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Protecting Children

A CHILDREN'S RIGHT TO BE FREE FROM VIOLENCE

Introduction

Children and youth endure more violence, exploitation and abuse than adults in Canada.¹⁰ The high incidence of violence against children makes this a major concern in all aspects of children's lives, with ripple impacts on their other rights, such as health and education. The Convention explicitly obligates governments to take active measures to protect children from all forms of violence (article 19). A wide range of efforts at all levels of government address various forms of violence; but, in a 2008 CCRC survey, lack of protection from violence and exploitation was identified by young people as an area where their rights are not respected, particularly in the community and in schools.¹¹ This survey and other studies indicate that the greatest sources of violence, according to children, are in the daily interactions at home between children and between children and parents, as well as between children at school, with too little adult intervention.¹²

In 2006, Canada adopted the report from a United Nations study on violence against children (published later as the *World Report on Violence against Children*), which included recommendations for action by all governments. The report focused on violence against children at home, in schools, in the community, and in care and justice systems.¹³ Little has been done to implement the recommendations in Canada.

Legal Measures

While federal /provincial/territorial laws prohibit many forms of violence, the laws are not comprehensive nor do they fully extend to children; enforcement is uneven and inadequate; and

prevention of violence receives too little attention. Prevention is the most important way to protect children from violence.

Canada has passed a number of new laws to strengthen the criminalization of sexual exploitation of children, with a particular focus on internet-based exploitation. More attention must be paid to the relationships between internet exploitation and other forms of sexual abuse, with a focus on strategies to prevent all forms of abuse. More effective education about the legal and illegal use of digital technologies is needed to avoid the unintended consequence of bringing greater numbers of children into conflict with the law.¹⁴

Violence at Home

Rates of violence against children in the home are persistently high, evidenced by the Canadian Incidence Study of Reported Child Abuse and Neglect and by opinion surveys among children and youth. This situation requires more attention by governments at all levels. Three areas for particular attention are:

- Effective, sustained prevention programs with sufficient coverage, including programs promoting non-physical discipline
- Clear laws that prohibit all forms of violence against children
- More clear and consistent legislation and standards in provincial/territorial child welfare systems, giving priority to the best interests of the child.

Violence in School

In schools, peer violence or bullying and physical punishment are two significant concerns. Bullying in its various forms has received significant attention in Canada. A national network of experts, called PREVNet, coordinates research into effective approaches to prevention and response. Strategies that include children, respect their rights, and ensure that adults are active and consistent in their roles are most effective, based on research findings. Such strategies emphasize prevention, participation and progressive discipline. Provincial/territorial disciplinary policies are uneven in terms of respect for the rights of children. Good, evidence-based practices in some jurisdictions should be scaled up across the country.

Recent reports have highlighted various forms of bullying and harassment experienced by young people because of their sexual orientation.¹⁵ In some cases, for example, school curricula and school policies do not allow open discussion of issues relating to sexual orientation or the formation of clubs, such as gay/straight alliances that promote open dialogue. Discrimination and harassment based on sexual orientation are also experienced in other settings. Increased attention is needed to ensure that schools and public spaces in the community are safe places, without discrimination against young people based on sexual orientation.

Violence in Sport

Violence in sport affects many children. Sports organizations have begun to address physical violence through awareness campaigns and stronger rules and penalties. Good practices in the prevention of abuse and violence in some sports should be expanded to ensure that all children are protected from violence at all levels of involvement in sports. A more active, coordinating role by governments, in cooperation with all major youth sports organizations, should result in minimum standards for player safety from all forms of violence in sport, including mental and emotional abuse.

National Leadership

There are linkages between the various expressions of violence against children. A comprehensive national strategy would support positive action and help to co-ordinate law enforcement with prevention programs. It would promote consistency, scale up good practices, and maximize promising efforts being made in different parts of the country. It would send a clear message that ending all forms of violence against children is a high priority. National leadership would help to change current public misperceptions that some forms of bullying or violence in sport are normal and acceptable and that young people are primarily perpetrators of violence, when in fact they are more often victims of violence than perpetrators of it.

The federal government has a particular responsibility to ensure that there is equitable treatment of children across the country in relation to protection from violence. As a detailed background report for this chapter explains, children in different places in Canada experience different levels of legal protection from violence.

RECOMMENDATIONS

ACTION

ACTORS (Lead and Main Actors)

Develop and implement a national strategy for prevention of all forms of violence against children, as part of a national strategy to implement children’s rights. The federal government should play a leading role to ensure that all children are treated equitably in Canada with regard to their right to grow up free from violence.

