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Canadian Coalition for the Rights of Children

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Implementing All Children's Rights in Canada

A GUIDING PRINCIPLES: PROGRESS IN IMPLEMENTATION

The following basic principles of the Convention on the Rights of the Child apply to all children's rights and all actors. Putting them into practice remains a challenge in Canada.

View a short video of a children's rights dance at <http://www.youtube.com/watch?v=9H5BEg3yeJU> or at <http://hannahbeach.com/i-can-dance-a-better-world/>

Non-discrimination: Article 2

In 2003, Canada was asked by the UN Committee on the Rights of the Child to investigate evidence of discrimination in basic areas of child development, such as health and education. Affected groups included children with disabilities, children in poor households, Aboriginal children, children in refugee and recent immigrant families, and children in rural areas.

Since that time, two new income support policies for children have raised questions about inequitable treatment. The after-tax value of the Universal Child Care Benefit, introduced in 2006, and the Child Tax Credit, introduced in 2007, is less for children in low-income households than for children in higher income households.²

In 2008, the Canadian Human Rights Tribunal began hearing a claim that Aboriginal children are not receiving the same level of service for child welfare as non-Aboriginal children in similar circumstances. Canada's Auditor General verified that less money was being provided for child welfare services to Aboriginal children than for non-Aboriginal children. In 2010, the Tribunal dismissed the claim for technical reasons. It is now under appeal in the Federal Court.

Discrimination experienced by other groups of children, such as children with disabilities and young people in alternative care, are discussed in later sections of this report on these groups.

Canada's combined *Third and Fourth Reports* on implementation of the Convention does not provide evidence of any investigation, as requested in 2003, and it does not address the serious questions of discrimination in services for children. Discrimination is approached in that report as only a matter of multicultural awareness and cultural accommodation. Child protection, access to services, and opportunities for development are the areas where lack of equity needs remedial action.

The issue of equity is important in Canada for two reasons:

1. The gap between children who have access to many resources for their development and those who lack basic resources is a major issue. This was identified as the top public health priority by the country's Chief Public Health Officer in 2009 and by the provincial/territorial Council of Ministers of Health in 2007.³
2. Child related legislation and services cross federal/provincial/territorial jurisdictions and various departments within governments. Special measures are needed to ensure equitable opportunities for all children.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Foster public dialogue on ways to ensure non-discrimination in the Canadian context. Develop strategies that cross jurisdictional barriers and engage communities and young people directly.	CCRC and other civil society groups Academic institutions All levels of government
Investigate evidence of discrimination in the provision of public services, which is also prohibited under the Canadian Human Rights Act and the Charter of Rights and Freedoms.	Canadian Human Rights Commission
Include non-discrimination as a basic principle in the next Canada Social Transfer Agreement in 2014.	Federal/provincial/territorial departments engaged in negotiating renewal of major fiscal transfer agreements for 2014

Best Interests of the Child: Article 3

'Best interests of the child' is an important principle; it requires adults to give priority consideration to the impacts of their decisions on children. The Convention provides a comprehensive framework for determining the best interests of children. It includes:

- Taking children's views seriously;
- Emphasizing preventive and collaborative actions rather than adversarial decision-making; and
- Using graduated policies that recognize the developing capacity of young people to decide for themselves what is in their best interests.

In 2003, Canada was asked to integrate the 'best interests of the child' principle into all its laws, administrative processes, and programs for children, but little action has been taken.⁴ The principle has been partially incorporated into the refugee determination process, where it has played a significant role in individual cases.

In 2009, Parliament passed a resolution called Jordan's Principle, which gives priority to the best interests of Aboriginal children caught in federal/provincial jurisdictional disputes over funding services for Aboriginal children. However, implementation has been slow, and the scope has been limited to a narrow range of complex medical needs.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Incorporate the 'best interests of the child' principle in all legislation that relates to children, such as child welfare, education, immigration, and youth justice. Identify implications and develop implementation strategies.	Government departments responsible for legislation that affects children Lawyers who draft proposed legislation Parliament of Canada Provincial/territorial legislatures
Use the Convention as a framework for determining the 'best interest of the child' in court and case management processes that involve children, including human rights commissions and tribunals.	Judges, lawyers, social workers and psychologists who manage or advise on children's cases
Implement Jordan's Principle for all Aboriginal children and all services, and then expand its application to all children's issues that cross boundaries between government departments and agencies.	Government departments responsible for children's services Senior managers of agencies that serve children Community leaders
Assess the best interests of children as a group, as part of child impact assessments in all policy formation processes.	Government departments responsible for policies that affect children

First Call for Children: Article 4

Budget allocations that impact children are not consistently identified in federal and provincial/territorial budgets. There is no reliable way to assess whether allocations meet the criterion of fulfilling children's rights "to the maximum extent of available resources" (article 4). Child impact assessments are not undertaken to determine how annual budget decisions affect all children or particular groups of children.

