

The Need for Effective Child Rights Governance in Canada

A summary of UNICEF Canada's alternative report to the Committee on the Rights of the Child as prepared for Canada's combined 5th/6th reporting period

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On March 1 2020, UNICEF Canada submitted an alternative report to the United Nations Committee on the Rights of the Child regarding the government of Canada's efforts to implement the Convention on the Rights of the Child (CRC)¹. While UNICEF Canada contributed to a larger coalition report prepared by the Canadian Coalition for the Rights of Children (CCRC), we also wanted to submit our own report to focus in detail on the child rights governance model we feel is needed to properly implement the Convention in Canada.

Canada is one of the wealthiest countries in the world, and most of its citizens enjoy world-class health, education, and social services. Yet Canada continues to perform poorly when it comes to the rights and well-being of children and youth, as documented in [UNICEF Innocenti's report cards on child well-being in wealthy countries](#) and [UNICEF Canada's Index of Child and Youth Well-being](#). One of the main obstacles to improved outcomes is the poor implementation of the Convention in Canada, and the lack of proper governance infrastructure to facilitate it.

UNICEF Canada's report, *An Alternative Report on the Need for Effective Child Rights Governance in Canada*, calls for the establishment of a system of child rights governance at the federal level that will facilitate, coordinate, monitor, and hold government accountable for the implementation of the Convention. The report argues that the best way to accomplish this is for the federal government to establish as a first step a Children's Commissioner (or Commission) as an Officer of Parliament.

Although Canada ratified the CRC close to thirty years ago, the Convention has never been properly incorporated into Canadian law, or into governance pursuant to article 4 of the CRC. The result is that children's rights are often being interpreted through institutions that were not designed to do so.

As the ongoing Canadian Human Rights Tribunal on First Nations child and family services has demonstrated, children in Canada who feel their rights have been violated have inconsistent and insufficient appeal within Canadian courts and administrative bodies. An entire generation of children has grown up in the 13 years that the Tribunal has taken in determining the government has "willfully and recklessly" discriminated against children on the basis of race. Proper protection of the rights of children requires

¹ Alternative reports are prepared by civil society organizations to accompany and respond to the government of Canada's own report on its efforts to implement the Convention, which was submitted to the Committee in 2019. You can read the government's report [here](#).

a process based on the best interest of the children involved, respects children agency and the right to be heard, and is mandated to cover the full range of rights as outlined in the CRC.

A key principle of international human rights is the concept of “non-retrogression,” which holds that rights should be progressively realized, and duty-bearers should not reduce the standard that has been reached. With the 2018 closure of the Ontario Child Advocate office, the rights of children in care in Ontario are being realized to a lesser standard than at the time of the last periodic review. Similar concerns hold true across other jurisdictions, where some erosion has been observed in education, child care, public health and advocacy. UNICEF Canada holds the principle of non-retrogression as absolutely essential to the realization of the rights of all children, and calls on Canadian governments to make the same commitment.

Canada has long been considered a leader in the promotion of human rights internationally, and was one of the most active proponents of the CRC at its establishment. Yet the cuts to Canada’s Official Development Assistance envelope annually undermine the promotion of child and human rights both globally and domestically. Insufficient investment risks progress gained globally in health, education, nutrition and protection, and will spur inequities, undermine resilience, and weaken the monitoring and due diligence mechanisms that protect children from rights violations and hold perpetrators to account.

A summary of the full list of recommendations made in the alternative report is included below. Regrettably, most of them echo previous recommendations of UNICEF Canada, the CCRC, and the UN Committee on the Rights of the Child. We call on the government to respond to them meaningfully.

30 years after ratification, it is time for Canada to deepen its commitment to children’s rights by embedding the Convention in law and incorporating it into the structures and procedures of its democracy.

UNICEF Canada recommends:

1. That the Parliament of Canada move to adopt legislation that fully incorporates the Convention and its Optional Protocols into Canadian law.

