

OECD's Programme of International Student Assessment (PISA) Does Not Include Canada

Ronald Sydney Phillips, Associate Professor, Education, Nipissing University

ABSTRACT

Canada's constitution, i.e., *Constitution Acts, 1867 and 1982*, assigned education to both the federal and the provincial/territorial governments. Despite this, the Organization for Economic Cooperation and Development (OECD) usually describes constitutional responsibility for education in Canada as being exclusive to the thirteen provinces and territories. This is simply not factual. OECD documents usually state something similar to 'constitutional responsibility for education in Canada is exclusive to the provinces and territories.' The result is that Canada's federal system of education of over 500 schools is ignored. Federal schools on First Nations throughout Canada are not included in OECD's Programme of International Student Assessment (PISA). The result is that Canada is not truly represented in OECD's PISA assessments, as well as other assessments. The absence of these schools, as well as incorrect statements regarding constitutional responsibilities for education, give a false impression of educational achievement in Canada. Serious questions must be asked of the OECD's country rankings and comparisons. This article examines the constitutional responsibilities of the federal government of Canada, as well as the impact of the misinformation on facts on Canadian education and the world community.

Key Words: *Council of Education Ministers, Canada (CMEC), Organization for Economic Cooperation and Development (OECD), Education in Canada, First Nation education*

Note: Names of departments and Indigenous groups have changed over the past 20+ years. Indian and Northern Affairs Canada (INAC)/Indigenous and Northern Affairs Canada (INAC) is now Indigenous Services Canada (ISC). Band-operated schools is now First Nation schools. Reserves are now First Nations Aboriginal/Native terms are now Indigenous.

METHOD

I went to the Council of Ministers of Education, Canada (CMEC) website (<https://www.cmec.ca/en/>) and clicked on 'Research and Publication' at the top of the page. There were 361 documents or reports listed. I went through each of the documents and reports, looking for statements regarding the constitutional education responsibilities of the federal government and the provinces/territories. Not surprisingly, considering the number of reports and documents, there were many similarities and exact wordings in many of the reports/documents in regards to provincial education's 'exclusive responsibility' and the 'Constitution Act, 1867'

The CMEC provides information on Canadian education to the OECD. The CMEC

website also includes OECD and Statistics Canada documents on Canadian education. Key words and phrases included the following: Constitution Act, 1867; Constitution Act, 1982; PISA, exclusive responsibility for education; federal government; provincial/territorial education; and Indigenous/Aboriginal education. I also went to the Statistics Canada website for statistics and information on First Nation students.

INTRODUCTION

Canada has been a founding member of the Organization for Economic Cooperation and Development (OECD) since 1960. Federal, provincial, and municipal governments, as well as approximately 30 federal departments/agencies, are involved with the OECD. Canada's Permanent Delegation to the OECD consists of an ambassador, diplomats and others. The Permanent Delegation office is located in Paris, France (Government of Canada, 2021a).

The OECD's Programme for International Student Assessment (PISA) is an important international study of 15-year-olds in reading, science, and mathematics. Hipkins (2019) has noted the significance of PISA in international education as "PISA has become an international yardstick of the success of education systems,..." (p. 49).

PISA requires "a minimum of 150 schools" to be involved in the assessment in each country. (CMEC, 2016, p. 47). These schools must be public schools. OECD's definition of a public school is one "managed directly or indirectly by a public education authority, government agency, or government board appointed or elected by public franchise" (OECD, 2016, p. 340; CMEC, 2021a, p. 1).

A New Zealand Ministry of Education report on PISA 2018 (May, Jang-Jones, & McGregor (2019) explains the reasons for having confidence in PISA results. The report noted that the "OECD puts in place a high number of stringent quality assurance procedures, nationally and internationally, for every step of the development and implementation and analysis of PISA to ensure that high-quality data and findings are obtained" (p. 2). The report also noted that PISA procedures include "rigorous training of national PISA teams, detailed documentation, meticulous inspection of sampling procedures, numerous quality checks and tracking of progress throughout national adaptations and data collection ..." (p. 2).

PISA began testing students in 2000 and has continued every three years since. PISA results get "substantial attention from policy makers, the media, academics, and the wider education community" (Anders, Has, Jerim, Shure, & Zieger, 2021, p. 230). Based on PISA's 2015 results, Canada has been referred to as an "education super power" (p. 230).

In Canada, the OECD has several partners to assist in administering, interpreting, and analyzing PISA. The partners include the Council of Ministers of Education, Canada (CMEC), as well as two federal government departments, Statistics Canada, and Human Resources and Skills Development Canada (HRSDC) (Statistics Canada, 2020, Government of Canada, 2009).

The CMEC is also involved in the Canadian Education Statistics Council (CESC). Its

partner in CESC is Statistics Canada. CESC funds research on education within Canada. It has noted that “[S]ince education is a provincial/territorial responsibility...” (CMEC, 2010a, p. 13).

PISA is administered in over 900 selected schools across Canada. Students aged fifteen are randomly selected to take the test (Statistics Canada, 2020). PISA results are important as they provide information on “whether youth are acquiring the necessary skills and knowledge to meet the challenges of the future” (Statistics Canada, 2020, para. 7).

The Canadian results from PISA 2000 indicated that Canada performed “very well” (OECD 2010, p. 50) in regards to being excellent and equitable. Canada was second only to Finland in reading. The OECD concluded that “Canada has succeeded in delivering an equitable, high quality education to its youth, at least as measured by PISA” (p. 50).

In PISA 2003, Canada performed third in mathematics. It also scored well in other academic areas, as “only Finland performed better in reading, and four countries performed better than Canada in science and problem solving” (Statistics Canada, 2004, p. 34).

OECD’s (2005) review of PISA 2003 results viewed education in Canada favourably. Their review noted, “Canada stands among the few countries that succeed in achieving high quality in baseline qualifications ...” (p. 2) and “Canada enjoys a highly skilled population: nearly half of adults hold a tertiary qualification – more than any other OECD country” (p. 4). Similar comments on Canada were found in OECD’s Education at a Glance: Briefing Note on Canada (2006) as it was noted the “[G]ood performance of Canada on baseline qualifications” (p. 1) and “Canada enjoys a highly skilled population: nearly half of adults hold a tertiary qualification – more than any other OECD country” (p. 4).

In PISA 2006 (Statistics Canada, 2007a), Canadian students performed well in science, reading and mathematics. In the combined science scale, only Finland and Hong Kong-China performed better. In reading and mathematics only, “Korea, Finland, and Hong Kong-China performed better than Canada” (p. 29).

In PISA 2009 (Statistics Canada, 2010) Canada had similar results to previous PISA assessments. In reading, “Canada performed among top level countries...only four countries outperformed Canada...” (p. 26). In science and mathematics, Canada again “performed well” (p. 30). Only six other countries did better in science, while seven countries did better in mathematics.

