

Canadian Coalition for the Rights of Children

Information related to Canada's Response to List of Issues

April 15, 2022

To the members of the United Nations Committee on the Rights of the Child,

The alternative report "Close Gaps through Systemic Change: Implement Children's Rights in Canada" was originally submitted by the Canadian Coalition for the Rights of Children (CCRC) on March 1 2020. We also submitted an additional letter of information on July 1, 2020, in relation to the coronavirus pandemic. Since then, Canada's experience with Covid-19, as well as factors such as the findings of children's remains at former residential school sites across Canada, serious incidents of Islamophobia and anti-semitism affecting children, and growing economic inequality, confirms the findings of major systemic gaps in protection of children's rights. In addition to exposing the gaps, it reveals the negative impacts and high costs for children and society. Moving forward, it adds to the already compelling evidence in the report that implementing children's rights would make Canada's federalist system of governance work better for children, families, and communities across the country.

With this in mind, this submission provides additional information for the Committee to consider when reading the Government of Canada's response to the List of Issues (LOI). We highlight how the system could be strengthened if children's rights were prioritized by the government.

Systems for Implementation and Monitoring

Canada's response to the List of Issues continues the pattern of providing long lists of specific programs without analysis of outcomes or clarity about how they fulfill or fall short of respect for children's rights. Many are narrow in scope or only apply in one province, leaving out large groups of children. Children and CSOs were not included in developing Canada's response, in spite of Ministerial level commitments to improve the process for responding to recommendations and including civil society. This piece-meal approach ignores recommendations in previous reviews; it continues to fail many children; and it ignores well-documented evidence of the benefits of taking a more comprehensive, rights-based approach to public policy for children, including benefits for Canadian federalism.

Canada's response to the LOI shows that no steps have been taken to implement systemic recommendations from the last review or additional measures in response to systemic issues in the LOI. Canada's report and response to LOI do recognize significant violations, such as violations of the rights of Indigenous children (see Response to LOI para. 4). It is important to note that no steps have been taken to strengthen the mandate of the Interdepartmental Working Group on Children's Rights (IWGCR), which lies within the jurisdiction of the federal government, in spite of evidence showing that it lacks authority to effectively coordinate policies, resources, and measuring outcomes across departments. Furthermore, the new Forum of Ministers on Human Rights is not specifically focused on children (see Response to LOI para. 11); it only meets every 2 years and has been critiqued by many human rights groups as an inadequate mechanism for implementing international human rights obligations in Canada.

In addition, there is a need for federal and provincial strategies for the implementation of the CRC, as national strategies are not always effective at fully implementing the CRC across jurisdictions. For example, the two national strategies mentioned in the Response to the LOI para 3a refer to human trafficking and homelessness, respectively. While these strategies contain actions related to children, they do not provide a comprehensive implementation of the CRC across jurisdictions.

Recommendation:

Stronger mandate for IWGCR to ensure implementation across federal departments. Create an independent Commissioner's office for monitoring. Create federal and provincial strategies for the implementation of the CRC in Canada.

Child Rights Impact Assessments (CRIA):

There is no commitment to actually implementing CRIAs (see para. 15 Government's Response to LOI). Although the Government refers to use of a Gender-based Analysis Plus tool in the federal Youth Policy, age is only one of several indicators of equality that is assessed. Furthermore, youth, defined as 15-29 years of age, does not take into account children under 15 years of age. While the benefits of using CRIA have been recognized, the steps taken to implement them are inadequate to achieve those benefits.

Recommendation:

Commit to using CRIA for all federal legislation and programs that affect children, and encourage provinces to use them, especially for areas of joint jurisdiction.

Data and Analysis to Inform Policy

As the Committee notes in the LOI in Part 1, 3, Canada needs a comprehensive national data collection system. While the government's Response to the LOI highlights new sources of statistical information related to children in the areas of health, early childhood development, and child welfare, and includes more disaggregated data in the appendices, the fact remains that data collection is fragmented across levels of governments and issue areas. Harmonized data collection systems, such as GlobalChild, have not been implemented, impeding the ability of governments to adequately respond to identified gaps. Consequently, there are still major gaps and little analysis of the data to inform policy choices and assess progress. The lack of data about structurally vulnerable children remains a serious issue. Furthermore, we know that more data about certain groups of children would help in the design and implementation of policies and programs that better allow for children to realize their rights, including Indigenous children. As the Native Women's Association of Canada notes in their Additional Submission to the CRC: "Indigenous children face significantly worse outcomes than non-Indigenous children in Canada. They experience disproportionate poverty rates, domestic violence rates, food insecurity, lower education attainment, health conditions and systemic discrimination."

Recommendation:

Set up a national and comprehensive data collection system and to analyze the data collected as a basis for consistently assessing progress achieved in the realization of children's rights, and to help design policies and programmes to strengthen the implementation of the Convention.

Legal reform

Violence: Continuing high rates of violence (across a spectrum of types of violence and ages), gaps in legislation, and lack of support for children affected by violence are even more urgent in light of Covid-related evidence about the reality of children in Canada.

