



MINISTER OF STATE FOR CHILDREN

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MINISTER OF STATE FOR CHILDREN

INTRODUCTION

Since the creation of the National Children's Agenda in 1997, the federal government has been playing an increasingly active role in children's issues through the introduction of new transfer payments to the provinces and territories for early childhood education, and through the direct provision of children's services to subpopulation groups for whom the federal government has a more direct responsibility, including Aboriginal people living on reserves and in the North, military families, and immigrants and refugees.⁽¹⁾

In 2004, the Government of Canada published *A Canada Fit for Children*, an action plan devised in response to the May 2002 United Nations Special Session on Children. In this document, Canada recognized the important role that children play in Canadian society, as well as the country's commitment to ensure the well-being of all children.⁽²⁾

The creation of a high-profile federal position that helps to coordinate national initiatives for children would be consistent with this commitment. This federal leadership position could take many different forms. One possibility is the appointment of a minister of state for children, who would provide strong political leadership and a Cabinet presence for children's issues. Other possibilities include the appointment of a children's commissioner or ombudsman, or a national advisory council on children.

This paper focuses primarily on the mandate and potential roles and responsibilities of a minister of state for children. It provides an overview of current and previous ministers of state for subpopulations at the federal and provincial levels. Further,

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- (1) Julie Cool, *Child Care in Canada: The Federal Role*, PRB 04-20E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, revised 16 April 2007, p. 2, <http://lpintrabp.parl.gc.ca/lopimages2/prbpubs/bp1000/prb0420-e.asp>.
 - (2) Government of Canada, *A Canada Fit for Children: Canada's Plan of Action in Response to the May 2002 United Nations Special Session on Children*, April 2004, p. 5, <http://www.hrsdc.gc.ca/en/cs/sp/sdc/socpol/publications/2002-002483/canadafite.pdf>.

it examines how other federal Western democracies have addressed children's issues and policies at the federal and state levels. Finally, the paper concludes with an analysis of limitations associated with a minister of state designation, and presents other options for creating a focal point of federal leadership with respect to children.

MANDATE OF A MINISTER OF STATE

According to the *Ministries and Ministers of State Act*,⁽³⁾ a minister of state can be appointed by the Governor in Council in two instances. First, section 2 of the Act states that a minister of state can be appointed to formulate and develop “new and comprehensive policies in relation to any matter or matters coming within the responsibility of the Government of Canada.”⁽⁴⁾ Section 2 also articulates that a ministry of state, i.e., “a special portion of the federal public administration,” may be established to support the development of this new policy framework. The minister of state would then be responsible for presiding over the ministry. However, the legislation does not specify whether the ministry of state would be located within another department, or on its own. Finally, according to section 10, the minister of state must also submit a report to Parliament on the operations of the ministry for that fiscal year.⁽⁵⁾

Second, pursuant to section 11(1) of the Act, a minister of state may also be appointed to assist any minister or ministers in carrying out the responsibilities of their department or any other portion of the federal public administration.⁽⁶⁾ However, the specific role and duties of ministers of state assigned to assist portfolio ministers vary with the government of the day.

Under some governments, including the current government, ministers of state assisting portfolio ministers are called secretaries of state. Secretaries of state are responsible for representing their minister or the government at events; attending meetings with stakeholders and other groups; demonstrating policy leadership on one or more specific initiatives in relation to their departmental assignment; and appearing on behalf of their minister in Parliament.⁽⁷⁾ The portfolio minister may also ask the minister of state to assist in other specific priorities and

(3) R.S. 1985, c. M-8, s. 2.

(4) R.S. 1985, c. M-8, s. 2.

(5) R.S. 1985, c. M-8, s. 10.

(6) R.S. 1985, c. M-8, s. 11(1).

(7) Government of Canada, *Accountable Government: A Guide for Ministers and Secretaries of State*, 2007, p. 8, http://pm.gc.ca/grfx/docs/guidemin_e.pdf.

tasks related to the portfolio.⁽⁸⁾ However, it is the portfolio minister that remains legally responsible and accountable for the entire portfolio. Currently, secretaries of state are not members of the Cabinet, but are part of the ministry and attend meetings of the Cabinet committee that are relevant to their area of assigned responsibility.⁽⁹⁾

According to the Treasury Board of Canada Secretariat, the total budget of secretaries of state can range from \$90,000 to \$642,590 and is determined by written communication from the prime minister.⁽¹⁰⁾ Secretaries of state have their own office employees, who share their political commitment and provide advice and expertise in different areas.⁽¹¹⁾ However, these employees are not public servants under the Public Service Commission.

PAST AND PRESENT FEDERAL MINISTERS OF STATE FOR SUBPOPULATIONS

There are two examples of federal ministers of state being appointed to represent the interests and needs of Canadian subpopulations. However, in both cases, these ministers of state have been appointed to assist other ministers in their portfolio duties. A minister of state responsible for a Canadian subpopulation has yet to be assigned responsibility for a ministry of state as permitted by section 2 of the *Ministries and Ministers of State Act*.

A. Minister of State for Children and Youth

From 12 December 2003 to 19 July 2004, the Honourable Ethel Blondin-Andrew served as Minister of State for Children and Youth under former prime minister Paul Martin. Blondin-Andrew was appointed to assist both the minister of Social Development and the minister of Human Resources and Skills Development under section 11 of the *Ministries and Ministers of State Act*.⁽¹²⁾ She also served as a full member of Paul Martin's Cabinet.

(8) Ibid.

(9) Ibid.

(10) Treasury Board of Canada Secretariat, "Policies and Guidelines for Ministers' Offices," http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/mg-ldm/gfmo12_e.asp (accessed 20 February 2008).

