: the obligation to make the *Convention*, its protocols, and children's rights widely known to adults and children.

Article 42 states that governments should undertake all measures:

> to make the principles and provisions of the *Convention* widely known, by appropriate and active means, to adults and children alike (United Nations, 1990, article 42).

Similarly, article 4 establishes the State Party's obligation to take all appropriate measures for full implementation of the rights guaranteed under the *Convention*.

The four general principles of the *CRC* (articles 2, 3, 6, and 12) have bearing on articles 42 and 4. In this regard, States Parties have to make diligent efforts in their educational programs for human rights training to reach all children (UNICEF *Innocenti* Research Centre, 2013), including marginalized children and youth, and to reflect their lived experience in education programs. The effectiveness of this training will be seriously diminished if article 2 is not diligently respected in the implementation of article 42. States Parties need to ensure that all educational programs, particularly when they involve children, have children's best interests as a primary concern (article 3 of the *CRC*), and are informed by children's right to life, survival, and development (article 6 of the *CRC*). Finally, children's right to be heard and to have their opinions considered (article 12 of the *CRC*) is critically important in the development of educational programs concerning children's rights. Children should be actively engaged in every aspect of child rights education programming from conceptualization to design through to program delivery. Article 42 and the obligation for human rights training under this article extends to educating both adults and children alike.

Child rights efforts will fail if the adults who care for and work with children are neither familiar with nor mindful of these rights and their own obligations as duty bearers to children. This is why the *Convention* emphasizes the need to educate both children and adults in relation to child rights (UNICEF *Innocenti* Research Centre,

2013). States Parties need a comprehensive strategy to educate all of society about children's rights, including tailoring education efforts to different age groups. Child-friendly and youth-friendly versions of the *Convention* should be widely available in all national languages, in schools and libraries, and online and on social media (UNICEF *Innocenti* Research Centre, 2013). This adaptation work should be undertaken in conjunction with other training resources, including State Party reports and Concluding Observations, in order to facilitate child participation. Specialized child rights training modules should be developed as orientation tools to be used with recruitment of all staff working directly with or for children (UNICEF, 2007).

Accordingly, in all three of the previous Concluding Observations of the *CRC*, generated in response to the three previous reports of Canada, the Committee has called for specific action to address this:

> The Committee urges the State Party to develop an integrated strategy for training on children's rights for all professionals, including, government officials, judicial authorities, and professionals who work with children in health and social services. In developing such training programmes, the Committee urges the State Party to focus the training on the use of the *Convention* in legislation and public policy, programme development, advocacy, and decision making processes and accountability (United Nations, 2012b).

In the last review (2012), Canada was asked to use provincial school curricula and government websites to inform children about their rights (Canadian Coalition for the Rights of Children,

2018). In BC, children's rights are not integrated into the curriculum, and an analysis conducted by the Canadian Coalition for the Rights of Children indicates BC is not the only province that fails to do this: no province in Canada does so (Canadian Coalition for the Rights of Children, 2018). Last but not least, the data review and analyses of both the Tanzania and the Chile pilots clearly outlined that the positive outcomes for children are often achieved when there is a structural commitment to that outcome in place at the upstream point, and when the processes leading to the desired outcome have been articulated in legislation or a policy document (Vaghri et al., 2011; 2013). In BC, there is no legislation that mandates any human rights education to children or their caregivers, communities, or politicians and policy makers for that matter. It is noteworthy to mention that the right to human rights training has been clearly outlined as a right for all children, including young children, in both the *CRC* (article 42) and General Comment 7 (Indicator 1, article 2, GC7).

Human rights training for adults and children has

been explicitly highlighted by the Committee as crucial for the prevention of VAC. One of the recommendations for Canada in the most recent Concluding Observations discussed training in the context of corporal punishment, stating that parents, children, and professionals who work with children should be educated on respecting children's rights and the importance of alternative punishments that fit within those rights (United Nations, 2012b). The recommendations also emphasized the need to train those working with children to identify and address all cases of VAC (United Nations, 2012b).