OECD (2015) reviewed Canada’s performance in PISA 2012. It noted that Canada was “among the top performers in PISA 2012” (p. 4). Canada’s educational system was described as “decentralized” (p. 4). Provincial/territorial jurisdictions are “responsible for organization, delivery, and assessment of the education system” (p. 4). These jurisdictions deliver education services through school boards, school divisions, or school districts. The federal government provides “some funding” (p. 4) for post-secondary education, as well as “funding assistance” (p. 4) to First Nations for education. There is no mention of the seven federal schools or federal responsibilities in penitentiaries or the military.

Campbell (2021) used the results of PISA 2015 to state that “Canada is one of a handful

of countries that are both high performing and equitable in PISA” (p. 4). While achieving average OECD PISA results, Canada “has better than average outcomes for gender equity, less impact of socio-economic status on educational outcomes, and high achieving results for immigrant students” (p. 4). First and secondary-generation immigrant students had similar PISA results as their non-immigrant peers.

In PISA 2018, Canada’s overall average score in mathematics, science, and reading ranked tied for 8th with Taiwan (Fastmaps, 2020). Canada’s performance in reading was described as “one of the highest among PISA participating countries and economies” (OECD, 2022, para. 3). In mathematics, Canadian students scored above the OECD average. In science, Canada’s scores were described as “one of the highest among PISA participating countries and economies” (OECD, 2022, para. 4). In summary, in 2018, Canada scored above the OECD average in all three subtests. In reading and science, Canada’s scores were particularly high.

High scores on international educational assessments by Canada have been noted by the United Nations Educational, Scientific and Cultural Organization (UNESCO). In a review of North American and European education systems, UNESCO (2005) noted, “Canada and Finland are high performing countries on international test scores” (p. 3).

Canadian news media and provincial governments have used PISA results to highlight the strength of the Canadian education system. The 2018 PISA results have been used by Prince Edward Island. In a news release (Prince Edward Island, 2019), the provincial government’s education and Learning Minister indicated that “[O]n the assessment, Prince Edward Island performed close to the Canadian average which was among the highest in the world...” (para. 3), and “PISA tells us that our education system is working, based on the fact that PEI student performance is similar to other provinces and Canada which is clearly one of the top performing countries in the world” (para. 4).

Similar comments were found in Alberta. PISA 2018 results for the province of Alberta found that “Alberta students are the best in Canada and among the top in the world in reading and science, according to results from an international standardized test” (CTV News, 2019, para. 1). The Head of the Alberta Teachers Association noted that “[W]e remain the envy of the world, when it comes to our outstanding achievement results” (para. 4).

However, quite different PISA 2018 results were found in the province of Manitoba. CBC News (Kristen Annable, 2019) noted, “Manitoba test results are among the worst in the country. This continues a trend that has plagued the province for the past decade” (para. 1-2).

The Canadian Association of Public Schools – International (2022) noted that in PISA 2018, “[O]ut of the 79 countries that participated, Canada ranked 6th for reading scores, well ahead of the United States (13th), the United Kingdom (14th), New Zealand (12th), Ireland (8th), and Australia (16th). In fact, Canada placed above all five of these countries in every aspect of the test, including mathematics and science. In math, Canada ranked 12th, above Ireland (21st), New Zealand (27th), The United States (37th), the United King-

dom (18th), and Australia (29th). Finally, in science, Canadian students ranked 8th, again well ahead of Ireland (22nd), New Zealand (12th), the United States (18th), the United Kingdom (14th), and Australia (17th) (para. 1).

Canada's high PISA 2018 scores have been used by the Canadian Association of Public Schools – International (2022) to recruit foreign high school students to Canada. The organization noted that “[F]or parents looking for a quality international education for their child, this means that choosing a Canadian high school for international students places them in an educational system that has a proven track record of excellence.” (para. 2)

The CMEC provides education information and statistics to the OECD. For example, CMEC's ‘Education Indicators in Canada: An International Perspective 2020’ (CMEC, 2020) was “designed to expand upon the information for Canada that is provided to the Organization for Economic Cooperation and Development (OECD) for publication in *Education at a Glance: OECD Indicators [EAG]*” (p. iii).

Canada's education success with PISA has confounded the OECD. Coughlan (2017) emphasized that “Canada does not even really have a national education system as education is provincial operated” (para. 9). The BBC (Coughan, 2017) has quoted the OECD as describing the education role of the federal government of Canada as “limited and sometimes non-existent” (para. 9).

THE CANADIAN CONSTITUTION AND EDUCATION

Canada's *Constitution Act, 1867* (Government of Canada, 2022a) assigned constitutional responsibilities to both the federal and provincial/territorial governments. Section 91 assigned legislative authority to the federal government or the Parliament of Canada. The federal government's jurisdiction included (s. 7) Militia, Military and Naval Service, and Defence, (s. 24) Indians, and Lands reserved for the Indians, and (s. 28) The Establishment, Maintenance, and Management of Penitentiaries (p. 3).

The *Constitution Act, 1867* s. 93 – “In and for each Province the Legislature may exclusively make laws in relation to Education ...” (Government of Canada, 2022c, p. 3, para. 10) has been used by many organizations, writers, and governments to support their assertion that education is an exclusive provincial/territorial responsibility. However, one should read further to find federal or Parliamentary education powers as found in Section 93 Provision 4.

Provision 4

In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case

require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section (para. 10).

According to this section of the constitution, the Parliament of Canada may “make remedial Laws ...” (para. 10). Essentially, the federal government has the authority to override a provincial education law within certain conditions.

Also, *Section 93*’s ‘In and for each Province ...’ is restricted to the province or provincial lands. This section cannot and does not apply to the federal government or federal lands.

There is a federal school system in Canada. In 1992, the federal government developed a ‘Procedures Manual’ (INAC-MB, 1992) for special education in their schools in Manitoba. The manual was to be used “in the Federal school system” (p. 2). A Library of Parliament report (2011) also referenced “the federal government’s First Nation school system” (p. 22).

In 2002, the government released *Special Education Programs: National Program Guidelines* (INAC, 2002) to be used in First Nation schools across Canada. The document described the roles and responsibilities of INAC Headquarters, INAC Regional Offices, First Nation Schools, and First Nations Regional Management Organizations. For example, “INAC Headquarters (HQ) will be responsible for the management and administration of SEP nationally, and achieving the planned results within the resources made available” (p. 6)

Recently, the federal government released ‘*Elementary and Secondary Education Program: National Guidelines 2022-2023*’ (Government of Canada, 2022). The document provides funding support for First Nation students who live on a reserve/First Nation and attend a First Nation, federal, provincial, or private/independent school. The support would include the over 500 First Nation schools, as well as the seven federal schools. Indigenous Services Canada’s Regional Offices and Headquarters or Education Branch responsibilities include “to ensure program delivery requirements are met” (p. 20).

The federal government’s education responsibilities are not just restricted to First Nation children living on reserves/First Nations in Canada. Their constitutional responsibilities include providing education on military bases and penitentiaries.

