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Enabling Children's Full Development

A CHILDREN'S RIGHT TO HEALTHY LIVING CONDITIONS AND HEALTH CARE

Introduction

Implementing article 24 of the Convention is an urgent matter for children's health in Canada and for the country's future, as well as fulfilling children's rights. Article 24 includes healthy living conditions as well as access to health care. In Canada, implementing article 24 can provide a useful balance for an over-emphasis on clinical medicine in our public health system.

Fulfilling article 24 also makes good economic sense. Current public debate is focused on lagging productivity and an aging population. One of the best solutions is to invest in children's health. Mastery of the skills required for economic success builds on early foundations.²⁵ Health research clearly documents a direct relationship between childhood conditions, brain development, and skill formation. In reverse, brain damage and stunted development from unhealthy conditions during childhood can be irreversible, and it adds tremendous costs in health care and social services, as well as lost productivity.

An expanding field of research, known as the social determinants of health, provides scientific evidence for what are essential components of healthy conditions for children. Nutrition, housing, family dynamics, socioeconomic status, quality of neighbourhood, community services, and environmental factors are examples of the components of healthy conditions for child development.

We know the life-long positive impacts of providing healthy conditions for child development; we know the negative impacts and economic costs of failing to do so. There is a remarkable consensus in the

medical research, academic research, NGO research, and government reports on what the priorities are for improving the health of children in Canada. The puzzling question is why so much knowledge and awareness of the benefits for all Canadians has resulted in little improvement since the second review. Taking action on what we know has been much too slow.

Rather than repeat the analysis, this report references key documents from various sources, lists the key issues, and focuses on the transition from knowledge to action. The primary challenge in Canada is that the extensive knowledge about children’s health is not being translated into the policies and programs that could make a big difference.

Recent Reports on the Status of Children’s Health in Canada

Date	Authority	Name of Report	Summary and Importance
2006	Council of Ministers of Health	<i>Their Future is Now: Healthy Choices for Canada’s Children and Youth.</i> ²⁷	A comprehensive strategy for child health, based on documented evidence and established national health goals.
2009	Chief Public Health Officer of Canada	<i>Growing Up Well – Priorities for a Healthy Future.</i> ²⁸	State of child health from birth to age 11. Confirmation of the priorities named in the 2006 report by the Council of Ministers of Health. Absence of a clear plan of action.
2009	Canadian Paediatric Society	<i>Are We Doing Enough? A Status Report on Canadian Public Policy and Child and Youth Health.</i> ²⁹	Analysis of health disparities between Canadian children and how they can be reduced through public policies and programs.
2010	Dr. D. Raphael (Academic Community)	<i>The Health of Canada’s Children: A Four-Part Series.</i> ³⁰	Summary of academic research, international comparison, and analysis of context for change.
2010	Healthcare Quarterly	<i>Child Health in Canada –series of four issues</i> ³¹	First issue, October 2010, focuses on social determinants of health and policy implications. Other issues will focus on mental health, health system performance, and innovation.

Priority Areas of Concern

- 1. Health inequities and socioeconomic conditions.** Conditions such as poverty, inadequate nutrition, and poor housing are identified as top priorities for action in all the research reports. While most Canadian children live in healthful conditions, 12% live in unhealthy poverty, 13% live in unhealthy housing, and over 38% of food bank users in March 2010 were children who lack food security and adequate nutrition. Canada’s Chief Public Health Officer has recognized that family income correlates with 80% of the key factors in healthy child development.
- 2. Early childhood development.** The focus on custodial daycare for working parents instead of early childhood development has had disastrous effects for young children in Canada. (See section on Early Childhood Development and Care.)

- 3. Preventing abuse and neglect.** Reported maltreatment is unacceptably high. A national database on reported cases of child abuse indicates that the rate of investigations in 2008 (39.16 per 1,000 children) is similar to what it was in 2003 (38.33 per 1,000 children.)³² Research indicates that most maltreatment is not officially reported. Child maltreatment has profound and enduring effects into adult life.³³ (See section on Violence.)
- 4. Mental health services.** It is estimated that 15% of children and youth are affected by mental health issues at any given time. Many mental health problems start before the age of 18. Early attention would benefit young people for a lifetime. A national mental health strategy with separate attention to children is under development, but implementation and funding will be a challenge.
- 5. Promotion of healthy living.** Physical exercise, nutritional food choices, prevention of bullying, safe play spaces, and appropriate Internet use are receiving some attention. Effective strategies are needed to help young people make healthier consumer choices (e.g. strategies to deal with the marketing of violent video games and junk food to young people). The benefits of targeted initiatives in these areas would be greater if they were part of a more comprehensive strategy.
- 6. Injury prevention.** A national childhood injury prevention strategy was announced in 2009, but was later reduced to sports injury prevention. This ignores other causes of most childhood injuries, such as accidents and maltreatment. The CCRC advocated for a comprehensive approach that would include maltreatment and focus on preventing all forms of injury.