3. Lack of positive agenda for child protection.

Article 19 is the core provision in the *Convention* in relation to efforts to address and eliminate all forms of harm to children (United Nations, 2011). As a principle, it is closely linked to the child's right to life and maximum survival and development guaranteed under article 6, and informs the many protection rights set out in the *Convention*, particularly those in articles 32 to 40, but also those incorporated into children's provision and participation rights. It asserts, as a broad principle, the child's right to be free from all forms of harm, well beyond article 37, and the human rights standard of protection from cruel or unusual punishment afforded adults in global human rights instruments (Hodgkin & Newell, 2007). Violence is broadly defined to include all forms of harm beyond the common meaning associated with intentional harm and physical harm (United Nations, 2011), and encompasses mental violence, neglect, sexual and other forms of exploitation, as well as non-intentional forms of harm. The Committee has been careful to guard against restrictive interpretations of the term violence. The World Health Organization has a similarly expansive interpretation of the term (United Nations, 2011). As such, article 19 articulates full respect for the human dignity and physical and personal integrity of children as rights-bearing individuals. The Committee stresses that this requires a paradigm shift of caregiving and protection away from the perception of children primarily as victims (United Nations, 2011).

An effective violence prevention strategy requires taking a rights-based approach to violence. Article 19(2) completes the call for comprehensiveness in relation to measures to combat all violence, by enumerating the range of interventions to be addressed. States Parties must take measures to intervene effectively both in relation to proactive prevention and prohibition of all forms of violence. Such an approach has primary prevention at its core, and proceeds with addressing the elements in children's lives that predisposes them to experiencing violence. Poverty is one strong example of these elements. A UNICEF-*Innocenti* report indicates Canada holds the 16th (top) position among the 42 affluent countries of the world in child poverty. Similar to most parts of Canada, in BC child poverty is rampant.

A recent report tracking child and family poverty rates in BC for two full decades (BC Child and Youth Advocacy Coalition, 2018), reveals that the rate of child poverty has persisted unchanged for 20 years; 1 in 5 BC children lived in poverty in 1996 and 1 in 5 still live in poverty today.

The CRC articulates the right to a standard of adequate living for the child's holistic and optimal development. This refers not only to physical and mental development, but also to spiritual, moral and social development, as defined in article 27.

In line with the spirit of the *CRC*, primary responsibility for living conditions is assigned to the family and other caregivers within their abilities and financial capacities. This entails that the family and other caregivers are duty bearers towards the child, and are also rights holders as articulated in article 27 (paragraph 3), which assigns obligations to States Parties, within their means, to provide material assistance to support families and caregivers:

> States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing (United Nations, 1990, article 27).

Hence it is imperative to stress that, according to article 27, both the family and caregivers have responsibilities, but the States Parties are also duty bearers and have obligations to respect, protect, and fulfil this right for the child.

The *Convention* also acknowledges special circumstances that expose children to discrimination and inequity-based harm such as poverty-based exclusion. Assuring a standard of living adequate for the holistic development of the child threatened by such special circumstances obliges special protection measures by the States Parties. The Committee emphasizes the connections between articles 2 (principle of non-discrimination), 6 (the right to life, survival, and development) and 27 (paragraph 1) of the *CRC* that, regardless of their status or that of their parents, States Parties have an obligation to fulfil the child's right to a standard of living adequate for her/his holistic development.

Additionally, "States must create an environment that respects human dignity and ensures the holistic development of every child" (United Nations, 2013, paragraph B2), and they have the responsibility to "ensure to the maximum extent possible the survival and development of the child" (United Nations, 1990, article 6). Every legal and policy decision affects how children experience their standard of living. Children experience poor standard of living differently from adults. Impact of deprivation of basic material needs have permanent effects on children; even short periods of deprivation can impact long-term development. Therefore the Committee reminds States Parties of their obligation to uphold the child's best interests (article 3) in the allocation of resources to fulfil the right to optimal and holistic development, and when necessary to use international assistance or development aid (United Nations, 2013).