The federal department of Correctional Services Canada (2019) provides education programs within penitentiaries across Canada. These education programs include adult basic education, adapted basic adult education, English or French as additional language, general education development, post-secondary pre-requisites, and post-secondary education.

The federal government provides education to Canadian military members and their children. The government operates two schools overseas. The schools are in The Netherlands and Belgium (Canadian Forces, n.d.).

The Canadian government also provides post-secondary education at the Royal Military College in Kingston, Ontario and Royal Military College St. Jean in Saint-Jean-sur-Richelieu, Que. They are both described as “national universities” (Government of Canada, 2022d, p. 1).

In 1982, Canada’s Constitution Act, 1867 was patriated, revised and renamed as Constitution Act, 1982. The 1982 act included new sections. Part I – Canadian Charter of Rights and Freedoms (Government of Canada, 2022e, p. 12) and Part II: Rights of Aboriginal Peoples of Canada (p. 13).

Treaty rights were recognized and affirmed in the Constitution Act 1982, Part II: Rights of Aboriginal Peoples of Canada – “Section 35 (1) The existing aboriginal and treaty rights are hereby recognized and affirmed” (p. 13). This section is important in First Nation education as each of the numbered treaties (#1 - #11) between the Crown or Government of Canada and First Nations included an education clause. For example, Treaty #1 – “And further, Her Majesty agrees to maintain a school on each reserve hereby made whenever the Indians of the reserve should desire it” (Government of Canada, 2013a, para. 7). Treaty #11 – “Further, His Majesty agrees to pay the salaries of teachers to instruct of such Indians in such manner as His Majesty’s Government may deem advisable” (Government of Canada, 2013b, para. 31).

The Minister of Indigenous Services Canada (ISC) has constitutional authority over seven federal schools, as well as the over 500 schools First Nations/reserves. This authority may be found in Constitution Act 1982, s. 24. Indians, and Lands reserved for the Indians (Government of Canada, 2022f, para. 1).

The Indian Act, 1985 describes the education responsibilities of the Minister. For example, regarding schools, s. 114. “The Minister may, in accordance with this Act, establish, operate and maintain schools for Indian children” (Government of Canada, 2022g, para. 2). Section 115a “The Minister may, a) provide for and make regulations with respect to standards for buildings, equipment, teaching, education inspection and discipline in connection with schools; b) provide for the transportation of children to and from school” (Government of Canada, 2022g, para. 3).

Despite having constitutional responsibilities in education, the federal government often appears to ignore these responsibilities and focuses on funding First Nation education. For example, Government of Canada (2021b) indicates that “First Nations, and organization designated by First Nations, are responsible for managing and delivering education programs and services for students ordinarily living on reserve. Indigenous Services Canada (ISC) provides funding ...” (para. 2).

INAC (2009) indicated that “Indian and Northern Affairs Canada (INAC) funds band councils and First Nation education authorities for the education of children of children in Kindergarten to Grade 12 who attend schools on reserves ...” (p. 1). An earlier document, INAC (2003) described INAC as having “a coordinating and advocacy role with respect to First Nations education” (p. 2).

The Senate of Canada (2011) noted that since the 1970s and 1980s, “the federal government embarked on a process of transferring administrative responsibility for on-reserve elementary and secondary education to First Nations” (p. 8). First Nations developed education administrative bodies, i.e., authorities or school boards (elected and/or appointed), to administer federal policies and directives. However, the federal government remained “legally and constitutionally responsible for education” (p. 11).

The Library of Parliament (2011) also emphasized the federal government’s constitutional role in First Nation education. It noted that after 1972, the federal government began to transfer “administrative responsibility for on-reserve elementary and secondary education to First Nations” (p. 23). However, it was “still legally and constitutionally responsible for education” (p. 23).

In other words, both *Constitution Acts, 1867 and 1982* assigned education responsibilities to both the federal and provincial/territorial governments. Each level of government would be responsible for education within their areas of jurisdiction. The Canadian government has had constitutional responsibilities for education at the preschool level, elementary, secondary, and post-secondary levels since 1867.

ELEMENTARY AND SECONDARY STUDENTS IN CANADA

Statistics Canada (2021a) recently released statistics on the number of elementary and secondary students in provincial/territorial schools throughout Canada. In 2019-2020, approximately 5,254,992 students attended a provincial school in Canada. Student enrolment was broken down by province, e.g., Ontario (2,056,059), Quebec (1,234,254), Alberta (683,280), British Columbia (576,000), Manitoba (187,893), Saskatchewan (186,066), Nova Scotia (184,941) New Brunswick (98,967), NFLD (63,570), PEI (20,733), Yukon (5,637), Northwest Territories (8,568), and Nunavut (10,725).

In 2017, Indigenous Services Canada [ISC] (2017) released information on the numbers of First Nation students attending elementary and secondary schools in Canada. The enrolment figures were divided by type of school, e.g., First Nation-managed (66,142), provincial (32,278), private/independent (2,097), and federal (1,468).

It should be noted that the 67,610 students attending First Nation-managed (66,142) and federal schools (1,468) throughout Canada are greater than the number of students attending schools in two provinces, e.g., NFLD (63,570), PEI (20,733). Students and schools in these provinces were included in PISA but not First Nation-managed schools.

The Assembly of First Nations (AFN, 2020) has reported that in 2018, there were 526 First Nation-managed schools throughout Canada. These schools were located in urban areas (29%), rural (47%), remote (3%), and fly-in only (21%). Over half (54%) of these First Nation schools lack secondary education programs. The lack of secondary programs forces First Nation students to leave their communities to attend high school.

In a recent document, *Elementary and Secondary Education: National Program Guidelines, 2022-2023* (Government of Canada, 2022a), the federal government references its

education responsibilities to “specific treaties” (para. 6). The documents also state that “[T]he purpose of the Elementary and Secondary Education Program is to provide funding to support First Nations control of First Nations education and the delivery of kindergarten to grade 12 educational services for all eligible students ordinarily resident on reserve” (para. 10).

The funding supports First Nation schools in a variety of ways. These include “delivery and administration of instructional services; operation of school boards or school board-like entities; students with mild to profound special education needs; transportation and travel costs (including seasonal or special transportation); accommodation when attending school away from a student’s home community; school liaison; guidance and counselling services; ancillary costs; financial assistance allowance; the operation and maintenance or rental of elementary and secondary school facilities or other facilities hosting elementary and secondary programs” (para. 32).

The federal government also provides First Nation schools with financial support for second level services, e.g., policy and advocacy; capacity building; program and curricula development; administration, management, coordination and delivery of programs and services; professional services development and support; school evaluation services and support; regional education organization structures; research for schools (para. 33).

The federal government is aware of the poor academic achievement levels in First Nation schools. In a document, Elementary and Secondary Education (Government of Canada, 2022b), it noted that the purpose of these programs was “to help close the education outcome gaps between First Nations peoples and other Canadians” (para. 2). The program also “provides for services provided to First Nations students identified as having mild to profound special education needs” (para. 7).

