

## Children's Rights Are Human Rights

November 20, 2009 is the 20<sup>th</sup> Anniversary of the Convention on the Rights of the Child. **Does it make a difference in Canada?**

Canada's third report on implementation of the Convention, due in January 2009, has not been released. Little action has been taken on the 45 recommendations from the second review in 2003. Canada lags behind some other countries in protecting the rights of children.

### Why is this important?

- "Children are **people** too!" That's how one young person summed up the importance of respect for children's rights. Young people are often seen as problems, future workers, or consumers. They want to be partners in building Canada. Learning about their rights and respect for the rights of others develops citizenship skills. If implemented, the Convention would benefit all Canadians, children and adults alike.
- Persons under the age of 18 are **24% of the population**, but they have no voice at the national level. They cannot vote and there are no channels for them to be heard. The Convention can be a tool to give young people a voice in Canada.
- **Equitable treatment** for all children is a Canadian value. With social programs run by ten provinces and no national standards, Canada needs a way to ensure that no children in Canada are left behind. The Convention is a **tool to ensure equity with respect for diversity**.
- Children are **whole** persons, but public policies and services for young people are fragmented between departments and different levels of government. The Convention brings all areas together from a child's perspective. It combines protection, provision of basic needs, respect for the developing capabilities of young people, and participation. It is a **tool for 21<sup>st</sup> century federalism**.
- Children as a **group within Canadian society** require focused attention by governments. Parents, governments, and other actors have complementary responsibilities toward children. The Convention provides a framework for all stakeholders to support child development.

On the following pages, the Canadian Coalition for the Rights of Children (CCRC) charts progress on key themes and proposes specific goals for the 25<sup>th</sup> Anniversary. Examples are chosen to illustrate the benefit of taking children's rights seriously; it is not an exhaustive analysis.

We hope that all Canadians will use this information to ask their members of parliament to stand up for children's rights.

## Rights for All Children

Over the last 20 years some progress has been made to implement the Convention, but that is not enough. Basic building blocks are missing and basic data on the children's situation is incomplete. The result is that some children in Canada miss the essentials for healthy development. This table charts progress in the general mechanisms of implementation and proposes measurable goals for the 25<sup>th</sup> Anniversary of the Convention.

| Convention (1989)  | Recommendations<br>2nd Review (2003)  | Other Developments  | Status in 2009   | Goals for 25th Anniversary in<br>five years (2014)  |
|--|---|---|--|---|
| <b>Protect children's rights in Canadian law</b>   |   |   |  |   |
| Article 4: <i>"States shall take all appropriate legislative ...measures for the implementation of the rights in this Convention."</i> | Both the first and second review called on Canada to take steps to <i>"ensure that the principles of the Convention are reflected in domestic law."</i>   | In 2005, a Senate study on children's rights proposed <i>"enabling legislation in which the federal government considers itself legally bound"</i> by the Convention and a monitoring role for parliament.        | The government says the Charter of Rights and Freedoms is adequate, but it does not address children's rights. Court judgements have been inconsistent.<br><br>Piecemeal action leaves gaps and results in inequity.   | Pass a law to make the Convention apply in Canada.<br><br>Allow ten years to review and revise other laws as needed.<br><br>These measures would provide clear direction and benefit all children in Canada.  |
| <b>Regular, public reports on the status of children across Canada</b>   |   |   |  |   |
| Article 44: Reports are to cover<br>a. Initiatives taken; and<br>b. Status of children.  | <i>"Integrate and analyze data on all children, especially vulnerable groups, and use data to evaluate policies and programs."</i><br><br>Reports are to be <i>"widely distributed to generate debate and awareness of the Convention and its implementation"</i> | A Senate report in 2007 called for annual reports to parliament by a Children's Commissioner.<br><br>There are limited data sources on children across Canada and important data has not been updated since 2006. | The 3 <sup>rd</sup> report is late, as was the 2 <sup>nd</sup> . Reports list programs and dollars, but not outcomes for children. No analysis of how children are doing - the main purpose of the reports. No public discussion with young people or stakeholders.<br><br>Reports on Canadian Heritage website are difficult to find. | Regular, public reports on status of children, using indicators based on Convention. Preparation of reports involves children and stakeholders.<br><br>Reports based on the Convention help to ensure that all children benefit from public funds invested by all levels of government. |