(11) Government of Canada (2007), *Accountable Government*, p. 37.

(12) Prime Minister's Office, Order in Council 2003-2020, *Ministries and Ministers of State Act*, 12 December 2003, <http://www.pco-bcp.gc.ca/oic-ddc/OIC-DDC.asp?LANG=EN&TXTOICID=&TXTFROMDATE=&TXTTODATE=&TXTPRECIS=BLONDIN&TXTDEPARTMENT=&CBODEPARTMENT=&TXTACT=&TXTCHAPTERNO=&TXTCHAPTERYEAR=&TXTBILLNO=&RDOCOM>

Prior to her appointment as Minister of State for Children and Youth, Blondin-Andrew served as Secretary of State for Children and Youth under former prime minister Jean Chrétien from 11 June 1997 to 12 December 2003. As Secretary of State for Children and Youth, Blondin-Andrew was assigned to assist the minister of Human Resources Development and was not a member of Cabinet.⁽¹³⁾ During her tenure as Secretary of State for Children and Youth, she played a key role in creating Youth Service Canada and the Youth Employment Strategy, two national initiatives aimed at increasing the employability of Canada's youth.⁽¹⁴⁾

B. Secretary of State for Seniors

On 4 January 2007, Senator Marjory LeBreton was appointed as Secretary of State for Seniors by Prime Minister Stephen Harper. Senator LeBreton was appointed under section 11 of the *Ministries and Ministers of State Act* to assist the minister of Human Resources and Social Development in carrying out his responsibilities.⁽¹⁵⁾ As Senator LeBreton serves as Leader of the Government in the Senate, she is also a member of Cabinet and chairs the Cabinet Committee on Social Affairs.

Prime Minister Harper appointed a Secretary of State for Seniors in recognition of the increasing importance of seniors in Canadian society.⁽¹⁶⁾ The Prime Minister articulated in a

[INGINTOFORCE=&DOSEARCH=RECHERCHE+%2F+LISTE&PAGE=1&OICKey=61246&viewattach=5426](#) (accessed 21 February 2008).

- (13) Prime Minister's Office, Order in Council 1997-815, *Ministry and Ministers of State Act*, 11 June 1997, <http://www.pco-bcp.gc.ca/oic-ddc/oic-ddc.asp?LANG=EN&TXTOICID=&TXTFROMDATE=&TXTTODATE=&TXTPRECIS=BLONDIN&TXTDEPARTMENT=&CBODEPARTMENT=&TXTACT=&TXTCHAPTERNO=&TXTCHAPTERYEAR=&TXTBILLNO=&RDOCOMINGINTOFORCE=&DOSEARCH=RECHERCHE+%2F+LISTE&PAGE=1> (accessed 21 February 2008).
- (14) M2 Presswire Factiva, "UN: Ethel Blondin-Andrew of Canada elected Chairperson of Main Committee of Youth Conference," 11 August 1998.
- (15) Prime Minister's Office, Order in Council 2007-0003, *Ministry and Ministers of State Act*, 4 January 2007, <http://www.pco-bcp.gc.ca/oic-ddc/OIC-DDC.asp?lang=EN&txtOICID=&txtFromDate=&txtToDate=&txtPrecis=Lebreton&txtDepartment=&cboDepartment=&txtAct=&txtChapterNo=&txtChapterYear=&txtBillNo=&rdoComingIntoForce=&DoSearch=Search+%2F+List&OICKey=67926> (accessed 21 February 2008). It is important to note that, according to the Order in Council, Senator LeBreton was appointed to assist the minister of Human Resources and Skills Development; this ministry is now referred to as Human Resources and Social Development.
- (16) Prime Minister's Office, "Prime Minister Stephen Harper announces appointment of Senator Marjory LeBreton as Secretary of State (Seniors)," News release, 4 January 2007, <http://pm.gc.ca/eng/media.asp?category=1&id=1482> (accessed 20 February 2008).

press release that the Secretary of State for Seniors is responsible for serving as an advocate for senior citizens.⁽¹⁷⁾

Since her appointment, Senator LeBreton has established the National Seniors Council. The mandate of the Council is to advise the Government of Canada on current and emerging issues affecting seniors, to commission research and expert panels on seniors' issues, and to consult with a variety of stakeholders.⁽¹⁸⁾ The Council is made up of 12 members who are appointed for one- to three-year terms. The Council reports to the minister of Human Resources and Social Development, the minister of Health, and the Secretary of State for Seniors. The Secretary of State is responsible for supporting the day-to-day activities of the Council.

POTENTIAL ROLES AND RESPONSIBILITIES OF A FUTURE MINISTER OF STATE FOR CHILDREN

The roles and responsibilities of a minister of state for children would depend on whether the minister is appointed by the Governor in Council to preside over a ministry for children, or to assist a minister or ministers in the fulfilment of portfolio duties. The specific mandate of the minister of state for children would ultimately be determined by the prime minister of the day.

However, in either case, the roles and responsibilities of a minister of state for children could include the following:

- monitoring and advocating for federal programs, policies and services for children
- promoting interdepartmental cooperation and policy coherence
- facilitating federal/provincial/territorial cooperation on children's issues
- undertaking policy research and development
- promoting the United Nations *Convention on the Rights of the Child*.

(17) Ibid.

(18) National Seniors Council, "About Us," http://www.seniorscouncil.gc.ca/en/about_us/index.shtml (accessed 20 February 2008).

A more detailed description of each of these roles and responsibilities is given below.

A. Monitor and Advocate for Federal Programs, Policies and Services for Children

A minister of state for children could monitor and advocate on behalf of the many policies, programs and services currently offered by the federal government for children, outlined below.