Of particular concern is the lack of a clear policy to give priority to children in times of economic

downturns or fiscal restraint. During the 2008-2009 recession, for example, the number of families with children that had to rely on provincial/territorial social assistance increased dramatically. This was of great concern because social assistance rates had been reduced far below the poverty line. No steps were taken to address the impact of this situation on children, who can suffer life-long consequences from lack of basic resources during the essential years of childhood.

The federal/provincial/territorial Early Childhood Development Agreement of 2000 required tracking and reporting actual expenditures for children under the age of six.⁵ The initial purpose was to ensure that an increase in federal income support for children did not result in provincial/territorial reductions. The scope of reporting, however, was limited to specific programs and ages of children. It did not include all programs relating to the rights of children. More recently, the trend to pool social transfer funds to the provinces reduces the feasibility of tracking how these funds are used for children. The Canadian public cannot effectively track how much or how well their tax dollars are being used for the benefit of children.

The Canada Social Transfer Agreement, which transfers federal tax revenues to provincial/territorial governments for human services, will be renewed in 2014. This is an opportunity to increase accountability for upholding children's rights by increasing transparency in the allocation of resources for children.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Respond specifically to paragraph 18 in the Concluding Observations of the UN Committee on the Rights of the Child from Canada's second review, which recommended that Canada "take measures to prevent children from being disproportionately affected by future economic changes."	Federal government (to the UN Committee on the Rights of the Child)
Implement the principles of First Call for Children (article 4) and the progressive realization of economic, social, and cultural rights through child impact assessments and regular public reporting on budget allocations for children.	Federal, provincial, and territorial departments of finance Parliamentary Budget Office
Include compliance with the Convention in the next Canada Social Transfer Agreement and provide mechanisms for public reporting and accountability for the results achieved for children.	Federal/provincial/territorial departments who are negotiating the Canada Social Transfer Agreement for 2014 Federal/provincial/territorial auditors general

Right to Survival and Development: Article 6

Special attention is required for vulnerable groups of children in Canada who lack basic, healthy living conditions and essential opportunities for healthy development. Working-poor families and families that survive on social assistance rates well below any poverty line make trade-offs between adequate housing and adequate nutrition, with no discretionary funds to spend on child development. Widening income disparity in Canada during the last decade is accompanied by greater disparities in child development. One basic indicator of the realization of article 6 is the rate of infant mortality. Progress in Canada has stalled relative to other industrialized countries, largely because of higher rates among vulnerable groups.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Ensure that the factors considered in setting income support levels reflect children's rights to survival and development of their full potential.	Federal/provincial/territorial departments responsible for income support programs and poverty reduction strategies

Right to Be Heard and Participate: Article 12

Child participation requires adults to consider age-appropriate input from affected children when they make decisions or develop policies that affect children. Canada actively promoted child participation in preparation for the UN General Assembly Special Session on Children in 2002, and in international development through a five-year Child Protection Strategy from 2001-2006.⁶ Good practices in child participation are developing in some government agencies, court systems, and civil society organizations. There has been some progress, for example, in children's participation in hearings on disciplinary measures in some provincial/territorial education systems, and in certain child welfare and custody processes. Expansion of good practices in child participation is needed to make it a systematic part of all decision-making processes that affect children.

In 2010, the Supreme Court of the Yukon ruled that all children have the right to be heard in custody cases, setting an important precedent in use of the Convention to guide the interpretation of Canadian law.⁷ This decision should be applied in all Canadian jurisdictions.

A first step toward effective child participation is expanding awareness about the rights of children and how they can be implemented in different contexts.⁸ Polls continue to show that between two-thirds and three-quarters of young people do not know what their rights are or how to exercise them. Lack of knowledge and misunderstandings about the meaning of children's rights among adults have fostered resistance to children's rights, including child participation.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Continue to develop and share good practices in age-appropriate child participation.	Civil society organizations Government agencies that provide services for children
Adopt a law that makes consideration of the views of the child a requirement for all official decision-making processes that involve children, such as custody cases, child welfare case management, juvenile justice, immigration, and other judicial and quasi-judicial processes.	Justice Canada Parliament of Canada Provincial/territorial legislatures
Facilitate the participation of children in all policy formation processes that impact children. Make this a high priority for the office of a National Children's Advocate.	Government departments responsible for policies that affect children National and provincial/territorial offices of children's advocates

B GOVERNING FOR CHILDREN: GENERAL MEASURES OF IMPLEMENTATION

Introduction

Good governance for children means establishing permanent mechanisms that focus attention on the obligation to give priority consideration to children in all decisions that affect them. The term 'general measures' refers to these basic tools for implementing all the provisions of the Convention, such as law reform, data collection, and systems for monitoring progress. Ensuring that effective general measures are in place must be a high priority for all countries.