Prime Minister
Public Health Agency of Canada, in cooperation with professional associations, civil society organizations, and all levels of government

Adopt federal legislation to prohibit all forms of violence against children, including repeal of section 43 of the *Criminal Code*. Amend provincial/territorial laws to prohibit the use of force for correction in all settings. Invest in helping parents and other authorities use more effective forms of discipline, based on evidence-based research.

Justice Canada
Public Health Agency
Provincial/territorial departments responsible for children

ACTION	ACTORS (Lead and Main Actors)
Review “Safe School” legislation and strategies, anti-bullying programs, and protection laws in every province/territory to give priority to the best interests of children, including consideration of the views of young people themselves.	Provincial/territorial departments responsible for children Council of Ministers of Education Provincial/territorial departments of education
Provide regular training for educators, school trustees and youth leaders in rights-respecting behaviour management. Support education of children and youth on safe and legal use of digital technologies.	Council of Ministers of Provincial/territorial departments of education Sport Canada
Reduce violence against children in sport through a national strategy, using evidence-based education, regulation, and consistent enforcement of legal protections. The strategy should be informed by research on the impacts of violence in sport on child survival, health, and optimal development.	Departments responsible for recreation in provincial/territorial and municipal governments

B CHILDREN’S RIGHT TO BE FREE FROM POVERTY

Introduction

One in nine children in Canada grows up without access to adequate resources for healthy development.¹⁶ While the number of children living in poverty is of great concern, so too is the depth of poverty. A majority of low-income households with children live far below whatever measure is used as the poverty line. Using a multi-dimensional assessment of child poverty draws attention to important factors besides income, such as poverty of time spent with parents.¹⁷ Poverty during childhood can do life-long harm. This has been documented in health research, including official government reports cited in the section on health.

Canada ranks well below other industrial countries in this area, placing 19th out of 26 in the most recent comparison by the Organization for Economic Cooperation and Development (OECD).¹⁸ Eleven countries in the same category as Canada have child poverty rates of less than 10%. Countries and provinces that have set targets and implemented specific strategies to reach those targets have made progress. Canada, by comparison, has not made much progress since 1989, when parliament passed a resolution to end child poverty by 2000.

National Child Income Security System

In 2008, the National Council of Welfare, an advisory group to the federal government, analyzed the impacts of the National Child Benefit System. This is the major government strategy to reduce child poverty. In 7 of 20 scenarios across the country, one child with a lone parent and two children with two parents in low-income households were worse off than 10 years before the National Child Benefit System was implemented. The council concluded that “the National Child Benefit System was a big step backwards in the fight against child poverty.”¹⁹

In addition, two changes made to income support programs for children in 2006 and 2007 discriminate against children in low-income households. Under the current Universal Child Care Benefit program, some children in poor families receive less, after taxes, than children in wealthy families. Under the current Child Tax Credit, children in the poorest families receive no benefit compared to children in affluent families who receive \$300. The introduction of these policies happened at a time when 12.4% of children lived in poverty, and the wealthiest 10% of households with children had ten times the level of resources as the poorest 10%. In addition, the child benefit program has become so complicated that many families do not know if they are being treated fairly or not. In 2010, a small correction was made to provide more fair tax treatment for single mothers compared to two-parent families, but the larger inequities between children were not addressed. The CCRC advocates for a fair and understandable system of support for families that ensures all children have the opportunity for a good start in life, as well as a national poverty reduction strategy.

Maintenance Payments for Children

Statistics Canada reported that 64% of the cases in Maintenance Enforcement Programs across the country are in arrears.²⁰ Most of the 408,000 cases involve children, who need the resources for immediate basic needs. More attention to enforcing these agreements could help children at the time of life when they most need it.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Establish specific annual targets to reduce child poverty so that it is less than 5% by the 25th Anniversary of the Convention in 2014.	Human Resources and Skills Development Canada
Develop and implement a national, coordinated strategy to eliminate child poverty, in the context of a broader national poverty reduction strategy. An effective strategy will include a combination of measures, based on a multi-dimensional analysis of the conditions necessary for healthy development.	Human Resources and Skills Development Canada Parliament of Canada

ACTION	ACTORS (Lead and Main Actors)
Ensure equitable distribution of tax benefits and social transfers for children, including regular public accountability. Enforce maintenance payments that involve children.	Human Resources and Skills Development Canada

C CHILDREN'S RIGHT TO BE FREE FROM EXPLOITATION IN THE WORKPLACE

Introduction

There is great variety in the minimum age of employment, allowable hours of work, regulation of conditions of work, and recourse for young workers to protect their rights.²¹ Of particular concern are trends to lower the minimum age of employment. In British Columbia, for example, children as young as 12 can be employed part-time without a permit and with few regulations. The costs of deregulation have been an increase in workplace injuries of young people and growing concern about the impact of long working hours on educational achievement. In some jurisdictions, young people are not protected by labour laws that protect adults in the workplace. Incidents of violence and abuse in the workplace are often not formally reported or investigated.