| Convention (1989)  | Recommendations<br>2nd Review (2003)  | Other Developments   | Status in 2009  | Goals for 25th Anniversary in<br>five years (2014)  |
|--|---|--|---|---|
| <b>Children's Commissioner to hear and investigate concerns of young people</b>  |   |  |   |   |
| <p>UN General Comment on Article 4 calls for a children's ombudsperson or advocate for effective implementation.</p> <p>Other countries show the benefits of this.</p> | <p><i>"Establish an Ombudsman's Office and ensure... effective functioning."</i></p>  | <p>Provincial children's advocates show that rights-based reports on the situation of children can lead to positive policy change.</p>   | <p>Canada has no mandated, accountable focal point for children at the national level.</p> <p>A private member's bill for a Children's Commissioner has been introduced.</p>  | <p>A Children's Commissioner with a strong mandate brings the voice of young people to parliament.</p> <p>Canada joins other countries in using this tool.</p>  |
| <b>Children's budget and child impact assessments</b>  |   |  |   |   |
| <p>Article 4: States shall undertake economic and social measures <i>"to the maximum extent of their available resources."</i></p>                                     | <p><i>"Prioritize budget allocations, identify amounts spent on child rights issues, to enable evaluation of impact and effective utilization."</i></p> | <p>There is no child impact assessment of policy proposals and a lack of clarity on what is spent on children.</p> <p>Compliance with Convention in policy process is legal check-off.</p> | <p>Lack of child rights impact assessment is evident in recent policies. New childcare policy benefits wealthy children more than poor children, violating child rights. Proposed changes to Citizenship Act would have left some children stateless.</p> | <p>Annual children's budget.</p> <p>Impact assessments of policies that affect children are thorough and publicly released.</p> <p>Young people have opportunity to provide input in process of developing policies that affect them.</p> |
| <b>Response to previous recommendations</b>  |   |  |   |   |
| <p>Article 44: Reporting process is to provide <i>"comprehensive understanding of implementation."</i></p>   | <p><i>"Make every effort to address recommendations from initial report and second report"</i></p>  | <p>Committee of federal and provincial officials responsible for follow-up meets in secret twice a year, with no public accountability.</p>  | <p>Committee refused CCRC request for information on follow-up to 1995 and 2003 recommendations</p>   | <p>Children's Commissioner will ensure timely action on recommendations so children in Canada benefit without delay.</p>  |

## Basic Building Blocks of Children's Rights

The chart below surveys progress on the basic principles of children's rights and proposes measurable goals for improvement in five years.

| Convention (1989)  | Recommendations<br>2nd Review (2003)   | Other Developments  | Status in 2009   | Goals for 25th Anniversary in<br>five years (2014)  |
|--|--|---|--|---|
| <b>Equitable treatment for all children: No discrimination</b>   |  |   |  |   |
| <p>Article 2: States will "ensure the rights set out to each child without discrimination of any kind."</p> <p>States will "take all appropriate measures to ensure that the child is protected from all forms of discrimination by others."</p> | <p>"Integrate non-discrimination in all legislation concerning children." Canada was asked to investigate evidence of discrimination in 4 specific areas:</p> <ul style="list-style-type: none"> <li>• Access to Health Care;</li> <li>• Child Benefits;</li> <li>• Child Care; and</li> <li>• Education.</li> </ul> | <p>A Senate report in 2007 called for immediate review of childcare to ensure equity.</p> <p>Discrimination against Aboriginal children was confirmed by Auditor General in 2008 and is now the basis for a case being heard by the CHRC.</p> <p>2006 Council of Ministers of Health report says inequality is the biggest health issue for children.</p> | <p>No response to 2003 recommendations.</p> <p>Various reports document lack of equitable access to quality childcare.</p> <p>Indian Affairs tried to block hearing instead of resolving case involving Aboriginal children.</p> | <p>Children's Commissioner investigates evidence of discrimination and resolves issues without forcing children to go to court.</p>   |
| <b>Best interests of children is top priority</b>  |  |   |  |   |
| <p>Article 3: "In all actions concerning children, the best interests of the child shall be the primary consideration."</p>  | <p>"Best interests be integrated in all legislation and programs for children."</p>  | <p>Jordan's Principle, which applies best interest principle in Aboriginal health care, was adopted by Parliament but not implemented.</p> <p>Immigration court case rules best interests are priority for child refugee claimants.</p>   | <p>No action on 2003 report. National conference, partially funded by Canadian Heritage and Justice, suggests improvements in many areas.</p> <p>Early, preventive policies and vulnerable groups are high priorities.</p>       | <p>Best Interest principle (BIC) is systematically applied.</p> <p>Voice of child is required as part of BIC in institutional processes and decisions, such as family law and immigration.</p> <p>Jordan's Principle is implemented in all provinces and federally.</p> |