The UNICEF Innocenti Research Center is undertaking detailed research on the general measures that different countries are using to implement children's rights. A research report on Canada, published in August 2009, is entitled *Not There Yet: Canada's Implementation of the General Measures of the Convention on the Rights of the Child*.⁹ It is available on the websites of the Canadian Coalition for the Rights of Children (CCRC) and UNICEF Canada. Below are key findings that are still relevant at the time of this report, with suggestions for action proposed by the CCRC.

Law Reform

Laws that protect and fulfill children's rights are essential for effective implementation. Some specific federal child protection laws have been strengthened in recent years. These include increased penalties for sexual exploitation and child pornography, an increase in the age of consent for sexual activity from 14 to 16, and increased penalties for child trafficking.

There is, however, no comprehensive law or policy for children. Canada has not taken steps to make the Convention or its core principles part of Canadian law. Furthermore, Canada has not undertaken a review of its legislation for compliance with the Convention since the ratification process two decades ago. Children are invisible in Canada's constitution, including the *Charter of Rights and Freedoms*. In some cases, courts have considered the Convention in their interpretation of Canadian laws, but in other cases Canadian courts have made decisions inconsistent with the Convention. These are discussed in the relevant thematic chapters of this report.

Sometimes government officials argue that incorporating the Convention into Canadian law is not necessary because Canada already complies through existing policies. On other occasions, incorporation is rejected because it would require too many changes in existing laws and policies. These inconsistent responses to the suggestion of incorporation illustrate the need for greater clarity in the relationship between the Convention and Canadian law.

National legal recognition of the rights of children is especially important in Canada, to provide a common framework for policies that affect children under provincial/territorial jurisdiction. It is frequently assumed that the *Charter of Rights and Freedoms* covers all human rights, but it does not adequately address the rights of children, some of which are different than those of adults. The Charter was adopted before ratification of the Convention.

The absence of clear legal status for the rights of children contributes to inequitable treatment of children across the country, gaps in implementation, and severely limited means for children to seek redress when their rights are not respected. Many of these inequities and gaps are addressed within this report.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Adopt enabling legislation to make the Convention part of Canadian law, and set out a ten-year plan to review and revise federal and provincial/territorial laws to comply with the Convention.	Justice Canada Parliament of Canada

Child Impact Assessments

It is essential to consider the impacts of proposed policy changes for children before adopting them. In 2007, a Senate report on children's rights, *Children: The Silenced Citizens*, recommended that the federal government use child impact assessments of proposed policies and laws as a tool to implement the Convention. This was also a recommendation to Canada by the UN Committee on the Rights of the Child in Canada's second review of Convention implementation.

In response to the Senate report, the government claimed that the current policy development process is adequate. It includes a minimal check for violations of all international human rights obligations. It does not include an assessment of how policies contribute to or detract from the fulfillment of child-specific obligations. A number of bills that have gone through the current process clearly violate the principles and provisions of the Convention, including a proposed change in citizenship law that had to be scrapped after the public voiced concern that it violated the rights of children. Requests for disclosure of the assessment of child care and juvenile justice policy changes that appear to violate the Convention have been denied.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Ensure that a child impact assessment is done for each proposed law or policy that affects children. Table the assessment in the relevant legislature to ensure transparency and accountability for children's rights.	Leaders of governments at all levels Government departments responsible for policies that affect children

Data on Children in Canada

There has been an increase in reported data on the health of children in recent years. Early reporting under the 2000 Early Childhood Development Agreement showed the potential to track and report the outcomes of public expenditures for children in certain policy areas. However, there are major gaps in data collection and analysis of the situation of children across Canada.

Policy decisions are made without accurate assessment of needs and without sufficient quantitative and qualitative evidence. More analysis of available data is needed, including comparative studies of the varied situations of children across the country.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Identify data on the actual situation of children that is already available and determine gaps that exist at federal and provincial/territorial levels. Develop mechanisms for regular collection and reporting of comprehensive and relevant data on children in Canada. The data should be reported to all parties, and should include child-friendly data for use by young people.	Statistics Canada, in cooperation with provincial/territorial statisticians and civil society organizations
Undertake research that compares the situation of children across the country, to encourage the expansion of good practices.	Public Health Agency of Canada Human Resources Development Canada Statistics Canada

Transparent Budgeting for Children

All governments in Canada claim to spend significant resources on children, but there is no way to accurately track the actual amounts spent and the outcomes of these expenditures. This is especially true of transfers from the federal government to provincial/territorial governments under fiscal transfer agreements. An example of lack of transparency in budgeting was the federal government's failure to inform the public about the difference in impact of the Universal Child Care Benefit, the Child Tax Credit, and sports and arts education tax credits for children in poor families and children in more affluent families.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
Analyze and publicly disclose the annual federal expenditures for children and the impact of each budget on children. The disclosure should include fiscal transfers and comparative analysis of the impact of major policy initiatives on different groups of children, to help ensure equitable treatment of all children across Canada.	Parliamentary Budget Office Department of Finance Canada Auditor General
Expand the existing database on expenditures for early childhood development to include all expenditures for all ages of children. The database should be public, track both allocation and final use of all public funds designated for children, and be easy for young people to use.	Public Health Agency of Canada Human Resources Development Canada Finance Canada