Lastly, the child's right to be heard has two main implications for the right to a standard of living adequate for their holistic development: they have a right to be heard in any administrative proceedings affecting them, including decisions that affect their standard of living and living conditions; and they have the right to be heard during the development of policy meant to fulfil social security policies (United Nations, 1990, article 26).

It is crucial to point out that the States Parties should not use parental responsibility to shift their care and protection obligations to the parents or other caregivers as a means of reducing their public expenditure bill (Hodgkin & Newell, 2007).

Raising children in financially marginalized families subjects them to many stressors, including poor housing, food insecurity, and poor school attendance. The 2012 Canadian Community Health Survey found that 15.6% of children in BC were living in food-insecure households (BC Child and Youth Advocacy Coalition, 2018). Food insecurity affects the physical and mental health of children and their

parents, can predispose households to domestic violence (BC Child and Youth Advocacy Coalition, 2018), and increases the likelihood of children witnessing violence or being victims of violence (Chilton, Rabinowich, & Woolf, 2013).

The issue of child poverty has been pointed out in many of the previous COs of the *CRC* for Canada. Previous recommendations of the Committee have included general and specific recommendations to address child poverty, such as: develop a national poverty reduction strategy with "annual targets to reduce child poverty," assess transfers and tax benefits to "give priority to the most vulnerable and disadvantaged situations," and "ensure equitable funding and access to services for vulnerable groups of children."

At the time of this report's drafting, the BC government's Ministry of Social Development and Poverty Reduction released a report entitled *What we Heard About Poverty in BC,* containing feedback from people across the province who attended the poverty reduction consultations between October 2017 and March 2018 (Government of British Columbia, 2018b). The consultations emphasized the need for inclusion and promotion of the voices of people with lived experience of poverty in the province, and organizers took comprehensive measures to ensure the consultations were accessible, from providing free transit to having childcare and food onsite. Some common challenges identified by participants include: the need for more affordable rental housing (overwhelmingly the most pressing issue identified throughout the province), the need for more affordable access to healthy food, and the need for greater income supports. More broadly, stigma was identified as the main underlying barrier to addressing poverty; stigma prevents people from finding good homes and good jobs, and from getting the help and services they need. Solely addressing affordability issues will be insufficient in the long run. Fighting stigma with a narrative of respect and social inclusion is

emphasized in the report as crucial to fighting poverty in the province. The report is intended to guide the government in developing BC's first poverty reduction plan (Government of British Columbia, 2018b). Currently, BC is the only province in Canada without a poverty reduction plan. (Canadian Center for Policy Alternatives, 2017).

4. The lack of support for children who have witnessed violence:

The science of ECD recognizes witnessing violence as a psychological trauma on the child and outlines its adverse effect on child development. A convincing body of evidence indicates that witnessing violence in childhood, most commonly domestic violence, can affect children's development as well as contribute to the intergenerational cycle of violence. The *CRC* obligates States Parties to "take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; …. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child" (*CRC*, Article 39).

During the pilot test of ECRI, the investigators concluded that BC lacked relevant legislation to support children who had witnessed violence. However, it was later brought to the attention of the researchers that the *Child, Family and Community Service Act* had been amended on June 1, 2014, to add grounds for a child to be in need of protection "if the child is emotionally harmed by living in a situation where there is domestic violence by or towards a person with whom the child resides" (Section 13(1)(e)(ii)). Section 13(1.2) additionally explains that "the likelihood of physical harm to a child increases when the child is living in a situation where there is domestic violence by or towards a person with whom the child resides" (BC Laws, 2013). This amendment makes witnessing violence a reportable child protection concern, and in doing so makes the harm of witnessing violence visible. This is beneficial as there is a history of children not being protected in situations of domestic violence because their harms were not visible.