1. Federal/Provincial and Territorial Transfer Programs⁽¹⁹⁾

Although education and child care fall under provincial and territorial jurisdiction, the federal government plays a significant role in early childhood education and child care through transfer payments to the provinces and territories that are directed toward children's services.

- The National Child Benefit is a partnership initiative involving the federal government, the provincial and territorial governments and First Nations to reduce the depth of child poverty. It consists of the National Child Benefit Supplement (a monthly payment from the federal government to low-income families with children) as well increased benefits and services provided to children of low-income families by provincial, territorial and First Nations governments.
- The Early Childhood Development Initiative is a transfer program in which the federal government transfers funds through the Canada Social Transfer so that provincial and territorial governments may invest in the promotion of healthy pregnancy, birth and infancy, and in parenting and family supports, early childhood development, learning, and care and community supports.
- The Multilateral Framework on Early Learning and Child Care includes a federal funding transfer to the provinces and territories that enables them to increase the number of child care and preschool spaces available, improve the quality of child care and preschool services, and reduce the costs of child care services for families with low or modest incomes.
- The Universal Child Care Benefit is a monthly federal transfer to families of \$100 per child under the age of six to help with the cost of child care, regardless of income.

(19) Unless otherwise noted, this subsection is drawn from Cool (2007).

- The Community Child Care Investment Program provides the provinces and territories with \$250 million a year to support the creation of child care spaces.

2. Federal Childhood Programs for First Nations, Military Families and Immigrants and Refugees

The federal government also plays a direct role in providing education and children's services to certain subpopulations: Aboriginal peoples, including First Nations living on reserves; military families living on bases; and immigrants and refugees.⁽²⁰⁾ Some examples of these federal programs are outlined in Table 1.⁽²¹⁾

Table 1 – Some Federal Programs for Childhood Development

Department	Program/Service	Goals/Objectives	Target Population
Health Canada, Human Resources and Social Development Canada, Indian and Northern Affairs Canada, and the Public Health Agency of Canada	Federal Strategy on Early Childhood Development for First Nations and Other Aboriginal Children	Five-year funding (starting in 2002) to address the gap in life opportunities between Aboriginal and non-Aboriginal children.	Aboriginal children, through Aboriginal organizations and community child care providers.
Citizenship and Immigration	Component of Language Instruction for Newcomers to Canada (LINC)	Helps parents or legal guardians attend LINC classes by covering the cost of either licensed day care or on-site child care.	Newcomers to Canada who have children and are registered in LINC programs.
Department of National Defence/ Canadian Forces	Military Family Resource Centres: emergency and emergency respite child care, and other child development programs	To promote and facilitate community-based military family services that strengthen Canadian Forces families and communities.	Canadian Forces members and their families, especially those living in military communities.

3. Maternal Health Programs

(20) Ibid., p. 2.

(21) For a full description of all the federal government's programs for children, please consult: Human Resources and Social Development Canada, Public Health Agency of Canada, Indian and Northern Affairs Canada, "Government of Canada Reports 2004–2005 and 2005–2006: Early Childhood Development Activities and Expenditures and Early Learning and Child Care Activities and Expenditures," 2007, <http://www.socialunion.ca> (accessed 20 February 2008).

The federal government also delivers programs in support of maternal health, including care for women at the preconception, prenatal and postnatal stages. The government provides maternal health programs geared toward the general population, as well as those that target Aboriginal peoples, military families, immigrants and refugees. The following table summarizes some of the key programs targeting maternal health in the general population.⁽²²⁾

Table 2 – Federal Programs for the Promotion of Maternal Health

Federal Department	Program/Service	Goal/Objective	Target Population
Human Resources and Social Development Canada	Maternity and Parental Benefits related to Employment Insurance (EI)	Provide temporary income replacement for working parents of newborn or newly adopted children. Support parents in balancing the demands of work and family by providing the flexibility to stay home during the child's first year of life.	Mothers eligible for EI in the 15 weeks surrounding childbirth. Parents eligible for access to 35 weeks of parental benefits under EI.
Public Health Agency of Canada	Canada Prenatal Nutrition Program (CPNP)	Fund community agencies and coalitions to increase access to health and social supports for women who face challenging circumstances that threaten their health and the development of their infants. Increase the availability of culturally appropriate prenatal services for Aboriginal women living apart	Pregnant women and women with infants up to one year of age. Estimated 50,000 women at 330 CPNP project sites in 2005–2006.

(22) This information is derived from the following document: Human Resources and Social Development Canada, Public Health Agency of Canada, Indian and Northern Affairs Canada, "Government of Canada Reports 2004–2005 and 2005–2006: Early Childhood Development Activities and Expenditures and Early Learning and Child Care Activities and Expenditures," 2007, <http://www.socialunion.ca> (accessed 20 February 2008). This document provides further information regarding these programs, as well as other maternal health programs targeting First Nations, military families, immigrants and refugees.

Federal Department	Program/Service	Goal/Objective	Target Population
Public Health Agency of Canada (cont'd)	Canada Prenatal Nutrition Program (CPNP) (cont'd)	from First Nations and Inuit communities. Include activities such as provision of food supplements; nutrition and health practices counselling; education about breastfeeding, infant attachment; etc.	
Public Health Agency of Canada	National Fetal Alcohol Spectrum Disorder (FASD) Initiative	Coordinate work with stakeholders to prevent future births affected by alcohol, and improve outcomes for those affected by prenatal alcohol exposure. Support prevention, public and professional education and training, capacity building, development of practical tools and resources, and national leadership/coordination.	No provision of direct services to children and families affected by FASD.