Canada’s Record by International Comparison

A children’s rights lens offers an international window of comparison to inform Canadian debate. In recent comparisons of child health, Canada is falling behind many other industrialized countries with similar or fewer economic resources. The following rankings among industrialized countries are of particular concern:³⁴

- Infant Mortality – 24th of 30 countries
- Health and Safety – 22nd of 30 countries
- Child Poverty – 20th of 30 countries
- Children’s Well-being – Middle rank of 21 countries (Canada’s rating varies for 6 dimensions reviewed in a UNICEF comparative study.)
- Early Childhood – Last of 20 countries for access and level of public investments (OECD study) and last of 25 countries in a UNICEF comparison of 10 benchmarks. (See section on early childhood.)
- Inequality in Child Well-being – Average overall; higher in educational equality, lower in material equality, average in health equality³⁵

Factors that Affect Implementation of Children’s Right to Health

- An aging population shifts the focus in health policy from children.
- Health research on the benefits of preventive measures has not been accompanied by allocation of resources for preventive programming.
- Responsibility for policies affecting children’s health is fragmented between different government departments. One impact is that the most vulnerable groups, such as Aboriginal children, often fall through the cracks.

- Fiscal restraint has resulted in less funding for public community services that benefit all children and help to reduce disparities between children.
- Children are still not viewed as full citizens with equal rights.
- There is no coherent family policy or child policy at the national level or in most provinces.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Shift from narrow, discreet interventions to treat children as whole persons in the formulation of health policy and programming.	All health care providers and policy analysts
Approach children’s health as an investment in developing the human capital Canada will need to address the economic impact of an aging population, basing policies on the scientific evidence that shows the benefits for all Canadians.	Federal Cabinet Priorities Committee
Allocate resources for preventive measures based on the findings in the growing body of research on the social determinants of health. Such measures include income security, affordable quality housing for families, and early childhood care and development.	Federal/provincial/territorial departments of health and social development
Shift the focus from individual cases to greater support for community services that benefit all children. Reduce the gap between the most advantaged and least advantaged children.	Health care providers and policy analysts at all levels of government
Establish a mechanism to investigate and address evidence of inequitable access to health care for vulnerable groups, such as children with disabilities, Aboriginal children, newly arrived immigrant children, and children in remote communities, as recommended by the UN Committee on the Rights of the Child in Canada’s second review.	Health Canada Council of Ministers of Health
Invest in research that rigorously addresses which early child and family community initiatives optimize Early Development Instrument (EDI) scores and longer-term academic and social success for any given cohort of children.	Institute for Health Research Public Health Agency of Canada

Young people recommend “universal health-care including eye care, dental care, mental health services and medicine for all children who need it.”

CCRC Youth Consultation, September 24, 2011

B CHILDREN’S RIGHT TO BE EDUCATED

Introduction

Education is a high priority in Canada and comparisons of educational achievement with other countries are generally positive. Using articles 28 and 29 of the Convention as a basis for analysis highlights issues of access for some groups of children, the nature of education, and learning about children’s rights.

Right to an Education

Access to education, addressed in article 28, is nearly universal among the non-Aboriginal population. While some improvements are being made in Aboriginal education, ensuring access to quality, culturally appropriate education for all Aboriginal children on reserves and in urban settings remains a high priority. Children in migrant families, children with disabilities, and children in government or alternative care are other groups that face access challenges. (See sections on these groups.)

Young people said, “Schools are really important. They are a constant thing in every child’s life.”

CCRC Youth Consultation, October 2, 2011

Completion of high school remains a challenge within some groups. Strategies to prevent dropping-out and to support a successful transition from school to the work force are receiving more attention because Canada needs an educated workforce. A broader perspective on the role of education, as addressed in article 29, and more effective coordination of all services for children with special needs, such as using schools as community hubs, could enhance implementation of the right to education.

Another area of concern is the increasing use of user fees for required materials and activities that are part of the basic public school experience for children. User fees create inequitable opportunities for child development and contribute to the social marginalization of children whose families cannot afford them. A comparative analysis of user fees across the country and their impacts for children is needed to better evaluate equitable access to education.