HISTORY OF MISINFORMATION

Since 1967, the Council of Ministers of Education, Canada (CMEC) has been “the national voice for education in Canada” (CMEC, 2019, p. 2). It is composed of provincial/territorial ministers of education. Both CMEC and the federal government of Canada have ignored the federal government of Canada’s constitutional responsibilities in education.

In 1986, the Government of Canada (1986), in a policy document ‘Understandings between the Council of Ministers of Education Canada and the Department of External Affairs’ noted that “[A]ll statements will take full account of federal jurisdiction in external affairs and the provincial jurisdiction in education” (p. 4, para 1). The preamble to ‘Section B: Mandate, Federal-Provincial Consultative Committee on Education-Related International Activities’ noted: “the jurisdiction of the provinces in the field of education” (page 7, para. 1). The policy document enabled the CMEC to represent Canada at international education conferences.

CMEC has been consistent throughout its history that the provinces/territories have ‘exclusive’ constitutional responsibilities in education. The federal government, on the

other hand, ‘provides’ education to certain groups. At a 2000 meeting of Commonwealth Education Ministers in Halifax (CMEC, 2000), the CMEC described education in Canada. It noted that “[A]nd although the provinces retain constitutional authority for education in all lands, the federal government provides for the education of registered Indians and Inuit people, with the exception of the Cree, Inuit and Naskapi of Quebec whose education is the responsibility of that province, as well as the education and training of individuals in the Armed Forces, Coast Guard, and Correctional (penitentiary) Services....” (p. 5).

In 2001, in a report on ‘Education for peace, human rights, democracy, international understanding and tolerance: Report on Canada’ (CMEC, 2001a) noted that “Indian and Northern Affairs Canada (INAC) is responsible for elementary and secondary education for Registered Indians children living on reserves” (p. 1). Despite this statement, the report noted, “[U]nder the Constitution of Canada, education is a provincial responsibility,....” (p. 118).

In 2003, in a report to Commonwealth Education Ministers in Edinburgh, Scotland, the CMEC (2003) explained in Canada the “ten provinces and three territories, each of which, within the federated system of shared powers, is responsible for education” (p. 3). However, the report noted, “[A]lthough the provinces retain constitutional authority for education in all lands, the federal government provides for the education of registered Indians and Inuit people” (p. 3).

In 2008, CMEC (2008a) indicated that the “federal government shares responsibility with First Nations for the provision of education to children ordinarily resident on reserve and attending provincial, federal, or band-operated schools ...” (p. 61). The word constitutional is absent.

In 2009, CMEC (2009a) indicated “[I]n Canada, education is a provincial/territorial responsibility.... CMEC provides leadership in education at the pan-Canadian and international levels and contributes to the fulfillment of the constitutional responsibility for education conferred on provinces and territories” (p. 4).

In June 2015, the CMEC hosted an Aboriginal Educators’ Symposium in Yellowknife. Despite the attendance of Indigenous Elders and scholars from across Canada, the CMEC (2015) maintained the “exclusive jurisdiction of provinces and territories over education” (p. 2). There was no mention of federal education responsibilities with First Nation education.

In 2020, the Canadian Statistics Education Council, which is composed of the CMEC and the federal government’s Statistics Canada, released ‘Education Indicators in Canada: An International Perspective’ (CMEC, 2020a). The purpose of the report was “to develop and maintain a set of statistics that provide information about education and learning in Canada, and to support evidence-based policy making” (p. 3).

This Canadian education report noted that it excluded “individuals who live on reserves or other Aboriginal settlements within the provinces” (p. 82). The statistics and information in ‘Education Indicators in Canada: An International Perspective’ are given to the OECD for “publication in OECD’s Education at a Glance: OECD Indicators (EAG)”

(p. 3).

The CMEC continues to publish incorrect reports on education in Canada. Recent reports of education in Canada indicate that provinces and territories have “exclusive jurisdiction over education” (CMEC, 2021b – para. 12; CMEC, 2022a, para. 8).

MORE EXAMPLES OF MISINFORMATION

- “Education in Canada is a provincial responsibility as outlined in our Constitution” (CMEC, 1993, p. 1)
- “Canada is comprised of ten provinces and two territories, each of which, within the federative system of shared powers, is responsible for education” (CMEC, 1996, p. 5)
 - “The provinces and territories have exclusive jurisdiction to enact laws governing education.” (CMEC, 1996, p. 10)
- “The provinces and territories are responsible for education at every level,…” (CMEC, 2001a, p. 1)
- “Education is a provincial/territorial responsibility.” (CMEC, 2001b, p. 2)
- “In Canada, Section 93 of the Constitution Act, 1867 (previously known as the British North America Act) grants the provinces exclusive power to legislate in the field of education” (CMEC, 2001c, p. 3)
- “Higher education in Canada is a responsibility vested by the Constitution to the provinces and territories” (CMEC, 2001c, p. 6)
- “Canada is made up of ten provinces and three territories; in the context of a federal system in which powers are divided between the federal government and the provinces and territories, the latter are responsible for education.” (CMEC, 2001d, p. 5)
 - The Constitution Act of 1867 (s. 93) stipulates that “[I]n and for each Province the Legislature may exclusively make Laws in relation to Education ...”. (CMEC, 2001d, p. 5)
- “The federal government has fiscal responsibility for First Nations education” (CMEC, 2001d, p. 9)
- “In Canada, Section 93 of the Constitution Act, 1982 (previously known as the British North America Act, 1867) recognizes the exclusive powers of the provinces to make laws with respect to education” (CMEC, 2001d, p. 13)
- “Responsibility for education in Canada rests with the ten provinces and three territories,” (CMEC, 2001d, p. 13)
- “Education is a provincial and territorial jurisdiction...” (CMEC, 2011e, p. 22)
- “Canada is a federation of ten provinces and three territories, each of which, within the federated system of shared powers, is responsible for education. The Constitution Act, 1867, provides in part that, “in and for each province, the Legislature makes laws in relation to education.” (CMEC, 2003a, p. 3)