| Convention (1989)  | Recommendations<br>2nd Review (2003)   | Other Developments   | Status in 2009   | Goals for 25th Anniversary in<br>five years (2014)  |
|--|--|--|--|---|
| <b>Right to participate</b>  |  |  |  |   |
| Article 12: “Assure child who is capable of forming own views the right to express those views freely in all matters affecting the child, ... and give them due weight in accordance with age and maturity.” | Address recommendations in first report which include:<br>(1) “a nation-wide campaign to sensitize people to children’s rights” and include in school curricula; and<br>(2) that “children be provided with the opportunity to be heard in judicial and administrative proceedings.” | Good participatory practices for young people exist in small, isolated projects, especially at community level.<br>Senate Report identifies low awareness of rights as key issue to address.<br>Isolated awareness projects in individual schools. | No action on 1995 or 2003 recommendations.<br>Youth participation in federal initiatives to reduce smoking, drug use, and self-abuse by girls. Funding for Center for Excellence in Youth Participation.<br>Polls and focus groups show most Canadians are not aware of children’s rights. | 75% of children and all adults who work with children have working knowledge of children’s rights.<br>Practising children’s rights is part of all school curricula.<br>Children can file complaints with advocates/commissioner at provincial and federal levels. |
| <b>Right to develop</b>  |  |  |  |   |
| Article 6: Right to life and “ensure to maximum extent possible the survival and development of child.”  | “Address the gap in life chances between Aboriginal and non-Aboriginal children”<br><br>“Increase development assistance.”   | Several reports and Auditor General document inequity for Aboriginal children; case now before CHRC.<br><br>CIDA’s child protection strategy expires.  | Apology for residential schools; some increases in funding for Aboriginal children; but refusal to resolve appeal to CHRC.<br><br>CIDA is now developing new children’s strategy.  | Progress for Aboriginal children is evident in regular reports.<br><br>CIDA’s children’s strategy advances child rights globally.   |
| <b>Freedom from violence</b>   |  |  |  |   |
| Article 19: “Take all appropriate measures to protect the child from all forms of violence.”   | “Adopt legislation to prohibit all forms of violence against children”<br><br>“Remove authorization of use of reasonable force in discipline”  | Global Study on Violence against Children finds that more young people in Canada are victims of violence than perpetrators of it, but children are less protected under the law than are adults.   | Senate bill to prohibit corporal punishment is in process – subject to repeated delays.  | National law and strategy to prevent all forms of violence against children, in keeping with 12 recommendations in global study.<br><br>Alternative methods of discipline are widely known and practised.   |

## Protecting the Rights of Vulnerable Groups of Children

This chart illustrates some of the issues and groups of children affected by Canada's failure to progressively implement the Convention.