Monitoring and Reporting

Canada's combined *Third and Fourth Reports* on implementation of the Convention was released on November 20, 2009. This was almost a year late. It reports on specific initiatives governments have taken, but it does not provide an analysis of their impact on the situation of children in Canada. It does not explain how Canada responded to the recommendations by the UN Committee on the Rights of the Child from the second review in 2003. The only input from civil society was an early identification of topics to be addressed; there was no further consultation on the substance of the report. The current process does not meet the standards for reporting laid out in the Convention and is inadequate for the measurement of progress for children in Canada.

In 2007, the CCRC proposed a continuous learning approach to monitoring and reporting that would involve all stakeholders in evaluating results, modifying strategies, and reporting on a regular basis. This approach would increase cooperative action and reduce the impulse of governments to report only good news and avoid challenging issues facing children in Canada. It would also provide public accountability.

In 2009, Canada underwent a Universal Periodic Review of its human rights record at the UN Human Rights Council. Outcomes of this process included a government commitment to improve implementation of international human rights obligations, transparency of reporting, and engagement with civil society. Senate and House of Commons committees have called for improvements as well. To date there has been no change. The process leading up to and following Canada's third review before the UN Committee on the Rights of the Child provides an opportunity for improvement.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
<p>Use the review process for Canada's <i>Third and Fourth Reports</i> to demonstrate Canada's commitment to improving its approach to monitoring and reporting on children's rights. Update Canada's report to include the following:</p> <ul style="list-style-type: none"> • A more realistic analysis of the situation of children in Canada • A response to previous recommendations • Specific targets for improvement • A plan for regular, accessible and meaningful public reports. 	<p>Canadian Heritage and Continuing Committee of Officials on Human Rights</p>
<p>Establish a follow up process for the <i>Third and Fourth Reports</i>, including the following:</p> <ul style="list-style-type: none"> • A timely, public response to the Concluding Observations • The tabling of reports in parliament • Engagement with children and civil society regarding follow-up plans • A periodic review of progress in implementation of them. 	<p>Canadian Heritage and Continuing Committee of Officials on Human Rights</p>

National Children's Advocate

Countries that have established independent offices with mandates to ensure that children's issues and views are considered at the national level are making progress in the implementation of children's rights and see the benefits for children. Canadian provinces that have formal children's advocates report positive results, particularly where those offices have a mandate consistent with the Paris Principles for Independent Human Rights Institutions and the criteria established by the UN Committee on the Rights of the Child. The Canadian Council of Child and Youth Advocates supports the establishment of a national office to address matters under federal jurisdiction, resolve gaps for children that occur as a result of federalism, and facilitate better coordination between all stakeholders who affect conditions for children in Canada.

In 2009, a private members bill to establish a National Children's Commissioner was introduced in the House of Commons, but it died when the election was called. Cooperation by all parties is needed to make this a higher priority in parliament. There is broad support from civil society organizations that work with children across Canada. Significant research has been done on a potential mandate.

RECOMMENDATIONS

ACTION	ACTORS (Lead and Main Actors)
<p>Establish an independent National Children's Advocate with a clear, strong mandate based on the Convention and guided by both the General Comments on the Convention and the Paris Principles for Independent Human Rights Institutions. The mandate should include the following:</p> <ul style="list-style-type: none"> • Ensure that children's issues and views are considered at the national level • Advocate for and monitoring implementation of the Convention in areas under federal jurisdiction • Develop and implementing an appeal mechanism to address specific issues raised by children • Facilitate coordination between federal and provincial/territorial governments in areas that affect children's rights across Canada. 	<p>Parliament of Canada</p>
<p>Specifically mandate a National Children's Advocate to address matters under federal jurisdiction, including:</p> <ul style="list-style-type: none"> • Aboriginal children • Children in the immigration and refugee systems • Other areas of federal legislation and policy • Equitable treatment of all children under the <i>Charter of Rights and Freedoms</i>. 	<p>Parliament of Canada</p>
<p>Ensure that every province/territory has an advocate for children with a strong mandate, and that all children have access to an effective mechanism to review and investigate evidence of violations of their rights.</p>	<p>Provincial/territorial legislatures</p>

National Plan of Action

Canada developed a National Plan of Action after the UN General Assembly's Special Session on Children, entitled *A Canada Fit for Children*. While the plan reflects the comprehensive approach of *A World Fit for Children*, it contains no targets, no budget, no mechanisms for accountability, and weak links to concrete provisions of the Convention. The commitment to it has been subject to electoral changes in the executive offices of government. Currently, it has little discernable impact on government decisions.