- “When the Dominion of Canada was founded in 1867, jurisdiction for education was assigned to the provinces” (CMEC, 2003b, p. 8)
- “However, it must be noted that the administration of education is centred in the constitutionally secured right of the provinces and territories to exclusive jurisdiction over education within the federative system of shared powers. Canada is comprised of ten provinces and three territories, and each of them has developed its own educational structures and institutions. Therefore, they effectively constitute thirteen education systems, with some similarities and large differences among them.” (CMEC, 2006, p. 1)
- “The Constitution Act of 1867 (section 93) stipulates that “[I]n and for each Province the Legislature may exclusively make laws in relation to Education.” (CMEC, 2006, p. 5)
- “Canada is a federation, and education is the constitutional responsibility of the ten provinces and three territories.” (CMEC, 2007a, p. 9)
- “Canada has 13 educational jurisdictions” (CMEC, 2007b, p. 5)
 - “Within the federal system of shared power, Canada’s Constitution Act of 1867 provides that “[I]n and for each province, the legislature may exclusively make Laws in relation to Education.” In the 13 jurisdictions — 10 provinces and three territories — departments or ministries of education are responsible for the organization, delivery, and assessment of education at the elementary and secondary levels.” (CMEC, 2007b, p. 5)
- “In Canada, with ten provinces and three territories responsible for education...” (CMEC, 2007b, p. 10)
- “Education in Canada is the responsibility of the 13 provinces and territories,” (CMEC, 2007b, p. 68)
- “In Canada, there is no federal department of education and no integrated national system of education. The 13 jurisdictions – 10 provinces and three territories – have exclusive jurisdiction in education.” (CMEC, 2007c, p. 4)
- “Within the federal system of shared powers, Canada’s Constitution Act of 1867 provides that “[I]n and for each province, the legislature may exclusively make Laws in relation to Education.” (CMEC, 2008a, p. 2)
- “In Canada, there is no federal department of education and no integrated national system of education. Within the federal system of shared power, Canada’s Constitution Act of 1867 provides that “[I]n and for each province, the legislature may exclusively make Laws in relation to Education.” In the 13 jurisdictions — 10 provinces and three territories — departments or ministries of education are responsible for the organization, delivery, and assessment of education at the elementary, secondary, and postsecondary levels.” (CMEC, 2008b, p. 1)
- “WHEREAS education, as a provincial/territorial jurisdiction,” (CMEC, 2009b, p.

- 1)
 - “Whereas education in Canada is a provincial responsibility” (CMEC, 2009c, p. 1)
 - “No data were collected in the three territories and First Nations school” (CMEC, 2010b, p. 12)
 - “Education is the exclusive purview of the provincial and territorial governments” (CMEC, 2016b, p. 5)
 - “The Council of Ministers of Education, Canada (CMEC) was formed in 1967 by the jurisdictional ministers responsible for education...” (CMEC, 2018a, p. iii; CMEC2018b, p. iii; CMEC, 2020d, p. iii)
 - “Founded in 1967, CMEC is the collective voice of Canada’s ministers of education. It provides leadership in education at the pan-Canadian and international levels and supports provincial and territorial governments in the exercise of their exclusive jurisdiction over education. (CMEC, 2021b, para. 12)
 - “Given that education is a provincial/territorial responsibility in Canada...” (CMEC, 2021d, p. 1)

EXCLUSION ON FN SCHOOLS

The OECD has a history of excluding schools on First Nations in Canadian education reports. OECD (1999) examined inclusive education programs and services in the province of New Brunswick. New Brunswick was “divided into 12 anglophone and 6 francophone school districts” (p. 18). Federal schools on 15 reserves/First Nations were “not considered here” (p. 81).

PISA 2000 (Statistics Canada, 2001) noted that “[N]o data were collected in the three territories or on Indian reserves” (p. 12). The report indicated that “[O]verall, Canadian students performed well compared with students in most other countries, ranking second in reading, sixth in mathematics and a fifth in science among 31 countries” (p. 13).

A statement regarding the exclusion of some schools was found in the PISA 2003 report (Statistics Canada, 2004). The report on ‘Canadian results’ noted that “[N]o data were collected in the three territories or on Indian reserves” (p. 12).

PISA 2006 (Statistics Canada, 2007a) had a similar statement regarding the exclusion of First Nation schools. The report also noted that “[N]o data were collected in the three territories or on Indian reserves” (p. 12). Another Statistics Canada (2007b) report in a description of PISA 2006 noted, “[T]he survey population was comprised of students who were 15 years of age and were attending any form of schooling in the ten provinces of Canada. Schools on Indian reserves were excluded,...” (p. 2).

CMEC has also been consistent in noting the exclusion of First Nation students and schools in their PISA assessments. CMEC (undated a) noted that “Aboriginal students from band-operated schools” did not participate in PISA 2009. CMEC (undated b) also excluded “Aboriginal students from band-operated schools” in PISA 2012 (p. 5). CMEC (undated c) noted that PISA 2015 excluded “Aboriginal students from band-operated schools”

(p. 5). CMEC (undated d) indicated that PISA 2018 did not include students from the three territories in Canada, as well as “Indigenous students from band-operated schools” (p. 5).

First Nation schools and students were also excluded in a report on Canadian results of PISA 2009 (Statistics Canada, 2010). The report noted that “[N]o data were collected in the three territories or in First Nations schools” (p. 12).

In 2013, CMEC released the results of PISA 2012. CMEC (2013) indicated that “[N]o data were collected in the three territories or in First Nations schools” (p. 11).

In 2016, CMEC (2016a), in an analysis of PISA 2015 results, acknowledged that “[N]o data were collected in the three territories or in First Nations schools” (p. 9). The same statement was found in PISA 2018. CMEC (2019a) indicated that “[N]o data were collected in the three territories or in First Nations schools” (p. 3). A further analysis of financial literacy in PISA 2018 again reported that “[N]o data on financial literacy was collected in Quebec, Saskatchewan, and Alberta, in the three territories or in First Nations schools” (CMEC, 2020b, p. 2).

CMEC is consistent in not including First Nation schools in its other international assessments. TIMSS 2015 (Trends in International Mathematics and Science Study) notes that “on-reserve schools were not included in the target population of TIMSS” (CMEC, 2017, p. 12). In TIMSS 2019 (CMEC, 2021c), First Nation schools were also excluded as “... schools that are not under the authority of the provincial ministry/department of education (e.g., on-reserve schools) were not included in the target population of TIMSS” (p. 4). In 2018, in another review of Canadian results in an international assessment of reading literacy, i.e., Progress in Reading International Literacy Study, CMEC (2018b) acknowledged that “[N]o data was collected in the three territories or in First Nations schools” (p. 5).

The CMEC (2019b) has also developed the Pan-Canadian Assessment Plan (PCAP) that assesses students in grade 8 across Canada in Reading, Science, and Mathematics. The PCAP allows Canadian provinces to examine their own education systems and “to compare their performance with that of the rest of Canada” (p. 71). The PCAP excluded “students from federal schools” (CMEC, 2019c, p. 4). A later report on PCAP (CMEC, 2022b) noted that “[O]nly students attending schools under provincial jurisdiction participated in this study. Federally funded, on reserve, schools did not participate in PCAP” (p. 2).

CMEC’s ‘Education Indicators in Canada: An International Perspective’ (2020a) provides evidence that First Nation schools are excluded in Education Indicators reports on Canadian education. This report noted that it “excludes ... individuals who live on reserves or in other Aboriginal settlements within the provinces” (p. 82). The report on Canadian education indicated that if provincial students transfer or move to a First Nation school, “they would no longer be tracked through to graduation” (p. 45). Information from these Indicators reports is provided to the OECD.

First Nation schools have been excluded from other national assessments. Ball (2008)

reported that “Aboriginal children were not systemically sampled in two national longitudinal cohort studies on the development of Canadian children and youth (the National Longitudinal Survey of Children and Youth and Understanding the Early Years Study)” (p. 7).