Right to Develop Full Potential

Article 29, which addresses the purpose, nature, and quality of education, receives too little attention in educational policy across Canada. Pressure to prepare children for the workforce often shapes curricula, leaving less focus on development of the whole person (para.29.1) and development for “responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all people, ethnic, national and religious groups, and persons of indigenous origin” (para. 29.4). Fulfillment of this right varies greatly across the country. There have been no comparative studies or serious assessments to serve as a basis for evaluating progress.

Right to Learn About Rights and Responsibilities

There is increased learning about human rights, including children’s rights. However, this is taking place on a very isolated and uneven basis across the country. Good practices document positive benefits for schools that teach and model rights-respecting relationships, including increased respect and cooperation on the part of children. While many adults fear that allowing children to learn about their rights will make them self-centered, these outcomes demonstrate that the opposite is true. (See research report for details.) Canada needs to scale up good, local practices and take steps to ensure that all children learn in school how to live in communities that respect the rights of all people.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Facilitate a national discussion about articles 28 and 29 of the Convention; research how well education systems across the country fulfill these articles; share good practices; and develop a strategy to provide equitable educational opportunities for all children across the country.	Council of Ministers of Education
Distribute information on article 29 and its implications for educating children, as part of a renewed focus on citizenship education.	Citizenship and Immigration Canada
Make children’s right to learn about their rights and respect for the rights of all people a mandatory part of the curricula in all education systems. This should be an essential part of the current focus on citizenship education and preparing a workforce for the 21st century.	Council of Ministers of Education Provincial/territorial departments of education
Make the education rights of Aboriginal children a specific focus in the mandate for a National Children’s Advocate, including the ability to investigate claims by Aboriginal children relating to their right to education.	Parliament of Canada
Undertake a comparative analysis of the different kinds of user fees across the country and their impacts for children, and take steps to abolish fees that prevent children from realising their right to education.	Council of Ministers of Education
Establish an Education Ombudsperson with a mandate to promote children’s right to education, particularly for groups that experience social exclusion and discrimination. Include a mandate to investigate claims by children about violations of their right to education.	Provincial/territorial departments of education Provincial legislatures

Recommendations young people have are “put the Convention up in every classroom...annual student-made report cards that allow students from kindergarten to grade 12 to evaluate their teachers on their effectiveness, skills and attitude/behaviour...small classes based on types of learning styles...every child should be allowed to use the toilet upon need...a block of time at the beginning of the year for teachers to get to know how their students learn, their struggles and weaknesses and their personality so that they can best teach them and help them succeed.”

CCRC Youth Consultation, September 24, 2011

C CHILDREN’S RIGHT TO ACCESS INFORMATION

Introduction

Children’s right to have access to information, articulated in article 13 of the Convention, is only subject to “restrictions in law, or as necessary for respecting the rights and reputations of others or for national security, public order, public health, or morals.” Article 29.1.d on education also requires states to “make educational and vocational information and guidance available and accessible to all children.”

Right to Information about Sexual and Reproductive Health

Recent policies regarding education about sexuality in some provinces, such as Ontario and Alberta, raise serious questions about the right of young people to access information. It is in the best interests of young people to have access to accurate and appropriate information to protect their health. This should take priority in determining provincial/territorial policies. A children’s rights impact assessment could be used to balance various rights claims, ensure that the views of young people are considered, and discern what would be in the best interests of all children.

Right to Access Information on the Internet and Protection of Privacy

The growing focus on protecting children from exploitation through the Internet, especially sexual exploitation and trafficking, is important. It needs to be balanced with protecting young people’s right to access information through the Internet and to have their privacy protected. An additional concern is that measures designed to protect young people, such as recent amendments to the Criminal Code that mandate Internet service providers to report sexual content portraying children, could have unintended consequences for young people. Children may increasingly and unwittingly become subject to criminal charges for online activities, because they lack information about what constitutes illegal activity.³⁹

In a similar vein, new education legislation in some provinces expands grounds for the discipline of children and youth for the inappropriate use of the Internet, and some parliamentarians and groups have advocated for tougher federal criminal legislation. A stronger focus on prevention through education for young people on the consequences of digital actions should be a priority.

A 2009 report by the Canadian Council of Child and Youth Advocates and Privacy Commissioners highlighted the commercial exploitation of young people through the Internet and the need for young people to learn how to protect their privacy as they use the Internet to communicate with others, gather information, play games, or enjoy entertainment.⁴⁰

More effective education is needed to equip young people to navigate the Internet safely, to discern between reliable and unreliable sources of information, to protect themselves from exploitative actors, to protect their own privacy and safety, and to avoid illegal and otherwise harmful actions that infringe the rights of others. Young people need to be involved in the design and delivery of education about the Internet.