However, this amendment has been met with serious concerns around the potential of further victimizing the mother in domestic violence situations. These concerns centre on the possibility of deterring women in abusive situations from seeking services as a consequence of the duty to report domestic violence as a child protection concern. An additional criticism surrounding the amendment is that is was not met with an increase in funding, which creates a risk of existing services lacking the capacity to deal with the anticipated increase in calls. Therefore,

while legislation does exist in BC to recognize the harm of children witnessing violence, this legislation may not be comprehensive enough to support children in these situations, both because of the lack of capacity of existing services and because of the risk it places on mothers that may prevent them from seeking help for themselves or for their children.

III. Lessons Related to the Engagement of the Government, Their Reaction to, and Their Buy-in for ECRI

1. BC Government engagement

The BC pilot provided the opportunity to learn about government engagement, particularly with a tri-partite government situation such as the one that exists in BC. In the two previous pilots, the Tanzanian and Chilean governments provided strong support to the pilots. As indicated previously, the Principal Investigator, as well as the Committee steering the pilot, had difficulty forming a partnership with the relevant ministry of the provincial government, although the pilot received great deal of support from the government's RCY and a government health authority.

Some of the factors that may have contributed to this failure to establish a collaborative relationship with the ministry are identified below:

Underestimation of the time required to build such relationship:

In the two previous pilots, all that was required for this was a letter from UNICEF Headquarters (HQ) to the UNICEF country offices in the pilot country. UNICEF country offices have the mandate of providing technical support for implementation of the *CRC* in the developing countries across the globe. Such a letter was adequate to establish a relationship between the project team and UNICEF country office in Dar es Salaam and Santiago during our Tanzania and Chile pilots, respectively. Then, at that point, UNICEF country offices, who have had a clear and strong line of communication with their host governments, would mediate and introduce the project team to the government officials in a meeting coordinated by the UNICEF country offices. Upon a meeting of the three parties (UNICEF, the government officials of the pilot country and ECRI team) a tri-partite Memorandum of Understanding was signed to formalize the partnership and the three parties were partnered to conduct the pilot together. With the governments of developed countries, such communication between the government and UNICEF does not exist.

Within developed countries such as Canada, there is no UNICEF country office.

Instead, there are the National Committees for UNICEF. Unlike the country offices which have an official UN presence and a Cooperation Agreement with the national governments, the National Committees for UNICEF do not hold such a position.

These committees are often registered charities, non-profits or other organizations, depending on their national regulatory regime. Though they have formal agreements with UNICEF Headquarters, engage in some policy analysis, and have other integrated reporting and planning integration, they do not transfer resources into the country or deliver programs and services. By virtue of this, the relationship with the government is informal at best, and cannot influence the government actions or direction, even in *CRC*-related matters. The committees can only advise.

In the absence of a UNICEF country office in Canada, much more time was needed to establish a line of communication with the government. This situation is further complicated in Canada by the relationships and division of powers between the federal and provincial governments. While there was no practical way to do a federal study given the disparate jurisdiction over matters of health and children/youth, there are no formal linkages with UNICEF at the provincial level. It made sense to do a study with one of the provinces in

Canada to determine the applicability of ECRI in a developed nation. However, the formal linkages and support which were brought to bear in other pilots did not exist.

Lack of success in identification of a champion within the government who could act as a Field Coordinator and navigate the research team through the process of establishing partnership.

In both previous pilots, a prominent public servant within the government, or with a great rapport with the government, was a key player. This individual was instrumental in maneuvering and guiding the project team through the governmental processes and protocols and bringing the stakeholders around one table. In BC we could not identify such a figure, within or outside the ministry, to act as a focal person and liaise between the project team and the ministry. None of the leads from the ministry resulted in identifying such a person. All the suggested people from the ministry were very clear that in order to play such role, an assignment letter or designation order would be required from senior leadership within the ministry.

The unfavorable political ambience.