Canada is not in compliance with the provisions of article 32 of the Convention, which require the state to protect under-18s from economic exploitation by establishing an appropriate minimum age, regulation of hours and conditions, and effective enforcement. Canada has ratified the International Labour Organization (ILO) Convention 182, which prohibits the worst forms of child labour, but not ILO Convention 138, which addresses minimum age of employment, hours, and working conditions.

In 2003, Canada was asked by the UN Committee on the Rights of the Child to research the extent of children working and then take effective measures to prevent exploitation. While there has been some further discussion about ratification of ILO Convention 138, the federal government has not taken leadership to assess the situation of working children and implement the provisions in the Convention on the Rights of the Child across the country.

Young people said, "Kids tend to get paid less than adults do for the same work." "We've learned that girls get paid less than boys too." "For kids, it is more difficult to find a job. The only opportunities are Superstore, waiting on tables where you get less than minimum wage due to the expectation of tips. And camp counsellors: I know someone who earned \$160 for the whole summer as a counsellor." They also identified disparities in pay and conditions between provinces/territories as a concern, and recommended "more stringent regulations for wages. There should be an absolute minimum pay no matter what. There should be no age discrimination."

CCRC Youth Consultation, October 2, 2011

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Take leadership on compliance with the Convention through research and public reporting on the situation of working children across the country. Investigate further the ratification of ILO Convention 138 in order to counter trends to weaken child labour standards within Canada.	Federal Minister of Labour Human Resources and Development Canada
Establish a consistent minimum of age 16 for employment (consistent with age 16 for compulsory education), while allowing for light employment between ages 13 and 16, with appropriate safeguards on hours and working conditions.	Federal Minister of Labour
Develop national guidelines for the regulation of hours and conditions of work for young people that protect their health, safety, and educational participation. Monitor and report annually on the situation of working children across the country as a form of public accountability for protection of the rights of children.	Federal Minister of Labour Statistics Canada
Use federal/provincial labour agreements to support training for employers and young people on workplace safety and the rights of young workers, including enforcement of protective regulations, respect for rights, and access to appropriate mechanisms for young people to report and resolve complaints about violence, abuse, and exploitation in the workplace.	Industry Canada Federal Minister of Labour Provincial/territorial departments of labour Human Resources and Development Canada

D CHILDREN'S RIGHT TO BE FREE FROM SEXUAL EXPLOITATION

Introduction

This is the first review of Canada's implementation of the Optional Protocol to the Convention on the Rights of Child on the Sale of Children, Child Prostitution, and Child Pornography (OPSC). Specific attention will focus on the systems that have been put in place for implementation, such as legal reform and national strategies to achieve the desired outcome of OPSC. Below are summary points for consideration, which are based on a comprehensive research project undertaken in 2009-2010.²²

Young people said important concerns are that there is "not enough awareness of rape and sexual abuse" or of "repercussions of the implications of child pornography and 'sexting.' There are "not enough clinics – mental health and physical health – with trained professionals in small cities." Young people want "affordable help for after sexual assault (counselling)...[and] rehabilitation for drug abuse." They ask for "more consequences for sexual offenders."

CCRC Youth Consultation, September 24, 2011

Articles 1 – 3, 8: Legal Protection and Enforcement

Canada has specific laws to prohibit the range of activities covered in articles 1 to 3 of the OPSC, at both the federal and provincial levels of government. In recent years, steps have been taken to expand the laws to include internet exploitation, to raise the age for consensual sexual activity to 16, to require Internet service providers to cooperate with law enforcement of child abuse, and to increase the penalties for child pornography and trafficking of children.

Enforcement of these laws needs increased attention. As outlined in the government report, there are few prosecutions, compared to estimates of the number of violations and complaints. Furthermore, only an estimated 50% of prosecutions lead to convictions of a small number of persons. An essential element of effective enforcement is support for child victims who serve as witnesses in criminal prosecutions. As one example, good practices in a program in Edmonton have demonstrated an increase in conviction rates from 25% to 75%.

A second area for legal reform is stronger legal protection for all the rights of children under the Convention, as a tool for preventing exploitation.