Sometimes, it is difficult to determine CMEC’s position on education in Canada. CMEC (2021d) clearly indicated that education is the “exclusive jurisdiction of the provinces and territories” (p. ii). However, later, the report notes, “[I]n Canada, the federal government and provincial governments have constitutional responsibilities for the education of First Nation, Metis, and Inuit students. While the Government of Canada has a responsibility for the education of students who attend schools on First Nation reserves,…” (p. 6).

POSSIBLE REASONS FOR NOT INCLUDING FEDERAL/FIRST NATION SCHOOLS

The simplest reason for the exclusion of federal, territorial and First Nation schools is that the CMEC wants Canada to be in the top group of countries in international educational assessments. If First Nation, federal, and the territorial schools were included, Canada would not be in the top tier of education countries. In other words, Canada and the CMEC would lose ‘bragging rights.’

A second reason for excluding First Nation and federal schools from international, as well as provincial or regional educational assessments, would be funding. These schools have been historically underfunded, with much lower graduation rates than provincial schools. First Nation elementary schools would require early identification programs as well as assistance from qualified professionals. First Nation high schools would require science labs, math programs, internet connectivity, as well as qualified teachers. First Nation elementary and high schools need to be part of regular education achievement programs. The results from such assessments may guide First Nation education leadership and the federal government to make changes to education programs. To bring these schools and students up to provincial standards would be very expensive.

Historically, First Nation students who graduate from a First Nation/federal school on a reserve have lower academic skills. The lower academic skills result in difficulties at post-secondary institutions.

In 2002, the CMEC (2002) examined the 1996 Census and reported that 37% of First Nations people had attended postsecondary institutions compared with 51% of Canadians. Of particular concern was the “weak skill levels of many of those who complete high school” (p. 15). Poor academic preparation in First Nation secondary schools resulted in “high dropout rates at universities and colleges” (p. 16).

CMEC (2002) summarized the academic difficulties encountered by many First Nation students caused by their poor preparation in high school. Essentially, they were not adequately prepared for postsecondary institutions. These potential university and college students “do not have the necessary academic prerequisites for success in the programs.... may not have the necessary mathematics and science courses required for success in col-

lege or university programs; or they may not have acquired study skills, time management abilities, or technological skills needed to be successful at the postsecondary level” (p. 16).

In 2004, the Office of the Auditor General of Canada (2004) released a report on Indian and Northern Affairs’ education and post-secondary programs. The report noted “in 2000, we used figures reported by the Department in its Estimates documents that it would take 23 years to close the education gap between First Nations people living on reserves and the Canadian population as a whole” (p. 7).

In 2005, INAC (2005) compared the socio-economic conditions of First Nations people on First Nations/reserves with Canadians between 1996 and 2001. The report indicated that INAC provides “funding for province-like services (such as education,....) to persons ordinarily resident on reserve” (p. iii). It reported that “[I]n 2001, the high school completion rate for Registered Indians was 48.6% as compared to 68.7% for the total Canadian population” (p. 3).

In 2006, Salee (2006) examined the quality of life for First Nations people using the United Nations Human Development Index. First Nations would be ranked 48th rather than near the top. In education, First Nations would be ranked 71st rather than Canada’s 1st.

In 2006, INAC made a presentation CCOE/NIEC (Chiefs Committee on Education/National Indian Education Council). The report (INAC, 2006) noted that First Nation schools lacked “necessary supports/partnerships” (p. 5), which resulted in “systemic problems” (p. 5) and that “First Nation students are the only children not protected by education legislation” (p. 5).

CMEC is aware of the lower educational levels of First Nation students living on First Nations. CMEC (2007b) noted, “the educational attainment of Aboriginal students remains one of the greatest challenges in education across Canada” (p. 34).

In 2008, in a letter (Millennium Scholarships, 2008) to Grand Chief Phil Fontaine, Assembly of First Nations, Norman Riddell, Executive and Chief Executive Officer of Millennium Scholarships, stressed the importance of post-secondary education to being successful. However, only 42% of First Nations people have attained post-secondary qualifications compared to 61% of Canadians. First Nations people with a university degree was only 7% compared to the Canadian average of 23%.

In 2011, the Office of the Chief Coroner of Ontario (2011) released a report on youth suicides in Pikangikum First Nation between 2006 – 2008. Part of the report reviewed the education system in Pikangikum. The section on education in Pikangikum found many issues. School attendance was an issue. School enrollment was 520 students; however, it was estimated that between 300 and 500 students did not attend school. No graduate from the last graduating class went on to post-secondary education. Federal funding for education at Pikangikum had not kept up with provincial education funding. In nine years (2002-2003 – 2010-2011, provincial education funding had increased by 49%. Federal education

funding had been capped at 2% annually since 1996.

In 2011, the Senate of Canada (2011) released a report on First Nation education. It estimated that “a staggering 7 out of 10 First Nations will not graduate from high school this year” (p. 1). First Nation schools were poorly equipped as “countless First Nations children will never attend a school equipped with libraries, science technology labs or athletic facilities” (p. 1).

In 2012, the federal government released a report from the National Panel on First Nation Elementary and Secondary Education for Students on Reserve (2012). The Panel found “no broad system of educational supports and services available to First Nations schools” (p. 10).

In 2016, a ‘secret’ briefing note (Tasker, 2016) for the federal minister of Indigenous Affairs identified several issues in First Nation education. First Nation children were failing due to insufficient federal education funding and absence of “educational systems and structures required to close the educational outcome gap” (para. 2). First Nation schools lacked education standards, as well as “proper curriculum development, teacher training, testing and quality assurance and the larger support structures” (para. 3).

The lack of standards and educational supports has real impacts on First Nation youth. After reviewing the poor literacy and mathematics standards of First Nation students in Ontario, a member of Parliament commented, “I don’t know if you could find literacy rates in the world that low, except for maybe sub-Saharan Africa” (para. 23).

In 2018, the Canadian School Boards Association (2018), in a report on Indigenous education, noted that in international assessments, “Canada has performed well, placing among the top three countries in the world” (p. 3). However, it noted that Canada has “failed to address the significant gap between Indigenous and non-Indigenous students, demonstrated through grades, significantly lower graduation rates and the number of students who pursue post-secondary education” (p. 3).

In 2021, Statistics Canada released ‘A Snapshot: Status First Nations People in Canada’ (Statistics Canada, 2021b). It reported that high school graduation for on-reserve/First Nation students had increased between 2006 and 2016 from 32% - to 41%. The percentage for non-First Nation students had increased from 82% to 88%. In other words, over half of First Nation students attending a First Nation high school do not graduate from high school.

A more recent Statistics Canada (2021c) review of the 2021 census indicated that the percentage of First Nation students completing high school was increasing. However, they remained behind non-Indigenous students (64% vs. 91%).

