

Closing Gaps: Systemic Change is Essential to Implement Children's Rights in Canada

Working Paper for the 5th/6th review of Canada under the *Convention on the Rights of the Child*

Introduction

Better outcomes for children depend on how public policies and programs, managed by different departments and levels of government, fit together. Canada has pieces of good policy for children in many areas. What is missing is a coherent framework. Without it, too many children continue to fall through the cracks of fragmented supports for children and families.

The Canada Child Benefit (CCB), for example, is a basic building block for children's policy in Canada. It is one significant step forward in the realization of children's rights since the 3th/4th review in 2012. Its effectiveness, however, depends on making progress in other areas of children's rights and in the systems that connect all aspects of child development in Canada. That remains a major gap in the way Canada continues to implement the Convention on the Rights of the Child (CRC).

The CRC provides a coherent and integrated approach. That is one of its benefits. Canada's 5th/6th report on implementation lists some new pieces of public policy that contribute to realizing children's rights in one province or at the federal level, but the federal, provincial, and territorial governments rejected almost all the recommendations for policies or structures that would pull the pieces together and achieve better outcomes for children. When recommendations to Canada during the 3th/4th review combined systemic change and specific policies, the 5th/6th report often ignores the recommendations for systemic change and lists a few specific policies in one jurisdiction. That is not an adequate response.

Canada's Systems are Not Working for Children

This approach to monitoring and reporting is a disservice to the children of Canada. Given the rulings of the Canadian Human Rights Tribunal in the matter of First Nations child welfare, Canada can no longer make a credible claim that its systems are adequate to protect children's rights. If children's rights were being implemented, monitored and reported, as intended under the CRC, the inequitable treatment of Indigenous children would have been identified, investigated, and remedied years ago. All governments now finally recognize past wrongs, but they refuse to change the systems that allowed those wrongs to go on for years.

Systemic change to implement children’s rights, as recommended in each of the earlier reviews, could have prevented harms that have happened to many children in Canada after the ratification of the CRC. At this point, giving serious consideration to recommendations for systemic change during the 5th/6th review would benefit many children. It is the only logical and acceptable response to the widely available evidence of systems failures in all areas of children’s rights. Doing anything less during this review is an abdication of the duties of both federal and provincial governments under the CRC.

In December 2017, federal and provincial ministers responsible for implementing human rights made a commitment to improve how Canada responds to recommendations. This review of children’s rights is one of the first opportunities to show improvement. Instead of taking that opportunity, governments continued the same approach used in previous reviews; they submitted a long list of small changes without analyzing outcomes for children and ignoring almost all recommendations for systemic change. This was done in spite of overwhelming evidence that past approaches to monitoring, reporting, and responding to recommendations have failed children in specific areas, such as indigenous child welfare, and in general indicators of well-being. International comparisons done by UNICEF show that children in Canada are not doing as well as children in countries where the Convention is implemented more robustly.

To foster serious discussion about what Canada needs to do to implement children’s rights, the table below provides an overview that compares what systemic recommendations Canada was asked to consider in 2012, what the 2019 report says, and what could be done before the end of this review (note: FPT in the table refers to federal/provincial/territorial governments).

Overview of Response to Recommendations to Improve Systems for Implementation			
Subject Matter	2012 Recommendation	2019 Report	Doing Better
Legal recognition of children’s rights	Find the path to a comprehensive legal framework across FPT jurisdictions that fully incorporates the CRC into Canadian law	No path. Existing approach is adequate. Some legal improvements. No analysis of relevant court rulings.	Introduce a law to implement the CRC and allow 10 years to amend other laws as needed.
State of children: outcome data analysis	Comprehensive and disaggregated data collection and analysis to assess progress and design policies and programs. Special	Some population data in Annex 1. Lack of outcome data. No analysis or evidence to support general statements about children. Statistics	Outcome data and analysis to back up assessments in report. Transparency of data and use of disaggregated data. A means to integrate



	focus on data about vulnerable children to inform policy decisions.	Canada will do survey on child health in 2019. Examples of data collection from some provinces, but no analysis of outcomes.	data from various sources to provide a robust evidence base for policy options.
Child Rights Impact Assessment (CRIA)	Use of CRIA recommended in 2 nd review. Not addressed in 3 th /4 th report. Canada asked to respond to earlier recommendations.	GBA+ budget analysis is presented as CRIA. It is a step but it does not include all impacts for all children. It is not CRIA.	Use CRIA to assess all proposed legislation and programs that impact under-18s.
National Plan for Implementation	Comprehensive implementation framework with priorities, targets, clear responsibilities of each government, resources and monitoring.	Lists a few FPT strategies for specific issues. No national plan and no explanation.	Use CRC as common framework to close gaps and integrate policies for children.
Report dissemination and Public Accountability	Make reports widely available and encourage public discussion	Late posting. Report not easy to find. No outreach before or after release of report.	Publish youth-friendly version of report and ask young people to respond to it as part of broad public review process
Federal-provincial coordination	Coordinating body with stature and authority; include civil society	Continue existing CCOHR and Federal Working Group - clerical bodies with almost no authority and no transparency.	Replace status quo with Children's Commission as outlined in CCRC paper on systems approach
National Children's Commissioner	Independent and effective monitor at federal level	No. Defer to provincial advocates, but many have limited mandates.	Systems approach including a commission to address FPT policy coherence.
Children's Budgets	Clear allocations for children's needs, targets, tracking;	GBA+. Examples of increases in specific provincial programs	Ask Parliamentary Budget Office to