4. United Nations *Convention on the Rights of the Child*

In addition to providing programs and services to children and their parents, the Government of Canada is obligated under international law to uphold the United Nations *Convention on the Rights of the Child*,⁽²³⁾ which it ratified in 1991. Through its articles, the Convention grants children:

- the basic rights to life, survival and development to their full potential;
- the right to participate and have an active voice in society;

(23) UNICEF, “Convention on the Rights of the Child,” http://www.unicef.org/crc/index_30177.html (accessed 26 February 2008).

- the right to be protected from all forms of abuse, including neglect, exploitation and cruelty; and
- the right to special protection in times of war and protection from abuse in the criminal justice system.

Since ratifying the convention, Canada has established 20 November as National Child Day to celebrate children and raise awareness of the Convention.⁽²⁴⁾ Every five years, Canada must also report to the United Nations Committee on the Rights of the Child regarding its progress toward the implementation of the Convention.⁽²⁵⁾

The Government of Canada has also recently created an Interdepartmental Working Group on Children's Rights co-chaired by the Public Health Agency of Canada and the Department of Justice.⁽²⁶⁾ This working group is responsible for:

- promoting a whole-of-government approach to children's rights
- encouraging linkages among departments with policies affecting children
- promoting awareness of the Convention
- collaborating on federal submissions to the UN Committee of the Rights of the Child.

B. Promote Interdepartmental Cooperation and Policy Coherence

In view of the fact that many of the programs, policy initiatives and services outlined above are dispersed across various government departments, a minister of state for children could also be responsible for ensuring policy coherence and coordination across federal government departments with respect to children's programs and policies.

C. Facilitate Federal/Provincial/Territorial Cooperation on Children's Issues

The minister of state for children could also provide federal leadership in promoting intergovernmental cooperation on children's issues. In 1996, Canada's first ministers

(24) Government of Canada (2004), *A Canada Fit for Children*, p. 6.

(25) The most recent report submitted by the Government of Canada is *A Canada Fit for Children* (2004).

(26) Government of Canada, "Government of Canada's Response to the Standing Senate Committee on Human Rights Report: 'Children: The Silenced Citizens Effective Implementation of Canada's International Obligations with Respect to the Rights of Children,'" 2007, p. 7.

established the well-being of children and families as a priority for joint action.⁽²⁷⁾ This led the federal, provincial and territorial governments to develop the National Children's Agenda, a framework for ensuring that children in Canada have the best possible start in life and the necessary opportunities to realize their full potential.⁽²⁸⁾ The agenda identifies six areas for potential collaboration:

- enhancing early childhood development
- supporting parents and families
- improving income security for families
- providing continuous early learning experiences
- promoting healthy adolescent development
- creating safe, violence-free communities.

The National Children's Agenda led to the establishment of the Early Childhood Development Agreement, which provides for benefits and services to children under the age of six.⁽²⁹⁾ A minister of state for children could promote cooperation between the federal, provincial and territorial governments to develop similar collaborative initiatives in the priority areas outlined in the National Children's Agenda.

D. Conduct Policy Research and Development

The current National Seniors Council working under the Secretary of State for Seniors has been appointed to commission research examining emerging issues affecting seniors. Similarly, a minister of state for children could also be responsible for commissioning research that examines new trends affecting children. Moreover, a minister of state could also

(27) Government of Canada (2004), *A Canada Fit for Children*, p. 7.

(28) Ibid.

(29) For further information regarding this initiative please consult section A.1 above on federal/provincial transfer programs for children.

commission research in support of the development of new policy initiatives geared toward children.

E. Promote the United Nations *Convention on the Rights of the Child*

Finally, a minister of state for children could work with the existing Interdepartmental Working Group on the Rights of the Child to promote awareness and understanding of Canada's obligations under the United Nations *Convention on the Rights of the Child*. Given that many of the federal government's policies, programs and services for children support its implementation, the Convention could function as a focal point for the minister of state's activities.⁽³⁰⁾ Furthermore, a minister of state for children could also represent Canada at international events focusing on children's issues, such as the United Nations General Assembly Special Session on Children, which was last held in May 2002.

PROVINCIAL MINISTERS AND MINISTERS OF STATE FOR CHILDREN

Provincial examples of ministers and ministers of state for children can also lend insight into the potential mandate, role and responsibilities of a federal minister of state for children. The appointment of ministers and ministers of state for children at the provincial level also illustrates that children's issues and policies are seen as warranting a separate political and administrative voice.

Three provinces have established ministers and ministries dedicated solely to children and children's services: Ontario, British Columbia and Alberta. British Columbia is also the only province that has appointed a Minister of State for Child Care.

Table 3 outlines the mandate and roles and responsibilities of ministers and ministers of state dedicated to represent children and children's issues in these provinces.

(30) Government of Canada (2004), *A Canada Fit for Children*, pp. 42–52.

Table 3 – Roles and Responsibilities of Provincial Ministers of State for Children

Province	Department	Type of Minister	Mandate
Ontario ⁽³¹⁾	Ministry of Children and Youth Services	Departmental Minister	To work with other ministries and community partners to develop and implement policies, programs and a service system that helps give children the best possible start in life, prepares youth to become productive adults and makes it easier for families to access the services they need at all stages of a child's development.
Alberta ⁽³²⁾	Ministry of Alberta Children's Services	Departmental Minister	<p>Ensure parents have access to quality, affordable child care options.</p> <p>Continue to implement the Prevention of Family Violence and Bullying Initiative.</p> <p>Focus on improving outcomes for children in care or in need of specialized services, including Aboriginal children and children with disabilities.</p>
British Columbia ⁽³³⁾	Ministry of Children and Family Development	Departmental Minister	<p>Advance the safety and well-being of children, youth and adults.</p> <p>Advance early childhood development through strategic investments.</p> <p>Advance and support a community-based system of family services that promotes innovation, equity and accountability.</p>
		Minister of State for Child Care	<p>Develop and implement an action plan to maximize the benefits of federal contributions for child care and prepare a strategy for transition to an appropriate level of provincial funding.</p> <p>Collaborate with the Ministers of Advanced Education, Health and Education to explore the potential for a pilot program for parents of children with autism.</p>

(31) Government of Ontario, "About the Ministry,"

<http://www.gov.on.ca/children/english/ministry/index.html> (accessed 25 February 2008).