AUSTRALIA AND NEW ZEALAND

It is possible to include Indigenous students in PISA. In Australia, Indigenous students have been involved in PISA since 2000. De Bortoli & Thomson (2009) noted, “a special focus for Australia has been to ensure that there is a sufficiently large sample of Australia’s Indigenous population so that valid and reliable analysis can be conducted” (p. ii). An

analysis of Australia's Indigenous student results in the three PISAs, 2000, 2003, and 2006, found that they "performed at a substantially and statistically lower average in reading, mathematical and scientific literacy than their non-Indigenous peers" (p.ii). The results also indicated that Indigenous student performances had not improved over the three tests.

Dreise & Thomson (2014) indicated that of the approximately 14,500 students who participated in the PISA 2012, 1991 were Australian Indigenous students. It was noted that the "Indigenous students came from across urban, regional and remote settings" (p.1).

The PISA scores for these Indigenous students were "deeply concerning" (p. 1). Indigenous students were "more than a two-and-a-half years behind their non-Indigenous peers" (p. 1). These students were underrepresented in the higher end of the test results while overrepresented in the lower end results.

The Australian results for Indigenous students demonstrated the need for "[S]mart and highly targeted investment in early intervention literacy and numeracy programs, teacher quality improvement, school leadership and personalized learning support as keys to turning results around" (p. 4). Other issues impacting the academic achievement of Indigenous students in Australia were otitis media (i.e., middle ear disease) and learning a second language.

In New Zealand, May, Jang-Jones, & McGregor (2019) examined New Zealand's 2018 PISA scores for Maori and Pacific Islanders. The Ministry of Education's report found that "Māori and Pacific students had lower average achievement but reported higher levels of some student wellbeing indicators such as teacher and parental support" (p. 3).

The New Zealand report described the school and student selection process in New Zealand. Both schools and students are randomly selected. First of all, schools are selected by different characteristics, e.g., school size, location, and authority (state or independent). Students from these schools are then randomly selected.

The report highlighted PISA's importance in the New Zealand education system. PISA was described as "one of New Zealand's major system-data collections and its quality – and importance for informing decision making – is reflected in its classification by Statistics NZ as a 'Tier 1' collection" (p. 2).

Song, Perry, and McConney (2014) in an analysis of PISA scores in Australia and New Zealand noted that both countries "have been perennially high-performing countries in international assessments, including PISA..., however, significant challenges remain around equity of access and outcomes for Indigenous students" (p. 4). Both countries appear to want an accurate picture of education in their countries.

The use and analysis of PISA in Indigenous schools and students in New Zealand and Australia enables these countries and researchers to examine their education systems and highlight curriculum strengths and weaknesses. From the analysis of PISA results, the governments of Australia and New Zealand are able to systematically plan educational initiatives to make improvements. In other words, both countries have starting points from which to measure their education systems.

DISCUSSION

Let's be clear: education in Canada is a provincial/territorial constitutional responsibility. However, it is not exclusive to the provincial/territorial governments. The federal government of Canada also has constitutional responsibilities in education. To argue otherwise is to ignore the reality of our Constitution.

The OECD's PISA has ignored students attending First Nation and federal schools, as well as those attending territorial schools, from the initial assessment in 2000 to at least 2018. Questions must be asked of the OECD. A very inaccurate picture of education in Canada is given to the world community.

Serious questions may have to be asked regarding the exclusion of these schools in the OECD's PISA. Why is it that the excluded schools are those with Indigenous students? Is such exclusion racist or discriminatory? Why has the government of Canada allowed its departments to be involved in an endeavour that provides false information to Canadians and the world community? Why has the OECD allowed the CMEC to give a false impression of education in Canada? Why does the CMEC continue to falsely state that the provinces and territories have 'exclusive constitutional responsibility' over education in Canada?

Compare Canada's actions in PISA to those of Australia and New Zealand. These two countries have included their Indigenous student populations in their PISA assessments. Their PISA results give an accurate picture of education, for better or worse, in their countries. Education successes can be celebrated, while plans can be made to make improvements in areas of weakness.

Canada, on the other hand, continues to exclude First Nation, federal, and territorial schools in PISA assessments. These schools do not have accurate achievement data to make corrections or improvements.

Much of the inaccurate information can be attributed to the OECD's reliance on the CMEC to collect and analyze the education information. The CMEC provides education information and statistics to the OECD. This information and statistics is used by the OECD to provide an overview of Canadian education to the world community of governments, educators and researchers. It should be accurate.

Of particular concern is the use of the term 'exclusive.' Throughout many OECD and OECD documents and reports, the term 'exclusive' is used to describe provincial/territorial constitutional education responsibilities. This is simply false.

However, CMEC (2003) has difficulty describing the federal government's role in education. Provinces and territories have responsibilities in education that are tied to the Constitution Act 1867; in contrast, the federal government 'provides' education with no mention of the constitution. For example, CMEC (2003) acknowledged that "..., Canada is a federation of ten provinces and three territories, each of which within the federated system of shared powers, is responsible for education. The Constitution Act, 1867, provides in

part that ‘in and for each province, the Legislature makes Laws in relation to education.’” (CMEC, 2003, p. 3).

CMEC (2003) also indicated that federal education responsibilities are not constitutional as the provinces “retain constitutional authority for education in all lands” (p. 4). The federal government simply “provides for the education of registered Indians and Inuit people... The federal government also provides for the individuals in the Armed Forces, Coast Guard and Correctional (penitentiary) Services. (CMEC, 2003, p. 4). Note the absence of the word ‘constitutional’ in regard to the federal government.

The CMEC’s position on constitutional responsibility for education is sometimes rather confusing. CMEC (2001e) did emphasize that provincial governments have constitutional authority for education, as “Canada is made up of ten provinces and three territories, in the context of the federal system in which powers are divided between the federal government and the provinces and territories, the latter are responsible for education” (p. 5). However, it noted, “the Government of Canada (the federal government) is responsible for the elementary and secondary education of registered Indians and Inuit living on reserves, as well as for the education and training of Canadian Armed Forces members and the Canadian Corrections Services (penitentiary) inmates” (p. 6).

CMEC (1996) emphasized provincial exclusivity for education in describing Canada - “Canada is composed of ten provinces and two territories, each of which, within the federative system of shared powers, is responsible for education. The Constitution Act, 1867, provides in part that “[I]n and for each province, the Legislature may exclusively make laws in relation to education” (p. 5). In other words, “the provinces and territories are responsible for education at all levels” (p. 8).

CMEC does not attempt to clarify the confusion in regard to constitutional education responsibilities in this report. In other words, provinces/territories have constitutional authority in education at all levels, while the federal government has education responsibilities. Where do the federal education responsibilities come from?

CMEC (2020d) again demonstrates the confusion that the CMEC has with education in Canada. It references the Constitution Act 1867 when describing the constitutional exclusive provincial/territorial responsibilities in education. For example: “[R]esponsibility for education at all levels is vested in the provinces and territories. The Constitution Act 1867 confers upon the provinces exclusive jurisdiction in relation to education and stipulates that the power to make laws in relation to education and the right to develop and implement educational policies are exclusively assigned to the provincial governments” (CMEC, 2020d, p. 2).

