



May 30, 2018

Via email: justin.trudeau@parl.gc.ca

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
Langevin Building 80 Wellington Street
Ottawa, ON K1A 0A2

Dear Prime Minister:

Re: Establishing a National Commissioner for Children and Youth in Canada

On behalf of the Canadian Bar Association (CBA), I write to you in your capacity as Minister of Youth, as well as Prime Minister, to encourage your government to establish a National Commissioner for Children and Youth. I also urge you to engage with Canada's Indigenous peoples to ensure the rights and interests of Indigenous children and youth are vigorously promoted and protected.¹

The CBA is a national association of over 36,000 lawyers, law students, notaries and law teachers. Among our primary objectives are improvements in the law and the administration of justice, and promoting the rule of law.

Children and youth (under 18) make up a quarter of Canada's population, yet have no independent voice to represent their rights and interests in Parliament, limited opportunity to participate in political processes and no effective complaint mechanism when their rights are violated. While Canada is a country full of promise for most of its children and youth, many are falling behind, especially Indigenous children and youth under federal jurisdiction.

Canada ratified the United Nations *Convention on the Rights of the Child* (CRC) in 1991, accepting the responsibility to ensure every child has the best opportunity to grow up healthy, educated and protected, and the corresponding obligation to establish, as a general implementation measure of the CRC,² the office of a National Commissioner for Children and Youth.

The Concluding Observations on Canada's Third and Fourth Reports on the CRC, received from the UN Committee on the Rights of the Child in 2012, urged Canada (among other recommendations) to establish a National Children and Youth Commissioner.³

¹ This is consistent with CBA Resolution 18-01-A, adopted on February 15, 2018, enclosed below.

² See [General Comment No. 5 \(2003\) of the UN Committee on the Rights of the Child](#), General measures of implementation of the *Convention on the Rights of the Child*.

³ [Concluding observations on the combined third and fourth periodic report of Canada](#) (2012) at paras. 23, 55, 68, 74 and 85-86. See also [General Comment No. 2 \(2002\) of the UN Committee on the Rights of the Child](#), The role of independent national human rights institutions in the protection and promotion of the rights of the child.

Canada has had over five years to consider the UN Committee's Concluding Observations. As Canada prepares to submit its Fifth and Sixth Reports to the UN Committee later this year, it is time to move swiftly and definitively in response to the UN Committee's recommendations.

The CBA has repeatedly called on federal governments to implement these recommendations.⁴ We again urge the government to act. Specifically, as set out in the enclosed CBA resolution, we call for the creation of a National Commissioner for Children and Youth, as an independent Officer of Parliament reporting to both Houses of Parliament, to protect and promote human rights under federal jurisdiction of children and youth in Canada (including immigrant and refugee children), and to consult and engage with Canada's Indigenous peoples to ensure the rights and interests of Indigenous children and youth are vigorously promoted and protected.⁵

Federal areas of jurisdiction such as immigration, refugees and citizenship, youth criminal justice, the funding of on-reserve services, divorce law, taxation, and federal social benefits are key issues for children that could be effectively addressed by a National Commissioner for Children and Youth. The impact of that office would be strengthened through consultation and engagement with provinces, territories and Indigenous communities.

Three Private Members' Bills tabled in Parliament calling for the creation of such an office were sponsored by members of the Liberal party.⁶ It is only fitting that the commitment made by your party, while in opposition, be implemented now that you form government.

Recent draft legislation amending the *Divorce Act* to better focus on the best interests of the child⁷, and consultations on the development of a federal Youth Policy⁸, suggest a government prepared to show leadership on this issue; but far too much time has passed without action on establishing a National Commissioner for Children and Youth. Close to 70 other countries have created specialized national offices for children, many of which are federal states like Canada.⁹ Canada must follow that lead to maintain its standing and reputation on the international stage as a protector of children's rights.

We welcome the opportunity to meet with you or your representatives to discuss how we can assist the federal government to achieve this important goal.

Yours truly,

(original letter signed by Kerry L. Simmons)

Kerry L. Simmons, Q.C./c.r.

- cc. The Honourable Chrystia Freeland, P.C., M.P. (Chrystia.Freeland@parl.gc.ca)
 The Honourable Jody Wilson-Raybould, P.C., M.P. (mcu@justice.gc.ca)
 The Honourable Mélanie Joly, P.C., M.P. (Hon.Melanie.Joly@canada.ca)
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 The Honourable Doctor Carolyn Bennett, P.C., M.P. (InfoPubs@aadnc-aandc.gc.ca)

⁴ [Resolution 13-11-A; Letter to Prime Minister Harper](#) (March 2014); [Letter to Prime Minister Trudeau](#) (May 2016).

⁵ This goal is supported by calls by the [United Nations Declaration on the Rights of Indigenous Peoples](#) (2008) and the [Truth and Reconciliation Commission report](#) (2015) for specific actions to promote the rights of Indigenous children.