(32) Government of Alberta Office of the Premier, Letter to the Honourable Janis Tarchuk, Minister of Children's Services, 15 December 2006, http://www.premier.alberta.ca/pics/Childrens_Services.pdf (accessed 26 February 2008).

(33) Ministry of Children and Family Development, "Ministry Overview,"

http://www.mcf.gov.bc.ca/about_us/overview.htm (accessed 26 February 2008); and "Message from the Minister of State for Child Care," <http://www.bcbudget.gov.bc.ca/2007/sp/cfd/default.aspx?hash=2> (accessed 26 February 2008).

INTERNATIONAL COMPARISONS: FEDERAL WESTERN DEMOCRACIES

Similarly, it is important to note that other federal Western democracies have established mechanisms to provide federal leadership on children's issues. Although there are currently no ministers or ministers of state dedicated to children or children's issues in other western federal states, the United States, Austria, Germany, Switzerland, and Australia all have sections of departments or commissions dedicated to policy development with respect to children's issues.⁽³⁴⁾

In most of these countries, policies, programs and services for children are under the jurisdiction of both the federal and state governments. In most cases, the federal governments are solely responsible for policy development and legislation, while states, cantons or provinces are responsible for the implementation of national children's policies and legislation.

This differs somewhat from the situation in Canada, where jurisdiction with respect to social policy is less clear cut.⁽³⁵⁾ Under articles 92 and 93 of *The Constitution Act, 1986*, the provinces have legislative jurisdiction over the delivery of social services affecting children, specifically primary education and health care.⁽³⁶⁾ However, the federal government is also able to exercise jurisdiction over social policy and programs through its expenditure power.

Although spending power has not been expressly articulated in any legislation, constitutional experts and the Supreme Court of Canada have recognized that the federal government has the power to raise taxes and spend the funds as it sees fit under section 91(3) of *The Constitution Act, 1867*.⁽³⁷⁾ Consequently, the federal government has often used this expenditure power to invest in social programs, either independently or jointly with the provinces and territories. This practice is not unconstitutional, as long as the federal government does not legislate directly in the areas of provincial and territorial jurisdiction.⁽³⁸⁾

(34) Belgium was also examined, but was excluded from this paper because it does not have a department or any other advisory body at the federal level that deals with children's issues.

(35) It is important to note that the exception to this is Aboriginal children living on reserves, which fall specifically under federal jurisdiction. Robert B. Asselin, *The Canadian Social Union: Questions About the Division of Powers and Fiscal Federalism*, PRB 00-31E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 18 January 2001, p. 5, <http://lpintrabp.parl.gc.ca/lopimages2/prbpubs/bp1000/prb0031-e.asp>.

(36) *Ibid.*, p. 8.

(37) *Ibid.*, p. 7.

(38) *Ibid.*, p. 7.

In light of the separation of legislative authority over social affairs in Canada, Australia could perhaps serve as the best example in comparing federal responses to children's issues. In Australia, children's services are under the jurisdiction of both federal and state governments. At the federal level, children's policies, programs and services are the responsibility of the Minister and Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). The Australian government has also appointed a Parliamentary Secretary for Children's Services. Parliamentary secretaries are appointed to assist ministers in their administrative or parliamentary duties but are considered junior to ministers of state.⁽³⁹⁾ Within FaHCSIA, the Parliamentary Secretary for Children's Services is responsible for providing policy advice and research on children's services, as well as managing the provision of quality children's services in Australia through training programs, quality assurance, funding, and operational support.⁽⁴⁰⁾

However, the current Australian government has also appointed a Parliamentary Secretary for Early Childhood Education and Child Care. This is of greater significance, because, as in Canada, early childhood education is under state and territorial jurisdiction rather than federal jurisdiction. The appointment of a Parliamentary Secretary for Early Childhood Education and Childcare reflects the current government's key priority of improving access to early childhood education.⁽⁴¹⁾ The government plans to work with the states and territories to ensure that every four-year-old has access to 15 hours of fun, play-based early education a week for 40 weeks a year.⁽⁴²⁾

Thus, the appointment of a Parliamentary Secretary for Early Childhood Education in Australia serves as an example where a federal state has appointed a minister to support a children's initiative in an area that does not fall under its direct legislative responsibility. Like Canada, the federal government in Australia has historically also used its expenditure power to become active in social policy, which is mainly under the jurisdiction of the states and territories.⁽⁴³⁾

(39) Chamber Research Office, "House of Representatives Infosheet: The Australian System of Government," No. 20, December 2004, p. 3, <http://www.aph.gov.au/house/info/infosheets/is20.pdf> (accessed 3 March 2008).

(40) Department of Families, Housing, Community Services and Indigenous Affairs, "Child Care," <http://www.facsia.gov.au/internet/facsinternet.nsf/childcare/nav.htm> (accessed 29 February 2008).

(41) Prime Minister of Australia, "Education Revolution," <http://www.pm.gov.au/topics/education.cfm> (accessed 29 February 2008).