Right to Access Information about Birth and Biological Parents

The right of adopted children to know their biological parents, addressed in article 7 of the Convention, is implemented unevenly from one province to the next. Little progress has been made on the UN Committee recommendation to amend legislation to ensure birth information is made available to adoptees, made in the Concluding Observations from Canada’s second review.⁴¹

In May 2011, the Supreme Court of British Columbia ruled that children born through artificial reproduction have the right to access information about the donors involved in their origins. The court ruled that the 5% of the population who are donor offspring and adopted persons have the same right to information about their biological identity as the 95% of the population who know their birth parents.⁴²

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Complete child rights impact assessments for all decisions that affect children’s rights to access information and education, to ensure that the best interests of children are given priority and that the views of young people are considered.	Federal/provincial/territorial departments responsible for communications policy, privacy, and access to information
Include special provisions for young people in the laws that require Internet service providers to report child pornography and/or in prosecutorial guidelines. These should include age-appropriate corrective measures for young people who may have engaged in activities without awareness of their illegality.	Justice Canada

ACTION	ACTORS (Lead and Main Actors)
Regulate advertising directed to young children – especially advertising embedded in children’s electronic games and play spaces – to prohibit the collection of information from children, and to protect the privacy of young people.	Federal/provincial/territorial departments of industry and consumer affairs
Develop and implement comprehensive education and awareness strategies to help young people acquire skills and discernment in the use of the Internet and social media – including self-protection from exploiters and knowledge about illegal activities – to prevent engagement in illegal activities.	Provincial/territorial departments of education
Pass a law to ensure that all adults who were adopted and adults who were born through assisted reproduction can obtain appropriate information about their biological parents.	Justice Canada Parliament of Canada

D CHILDREN’S RIGHT TO AGE-APPROPRIATE FORMS OF CRIMINAL JUSTICE

Introduction

An analysis of children’s rights in Canada’s youth criminal justice system reveals progress made, threats of regression, gaps, and areas that need greater attention.⁴³

The rate of youth crime and youth detention in Canada decreased significantly after the Youth Criminal Justice Act (YCJA) came into force in 2003. Increased use of diversion programs and alternatives to incarceration have received positive reviews by most police forces, practitioners in youth justice, and provincial/territorial governments, who are responsible for the administration of youth justice. Ideally, the current good practices would be expanded and the full provisions of the YCJA would be implemented before a comprehensive ten-year review of its effectiveness.

Proposed Changes to the Youth Criminal Justice Act

In 2010, Bill C-4 proposed major changes to the YCJA. It was not passed before the 2011 election, but its provisions are expected to be in omnibus criminal justice legislation, to be introduced in the fall 2011 session of parliament. Many of the proposed changes are of major concern because they are

contrary to: evidence-based research into effective measures in youth justice, specific provisions in the Convention, broad public consultations, recommendations to Canada from the UN Committee on the Rights of the Child, and accepted international standards for youth justice.

Children’s Rights in the Criminal Justice System

Following is a summary of other important issues for federal and provincial/territorial governments:

- The lack of response to youth justice recommendations made by the UN Committee on the Rights of the Child after Canada’s second review.
- The need to fully incorporate the provisions of the Convention into Canadian law, including youth justice and social policies that prevent crime.
- All law enforcement agencies need clear guidelines on the use of force with young people, including the use of tasers and chemical restraints.
- The need to create structures and opportunities for young people to have a voice in decisions that affect them individually and in youth justice policies.
- The need to shift the approach from reacting to fear of youth crime to investing in community-based programming, education, and social policies that have been shown to prevent young people from engaging in criminal activity.

These are explored in detail in the background report.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Use documented evidence to develop laws, policies, and practices for youth justice, and ensure that they comply with the Convention. Identify good program practices and expand them across the country through cooperation between all levels of government.	Justice Canada Provincial/territorial departments of justice
Expand the use of extra-judicial measures to keep young people out of the justice system, using best practices and timely interventions.	All levels of government, law enforcement agencies, and community services working in cooperation
Adopt a two-step process for charging young people (internal charge approval prior to charging) as used in British Columbia, Quebec and New Brunswick.	Provincial/territorial departments of justice
Use detention only as a measure of last resort and for the shortest possible period of time. Take specific measures to ensure that children are no longer detained with adults and that males are no longer detained with female young	Justice Canada Provincial/territorial departments of justice