⁶ [Bill C-418](#) (introduced June 11, 2009); [Bill C-420](#) (introduced May 3, 2012); and [Bill C-701](#) (introduced June 19, 2015).

⁷ [Bill C-78](#) (introduced May 22, 2018)

⁸ [Building a Youth Policy for Canada Consultation](#)

⁹ UNICEF, [Championing Children's Rights: A Global Study of Independent Human Rights Institutions for Children](#) (2012).

National Commissioner for Children and Youth

WHEREAS one measure of a nation is how it attends to its children;

WHEREAS nearly a quarter of Canada's population is under 18 years of age;

WHEREAS children in Canada have no independent voice to represent their rights and interests in Parliament, limited opportunity to participate in political processes and no effective complaint mechanism when their rights are violated;

WHEREAS Canada ratified the United Nations *Convention on the Rights of the Child* in 1991 and enacted the *Canadian Charter of Rights and Freedoms* in 1982;

WHEREAS the United Nations Committee on the Rights of the Child and the Senate Committee on Human Rights have repeatedly recommended that Canada establish a National Commissioner for Children and Youth;

WHEREAS *Championing Children's Rights*, UNICEF's 2013 global study of independent human rights institutions for children, reports that these institutions have been established in over 70 countries;

WHEREAS the mandates of provincial and territorial human rights institutions for children do not extend to federal jurisdiction, which particularly affects Indigenous children;

Commissariat national à l'enfance et à l'adolescence

ATTENDU QU'une façon d'évaluer un pays réside dans la manière dont il s'occupe de ses enfants;

ATTENDU QUE près d'un quart de la population canadienne est âgée de moins de 18 ans;

ATTENDU QUE les enfants au Canada n'ont pas de porte-parole indépendant pour défendre leurs droits et intérêts auprès du Parlement, ont peu d'occasions de participer à la vie politique et ne disposent d'aucun mécanisme efficace de recours en cas de violation de leurs droits;

ATTENDU QUE le Canada a ratifié la *Convention relative aux droits de l'enfant* des Nations Unies en 1991 et a édicté la *Charte canadienne des droits et libertés* en 1982;

ATTENDU QUE le Comité des droits de l'enfant des Nations Unies et le Comité sénatorial des droits de la personne ont recommandé, à maintes reprises, que le Canada établisse un Commissariat national à l'enfance et à l'adolescence;

ATTENDU QUE l'étude mondiale sur les institutions indépendantes de défense des droits de l'enfant, *Défendre les droits de l'enfant*, menée par UNICEF en 2013, indique que de tels établissements ont été mis sur pied dans plus de 70 pays;

ATTENDU QUE le mandat des établissements de défense des droits de la personne destinés aux enfants dans les provinces et les territoires ne s'étend pas aux champs de compétence fédérale, ce

WHEREAS the United Nations Declaration on the Rights of Indigenous Peoples and the Truth and Reconciliation Commission call for specific actions to promote the rights of Indigenous children;

BE IT RESOLVED THAT the Canadian Bar Association urge the federal government to:

1. Establish a National Commissioner for Children and Youth as an independent Officer of Parliament reporting to both Houses of Parliament, with a statutory mandate to:
 - a) protect and promote human rights under federal jurisdiction of children and youth in Canada, including immigrant and refugee children, and
 - b) liaise with provincial, territorial and Indigenous counterparts on areas of mutual concern or overlapping jurisdiction, and
2. Consult and engage with Canada's Indigenous peoples to ensure the rights and interests of Indigenous children and youth are vigorously promoted and protected.

Certified true copy of a resolution carried at the Annual Meeting of the Canadian Bar Association held in Ottawa, ON, February 15, 2018.

qui a une incidence particulière sur les enfants autochtones;

ATTENDU QUE la Déclaration des Nations Unies sur les droits des peuples autochtones et la Commission de vérité et réconciliation réclament la prise de mesures concrètes pour promouvoir les droits des enfants autochtones;

QU'IL SOIT RÉSOLU QUE l'Association du Barreau canadien exhorte le gouvernement fédéral :

1. à créer un Commissariat national à l'enfance et à l'adolescence agissant comme agent indépendant du Parlement et relevant directement des deux chambres du Parlement, qui a le mandat légal :
 - a) de protéger et promouvoir les droits de la personne relevant de la compétence fédérale à l'endroit des enfants et des adolescents du Canada, y compris les enfants immigrants et réfugiés, et
 - b) d'assurer la liaison avec les pendents provinciaux, territoriaux et autochtones eu égard aux questions d'intérêt commun ou de chevauchement des champs de compétence;
2. à consulter et nouer le dialogue avec les peuples autochtones du Canada afin d'assurer la promotion et la protection vigoureuse des droits et des intérêts des enfants et adolescents autochtones.

Copie certifiée d'une résolution adoptée, à l'Assemblée annuelle de l'Association du Barreau canadien, à Ottawa (ON), le 15 février 2018.