(42) Ibid.

(43) Joan Rydon, "The Australian Tradition of Federalism and Federation," in *Comparative Federalism and Federation*, eds. Michael Burgess and Alain-G. Gagnon, Harvester Wheatsheaf, London, 1993, p. 235.

An overview of how other federal Western democracies, including Switzerland, Austria, Germany and the United States, develop and implement children's policies, programs and services is provided in the sections below.

A. Switzerland

Under the Swiss Constitution, the federal government and the cantons have joint responsibility for the development of child and youth policy. However, the principle of subsidiarity is followed, whereby the federal government cedes most of the responsibilities for child and youth policies to the most local level of government.⁽⁴⁴⁾ Consequently, the federal government facilitates rather than provides child health, social and educational services, which generally fall to the cantons. The two areas that remain the responsibility of the federal government alone are the implementation of the United Nations *Convention on the Rights of the Child* and child protection.

Under the minister of Home Affairs, the Federal Social Insurance Office has primary responsibility for children's issues and policies, although nine other federal administrative units also play a role in children's affairs at the federal level. The Swiss cantons each have commissioners who advocate for the protection of the rights of children and youth.

B. The Federal Republic of Austria

In Austria, children's policies, programs and services are under both federal and state jurisdiction. At the federal level, children's issues are the responsibility of the Austrian minister and ministry of Health, Family and Youth. However, children's issues do not represent a distinct policy domain. Instead, they fall under the category of family, youth, or health policy and are not represented by a separate minister or minister of state. The federal government is responsible for providing financial support for child care through direct payment to families; legislating in the area of child welfare, health and well-being, and education; and ensuring the implementation of the United Nations *Convention on the Rights of the Child*.⁽⁴⁵⁾ In addition, the federal government undertakes initiatives on specific issues affecting children and youth, such as child abuse, prevention of sexually transmitted diseases, and new media.

(44) Confederation of Switzerland, "Features of Swiss child and youth policy," http://www.bsv.admin.ch/themen/kinder_jugend_alter/00065/01091/index.html?lang=en (accessed 29 February 2008).

(45) Bundesministerium für Gesundheit, Familie und Jugend, "Jugendpolitik in Österreich – Ein kurzer Überblick," <http://www.bmgfj.gv.at/cms/site/attachments/5/6/2/CH0544/CMS1201179877152/jugendpolitik.pdf> (accessed 29 February 2008).

Meanwhile, provincial governments in Austria are responsible for providing services that promote the health and well-being of children and their mothers, lobbying on behalf of children, and legislating in the area of child protection (e.g., safety regulations regarding school and playgrounds, alcohol and nicotine consumption etc.).

C. The Federal Republic of Germany

In Germany, children's policies, programs and services are under the jurisdiction of both the federal government and the provinces (*Länder*). The federal government is responsible for legislating on children's issues, but the provinces are responsible for implementing the legislation through the provision of programs and services for children, following the principle of subsidiarity. At the federal level, children's policy is the responsibility of the minister and ministry of families, seniors, women and youth. Although Germany does not have a minister or minister of state dedicated specifically to children, it does recognize children's issues as a distinctive policy area.⁽⁴⁶⁾ As such, it has developed a national framework for its children's policy to be implemented between 2005 and 2010.⁽⁴⁷⁾

D. United States

The provision of social services for children is under both federal and state jurisdiction in the United States, although primary education is the responsibility of the states. With respect to social services for children, the federal government is responsible for providing national leadership and direction in planning, managing and coordinating comprehensive and supportive programs for vulnerable children and their families through the Administration for Children and Families, a division of the US Department of Health and Human Services.⁽⁴⁸⁾ The Administration for Children and Families is run by the Assistant Secretary for Children and Families, who reports to the Secretary of Health and Human Services. It is, however, the states that are responsible for the delivery of federal social services for children.

(46) Bundesministerium für Familie, Senioren, Frauen und Jugend, "National Report on Follow-up to the 1990 World Summit for Children," September 2001, p. 6, http://www.unicef.org/specialsession/how_country/edr_germany_en.pdf (accessed 29 February 2008).

(47) Bundesministerium für Familie, Senioren, Frauen und Jugend, "Nationaler Aktionsplan 'Für ein kindergerechtes Deutschland 2005–2010' (NAP)," <http://www.bmfsfj.de/bmfsfj/generator/Politikbereiche/kinder-und-jugend.did=31372.html> (accessed 29 February 2008).

(48) US Department of Health and Human Services, "Fact Sheet: Administration for Children and Families (ACF)," http://www.acf.hhs.gov/opa/fact_sheets/acf_printable.html (accessed 3 March 2008).

ISSUES AND OPTIONS

The appointment of a minister of state to monitor and develop policies on behalf of children would have both advantages and disadvantages. On the plus side, a minister of state would be able to give children's needs and interests a strong voice in Parliament and Cabinet. A minister of state would also have access to the resources of the public service, either through the creation of a ministry of state, or by operating within the context of an existing government department.

However, the appointment of a minister of state would not ensure that children's needs and interests will remain a priority for the Government of Canada over the long term. A prime minister can decide, at any time, to dispense with a particular ministry or minister of state. As political appointees, ministers of state can be dismissed or replaced, sometimes along with their ministries, with the election of a new government. Therefore, their policy initiatives may not be enduring.

Consequently, it is important to examine other options that could also serve to provide leadership on children's issues, perhaps in a more consistent way.

