

Commentary
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Children's Rights in Canada's Response to Universal Periodic Review

Introduction

Canada's response to 245 recommendations from other countries to improve how it implements human rights is disappointing. This was a missed opportunity to make and show progress in Canada. The response is evidence that not much has changed in practice, in spite of ministerial level statements about improving implementation in Canada. The forthcoming review of children's rights is another good opportunity. Hopefully, Canada will use it to demonstrate more substantive and systemic progress.

Canada just completed its third Universal Periodic Review process (UPR). The UPR is a high-level review of how a country implements all its international human rights obligations. It is conducted by all governments through the UN Human Rights Council; because of that, it gets more political attention than treaty body reviews by UN committees.

The good news is that Canada accepted 208 recommendations to make improvements in all areas of human rights implementation. In most cases, however, the government claims that it is already undertaking what is recommended, although civil society organizations pointed out many gaps and hoped for new or more specific commitments to take action. This report continues the narrative that Canada does well, with a few exceptions which are being addressed.

A closer look at a few accepted recommendations and a few that are "noted," which is a code word for rejection, provides some insights for children's rights advocates.

Rights of Indigenous Children

Canada accepted many recommendations about equitable access to services with a vague statement that governments have "*numerous initiatives to address access to services for indigenous people.*" A recommendation to cease removing indigenous children from their families was "noted" with a statement that it may be essential to remove a child in exceptional circumstances after making "*every effort to prevent removal.*" Many indigenous and civil society groups would not agree that every effort is being made to prevent removal.

Canada accepted recommendations to implement the Truth and Reconciliation Calls to Action with vague general commitments. However, the report itself later contradicts this with rejection of recommendations to end corporal punishment, which is TRC Call to Action #6. There have been no annual reports on child welfare, TRC Call to Action #2, more than three years after the call was made and indigenous child welfare was recognized as a "crisis." We are still waiting for basic data, despite repeated recommendations from multiple bodies, with promises to act on this.

Violence against Children

Canada accepted many recommendations relating to violence against women and girls, based on existing initiatives, but rejected developing a national plan of action. National plans of action were also rejected in other areas, under the assumption that existing fragmented policies and programs are adequate without providing any evidence to address serious gaps raised during the review process.

The rejection of two recommendations to prohibit corporal punishment of children warrants more discussion. The reason given states: “*abusive conduct against children is prohibited under Canada’s criminal code, and any conduct that places a child in need of protection is also subject to intervention under PT (provincial/territorial) child protection laws.*” It does nothing to respond to international evidence about the benefits of preventing all forms of violence against children under Article 19 of the Convention on the Rights of the Child nor the reality that adults have more protection from violence than children do in Canada.

Child Poverty, Housing, and other Economic and Social Rights

Canada accepted a recommendation to ensure the justiciability of economic, social, and cultural rights with the claim that there are adequate means in Canada to pursue failures to realize economic, social, and cultural rights in all human rights conventions. The review process highlighted many barriers to fulfilling those rights in Canada. This will be a growing issue under “access to justice” work that members of the Coalition are expanding. It will be discussed at the November CCRC conference and pursued in continuing advocacy.

It is worth noting that Canada did not commit to a rights-based housing strategy, in spite of ministerial level statements suggesting that this might be one place we would see progress in the use of human rights obligations to strengthen public policy across Canada.

Another area of economic rights noteworthy for lack of action were recommendations relating to business and human rights, to address human rights issues relating to Canadian companies operating in other countries.

Detention and Secure Treatment of Minors

Canada accepted recommendations to end the detention of minor refugee claimants with this statement of current policy: “*a minor may be detained in extremely limited circumstances only after appropriate alternatives are considered and determined to be unsuitable or unavailable.*”

In response to another recommendation, the report also states that federal and provincial correctional service agencies are addressing issues with regard to “administrative segregation.” These issues will come up again in the review of children’s rights.

Systemic Measures

Canada accepted strong recommendations for systemic reform of how it implements human rights by repeating a vague recognition of the need to do better. The only specific step is a repeated promise to develop “*a protocol for follow-up to recommendations and a strategy for engagement with civil society and indigenous peoples.*”



One recommendation called for follow up on previous commitments for children’s rights. Canada responded that it “*continues its efforts to implement recommendations*” but exempted the recommendation to establish as Children’s Ombudsman or Commission with no explanation.

The CCRC has focused strongly on getting a serious response to previous recommendations in the current review of children’s rights, along with more substantive dialogue in Canada during the review process. Getting beyond generalities will take diligence and persistence by children’s rights advocates across the country.