

*Summary of Rights Instruments and Policy Statements  
to support women, children in the fulfillment of their human rights to breastfeed*

***Human Rights Code of Saskatchewan, Government of Canada,  
Professional Associations, International Labour Organization,  
United Nations Agencies***

“Mothers and babies form an inseparable biological and social unit; the health and nutrition of one group cannot be divorced from the health and nutrition of the other.”  
World Health Assembly Resolution WHA55.25 (2002).

The challenge is to foster the needed consciousness raising for women and society to effectively place claims in front of pertinent duty bearers to be accountable for the conditions that mitigate women’s vulnerability in pregnancy, lactation and in parenting.

A woman-centered approach to human rights is needed to work on the underlying and structural causes of neglect, abuse, food and housing insecurity and malnutrition that contribute to physical and mental health problems and preventable morbidity and mortality for women and their children.

**Federal Charter of Rights and Freedoms**

The Canadian Charter of Rights and Freedoms says “Every individual is equal under the law and has the right to the equal protection and equal benefit of the law regardless of sex.” Breastfeeding is a normal stage of motherhood, and therefore discriminating on the basis of breastfeeding is a form of discrimination against a woman in her role as mother.

States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. “

<http://www.unicef.org/crc/>

**Canada Human Rights Commission**

PREGNANCY & HUMAN RIGHTS IN THE WORKPLACE: POLICY AND BEST PRACTICES can be found at

[http://www.chrc-ccdp.gc.ca/sites/default/files/pregnancy\\_policy\\_0.pdf](http://www.chrc-ccdp.gc.ca/sites/default/files/pregnancy_policy_0.pdf)

**Saskatchewan Human Rights Commission**

“WHAT ARE MY RIGHTS AS A PREGNANT OR BREASTFEEDING WOMAN?”

In Saskatchewan, women are legally protected from discrimination and harassment because of sex, including pregnancy and breastfeeding. There is also protection based on Family Status for being in a parent and child relationship.

It is illegal to discriminate because a woman is pregnant. It is also illegal to discriminate because a woman was pregnant, had a baby, or may become pregnant. You have the right to keep your job, rent an apartment, or sign a lease or other contract, without discrimination because of your pregnancy or because you are breastfeeding.

WHAT ABOUT BREASTFEEDING in public spaces?

You have rights as a nursing mother. For example, you have the right to breastfeed a child in any public area. No one should prevent you from nursing your child simply because you are in a public area. They should not ask you to “cover up”, disturb you, or ask you to move to another area that is more “discreet”. Services should also be provided free from discrimination. Some of these services and areas include:

- restaurants and cafés
- stores and malls
- schools
- parks

**Pregnancy, Parenting and the Workplace** document can be found at:

[http://saskatchewanhumanrights.ca/+pub/documents/publications/PPW\\_Imposition.pdf](http://saskatchewanhumanrights.ca/+pub/documents/publications/PPW_Imposition.pdf)

The Saskatchewan Human Rights Commission is responsible for administering The Saskatchewan Human Rights Code. The commission promotes equality and protects Saskatchewan residents from discrimination through public education, equity programs, and the enforcement of the anti-discrimination provisions of the Code through the mediation, investigation or litigation of complaints.

For information about human rights and responsibilities related to pregnancy, childbirth, adoption or family status, contact the Saskatchewan Human Rights Commission by telephone at 1-800-667-9249 (toll free), by telewriter at (306) 373-2119, by e-mail at [shrc@shrc.gov.sk.ca](mailto:shrc@shrc.gov.sk.ca) or visit their Web site at [www.gov.sk.ca/shrc](http://www.gov.sk.ca/shrc).

### **UN Convention on the Elimination of Discrimination against Women (CEDAW)**

adopted in 1979 by the UN General Assembly is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations.

### **Article 5**

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

UN General Assembly, Convention on the elimination of all forms of discrimination against women, Article 12, available at: [www.un.org/womenwatch/daw/cedaw/text/econvention.htm](http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm)

“1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, states Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”

Countries that have ratified or acceded to the Convention are legally bound to put its provisions into practice. They are also committed to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations.

**UN Committee on Economic, Social and Cultural Rights**, General Comment 12, Article 9, Geneva, 1999, available at:

[www.unhcr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9,15](http://www.unhcr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9,15)

“9. Dietary needs imply that the diet as a whole contains a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that is in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation. Measures may therefore need to be taken to maintain, adapt or strengthen dietary diversity and appropriate consumption and feeding patterns, including breast-feeding, while ensuring that changes in availability and access to food supply as a minimum do not negatively affect dietary composition and intake.”

UN Convention on the Rights of the Child

**The Convention on the Rights of the Child** is the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social rights. It was ratified by Canada in 1991 – the Year of the Child.