ACTION	ACTORS (Lead and Main Actors)
offenders. Withdraw Canada’s reservation to article 37 of the Convention.	
Fully protect the privacy of all children in conflict with the law at all stages of the justice system process, consistent with article 40 of the Convention.	Justice Canada
Put a moratorium on the use of tasers on adolescents by all police forces until independent research is available on their safety with that age group, including comparison with other means of restraining young people in immediate danger of harming themselves or others.	Public Safety Canada
Develop guidelines for restraint and use of force against children in arrest and detention (as distinct from adults), for use by all law enforcement officers and for all custody facilities (staff). Accompany the guidelines with training programs on the use of force with young persons under the age of 18. Include training to understand and respond to the behaviours of young people with mental illnesses and disabilities.	Public Safety Canada Provincial/territorial departments of justice
Shift resources to social policies that are known to have a significant impact on levels of youth crime. Prevent young people from falling into the criminal justice system through earlier response to the needs of young people and increased investment in mental health services, education, poverty alleviation, access to recreation, and cultural opportunities.	Federal/provincial/territorial departments responsible for crime prevention and social development
Provide user-friendly public information on the facts about youth crime, to help reduce the disproportionate fears concerning youth crime that result from publicity of specific incidents.	Statistics Canada Justice Canada
Inform the Committee on the Rights of the Child what specific steps will be taken to establish a system of youth justice that fully integrates the provisions and principles of the Convention and other relevant international standards such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines). The report should include specific steps to implement the recommendation from the second review regarding the federal government’s obligation to ensure that provinces and territories are aware of their obligations under the Convention.	Justice Canada

E CHILDREN'S RIGHT TO EARLY CHILDHOOD CARE AND DEVELOPMENT

Introduction

The importance of early childhood for the health and full development of children is widely recognized. Its importance for the economy and social stability of Canada is also recognized in research studies. Putting what we know into practice, however, has been slow.

This section focuses on the benefits of a children-first, rights-based approach to helping resolve what has become an acrimonious, polarized, and unproductive debate about early childhood care and learning in Canada. It also addresses the need for equitable treatment in early childhood. Many other factors involved in early childhood are addressed elsewhere in this report.

This report draws on existing analytical reports from various sources. It identifies common themes and priorities, and it proposes recommendations to move past the policy stalemate.⁴⁴

The Early Development of Canadian Children

The majority of children under age 6 in Canada are doing reasonably well in terms of their development, according to *The Well-Being of Canada's Young Children*, the most recent Government of Canada report on the topic in 2008. However, a significant percentage are not doing well in most of the surveyed indicators with 10 to 20% of children, depending on the indicator, not developing to expected thresholds.⁴⁵ A common theme in reports from a range of sources is an unacceptably high percentage of young children who lack access to the basic family and community resources required to ensure good health, brain development, and early development of the cognitive and social skills needed for full participation in Canadian society. A 2009 Senate report on early childhood reinforces this analysis.⁴⁶ Academic studies, using widely accepted early childhood development outcome indicators, conclude that about 25% of children entering kindergarten have not developed the basic, functional capacities for school entry. This includes some children in middle-income families.⁴⁷ The Chief Public Health Officer's *Report on the State of Public Health in Canada 2009: Growing Up Well – Priorities for a Healthy Future*⁴⁸ identifies the widening gap in resources available to children in some families, compared to others, as the major public health challenge for Canada. A 2010 UNICEF report, *The Children Left Behind*,⁴⁹ provides an analysis of the impacts of this inequality for children and for society as a whole.

The Policy Environment for Early Child Care, Learning and Development

The primary role of parents and family in child development, especially in the early stages, is recognized

in the Convention. The contribution of parents and the various costs associated with child-rearing are not sufficiently recognized in debates about policy priorities and distribution of public resources in Canada. This is true both in the design of general child benefit and transfer policies and in the more specific design of early child care and development policies.⁵⁰ Public policy can play a more significant and effective role in supporting families. To be effective, it needs to be based on accumulated evidence about optimal child development for individual children and for society as a whole. As articulated in article 18 (2), "States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities, and services for the care of children."

Policy decisions related to early childhood in Canada are not always evidence-based. They often reflect polarized, ideological debates about the role of women and of government in society. Resistance to public support for out-of-home child care persists, in part because early child development and care are dichotomized. Out-of-home child care is perceived as substitute supervision while parents are at work – a service that should be privately arranged by families who choose it – rather than as support for all children and families to achieve optimal child development and learning as a public good. The debate polarizes 'stay at home' working parents and other working parents whose children are in formal child care centers. It also ignores the fact that there is a variety of circumstances in-between, including regulated informal care, and part-time access to child development programs for 'stay at home' parents with young children.