Instead of calling for another national plan, the CCRC prefers to focus on strengthening mechanisms for direct implementation of the specific provisions in the Convention, as described above.

C ACTIONS ON PREVIOUS RECOMMENDATIONS FOR CANADA: A TABLE OF PROGRESS SINCE THE SECOND REVIEW

Introduction

In 2003, Canada received 45 recommendations from the UN Committee on the Rights of the Child to improve implementation of children's rights in Canada. These are the Concluding Observations after the second review of Canada's performance as a signatory to the Convention on the Rights of the Child. In 2007, the CCRC distributed fact sheets that grouped the recommendations under 10 areas for action and called on government bodies to seriously address these concerns.

Canada's combined *Third and Fourth Reports* on progress in implementing the Convention, released in November 2009, states that the key issues addressed are based on the 2003 review, but the report responds to only a few of the 45 recommendations. The systemic recommendations are largely ignored, while reported actions on specific matters reveal partial and inadequate responses.

The table below provides an overview of progress on the 2003 recommendations. More detailed analysis of specific issues is contained in the relevant thematic sections of this report.

Significant Progress on Implementation

SUBJECT MATTER	2003 RECOMMENDATION (SUMMARY)	ACTION TAKEN	NEXT STEPS
Ratification of Optional Protocols (OP)	Ratify OP on Sexual Exploitation. (para. 60)	Ratified in 2005. First report filed in 2008. (See CCRC report on OP.)	Develop a comprehensive national strategy with focus on prevention.
Youth Suicide – Adolescent Health	Study causes and take steps to reduce youth suicide. (para. 37)	National Aboriginal Youth Suicide Prevention Strategy started in 2005 – \$65 million for five years. National mental health strategy also includes plans to reduce youth suicide rates.	Implementation and funding for youth component of national mental health strategy.

Partial/Inadequate Response

SUBJECT MATTER	2003 RECOMMENDATION (SUMMARY)	REPORTED ACTION	MISSING ACTION	NEXT STEPS
National Action Plan (NAP)	Develop NAP with targets, timelines, resources, and systemic monitoring to ensure effectiveness. (para. 13)	NAP adopted in 2004.	NAP lacks basic elements, such as “clear division of responsibilities, clear priorities, timetables, resource allocation, and systematic monitoring.”	Make the Convention part of Canadian law with a 10-year strategy to make other laws and policies consistent with it.
Federal/ Provincial/ Territorial Coordination	Establish stronger coordination and monitoring to decrease or eliminate disparity in implementation of Convention. (para.11)	Federal Interdepartmental Working Group on Children’s Rights was established in 2007. Nine inter-governmental taskforces exchange information on specific issues.	Continued fragmentation and disparity. No change at senior levels with authority to take action. No progress in monitoring or public reporting.	Undertake major reform of system for implementation and monitoring children’s rights. Include Convention compliance in renewal of Canada Social Transfer in 2014.
Child Poverty	Eliminate discrimination in national child benefit system (para. 17) and “ensure all families have adequate resources” – with special attention to single mothers and vulnerable groups.” (para. 43)	Number of children in low-income families decreased in 2004.	Changes in 2006 and 2007 introduced discriminatory elements into the national child benefits program. Child poverty became worse during recession – no action to protect vulnerable.	Immediately improve national child benefit program. Develop national poverty reduction strategy with child-specific components.
Early Childhood	Undertake comparative cross-country analysis of child care and implement coordinated approach to ensure quality care is available to all children. (para. 39)	Various research studies are cited in Canada’s report.	No analysis. Comparative analysis would reveal disparities and discriminatory impacts of changes introduced since 2003.	Adopt and implement a National Early Childhood Development Strategy.