The right to nutrition is stated in the following texts:

- UN General Assembly, Convention on the Rights of the Child, Art. 24, 2 September, 1990, General Assembly Resolution 44/25, 1989, available at: [www2.ohchr.org/english/law/pdf/crc.pdf](http://www2.ohchr.org/english/law/pdf/crc.pdf), “1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
  - (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
  - (d) To ensure appropriate pre-natal and post-natal health care for mothers;
  - (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
  - (f) To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.”

By agreeing to undertake the obligations of the Convention (by ratifying or acceding to it), national governments have committed themselves to protecting and ensuring children's rights and they have agreed to hold themselves accountable for this commitment before the international community. States parties to the Convention are obliged to develop and undertake all actions and policies in the light of the best interests of the child.

#### **World Health Organization:**

World Health Organization (WHO) resolutions on infant and young child feeding further expand the International Code on Marketing of Breastmilk Substitutes that was ratified in 1981 by 183 countries including Canada. All subsequent resolutions to this code at the have been endorsed by the Canadian government.

#### *Resolution 54.2 Infant and young child nutrition*

“...exclusive breastfeeding for six months as a global public health recommendation...and to provide safe and appropriate complementary foods, with continued breastfeeding to two years and beyond.”

*World Health Assembly (WHA) Resolution 54.2, May 2001*

#### **UNICEF Global strategy for infant and young child feeding (2003) :**

“The global strategy for infant and young child feeding is based on respect, protection, facilitation and fulfillment of accepted human rights principles. Nutrition is a crucial, universally recognized component of the child’s right to the enjoyment of the highest attainable standard of health as stated in the Convention on the Rights of the Child. Children have the right to adequate nutrition

and access to safe and nutritious food, and both are essential for fulfilling their right to the highest attainable standard of health. Women, in turn, have the right to proper nutrition, to decide how to feed their children, and to full information and appropriate conditions that will enable them to carry out their decisions. These rights are not yet realized in many environments.”

Resolution WHA55.25 Infant and Young Child Nutrition (2002)

“Mothers and babies form an inseparable biological and social unit; the health and nutrition of one group cannot be divorced from the health and nutrition of the other.”

<http://whqlibdoc.who.int/publications/2003/9241562218.pdf>

### **International Labour Organization:**

Maternity Protection Convention, 2000 (No. 183) - [ratifications] This convention is the most up-to-date international labour standard on maternity protection, although the earlier relevant instruments - the Maternity Protection Convention, 1919 (No. 3), and the Maternity Protection Convention (Revised), 1952 (No. 103) - are still in force for countries in certain countries.

Convention No. 183 provides for 14 weeks of maternity benefit to women to whom the instrument applies. Women who are absent from work on maternity leave shall be entitled to a cash benefit which ensures that they can maintain themselves and their child in proper conditions of health and with a suitable standard of living and which shall be no less than two-thirds of her previous earnings or a comparable amount. The convention also requires ratifying states to take measures to ensure that a pregnant woman or nursing mother is not obliged to perform work which has been determined to be harmful to her health or that of her child, and provides for protection from discrimination based on maternity. The standard also prohibits employers to terminate the employment of a woman during pregnancy or absence on maternity leave, or during a period following her return to work, except on grounds unrelated to pregnancy, childbirth and its consequences, or nursing. Women returning to work must be returned to the same position or an equivalent position paid at the same rate. Also provides a woman the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

### **Health Canada:**

Breastfeeding is the optimal method of feeding infants.

Recommendation:

1. Encourage exclusive breastfeeding for the first 6 months of life, as breast milk is the best food for optimal growth. Breastfeeding may continue for up to 2 years and beyond.

[http://www.hc-sc.gc.ca/fn-an/alt\\_formats/hpfb-dgpsa/pdf/nutrition/excl\\_bf\\_dur- dur\\_am\\_excl-eng.pdf](http://www.hc-sc.gc.ca/fn-an/alt_formats/hpfb-dgpsa/pdf/nutrition/excl_bf_dur- dur_am_excl-eng.pdf)

## Breastfeeding Committee for Canada:

The Breastfeeding Committee for Canada endorses exclusive breastfeeding to the age of six months and provision of safe, appropriate, and locally available complementary foods, with continued breastfeeding for up to two years of age and beyond.

<http://breastfeedingcanada.ca/html/webdoc5.html>

## Canadian Pediatric Association

“Given the advantages of breastfeeding for infants and children, the Canadian Paediatric Society and Health Canada recommend exclusive breastfeeding for the first six months of life and continued breastfeeding with appropriate complementary foods for up to two years and beyond”. (2012).

<http://www.cps.ca/en/documents/position/baby-friendly-initiative-breastfeeding#ref34>

Adapted with permission from  
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