One result of this custodial approach to out-of-home child care is the fact that there are only enough regulated child care spaces for 20% of young children, while 70% of mothers are in the paid labour force. Whatever the philosophy of parents or governments, the majority of Canada's children are in some form of out-of-home care, which raises major concerns about affordability, access, and quality.

At least three-quarters of Canadians support the establishment of a national child care program and consider the lack of affordable child care to be a serious problem. The public need for quality-assured child care and support for early childhood development is not satisfied by currently available options, which include kin and neighbour child care.

In its response to the 2009 Senate report, the government lists how much money is spent in supporting families through its current policy priorities, but it does not consider the range of policy options that could strengthen early years development for all children and also seriously address the question of the children currently left behind.⁵¹ There is well documented evidence on the benefits of taking a universal approach to early child development in public policy – including a special focus on the most vulnerable such as children living in low income households, Aboriginal children, children with disabilities or special needs, children in refugee and immigrant families, and children in remote communities. The best policy mix will promote healthy child development in a variety of quality care contexts and affordable access to quality early child development care and learning.

A child-first approach will advance the use of recognized child development knowledge to promote optimal health, socialization, and learning for all children. A child-first approach will recognize the fact that most young children are in, or can benefit from, some form of out-of-home care and development program. A rights-based approach would ensure first call for children on the nation's resources and

equitable treatment for all children in Canada, ensuring that no children are left behind because of where they were born, whether both parents work, or a low level of family income and resources.

Policy Directions for Early Childhood Development

- **A Systematic Approach to Early Childhood Policy**

The fact that Canada has no coherent national family or child policy, no cabinet-level position specifically focused on the coordination and impact of all policy decisions for children and families, and no national children’s advocate, results in unresolved debates on strategic choices and the lack of effective coordination of policies that influence children and families.

Canada spends less on early childhood than other comparable countries, based on expenditure analysis by credible international bodies.⁵² This analysis is contested by the Canadian government, but no complete, transparent account has been provided to establish whether young children receive a reasonable share of public investment or not. A coherent strategy with reasonable, transparent budget allocations is needed.

- **Quality Child Care, Learning and Development Options**

There is significant discussion in Canada about issues of quality within the child care sector. There are no minimum national standards and there are significant differences between standards set by each province or territory. Individual incidents of negligence receive significant media attention and erode public confidence. But the much greater issue, which gets little media attention, is the lack of any quality assurance in the large, unregulated sector. The shortage of regulated spaces means that only 20% of parents can choose care that has some measure of quality control. The majority of parents seeking child care must choose from available options in the unregulated sector.

- **Equitable Impact for All Children**

On repeated occasions in recent years, the federal government has been asked to provide evidence showing that current policies meet the provisions in Canada’s *Charter of Rights and Freedoms* and in the Convention for equitable treatment of all children – ensuring that children living in low-income and single parent households are not disadvantaged by policy. Funding for early childhood care and learning through tax credits and transfers to provinces is one of the key areas of concern.

In 2003, the UN Committee on the Rights of the Child asked for an equity impact analysis in the Concluding Observations from Canada’s second review on the Convention’s implementation.⁵³ In 2007, a Senate committee report on the rights of children asked for a similar analysis,⁵⁴ and in 2008, the UN Committee on the Elimination of Discrimination against Women highlighted similar concerns in its review of Canada.⁵⁵ Canada’s combined *Third and Fourth Reports* on children’s rights and government responses to parliamentary committee reports repeat information outlining how much money is spent by different jurisdictions in Canada, but they fail to provide evidence to show that all children are being treated in an equitable way by the current mix of policies.

- **Adequate Investment and International Comparison**

Data published by the government and analyzed by the Organization for Economic Cooperation and Development (OECD) suggests Canada spends less on early childhood in general than do other

comparable countries.⁵⁶ This has also been documented in an international report by UNICEF.⁵⁷ The average investment in early childhood among industrialized countries is 2.3% of GDP, while Canada spends just over 1%. Within the relatively low level of investment in early childhood generally, the largest relative gap with other countries is in expenditure on early childhood care and development. Most industrialized countries spend an average of 0.7% of GDP on this component, while Canada spends 0.25% of GDP, far short of the international benchmark of 1% of GDP. Federal transfers for this purpose in 2007–2008 were reduced by 37% from 2006, and by 61% from the previous government’s commitment for 2009.