| Convention (1989)   | Recommendations<br>Second Review (2003)  | Other Developments   | Status in 2009   | Goal for 25th Anniversary in<br>five years (2014)   |
|---|--|--|--|---|
| <b>Children living in poverty, homeless and street children</b>   |  |  |  |   |
| Article 27: <i>"States recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral, and social development."</i>               | <ul style="list-style-type: none"> <li>• <i>"Address the factors for increasing number of children living in poverty."</i></li> <li>• <i>"Address causes and needs of homeless children"</i></li> <li>• <i>"Comprehensive strategy" to reduce street children, with their participation."</i></li> </ul> | <p>CEDAW report makes similar suggestions.</p> <p>Senate Report in 2007 calls for poverty reduction strategy with focus on children.</p> <p>2008 National Council of Welfare report says that current National Child Benefit program is <i>"a step backward in the fight against child poverty."</i></p> | <p><b>12.4% of children live in poverty.</b></p> <p>Renewal of some programs for homelessness and social housing. No specific focus on children.</p> <p>Some provinces start poverty reduction strategies, with benefits for children.</p> | National Poverty Reduction Strategy includes specific annual rights-based targets to address factors that affect children.  |
| <b>Children in alternative care and in youth justice system</b>   |  |  |  |   |
| <p>Articles 20 + 25: Children in alternative care are entitled to special protections in their best interest.</p> <p>Articles 37 + 40 ensure youth justice system is age appropriate.</p> | <p><i>"Ensure that no child under 18 is tried as an adult irrespective of circumstances."</i></p> <p><i>"Reduce numbers in detention; use as last resort"</i></p> <p><i>"Voice of child adequately heard"</i></p>  | <p>UN Guidelines for Children in Alternative Care provide tool for consistency in provinces.</p> <p>International Youth Justice Guidelines could be applied in Canada.</p>   | <p>120,000 children in child welfare and justice systems – among highest in industrialized countries.</p> <p>Focus is punitive, not preventive. Youth fall through cracks between systems.</p>   | <p>Voice of child heard in all court cases affecting children.</p> <p>Numbers of children in welfare and custody are reduced because of shift to preventive action.</p> |

| Convention (1989)   | Recommendations<br>Second Review (2003)  | Other Developments  | Status in 2009   | Goal for 25th Anniversary in<br>five years (2014)   |
|---|--|---|--|---|
| <b>Children with disabilities</b>   |  |   |  |   |
| Article 23: “ <i>Right of disabled child to special care</i> ” to “ <i>ensure dignity, promote self-reliance and participation.</i> ”   | Call for special attention in relation to access to education and health care.   | Convention on the Rights of Persons with Disabilities includes special focus on children and a complaint process.   | Improvements in financial support for families who support children with disabilities.<br><br>Canada signed, but has not ratified, this Convention.  | No child with disabilities needs to become ward of state to access necessary services.  |
| <b>Aboriginal children</b>  |  |   |  |   |
| Article 2: “ <i>Ensure rights to every child... without discrimination.</i> ”<br>Article 8: “ <i>Respect the right of a child to preserve identity...</i> ”   | “ <i>Reduce gap in life chances between Aboriginal and non-Aboriginal children.</i> ”<br><br>Aboriginal children named for special attention in six recommendations.   | UN General Comment on Indigenous Children provides guidance - also on group rights and individual rights.<br><br>Aboriginal child rights case is before CHRC. | Young Aboriginal population is growing in numbers relative to other children.<br><br>National Aboriginal Plan of Action does not specifically address children.  | Equitable treatment for Aboriginal children in education and child welfare.<br><br>Office of Children’s Commissioner monitors equitable treatment of Aboriginal children. |
| <b>Children at risk of sexual exploitation</b>  |  |   |  |   |
| Article 34: Protect children from “ <i>all forms of sexual exploitation and abuse.</i> ”<br><br>Optional Protocol to the Convention, on sexual exploitation of children (OP SEC), provides more detailed protections. | “ <i>Increase protection and assistance to victims of sexual exploitation and trafficking, including prevention, social reintegration, access to health care and psychological assistance in culturally appropriate manner and in cooperation with NGOs and countries of origin.</i> ” | First report on implementation of OP SEC was filed in 2008.   | Criminal laws for sexual exploitation have been strengthened.<br><br>National strategy on internet exploitation.<br><br>Less focus on preventive measures, support for young witnesses, and social reintegration of victims. | Balance between preventive and criminal measures reduces vulnerability of young people to all types of sexual exploitation.   |