RECOMMENDATIONS

ACTION

ACTORS (Lead and Main Actors)

Enforce existing laws more effectively and consistently through a national strategy that includes prevention and protection of child victims and witnesses in criminal prosecutions.

Justice Canada
Public Safety Canada

Incorporate the Convention into domestic law to strengthen the legal framework for the prevention of child exploitation.

Justice Canada

Articles 4, 5, 6: Cross-Border Exploitation and Trafficking

Canada is a source, transit and destination country for the trafficking of children and cross-border sexual exploitation. Borders include provincial/territorial borders within Canada as well as national borders in the case of transnational exploitation. Soon after adoption of the OPSC, Canada passed legislation to permit prosecution for extraterritorial offences. Enforcement has been weak, with only a few prosecutions, while there is evidence of significantly more cases where it could apply. There are also concerns from other countries about the lack of cooperation by Canada in international investigations.

Young people say they "need information about all aspects of sexual well-being, including sexual exploitation and assault, instead of just being focused on sexual health...to understand what sexual exploitation is and where to draw the line. Many girls don't know that what happened was assault or exploitation and they don't talk to anyone about it."

CCRC Youth Consultation, August 24th, 2011

The government's first report on its implementation of OPSC lists a number of specific initiatives and various intergovernmental and international working groups on very specific aspects of the OPSC. However, Canada lacks a national strategy that would link all the pieces, fill gaps, and ensure a robust approach to prevention, protection of victims, and prosecution of offenders. Without a comprehensive strategy, efforts in one geographic area shift the problem to another one, in what is known as the 'pushdown - pop-up' pattern of sexual exploitation.

The Interdepartmental Working Group on Trafficking in Persons was mandated in 2004 to develop a national strategy but has yet to do so.²³ Current approaches to trafficking do not include specific attention to children.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
<p>Develop and implement a comprehensive, national strategy that links prevention, protection of victims, and prosecution of offenders across the country and internationally. Close the gaps between existing small-scale initiatives and establish stronger, on-going cooperation between government agencies at the federal/ provincial/territorial levels, youth-led groups, and civil society groups who work with children.</p>	<p>Federal Interdepartmental Working Group on Children's Rights Provincial/territorial ministers of justice and departments responsible for children's policy Youth-led groups Child-serving agencies</p>
<p>Emphasize child protection, including prevention of sexual exploitation, in corporate social responsibility laws and policies through joint initiatives between government, the private sector, and civil society groups. Special attention is needed in the following sectors: tourism, travel, communication, media, Internet services, advertising and entertainment, agriculture, and financial services.</p>	<p>Private sector business associations Departments of industry at federal/ provincial/territorial levels</p>
<p>Include explicit child protection provisions in human resource policies at all levels, such as professional codes of conduct and legislation governing professions and labour.</p>	<p>Human resource management directors Business and professional associations</p>

Article 9: Vulnerable Children

Evidence presented to a parliamentary study committee in 2006 suggested that the average age for a first experience of prostitution was between 14 and 18 years of age.²⁴ The age of eligibility for protective services under child welfare varies significantly across Canada, and migrant children and unaccompanied minors do not qualify for welfare services at all in some provinces. Lack of access to child welfare leaves some young people particularly vulnerable for exploitation during this at-risk period. Adolescents and service agencies report uneven availability and range of services for that age group, leaving gaps that further increase vulnerability. There is substantial evidence that child welfare services for Aboriginal children are not funded equitably and the increased vulnerability of Aboriginal children is reflected in the over-representation of Aboriginal young people in sexual exploitation.

In addition, there is inadequate protection for young people who are sent out of Canada for the purpose of marriage below the legal age and/or to which they have not consented. Children living in or brought to closed religious communities, such as the polygamous community in Bountiful, British Columbia, have few avenues to protect their rights. In this community, forced marriages of young girls to older men have been documented, along with the maltreatment of young males.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
<p>Ensure that all children under age 18 can access supportive services under child welfare, if needed, in keeping with the principle of the 'best interests of the child'.</p>	<p>Provincial/territorial departments of social services</p>
<p>Provide more resources for adolescent programs that demonstrate effectiveness in preventing sexual exploitation.</p>	<p>Government departments responsible for social development at all levels</p>
<p>Provide special assistance for young people sent out of the country or brought into the country for the purposes of forced marriage or other forms of sexual exploitation.</p>	<p>Federal and provincial departments responsible for immigration and settlement</p>
<p>Provide the necessary resources for Aboriginal preventive programs to reduce the vulnerability of Aboriginal young people.</p>	<p>Aboriginal Affairs and Northern Development Public Health Agency Canada</p>



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