International and domestic research documents a positive return on investment in early childhood care and development. Benefits include increased capacity for success as adults, reduced health care and other social costs over a lifetime, and greater social cohesion through participation in community-based initiatives focused on the common goal of raising healthy children who are integrated into society.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
<p>Publish a thorough report that provides:</p> <ul style="list-style-type: none"> • A full, child-centered account of current expenditures on early childhood policies and programs, including all child benefits and transfers; • An equity impact analysis (a comparative analysis of the impact of current policies and expenditures for different groups of children); • Analysis of the current situation of groups with higher vulnerability in the early years. <p>This should be done before the third review of implementation of the Convention to provide accurate data and accountability.</p>	<p>Public Health Agency of Canada Human Resources and Skills Development Canada Federal Inter-departmental Working Group on Children’s Rights</p>
<p>Develop and implement a national child-centered, comprehensive, and integrated strategy for early child development and care, as a high priority. The strategy should include specific targets, funding allocations to meet targets, quality assurance benchmarks for all non-parental care options, and an accountability mechanism for the outcomes of public funds allocated to early childhood.</p>	<p>Human Resources and Skills Development Canada Provincial/territorial governments</p>
<p>Implement a public education strategy on the importance of early child development, and ensure regular public reporting on the impact of national policy choices by all departments for children and families.</p>	<p>Public Health Agency of Canada, in cooperation with civil society groups and specialists in early childhood development</p>

“Clubs and teams provide lots of opportunity. There are lots of clubs in high schools, not primary schools. Primary schools are cutting recesses. There is a need to organize clubs in younger grades and more things to do are needed in primary school. For instance, at some schools, children are not allowed to play on the play structures in the winter because they are deemed unsafe.”

CCRC Youth Consultation, October 2, 2011

F CHILDREN’S RIGHT TO PLAY

Introduction

Article 31, commonly known as the right to play article, is not mentioned in the official reports by the federal/provincial/territorial governments. It is not well known or widely used in Canada.

Young people recommend these actions:

- Government can help
- Teachers should respect time for play — not too many hours
- More pamphlets, more ads to parents to get knowledge, more options so that kids can play what they like

CCRC Youth Consultation, October 2, 2011

In recent years, children’s physical activity has been on the national public agenda in relation to concerns about obesity, not as a focus on children’s development or rights. Contrary to the common perception that play is an optional activity for children, article 31 considers it an essential element for healthy child development, with far-reaching implications for society.

Many factors hinder unstructured play. These include less free time, safety concerns, preference for structured programs, reduced natural spaces for play, more passive time in front of screens, and professionals who do not understand its vital role in child development.

National sport policy focuses primarily on the development of expert athletes, with less attention to children’s play. Recreation policies at the provincial/territorial and municipal levels have a somewhat greater focus on children, but few explicitly recognize children’s right to play.

Concerns about safety often lead to reduced space for children to engage in unstructured play and explore the natural world. While progress has been made in prevention of abuse in sport programming,⁵⁸ a comprehensive strategy is needed to prevent violence against children in formal and informal recreation, without restricting the physical and social space children need to explore their world through play.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Learn about the right to play in article 31 and consider its implications for households, communities, and all levels of public policy.	Parents, community leaders, and professionals who work with children and inform public policy discussions

ACTION	ACTORS (Lead and Main Actors)
Develop a strategy for implementing article 31, as part of a comprehensive strategy for implementing children’s rights in Canada. As a first step, identify the specific governing agencies with key responsibilities. Establish a mechanism for communication and coordination between the major actors, and include avenues for participation by young people and civil society organizations.	Sport Canada, in cooperation with provincial/territorial departments responsible for recreation policies
Develop municipal play strategies that include diverse settings, including natural settings within proximity of residential areas where children live. Establish and implement measures to stop and prevent all forms of violence, abuse, and exploitation in children’s sport and in less formal recreation.	Federation of Canadian Municipalities, Big City Mayors Caucus, and regional associations of municipal leaders
Establish and implement measures to stop and prevent all forms of violence, abuse, and exploitation in children’s sport and in less formal recreation.	Sport Canada
Lead a national initiative to improve the culture of respect for children’s right to play in the development of sport and recreation programming across the country, and develop training programs for professionals who engage with youth.	Sport Canada

G CHILDREN’S RIGHT TO FAMILY, IDENTITY AND CULTURE

Introduction

The Convention clearly describes the rights of every child to a family, identity and culture (articles 8, 20, 21 and 30). When children are in the care of the state, governments are obliged to ensure that the best interests of the children have priority in all decisions affecting them. If a child cannot return to a birth family, the state must make every effort to find a substitute that is in the child’s best interest. This ideally entails finding an alternative permanent family and ensuring that cultural connections are maintained.