The timing of the ECRI pilot was also not conducive to having government's attention. In the years preceding the 2017 provincial election, the priority was on acting to realize commitments from the previous election and take on only those new priorities which would position the government for re-election. The public service within the ministries were facing critical and highly visible issues related to child welfare, homelessness and health. The ECRI pilot somehow did not appear to be a priority.

In the future, it may be helpful to interview government decision-makers, including Indigenous decision-makers, about what will facilitate partnerships, so that as indicator work progresses it will be possible to form those partnerships with the three governments and ensure the tool works for individuals using it within those contexts. It would have been helpful to invest some time to expose ECRI to the relevant stakeholders, prior to even starting to talk about the pilot.

It might be a best practice to highlight the ways in which ECRI can be used to assist the government in meeting their internal objectives as well as their obligations under the *CRC*.

ECRI can be used to assist government with an inventory-taking of capacities in support of various aspects of children's lives, including for protecting children from violence, for evidence-based planning, and for fulfilling international obligations to report on child rights implementation..

CLOSING OBSERVATIONS

The science of early child development (ECD) clearly demonstrates that intersectoral collaboration works best for interventions addressing the different aspect of young children's lives, and child protection against violence is no exception. Intersectoral collaboration is ideally suited for ECD-related interventions/policies and programs. This suitability is grounded on the recognition that the lives of young children – and of their caregivers – are lived holistically and are not sectorial. An intersectoral collaboration for protection of children against violence requires actions in a range of sectors, including health, housing, education, transportation, social welfare, and others, from various organizations and agencies, including federal, provincial, Indigenous, and municipal governments, as well as non-state actors such as NGOs, universities and other research institutes, working together (Danaher, 2011) to address the predisposing factors to experiencing violence.

The advantages of such a collaboration include a more comprehensive response to community issues, less fragmentation of services, improved communication across sectors and actors, more effective use of limited resources, capitalization on the strengths of multiple sectors, and a reduction of duplication and gaps (Canadian Council on Social Determinants of Health, 2017; Woodhead, 2014). These benefits are especially relevant to the BC context where there is a relatively complex jurisdictional framework for the implementation of policies and delivery of programs. Moreover, often many of the factors impacting VAC are not contained within silos of health or education or justice. Therefore, the actions of a single sector have limited effectiveness.

General Comment 7, as well as the indicators of GC7 (ECRI), are developed to promote such collaboration. ECRI is informed by both the science of child development as well as human rights. Each one of the seventeen indicator sets, including Indicator set 8, is built to cover all the sectors relevant to that particular human right. Therefore, proper implementation of this tool and populating the indicator sets also requires participation and collaboration of all relevant sectors.

The ultimate goal of human rights indicators, such as Indicator 8 of the ECRI, is to provide a tool to facilitate tracking the efforts of the states, and in doing, enhance the everyday lives of children to support their full developmental potential. ECRI, as a tool, can facilitate child rights implementation not only through its baseline setting and progress tracking capacity but also through its participatory data collection processes which is an inherent characteristic of all indicator sets, including Indicator 8.

This third pilot, though an incomplete test of the ECRI, has nonetheless been a valuable exercise, revealing gaps in both the implementation of the tool, and gaps in protecting children in British Columbia. It is hoped that discussions of this report will raise awareness of the ECRI, and lead to improvements in the tool, services to and for children, and ultimately the greater collaboration required for the best possible early childhood development.

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Photographs

Photographs were sourced from https://unsplash.com/ and https://www.pexels.com/.

APPENDICES

Appendix I. Letter from UN Committee on the Rights of the Child (2006)

NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE L'HOMME

UNITED NATIONS
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REFERENCE:

4 December 2006

Dear Dr. Clyde Hertzman,

The Committee on the Rights of the Child (CRC) has highly appreciated the meeting with members of WHO Early Child Development Knowledge Network, the Bernard Van Leer Foundation, the Aga Khan Foundation, UNICEF, and the Consultative Group on Early Childhood Development held on September 28, 2006 in Geneva. We would like to thank all participants for engaging in a very productive discussion in which it was made clear how deeply we all share the intention to strengthen the awareness, the implementation, and the monitoring of the rights of the child in early childhood. This meeting found an inspiring continuation in a seminar on Early Child Development on October 29 in the UNICEF building in New York. Again the need and the will for intensified partnership was expressed by the participants representing UNICEF, WHO, and the CRC.