SUBJECT MATTER	2003 RECOMMENDATION (SUMMARY)	REPORTED ACTION	MISSING ACTION	NEXT STEPS
Aboriginal Children	Address gap in life chances between Aboriginal and non-Aboriginal children. (para. 59) (Other references to indigenous children in right to health, education, housing.)	Several specific initiatives are reported in health care and education for Aboriginal children.	Gap continues. No systemic analysis is provided and no strategy to address it.	Appoint National Children’s Advocate with a specific, strong mandate to promote and protect rights of Aboriginal children.
Sexual Exploitation	Increase protection and assistance to victims, including prevention and reintegration. (para. 53)	Laws passed to increase penalties, establish minimum sentences for some offences, and raise the age of consent to 16.	Low conviction rate. No national strategy. Little progress in prevention and program cuts in services for youth at risk.	Develop national strategy focused on prevention; provide support for victims to increase conviction rate.
Homeless-ness/ Street Children	Assess causes and develop comprehensive strategy for homeless children. (para. 55)	Research studies and specific housing initiatives are reported.	No clear analysis or comprehensive strategy. No avenues for families and children to pursue right to housing.	Develop a rights-based national housing strategy.
Awareness of Children’s Rights	Ensure rights education in school curricula (para. 45). Stimulate public debate on reports. (para. 61)	Small awareness initiatives funded.	No engagement with Council of Ministers of Education on rights education. Decrease in funds for human rights education.	Demonstrate national leadership to include rights education in school curricula for every child.
Refugees/ Immigration	Establish national policy on separated children – appoint guardians. Detain only as a last resort. Ensure access to basic services for all children. Expedite family reunification. (para. 47)	New policy on guardians. More training. 2002 law requires best interests to be considered in four situations.	No national strategy for separated children. Frequent detentions. Unnecessary delays in family reunification.	Fully implement 2003 recommendations.

Rejected or Ignored Recommendations

SUBJECT MATTER	2003 RECOMMENDATION (SUMMARY)	COMMENTARY	NEXT STEPS
Voice for Children at National Level	Establish an Ombudsperson's Office for Children's Rights. (para. 15)	Support by Senate Committee, petitions, and private member's bill - rejected by government.	Appoint independent national advocate with strong mandate, to work with provincial/territorial advocates.
Children's Budget	Prioritize children in budget. Identify amounts and proportion spent on children. Evaluate impact, and prevent disproportionate impact of economic changes. (para. 18)	Program amounts are reported without analysis under article 4. No Child impact assessment in budget process.	Undertake child impact assessment in budget process and ensure transparency in allocation of resources that affect children.
Data on Status of Children	Undertake systematic analysis of data on children, including vulnerable groups, as basis for policy and programming. (para. 20) (Repeated recommendation from first review.)	No improvement in quality or analysis of data in combined <i>Third and Fourth Reports</i> . Changes in national census will weaken reliability of data at Statistics Canada.	Develop coordinated national/provincial/municipal strategy for child rights based indicators and data collection, in collaboration with civil society.
Non-discrimination	Include non-discrimination in legislation affecting children. (para. 22) Investigate evidence of discriminatory impact of policies for some groups of children. (Several recommendations.)	No investigations were done. Provincial jurisdiction used as rationale. Reporting limited to education efforts on respect for cultural diversity.	Undertake serious effort to implement 2003 recommendation. Include Convention compliance in federal/provincial/territorial funding agreements.
Child Labour and ILO 138	Assess the extent of children working. Ratify ILO 138 on minimum age of employment.	No mention in combined <i>Third and Fourth Reports</i> , despite federal awareness of changes in some provinces that impact children's rights.	Put minimum age of employment on agenda of next meeting of federal/provincial/territorial ministers of labour.

SUBJECT MATTER	2003 RECOMMENDATION (SUMMARY)	COMMENTARY	NEXT STEPS
Protection from Violence	Remove defence for use of force to discipline children in the law and prohibit all forms of violence against children. (para. 33)	Deliberate Rejection. Retention of Section 43 of the Criminal Code is justified to protect parents, despite scientific evidence about harm of physical punishment and more effective alternatives. No national strategy to prevent violence against children; new initiative limited to violence in sport.	Develop national strategy to prevent violence against children, as part of a national strategy to implement the Convention. Broaden scope of injury prevention strategy to include injury resulting from maltreatment.
Quality of Education	Improve quality of education to achieve article 29, with special attention to specified groups of children.	No national leadership to protect children's rights to and in education. Disparity between provinces with regard to article 29.	Provide leadership on rights education and good practices through Council of Ministers of Education.
Reservations on articles 21 and 37c	Remove reservations to articles 21 and 37.	Report states no action on 37c. Bill C-4 includes prohibition of detention with adults that would allow removal of reservation. Reservation on section 21 justified as request of Aboriginal groups.	Develop clear plan with specific steps to achieve removal of reservations.

D AWARENESS OF CHILDREN'S RIGHTS IN CANADA

Introduction

Awareness of children's rights and what they mean in practice is essential for implementation of the Convention, especially participation rights. This remains a major challenge in Canada.

Young people said a key concern for them is that "most children and adults are not aware of children's rights." They want posters of the Convention in all classrooms, community centres and youth based programs and want children's rights taught in schools.

CCRC Youth Consultation, September 24, 2011

There is little knowledge about children's rights among children and adults in Canada. Twenty years after the Convention was adopted, polling still shows that about 75% of young people do not know how to exercise their rights and their responsibility to respect the rights of others. At the level of parents and communities, there is evidence of confusion and misunderstanding about the meaning of children's rights, which creates unnecessary obstacles for effective implementation. Typical of poll findings are those of a 2006 Ipsos-Reid Survey in the province of British Columbia. Just over half of the respondents (52%) expressed confidence that the province respects children's rights, but 75% reported no familiarity with the Convention on the Rights of the Child.