A. A Federal Children's Commissioner

An alternative to a minister of state for children could be a children's commissioner appointed as an officer of Parliament. Officers of Parliament are independent from the government of the day, reporting directly to Parliament rather than to the government or a federal minister. Although there is currently no legal definition of officers of Parliament, their main function is to support Parliament in its accountability and scrutiny functions, as well as carrying out other tasks.⁽⁴⁹⁾ They are appointed by the Governor in Council, but in consultation with the leaders of every organized party in the Senate and the House of Commons. Further, their duties are assigned by statute, and they report to either one or both houses of Parliament. The duration of their terms ranges approximately from seven to ten years. Some current examples of officers of Parliament include the auditor general, the chief electoral officer, the commissioner of official languages, and the privacy commissioner.⁽⁵⁰⁾

(49) Élise Hurtubise-Loranger and James R. Robertson, *Appointment of Officers of Parliament*, TIPS-24E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 17 September 2007, <http://lpintrabp.parl.gc.ca/apps/tips/tips-cont-e.asp?Heading=16&TIP=40> (accessed 3 March 2008).

(50) For full explanation of the roles and responsibilities of these officers of Parliament, please consult Hurtubise-Loranger and Robertson (2007).

Possible roles and responsibilities of a children's commissioner, as an officer of Parliament, have recently been outlined by the Standing Senate Committee on Human Rights in their 2007 report, *Children: the Silenced Citizens: Effective Implementation of Canada's International Obligations with respect to the Rights of Children*. The report recommended the appointment of an officer of Parliament titled "children's commissioner" to conduct "ongoing examinations of federal legislation, services and funding for programs affecting children and their rights," as well as to make recommendations, assessments and criticisms.⁽⁵¹⁾ According to the report, the children's commissioner would also act as an ombudsman, conducting independent investigations into systemic issues and broad policies regarding children, as well as advocating and raising awareness on behalf of the needs and interests of children.⁽⁵²⁾

Finally, the children's commissioner could also serve as a liaison between provincial children's advocates to coordinate the protection of children's rights at both the federal and provincial levels.⁽⁵³⁾ Currently, nine of Canada's provinces have children's advocates or ombudsmen. In general, their main function is to advocate on behalf of children and youth to ensure that their rights are respected in communities, government practice, policy and legislation.⁽⁵⁴⁾ Five of the provincially appointed children's advocates have collaborated in forming the Canadian Council of Provincial Child and Youth Advocates (CCPCYA) to identify issues of mutual concern, as well as to develop ways to address these issues at the national level.⁽⁵⁵⁾

Table 4 outlines the mandate, legislative basis and reporting arrangements of the provincial children's advocates.⁽⁵⁶⁾

(51) The Standing Senate Committee on Human Rights, *Children: The Silenced Citizens: Effective Implementation of Canada's International Obligations With Respect to the Rights of Children*, April 2007, http://www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep10apr07-e.htm#Table_of_Contents (accessed 3 March 2008).

(52) Ibid.

(53) Ibid.

(54) Canadian Council of Provincial Child and Youth Advocates, "Information Brochure," p. 1, http://provincialadvocate.on.ca/main/en/ccpcya/info_brochure.html (accessed 29 February 2008).

(55) Ibid.

(56) Unless otherwise noted, this table is based upon the CCPCYA, "Information Brochure," p. 1, http://provincialadvocate.on.ca/main/en/ccpcya/info_brochure.html (accessed 29 February 2008).

Table 4 – Mandate, Legislative Basis and Reporting Arrangements of Provincial Children’s Advocates

Province	Title	Legislation	Reporting Arrangement	General Mandate
Alberta	Child and Youth Advocate	<i>The Child Welfare Act</i>	Reports to the minister of Children’s Services	Works to ensure the rights of children and youth are respected in government practice, policy and legislation.
British Columbia	Children and Youth Officer	<i>Office for Children and Youth Act</i>	Reports through the attorney general	
Manitoba	Children’s Advocate	<i>The Child and Family Services Act</i>	Reports to the provincial legislature	Promotes the interests of children who have concerns about provincial services.
New Brunswick	Youth and Child Advocate	<i>Child and Youth Advocate Act</i>	Reports to the provincial legislature	
Newfoundland	Child and Youth Advocate	<i>Child and Youth Advocate Act</i>	Reports through the provincial legislature	Engages in public education.
Nova Scotia	Representative of the Ombudsman for Children and Youth	<i>Ombudsman Act</i>	Reports through the ombudsman, who reports to the provincial legislature	Works to resolve disputes and conduct independent investigations.
Ontario	Advocate for Children and Youth	<i>Child and Family Services Act</i>	Reports to the minister of Children and Youth Services	Recommends improvements of programs for children to the government and/or assembly.
Quebec	Commission des droits de la personne et des droits de la jeunesse	<i>Charte des droits et libertés de la personne</i> <i>Loi sur la protection de la jeunesse</i>	Reports directly to the National Assembly	The Quebec Commission also works to ensure that the principles set fourth in the Quebec Charter are also upheld.
Saskatchewan	Children’s Advocate	<i>The Ombudsman and Children’s Advocate Act</i>	Reports to the provincial legislature	

Thus, a children's commissioner could undertake many of the same tasks as a minister of state for children, such as monitoring, advocacy and making policy recommendations, without facing the political constraints of a minister of state.

However, the two need not be mutually exclusive: the appointment of a commissioner for children could complement a minister of state for children.⁽⁵⁷⁾ While a minister of state for children could be responsible for implementing the government's agenda for children, a commissioner or ombudsman could in turn monitor the government's effectiveness and serve as an advocate for children.⁽⁵⁸⁾

B. Ombudsman for Children as Ministerial Advisor

Although a children's ombudsman or commissioner could be appointed as an officer of Parliament, they could also be appointed as an adviser to a minister within a federal government department.⁽⁵⁹⁾ It is the practice of the current government to appoint ombudsmen as special advisers to the minister pursuant to paragraph 127.1(1)(c) of the *Public Service Employment Act*.⁽⁶⁰⁾ Current examples include the veterans' ombudsman, the federal ombudsman for victims of crime, and the taxpayers' ombudsman.