Our recent discussions were stimulated by two important steps: The Committee on the Rights of the Child adopted the General Comment no. 7 Implementing child rights in early childhood in October 2005, which stresses the entitlement of the young and the very young child to the rights enshrined in the Convention and demands from State Parties to the Convention "to construct a positive agenda for rights in early childhood" (para. 5), which encompasses all aspects of the young child's well-being and development. The WHO Early Child Development Knowledge Network started to compile a comprehensive set of indicators for the state of child development across the various developmental domains. This undertaking corresponds to the request of the Committee underlined in Paragraph 39 of the General Comment by which State Parties are urged "to develop a system of data collection and indicators consistent with the Convention". If such a list of indicators would be established and used by the State Parties, the monitoring task of the Committee would be massively assisted.

By this letter, I would like to encourage the above mentioned group of involved persons and organization to establish regular close cooperation. I would like to propose that we come together in a workshop in near future in order to work out effective ways of mutual support in our joined endeavour to implement the rights of the young child.

.../..

Dr Clyde Hertzman
Director, Human Early Learning Partnership
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University of British Columbia
Vancouver, B.C. V6T 1Z3
Canada

In particular, the topics to be discussed in the workshop should include:

(1) dissemination of the General Comment no. 7 so that it can best be used for the implementation of the rights of the young child, especially with regard to the most vulnerable groups of young children;

(2) priorities which should be considered by State Parties when they construct the demanded positive agenda for rights in early childhood;

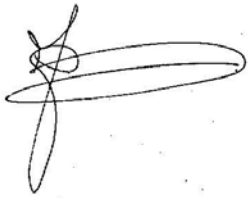
(3) monitoring systems by which the activities initiated by these agendas should be controlled; and

(4) data collection and indicator systems which allow to comprehensively analyse the well-being and the state of children's development in given social contexts.

At the September meeting in Geneva the participants expressed the hope that such a list of indicators could be presented in the Committee's session in May/June 2007. In order to make progress the Committee would like to suggest that we plan a workshop to be held in the first months of the coming year at which we discuss the topics listed above. If you agree we should carefully prepare the workshop in an informal meeting of WHO, UNICEF and CRC members during the January/February session of the Committee.

We look forward to your response and to our strengthened collaboration for improved implementation of child rights and Early Child Development programming in all countries.

Yours sincerely,



Jakob Egbert Doek
Chairperson
Committee on the Rights of the Child

Appendix II. Letter from UN Committee on the Rights of the Child (2008)

NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE L'HOMME

UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

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20 July 2008

Dear members of the GC 7-indicator group,

On behalf of the Committee on the Rights of the Child I would like to thank you once more for the meeting of 19 May, 2008 in Geneva. The Committee welcomed the opportunity to discuss the remarkable progress made with regard to the elaboration of indicators, which focus on the implementation of the human rights of young children. As you will remember, the Committee highly commended the work achieved by the GC 7-indicator group since its constitution after our first meeting in autumn 2006.

The Committee welcomes the plans to finalize this project so that a set of broadly applicable indicators regarding the implementation of rights of young children becomes available. The next steps have to be pilot studies in order to test and revise the list of indicators if necessary.

We are pleased to learn that UNICEF will support the pilot studies. The outcome will be an essential component of the Committee's efforts to consolidate and strengthen the data base for child rights implementation.

I very much hope that the Committee will be informed about the next steps conducted by the group in the foreseeable future.