2. That the federal government create a national Children’s Commissioner (or Commission) that meets the following criteria:
 - conforms to the principles relating to the status of national institutions for the promotion and protection of human rights (known as the Paris Principles) and the relevant General Comments of the UN Committee on the Rights of the Child;
 - is established in close collaboration with First Nations, Metis and Inuit peoples, and is respectful of their jurisdiction, up to and including equal participation in a Commission model, and;
 - is mandated in legislation to do the following:
 - » coordinate, monitor, and report back on cross-governmental efforts to implement the Convention within the federal government;
 - » facilitate communication and coordinate best practices among the provincial and territorial child advocates as a member of equal standing of the Canadian Council of Child and Youth Advocates (CCCYA);
 - » receive complaints and conduct investigations, including investigations at their own initiative, with regard to children’s rights in Canada under the Convention;
 - » produce public reports with regard to children’s rights in Canada under the Convention;
 - » coordinate a regular program of training on children’s rights be developed for federal, provincial and territorial officials and parliamentarians, and;
 - » monitor government efforts to address the recommendations contained in the Committee’s concluding observations of the previous periodic reports, as well of the relevant recommendations of the Truth and Reconciliation Commission of Canada and the National Inquiry into Missing and Murdered Indigenous Women and Girls, among others.
3. That all levels of governments incorporate Child Rights Impact Assessment (CRIA) into their legislative and policy development processes. At the federal level, this could be implemented by including CRIA as a sub-component of the GBA+ process,

though other models exist, including a whole-of-government approach in New Brunswick. The scope for CRIA includes any department or agency and includes all current and future international assistance and cooperation, humanitarian policies and action.

4. That the federal government work with its provincial and territorial counterparts to develop curriculum tools that introduce children to the Convention at a young age, and that the curricula return to specific articles and sections of the Convention as they progress through grades 1 to 12.
5. That the Ontario Child Advocate office and its entire previous mandate be re-established.
6. That Canada expand the scope of its planned “State of Youth Report” or produce a corollary report, or a framework integrated into a Well-being Budget, that focuses specifically on children, to ensure that the situation of all rights-bearers under the Convention is comprehensively documented and progress can be tracked over time.
7. That Canada consult with UNICEF Canada and consider the Canadian Index of Child and Youth Well-being as a template for new approaches to gathering and disaggregating survey data to monitor children’s rights.
8. That Canada increase levels of funding in order to meet the recommended aid target of 0.7 per cent GNI, and that all aid prioritize rights and equity focused health, education, nutrition, climate resilience, population, protection, and the best interests of every child.
9. That Canada fully implement the UN Committee on the Rights of the Child’s General Comment 16 on state obligations regarding the impact of the business sector on children’s rights.
10. That the federal government develop and implement a National Action Plan on Business and Human Rights, through a multi-sector consultation process, with a particular focus on vulnerable groups such as women and children.
11. That the federal government introduce mandatory human rights due diligence legislation, requiring public and private entities that do business in Canada to

identify, prevent, mitigate and account for their salient human rights impacts, with a particular focus on vulnerable groups such as women and children.

12. That Canada fully implement and integrate the four key agreements on protecting children in armed conflict: the Safe Schools Declaration; the Optional Protocol on the Involvement of Children in Armed Conflict; the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and use of Child Soldiers, and; the Paris Principles on Children Associated with Armed Forces or Armed Groups, within all foreign policy, priorities, decisions and budget allocations.
13. That Canada advocate for and advance a robust Monitoring and Reporting Mechanism as a crisis specific tool for party behavioral change and a global tool for accountability for grave violations of children's rights in conflict, and commit sufficient resources to that regard.
14. That Canada ratify the Optional Protocol to the Convention on the Rights of the Child on a communications protocol.

UNICEF Canada maintains a leadership role in the Canadian Coalition on the Rights of Children (CCRC) and has contributed to the preparation of the CCRC alternative report. We are proud to work in collaboration with a wide range of civil society partners through the CCRC. Where this alternative report has not dealt with all outstanding articles of the Convention, we defer to the CCRC report and are supportive of the recommendations it contains. You can find the CCRC report [here](#).