As a special adviser, the ombudsman retains the same role, namely to conduct objective independent investigations into complaints against government agencies and other organizations and make recommendations to the organization in order to resolve the problem.⁽⁶¹⁾ However, as a special adviser within a department, the ombudsman reports to the minister of the department, rather than to Parliament.

(57) UNICEF, "Independent Institutions Protecting Children's Rights," *Innocenti Digest*, No. 8, June 2007, p. 12.

(58) *Ibid.*

(59) Forum of Canadian Ombudsman, "What is an 'Ombudsman'?" http://www.ombudsmanforum.ca/whatis_e.asp (accessed 3 March 2008).

(60) Prime Minister's Office, Order in Council 2008-0296, *Public Service Employment Act*, 15 February 2008, <http://www.pco-bcp.gc.ca/oic-ddc/OIC-DDC.asp?lang=EN&txtOICID=&txtFromDate=&txtToDate=&txtPrecis=Ombudsman&txtDepartment=&cboDepartment=&txtAct=&txtChapterNo=&txtChapterYear=&txtBillNo=&rdoComingIntoForce=&DoSearch=Search+%2F+List&OICKey=70548&viewattach=18199> (accessed 3 March 2008).

(61) *Ibid.*

Yet an ombudsman appointed as a special adviser may not enjoy the same powers of an independent ombudsman.⁽⁶²⁾ For example, Norway's ombudsman for children is under the administrative control of the ministry for children and family affairs. As a result, Reidar Hjermann, the current Norwegian Ombudsman for Children, has been limited in his ability to criticize government policy.⁽⁶³⁾ During his appearance before the Standing Senate Committee on Human Rights, Hjermann testified that he was notified by the ministry that he was unable to comment on the government's provision of baby bonuses to parents who keep their children out of preschool, as they were considered of a political nature.⁽⁶⁴⁾ Thus, an ombudsman appointed as a special advisor can face political constraints, as could a minister of state for children.

C. National Advisory Council for Children's Issues

Another alternative, or complement, to the appointment of a minister of state for children could be the creation of an advisory council for children's issues. According to section 9(1) of the *Department of Human Resources and Skills Development Act* (R.S. 2005, c. 34, H-5.7), the minister "may establish advisory and other committees and provide for their membership, duties, functions and operation."⁽⁶⁵⁾ The department has currently appointed 12 such advisory councils, commissions and tribunals.⁽⁶⁶⁾

For example, the Minister of Human Resources and Social Development Canada appointed a National Seniors Council to advise the secretary of state for seniors and minister of Human Resources and Social Development on issues effecting seniors.⁽⁶⁷⁾ Similarly, the National Council of Welfare (NCW) was established in 1969 as an arms-length advisory body to the then minister of Health and Welfare, now the minister of Human Resources and Social Development. The NCW advises the minister on the needs and problems of low-income Canadians by publishing reports and functioning as a vehicle through which Canadians can make their point of view known to the government.⁽⁶⁸⁾

(62) The Standing Senate Committee on Human Rights (2007), *Children: The Silenced Citizens*.

(63) Ibid.

(64) Ibid.

(65) The department is now called the *Department of Human Resources and Social Development*, although its legislative basis, the *Department of Human Resources and Skills Development Act* (R.S. 2005, c. 34, H-5.7) remains the same.

(66) Department of Human Resources and Social Development Canada, "Governor in Council Appointments," http://www.hrsdc.gc.ca/en/corporate/about_us/public_appointments/index.shtml#12 (accessed 26 February 2008).

(67) National Seniors Council (2008).

(68) National Council of Welfare, "Mandate," <http://www.ncwcnbes.net/en/aboutus/mandate-mandat.html> (accessed 25 February 2008).

A similar federal advisory council could be appointed to support the work of the minister of state for children. In fact, special advisory councils for children's issues can be found in other federal states as well. For example, the Swiss Government established the extra-parliamentary Federal Commission of Child and Youth Affairs (CCYA) to monitor and analyze societal trends with regards to minors, as well as to develop policies and proposals that take into account their needs and interests.⁽⁶⁹⁾

Furthermore, some provinces and territories have also established special advisory councils to examine children's issues. For example, the Yukon minister of Health and Social Services established the Yukon Child Care Board to make recommendations to the minister on issues that pertain to child care.⁽⁷⁰⁾ The board also reviews policies, programs, services and administrative procedures of the Yukon Government as they affect child care. The Government of Quebec has also established *Le Conseil de la famille et de l'enfance*, an agency whose mandate is to examine future trends affecting children and families, as well as to advise the minister of Families on social policy.⁽⁷¹⁾

The main drawback of an advisory council is that its powers remain quite limited. Although advisory councils can make recommendations, the minister to whom the council reports has no obligation to adopt the council's recommendations. Equally, advisory councils also exist at the pleasure of the minister of the department; therefore, their duration and scope can be limited to particular short-term needs and interests, rather than extending to the development of long-term initiatives.

(69) Ibid.

(70) Yukon Health and Social Services, "Mandate," http://www.hss.gov.yk.ca/about/boards_committees/childcare/mandate (accessed 20 February 2008).

(71) Conseil de la famille et de l'enfance, "Pour assurer l'avenir," <http://www.cfe.gouv.qc.ca/> (accessed 23 February 2008).