With my best regards,

Yanghee Lee
Chairperson
Committee on the Rights of the Child

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Appendix III. International Human Rights Instruments with Relevance to Young Children

UN Convention on the Rights of the Child and its:

- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography
- Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure

Hague Convention on the Civil Aspects of International Child Abduction

UN Convention on the Rights of People with Disabilities

UN Declaration on the Rights of Indigenous Peoples and its recognition of:

- Right of self-determination;
- Right to cultural identity as distinct Peoples;
- Right to free, prior and informed consent (including on laws and enactments about child protection);
- Protection from discrimination.[46]

UN Convention Relating to the Status of Refugees

UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

UN Declaration of Human Rights

[46] Very important in BC/Canadian context, given disproportionate numbers of Indigenous children at risk.

Appendix IV. Summary of Domestic Legislation

The following is a summary of legislation and treaties referenced in the report.

THEME	PROVINCE	FIRST NATIONS	FEDERAL
Legislation prohibiting and remedying all forms of violence against young children	Child, Family and Community Service Act Family Law Act Adoption Act Child Care Licensing Regulation Representative for Children and Youth Act	Tla'amin Final Agreement Tsawwassen Children and Families Act (2009) Splatsin By-law for the Care of Our Indian Child: Spallumcheen Indian Band By-law #3-1980 Sechelt Indian Band Self-Government Act Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	*Constitution Act, 1982 (s.35)* *Family Homes on Reserves and Matrimonial Interests or Rights Act* *Truth and Reconciliation Commission Calls to Action #6* *Criminal Code* Canadian Charter of Rights and Freedom Canadian Victims Bill of Rights Immigration and Refugee Protection Act *An Act Respecting the Mandatory Reporting of Internet Child Pornography by Persons who Provide an Internet Service*

THEME	PROVINCE	FIRST NATIONS	FEDERAL
Legislation prohibiting VAC and making references to the *CRC*, including the *CRC's* four core principles	Child, Family and Community Service Act Family Law Act Adoption Act Child Care Licensing Regulation	Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	*First Nations Child and Family Caring Society of Canada et al v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada), 2016 CHRT 2* *Criminal Code* Immigration and Refugee Protection Act *Canadian Charter of Rights and Freedoms* IRPA Regulations *Divorce Act* *Citizenship Act*
Legislation requiring VAC identification (identifying harm or possible harm to children), reporting, investigation and referral	Child, Family and Community Service Act Representative for Children and Youth Act Child Care Licensing Regulation	Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	*Criminal Code* Immigration and Refugee Protection Act
Legislation ensuring children/their caregivers have access to child-friendly information and non-legal/legal advocacy, including support for self-advocacy, about remedies when children witness or experience violence	Child, Family and Community Service Act Representative for Children and Youth Act		Canadian Victims Bill of Rights

THEME	PROVINCE	FIRST NATIONS	FEDERAL
Legislation ensuring children/their caregivers have access to child-centred, independent complaints procedures and to the courts with necessary legal representation when children witness or experience violence	Child, Family and Community Service Act Legal Services Society Act Family Law Act	Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	Immigration and Refugee Protection Act
Legislation requiring treatment for children who are victims of violence	Child, Family and Community Service Act	Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	Medicare Protection Act Health Care Services Regulations Victims of Crime Act Canadian Victims Bill of Rights
Legislation addressing the gender dimensions of violence against young children			*Family Homes on Reserves and Matrimonial Interests or Rights Act* *Canadian Charter of Rights and Freedoms*