	budget lines for vulnerable groups; protect allocations for children in times of restraint	and specific budget lines.	implement 2012 recommendation.
Training	Integrated strategy to train officials to use CRC in legislation, policy, programs	Issue specific workshops in specific programs; “numerous officials received training.”	Follow gender training strategies to reach critical mass of trained officials
Complaint Avenues	Ratify OP on complaints process	No response. This OP is not on list of current priority considerations for ratification.	Ratify OP and publish youth-friendly guide to all complaint processes for children in Canada.

Response to Recommendations on Central Elements in Children’s Rights

Children’s right to know their rights	Use curricula and government websites to inform children about their rights	National Child Day events and small initiatives are highlighted. No analysis of all curricula or government websites. (CCRC analysis shows that no provincial curriculum systematically teaches children’s rights.)	National initiative for 30 th Anniversary in fall 2019 to inform all children about their rights. (CCRC analysis showed it is not easy for young people to find information on children’s rights on government websites)
Consider Views of Children	Require consideration of views of children and provide appeal avenues if not done.	Youth advisory groups and specific consultations are highlighted. Bill C-78 will make it a requirement in family law cases.	Rights-based approach to youth voice. Apply to all areas; youth-friendly appeal process.
Best Interests of Child/Children	Consistent determination and	States that BIC is applied in many contexts.	Apply same approach as Bill C-87 to all



	application in all legislation	2 specific examples of guidance in use. Bill C-87 makes BIC central to family law.	other areas of policy that affect children.
Non-discrimination; Equitable Treatment and Access to Services	Address disparities in access to health services, education, and justice, especially for vulnerable groups; assess equity in social transfers, tax benefits	Claims equal access is ensured, but no evidence. Few examples of new sectoral programs.	Outcome data analysis to measure progress toward equitable access.
Freedom from Poverty	Annual targets with coordinated plan	50% reduction in all poverty by 2030 is target in National Poverty Reduction Strategy	Annual targets for child poverty within national poverty reduction strategy
Freedom from all forms of violence	National strategy to prevent all forms of violence, with resources and monitoring. Special focus on indigenous girls; victims have access to immediate protection and redress; follow-up when children reunited after domestic violence; repeal Section 43 to end corporal punishment	Blanket claim that all governments provide comprehensive protection against violence, but no analysis of evidence. List of some new specific initiatives. Corporal punishment is justified as defense of parents and because of differing views in Canada.	Analyze evidence of high rates of violence against children and develop a detailed strategy with clear targets, integrated strategies, and regular monitoring and reporting.
Response to Systemic Recommendations in Specific Sectors or for Vulnerable Groups			
Children with Disabilities	Global and disaggregated data to inform policy. Ensure access to inclusive education.	New center for Gender, Diversity, and Inclusion Statistics at Statistics Canada	Indicators to measure progress and regular reporting for public accountability.
Early Childhood Development and Care	Increase availability for all children. Minimum	FPT Framework on Early Learning and Child Care. Efforts to	Implement the Affordable Child Care for All plan,



	requirements for training. Equity impact analysis of expenditures on early childhood.	increase accessibility. No equity analysis.	with high priority on developmental approach to care and equitable access.
Children's Rights in the Workplace	Ratify ILO 138; systematic data analysis to monitor outcomes.	Ratified ILO 138. No data; no analysis of implementation in provinces	Put high priority on informing young people of rights and on access to effective complaint process without losing job.
Children away from Families	Support family first. Placement always assessed by competent teams, for shortest time, with access to review.	Some improvements listed. No system reform. New federal law for indigenous children.	Reform both federal and provincial child welfare systems to respect children's rights.
Adoption	Federal and provincial legislation to comply with international standards.	One change noted.	Use CRC to close gaps and protect the rights of children and families in adoption.
Education	National strategy to address high drop-out rates among Indigenous and African Canadian children. Abolish user fees. Ensure integration of children with disabilities.	Reports on Council of Ministers of Education work on indigenous education. No response to other recommendations – under provincial jurisdiction.	Ask the Council of Ministers of Education to map how children's rights are implemented in education across Canada and work to close gaps.
NOTE: This table reviews systemic recommendations - not all recommendations in all areas of children's rights. Please check the full reports on the CCRC website at www.rightsofchildren.ca .			

May 21, 2019
Prepared by Kathy Vandergrift