CMEC (2020d) refers to the CMEC’s leadership role in Canada and the world community due to its “exclusive jurisdiction over education” (p. 2). CMEC (2020d) also notes that “[I]n Canada, responsibility for postsecondary education also rests with the provinces and territories” (p. 7). There is no mention of the post-secondary military colleges operated by the federal government.

However, CMEC (2020d) does note that the federal government “has a responsibility for students who attend a school on First Nation reserves” (p. 10). However, the word ‘constitutional’ is missing.

The CMEC’s description of the federal government’s responsibilities in education is varied and usually lacks the word – constitutional. For example, CMEC (2001c) indicates that “[T]he federal government has fiscal responsibility for First Nations education (p. 9). Later, in 2006, CMEC (2006) ignored the approximated 500 First Nation and federal schools and indicated that “[W]hile the Federal Government does not share in the exercise of direct power over education, it does exert a degree of influence over policies, standards and objectives in the sector” (CMEC, 2006, p. 8).

The exclusion of federal/First Nation-managed schools in PISA is contrary to OECD statements and definitions of a public school. Federal/First Nation-managed schools fit the OECD’s definition of a public school as these schools are “managed directly or indirectly by a public education authority, government agency, or government board appointed or elected by public franchise” (OECD, 2016, p. 340).

These schools have been transferred to First Nations by the federal government of Canada. First Nation-managed schools usually operate under a local school authority or board. These boards are either elected by First Nation members or appointed by the Chief and Council. First Nations are recognized as governments by the federal and provincial/territorial governments. First Nation-managed schools are not private schools. OECD’s definition of a private school is one that “is managed directly or indirectly by a non-governmental organization (e.g., a church, trade union, business or other private institution” (OECD, 2016a, p. 340).

The OECD’s description of the role of the federal government in education is not based on facts. The OECD is aware that the federal government has constitutional responsibilities in education. In a report (OECD, 2002a) on adult learning in Canada, the OECD does acknowledge the federal government’s constitutional responsibilities in education. However, “[E]ducation is primarily the constitutional responsibility of the provincial and territorial governments.... (p. 5). The federal government has “some constitutional responsibility for education (e.g., for Native peoples)” (p. 5). There was no mention of the armed forces or prisons.

The misrepresentation of constitutional education responsibilities in Canada by the CMEC and OECD has been a consistent theme of the CMEC from its very beginnings. Many of these misrepresentations of facts have been noted. The CMEC appears to be fixated on the Constitution Act, 1867. It takes one section from this act, i.e., s. 94, to proclaim that constitutional responsibility for education rests with the provinces/territories. Federal education responsibilities are ignored.

As previously mentioned, in 1982, the Constitution Act, 1867 was patriated, revised, and renamed the Constitution Act, 1982. The additions included the Canadian Charter of Rights and Freedoms and the Rights of Aboriginal Peoples. Treaty rights were ‘hereby

recognized and affirmed.’ Treaty rights included education.

Of particular concern is the acceptance of federal departments, e.g., Statistics Canada and Human Resources and Skills Development Canada (HRSDC), of the provincial constitutional exclusivity in education. These departments are involved in the development and analysis of PISA. Statistics Canada publishes reports on Canada’s scores in PISA.

These departments should be asking questions regarding the exclusion of First Nation schools and students in PISA. Statements regarding provincial ‘exclusivity’ in education should be struck out. In other words, these two federal departments must ensure that Canadian results should include First Nation, as well as territorial schools and students. Otherwise, a true picture of education in Canada is not developed.

The absence of First Nations schools in PISA and other international education assessments tied to OECD is particularly harmful to First Nation schools. These schools are also not part of any regional, provincial or national assessments in Canada. The result is that it is very difficult to determine the effectiveness or needs of First Nations schools in teaching their students. Progress is very difficult to determine if you do not have a starting point.

CONCLUSION

Over the years, the Organization for Economic Cooperation and Development (OECD) and the Council of Ministers of Education, Canada (CMEC) have released many studies and reports on education in Canada. A consistent statement in many of these reports and studies is that the provinces and territories have ‘exclusive authority for education in Canada.’ One section of the Constitution Act, 1867 is misused to support this claim.

The federal government of Canada’s role in education is confusing in the OECD and CMEC reports and documents. The federal government may have some constitutional responsibility for education, or it provides or funds education for First Nation students, the military and prisons. The word constitutional is often missing in describing federal education responsibilities.

However, when the word constitutional is used to describe federal authority in education, it is usually described as ‘some’. No one has explained how it’s possible for the provinces and territories to have ‘exclusive constitutional authority in education’ while the federal government has ‘some’ constitutional authority in education. The word ‘exclusive’ would negate any other level of government having any education authority.

For some reason, the federal government of Canada has allowed an organization of provincial/territorial ministers of education, i.e., CMEC, to misrepresent Canadian education to both Canadians and the world community. Education in Canada is not ‘exclusive’ to the provinces/territories. Our constitution has given education responsibilities to both the federal and provincial/territorial governments. To argue otherwise is simply wrong.

Both Australia and New Zealand have included their Indigenous students and schools (Aborigines and Maori) in their PISA assessments. It is time for the OECD to project an accurate picture of education in Canada. First Nation schools in Canada must be included

in PISA and other OECD international assessments. The inclusion of First Nation schools in PISA and other educational assessments may encourage the federal government of Canada to work with First Nations to develop effective education programs.

The CMEC must also include First Nation schools in any educational assessments that purport to give a picture of ‘Canadian’ education. Otherwise, a very inaccurate picture of Canadian education is given to both Canadians and the world community.

Aside from providing an accurate picture of education in Canada, the inclusion of First Nation schools in PISA and other educational assessments may encourage the federal government of Canada to work with First Nations to develop effective education programs. These should lead to academically prepared high school graduates.

For too long, the federal government of Canada has refused to acknowledge its constitutional responsibilities in education. It has used terms such as funds, provides financial support, and shares responsibility to describe its role in education. The word ‘constitutional’ is conspicuously absent.

Federal government departments, e.g., Foreign Affairs, Human Resources and Skills Development Canada (HRSDC), have agreed that education is an exclusive provincial responsibility. An organization of provincial and territorial ministers of education (i.e., Council of Ministers of Education, Canada) is allowed to represent Canada at international education meetings and conferences. A false image of education in Canada is presented to the world. PISA results are not a true reflection of the state of education in Canada. The end result is that the federal government’s constitutional role in First Nation education is hidden from the world community. The time for change is now.

The federal government of Canada must:

1. Acknowledge its constitutional responsibilities in education
2. Require the OECD and CMEC to acknowledge that the Constitution Act, 1867 and the Constitution Act, 1982 assign education to both the federal government and provincial/territorial governments.
3. Require OECD and CMEC to include schools on First Nations in their international assessments, i.e., PISA.
4. Require federal departments, e.g., Statistics Canada, Human Resources and Skills Development Canada (HRSDC), to state that the federal government of Canada has constitutional responsibilities in education in education reports and documents.

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