THEME	PROVINCE	FIRST NATIONS	FEDERAL
Legislation protecting children's right to protection, privacy and dignity in the media, including protecting children from risks associated with information and communication technologies (i.e. internet)	Child, Family and Community Service Act Freedom of Information and Protection of Privacy Act		*Canadian Charter of Rights and Freedoms* Privacy Act Personal Information Protection and Electronic Documents Act Youth Criminal Justice Act *Criminal Code* Bill C-13: An Act to amend the Criminal Code, the Canada Evidence Act, the Competition Act Mutual Legal Assistance in Criminal Matters Act Canadian Victims Bill of Rights
Legislation specifying consequences for offenders who commit acts of VAC	*Criminal Code* Child, Family and Community Service Act Family Law Act Child Care Licensing Regulation		*Criminal Code* Immigration and Refugee Protection Act Canadian Victims Bill of Rights
Legislation requiring children to be heard and to have their views taken seriously in all matters and at all stages when addressing VAC	Child, Family and Community Service Act	Maa-nulth First Nations Final Agreement	*Criminal Code* Canadian Victim Bill of Rights

THEME	PROVINCE	FIRST NATIONS	FEDERAL
Legislation requiring all public and private institutions providing services to children, such as pre-schools, daycare centres, and residential facilities, to have child-friendly child protection policies and procedures			
Legislation requiring government to provide education to *children* about their rights, including their right to protection from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs	Child, Family and Community Service Act Representative for Children and Youth Act		
Legislation requiring government to provide support to children in claiming their rights, including their right to protection from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs	Child, Family and Community Service Act Representative for Children and Youth Act	Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	

THEME	PROVINCE	FIRST NATIONS	FEDERAL
Legislation requiring government to provide education to *parents, caregivers and families* about children's rights, including children's right to be protected from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs	Child, Family and Community Service Act Representative for Children and Youth Act		
Legislation requiring government to provide support to *parents/caregivers and families* for protecting children's rights, including children's right to be protected from violence, to positive child-rearing (violence prevention), and to remedies when violence occurs	Child, Family and Community Service Act Family Law Act Representative for Children and Youth Act	Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	
Legislation requiring support for communities in promoting children's rights, including positive child-rearing/preventing VAC and seeking remedies for violence	Child, Family and Community Service Act Representative for Children and Youth Act	Nisga'a Final Agreement Tsawwassen First Nation Final Agreement Maa-nulth First Nations Final Agreement Te'mexw Treaty Association *Agreement in Principle*	

THEME	PROVINCE	FIRST NATIONS	FEDERAL
Legislation requiring education about children's human rights, including education about children's rights to be protected from violence and to remedies when violence occurs, for *children's service providers and policy makers*			
Legislation designating that financial, human and technical resources are allocated to addressing VAC	See Report	See Report	See Report

APPENDIX V. Members of the Steering Committee of the BC Pilot

Deborah Chaplain

Director, Child, Youth and Family Services, Island Health Authority

Dr. Philip Lancaster

Adjunct Assistant Professor, University of Victoria

Cairine MacDonald

Executive Leadership Coach and Consultant

Brent Parfitt

Former BC Deputy Ombudsman for Children and Youth

Dr. Mary Ellen Purkis

Professor, School of Nursing, University of Victoria

Dr. Richard Stanwick

Chief Medical Officer, Island Health Authority

Dr. Ziba Vaghri

Principal Investigator

APPENDIX VI. Members of the ECRI Team

Clyde Hertzman, (OC),MD, MSc – Founding Director of Human Early Learning Partnership (Canada)

Dr. Hertzman played a central role in creating a framework that links population health to human development, emphasizing the special role of early childhood development as a determinant of health. His research contributed to international, national, provincial, and community initiatives for healthy child development.

Dr. Hertzman passed away suddenly in February 2013.

Ziba Vaghri, BN, MSC, PhD - University of Victoria (Canada)

Adem Arkadas, BA, MA - International Children's Center (Turkey)

Caroline Arnold, BA - Aga Khan Foundation (Switzerland)

Lothar Krappmann, PhD - United Nations Committee on the Rights of the Child, Past Member (Germany)

Meena Cabral de Mello, PhD - World Health Organization, Retired (Switzerland)

Marcus Marcellus Stahlhofer, LLB - World Health Organization (Switzerland)

Nurper Ulkuer, PhD - UNICEF, Retired (United States)

Louise Zimanyi, MEd - The Consultative Group on Early Childhood Care and Development (Canada)