Given the lack of systematic education about children's rights in Canadian schools, it is not surprising that there is little knowledge of children's rights among Canadian children. A 2006 Environics poll commissioned by War Child Canada found that adults are more likely than children to report awareness of the Convention on the Rights of the Child – 55% compared to 33% – and that most children have not heard of the major UN international human rights treaties. The poll also found that children born outside of Canada have a higher awareness of the Convention than children born in Canada – 43% compared to 32% - but still less than 50%.

The federal government, provincial children's advocates, and non-profit agencies support a number of small projects each year to increase public awareness of children's rights. The scale of current awareness initiatives is inadequate for a large, diverse country like Canada. A more comprehensive approach to public awareness, focused education of those who make decisions that impact children, and practical training for those who work with children are essential for development of a rights-respecting culture in Canada. In 2008, attendees at a national, multi-disciplinary conference on the 'best interests of the child' highlighted the need for dialogue with cultural and religious leaders across Canada on the meaning and exercise of children's rights. More and better promotion of children's participation rights is also needed.

In recent years there has been a decrease in the use of the language of children's rights in government documents that have direct relation to the Convention, including public health reports, reports to parliament, etc. Even the combined *Third and Fourth Reports* on implementation of the Convention and the First Report on the Optional Protocol on sexual exploitation include very few references to the specific provisions of the Convention.

Survey on Experience of Rights by Young People

A web-based national youth survey, conducted in 2008, was designed to provide a better understanding of the level of young people's awareness and experience with their rights. It was undertaken by the Children's Rights Center at Cape Breton University in cooperation with the Canadian Coalition for the Rights of Children. The survey assessed the extent to which young people in Canada experience three types of rights – provision, protection, and participation rights – in their homes, schools, and communities. Participants were asked to rate 36 statements on a scale of 1 through 7, based on the extent to which they agreed with the statement. The 36 statements included 12 statements for each of the three types of rights. The survey also included four open-ended questions about children's rights. Options were provided for youth to complete the survey online or through hard copy.

Examples of Statements on Survey: 36 statements divided equally by setting and type

SETTING	TYPES OF RIGHTS	EXAMPLE OF STATEMENT
Home	Provision rights	To what extent do your parents and other adults in your family make sure you have your school supplies?
School	Protection rights	To what extent do your teachers and principals make your school safe from bullying and violence?
Community	Participation rights	To what extent do adults and community leaders in your neighborhood listen to the concerns of youth?

The survey received 629 usable responses from young people in Canada aged 9 to 18 years with an average age of 15.6. The majority self-identified as Caucasian, 7% as Asian-Canadian, and 5% as Aboriginal. There were insufficient numbers from special populations (e.g., children who were refugees, in the criminal justice or child welfare system) to allow analysis by status. The percentage of respondents from different geographic regions was reasonably consistent with the population distribution by provinces and territories, with the exception of Quebec. Although the survey was also in French, there were only seven respondents from Quebec.

General Analysis of Survey Findings

Some generalizations are possible, with acknowledgement that the sample was small and not representative of all children in Canada.

First, it is very clear that respondents lack knowledge of what children's rights are. Few young people reported that they learned about rights in either home or school. The fact that children do not know what rights they have under the Convention needs to be considered in drawing further conclusions from the answers to other questions in the survey. In fact, from the comments in response to the open-ended questions, it seems that young people are more familiar with issues relating to the rights of children in the developing world (e.g., rights to food and shelter) than their own rights in Canada.

Second, respondents reported that they experienced more of their basic provision rights, such as food, housing, and education, but less of their protection rights, such as freedom from violence and exploitation. The young people report experiencing very little protection, for example, from illegal drug-pushers, or bullying. In particular, the young people do not perceive their communities to be safe places.

Third, lack of voice and lack of participation were expressed as major concerns in response to the open-ended questions. In the quantitative section, respondents reported more experience of participation rights than protection rights.

Fourth, although respondents indicated that their rights were least well respected in the community, it was apparent from the comments that disrespect of their rights in their schools is also of great concern to them.

Insights from Specific Statements

Analysis of the responses to individual items sheds more insight into the practice of children's rights in Canada. In the home, a majority of respondents indicated that their parents always provided them with adequate clothing and food (78%) and always ensured they got to school (77%). In contrast, only 27% of parents were said to always protect their children from bullying, 31% to help when they are upset, 38% to ensure they are safe when working, and 22% to teach about drug abuse.

"Too many kids are abused."

A similar pattern emerged in relation to the community. Small percentages of children reported always being protected from drugs (11%), from dangerous labor practices (16%), and from predators (16%).

"Adults are the drug pushers."