Few Canadians would dispute that it is in the best interests of a child to grow up in a stable, nurturing family. Yet tens of thousands of children are growing up in foster care in our provinces and territories, shunted from temporary home to temporary home, and then into group home after group home. Each year in Canada, of the estimated 30,000 to 40,000 children in care who are legally available for adoption, only about 7% are adopted. Most children ‘age out’ or are ‘emancipated’ from the child welfare system between the ages of 16 to 21 without having permanent families.

For Aboriginal children, who are greatly over-represented in the child welfare system, this is particularly critical. When they come into the foster care system they often lose their connections to their extended family, band or community, and to their culture. Some speak about feeling that they do not belong anywhere.

Compared to Canada, other countries have increased their adoption placements in acknowledgment of their responsibility to the children in their care. They have achieved this by setting targets and providing funding incentives for recruitment and support. As a result of these efforts, for example, significantly more children have found families in both the United Kingdom and United States than in Canada.

Factors that Affect Implementation of Children’s Right to a Family

Federal officials often cite jurisdictional divisions as the reason for a lack of action by the federal government. Domestic adoption legislation, policy, and practice are set by each of the provinces and territories and vary considerably from jurisdiction to jurisdiction. As a result, Canada has no national adoption legislation, no national standards, no national database on children in care or adoption, little research on adoption outcomes, and no federal funding.

The federal government has the responsibility to implement the rights of all children – with particular responsibility for Aboriginal children who comprise more than 50% of the children in foster care who need permanent families. The UN Committee on the Rights of the Child has stated that the federal government must enact appropriate safeguards to ensure that the existence of decentralized jurisdictional responsibility does not lead to discrimination in the rights that children enjoy in different regions of a country. In Canada, differences in legislation, policy, practices, and funding result in unequal access to services and an uneven chance that a child in the child welfare system will have a family.

Aboriginal Children and Adoption: A Contentious Issue

There are specific issues that must be addressed in relation to adoption and the rights of Aboriginal children. In addition to the basic right to a family, articles 20 (3) and 30 of the Convention state that all children have a fundamental right to their culture and language.

Adoption of Aboriginal children is a complex issue, with little agreement between Aboriginal people and provincial/territorial child welfare authorities on how customary forms of adoptions can be undertaken in ways that are acceptable to Aboriginal stakeholders. This is an issue far broader than the situation in Canada. Indigenous youth in many parts of the world leave child welfare systems without permanent families in alarming numbers, suffering extremely poor social, educational, physical and mental health outcomes.

There are few national or international discussions about the issues between indigenous and mainstream child welfare authorities. These discussions are uncomfortable and politically sensitive, but they are necessary in order to ensure that the rights of Aboriginal children to family, culture, and

identity are honoured. Given the poor outcomes for children who ‘age out’ of foster care, this is an enormous gap in social policy that should be addressed as a high priority by the federal, provincial and territorial governments.

The Right to Identity

Article 7 of the Convention outlines the right of an adopted child to a name and to know, as far as possible, her or his biological parents. Article 8 recognizes the right of the child to preserve his or her identity, including nationality, name and family relations.

Adoption disclosure and reunion policies vary greatly from one province or territory to another. There has been little action on the recommendation of the UN Committee in the Concluding Observations of the second review (para. 31) to amend legislation to ensure birth information is made available to adoptees. Although adoption law in Canada is a provincial matter, the federal government has an obligation under the Convention to ensure that the terms of the Convention are implemented throughout all provinces and territories.

The Right to Equal Parental Leave Benefits for Adopted Children

Currently adoptive parents do not receive the same level of parental leave benefits as biological parents. Adoptive parents have advocated for years for equality of benefits. The unequal treatment raises questions about implementation of the principles of “the best interests of the child” and non-discrimination.

Inter-country Adoption

Article 21 of the Convention requires governments that permit inter-country adoption to ensure that the ‘best interests of the child’ are the paramount consideration. Further, in article 21 (c), the Convention states that the child must enjoy safeguards and standards equivalent to those existing in the case of national adoption. The Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Hague Convention) is an elaboration of article 21 of the Convention on the Rights of the Child.

In the Hague Convention, the central authority, or primary duty-bearer, is obligated to ensure that the provisions of the Convention are implemented. Since Canada is a federal state and adoption is a provincial/territorial responsibility, the role of central authority is shared between the federal government and provinces and territories. Canada’s federal Central Authority, the Intercountry Adoption Services unit in Human Resources and Skills Development Canada, has allocated limited resources to adoption and has interpreted its role narrowly. It has been unable to provide provinces and territories with timely, current information as required under article 7 of the Hague Convention. It has provided little in the way of leadership and coordination with other federal departments responsible for aspects of inter-country adoption, and it has limited ability to provide technical support to countries from which Canadians adopt children, to help them fully implement the Hague Convention.