On the positive side, a higher number of respondents reported that their communities provide opportunities for the development of skills and interests such as sports or drama (32%), medical assistance (30%), and recreational facilities (27%). These percentages are low, however, when analyzed in relation to the right of all children to development of their full potential, the right to play, and the right to health, as outlined in the Convention.

Responses to statements about respect for rights in schools indicated a high degree of available counseling (46% always), and a very low incidence of teacher yelling or bullying (2% always). Respondents were concerned, however, with lack of respect from teachers. Few of article 29's education provisions were being respected (5-11%). In addition, many students noted in their comments that schools were not rights respecting. As examples:

"Very few teachers show respect to the students. They will never apologize for their mistakes even when the student has been wrongly punished."

"The teachers and administrators do not respect the rights of young people."

Analysis of Responses to Open-ended Questions

Analysis of the responses to the open-ended questions is helpful for the development of corrective strategies.

QUESTION 1

"When you hear the term "children's rights," what comes to mind?"

Most noticeable was the absence of any reference to the Convention on the Rights of the Child. This is consistent with other indicators of the low level of awareness of the Convention in Canada. Responses generally fell into the following three categories, arranged in descending order by frequency of response.

Basic Rights

In the first category were descriptors such as:

"The right to have a home without violence" and "Food and shelter,"

There were also references to violations of children's basic rights:

"Children in child labor" and "things like child abuse."

Silence about children's rights was also noted, for example:

"Teachers aren't talking about rights in my school, which is not cool."

Description of Laws

Responses in the second category indicated that the respondents were aware that there was some legislation in Canada designed to protect children, for example:

"(laws to) protect children from adults who would hurt them."

Inadequate Knowledge of Rights in Canada

Finally, there were some responses that noted the lack of teaching about human rights in Canada, for example:

“We learn about all the suffering of children in 3rd world countries, but we do not learn about the injustices present in Canada itself.”

QUESTION 2

“What rights do you think young people in Canada have?”

Again, there was no reference to the Convention on the Rights of the Child and the rights described were basic rights such as:

“Food and shelter” and “protection from harm.”

The school was a prominent target of criticism:

“My parents have taught me about my rights, but the schools are the biggest violators. When my parents attempt to defend the rights of the students, this is taken out on me by my marks dropping or the teachers ignoring me.”

Although a few noted that youth had “too many rights,” many more commented on the lack of opportunities for youth to have voice and influence in decision making. Such comments are exemplified in the following:

“The rights that we have right now as young people in Canada aren’t very prominent and I think that they go unnoticed, really. They should be brought out by youth by having meetings for those who are interested. Now I find that we do not have a say simply because we are seen as being immature and unreliable.”

QUESTION 3

“Do you think young people in Canada have enough rights?”

The responses tended to fall into four categories. Participants either 1) agreed that youth have enough rights, 2) disagreed, and believed that youth did not have enough rights, 3) believed that youth had enough rights, but that these rights were either unknown or not respected, or 4) that their rights were not optimal, but they were sufficient when considering the bleak circumstances of developing countries. Of those who expressed that youth do not enjoy enough rights, an overwhelming majority mentioned a lack of youth input or voice into matters which concern them, for example:

“I think that young people in Canada do not have enough rights because

everything seems to be spoken for us and not having anything to do with us.”

The school was a primary area of concern:

“I think the privacy and ability of young people is impaired under the claim of being helpful and keeping people safe. For example, we are not allowed to check any form of email at school and the majority of students because of the technology of high schools, rely on email to send projects and presentations to themselves. Also the school system now can hold students responsible for activities that have been partaken outside school. It’s interesting to see where boundaries are being set.”

QUESTION 4

“Do you think adults respect the rights of young people?”

Most respondents agreed that the answer depends on the adult and the circumstances. Many young people noted that, while their own experiences have been positive, they were aware that there were young people who do not enjoy the same rights as they have experienced. In general, the responses were ambiguous and reflected a belief that the variability among adults made it difficult to say for certain whether or not a majority of adults respected the rights of youth. The school was a primary focus for comment, for example:

“Teachers are allowed to disrespect us in many ways on a day to day basis.”

Summary

“I do not hear the term (children’s rights) very much, and I think that some people may not think of it very seriously. I think that it is important, not only for the well-being of children, but hopefully, if children care about their rights, when they grow up, they will be more proactive about human rights of all sorts.”

This statement by a 15-year-old male expresses the importance of teaching children about their rights. Canada continues to fall short on its Convention obligation to ensure that adults and children know their rights. A majority of young people do not know what rights they have or how to exercise them appropriately. Although respondents to this survey report that their basic needs are met, they do not feel protected from harm either in their homes or their communities. They report that their voices are not heard and that they do not have opportunities to participate in decisions that affect them. These general findings are similar to those found in other youth engagement exercises across Canada.