Corporal Punishment: Canada's response to repeated recommendations to prohibit the use of corporal punishment provides no rationale for maintaining section 43 of the criminal code. No evidence is provided to show that parenting education, as Canada's substitute approach, reaches most parents. Contrary to reality, Canada continues to claim that current laws protect children from all forms of violence in its national report and on government websites. Those statements are only true if the government believes corporal punishment is not violence. That contradicts its commitment to evidence-based policy, since international evidence shows a clear link between corporal punishment and other forms of violence - that evidence has been presented to the government by experts in Canada. Either Canada needs to repeal section 43 or stop saying that current laws protect children from all forms of violence.

In addition, while Canada continues to claim it is responding to all the Calls to Action from the Truth and Reconciliation Commission, it has done nothing about #6, which calls for repeal of Section 43 of the Criminal Code.

EVAC Pathfinder: When Canada became a Pathfinder country for the global End Violence Against Children campaign (EVAC), CSOs had high expectations it would lead to an effective national effort in Canada. Instead of using the INSPIRE framework to integrate and scale up small efforts, Canada has continued piece-meal, narrowly cast and small scale programs that fail to change high rates of violence. CSOs have advocated for a multi-stakeholder approach without response, and children's rights organizations have not been consulted in the preparations for the Global Summit in June.

Recommendations:

Enact a clear law to prohibit all forms of violence, including corporal punishment, and expand educational programs for parents, based on evidence about harms and Truth and Reconciliation Commission Call to Action # 6.

Use the INSPIRE framework to scale up and broaden the scope of piece-meal initiatives to achieve the objectives of EVAC in Canada, including the establishment of a multi-stakeholder platform to better integrate activities by various actors and regularly close gaps and assess progress.

Right to be heard: While inclusion of children's voice in the Divorce Act is welcome, that does not fulfill the recommendation to require it in all decision-making processes that affect children and provide a mechanism for appeal if it is not respected. In addition, Canada's approach to youth advisory committees continues to fall far short of Article 12, as discussed in the CCRC report. This also contradicts the stated commitment to improve the way civil society is engaged in the review process. A more robust embrace of children's right to be heard, including established mechanisms for children to appeal failures to consider their views, would strengthen government ministries and decisions at all levels.

Recommendations:

Require consideration of the views of children in all policy areas, building on its inclusion in the Divorce Act.

Ensure access to review and appeal processes for failures to consider the views of children in decisions that affect them.

Social and economic rights

Education – Child Rights in Curriculum

Canada was asked to ensure that all children were informed about their rights through curriculum and government websites. The examples cited as progress are small components in discretionary courses that some students take in some provinces; they do not reach most children in Canada. The reality remains that children's rights education (CRE) is not a mandatory part of the curriculum across provinces and territories; pre-service teachers (in Bachelor of Education programs at universities across Canada) do not receive training/education on how to teach children about their rights under international and domestic laws; and there is no mandatory training for in-service teachers. In instances where training and workshops for teachers (pre- and in- service) and children have taken place, they are done due to individual efforts (e.g., by academics at universities or members of NGOs and International organizations). The lack of CRE and awareness has resulted in minimum to no reference of children's rights in policies across schools that impact the lives and education of children; this has led to continuous violations of children's right to an education, to protection, nondiscrimination and the right to know their rights, to name a few. The new committee of federal and provincial ministers for human rights should make children's rights education a priority.

Recommendations:

All provinces and territories make teaching children's rights a mandatory part of elementary and secondary school curricula, in age-appropriate ways.

All provinces and territories make children's rights education mandatory for teacher certification programs as well as ongoing training for in-service teachers.

Annual monitoring and reporting on how many children are receiving instruction in children's rights through the federal/provincial committee on Human Rights.

Health, mental health services and resources

Overprescription of psychotics (LOI Part 1, 9b)

Canada's Public Health Agency was asked to investigate the over-use of prescriptions of psycho-stimulants, especially for children in care, based on evidence from those children presented before the 3th/4th review. The current response to the LOI fails to address the essence of the original, rights-based claim. It does not address the consent rights of children in care; it does not address access to alternative forms of treatment, and it does not address perverse incentives when foster parents receive additional support if wards are on these drugs.

As well as being an important issue in itself, this response shows how rights-based claims are obfuscated by the way Canada deals with children's rights. It also shows how Canada would benefit from taking a rights-based approach; the focus on outcomes and ensuring rights are protected would contribute to the prevention efforts cited in the response.

Access to Mental Health Services

In the LOI, mental health is noted in Paragraph 9a: Efforts to address differences in access to quality health services for children, particularly Indigenous children, including equal access to mental health and suicide prevention services across provinces and territories; and the application of Jordan's Principle. We note that children continue to name mental health as a priority for improvement in Canada. Research shows that: About 1 in 5 children experience a mental illness; Suicide is the second leading cause of death among children; Only 1/3 of children access the mental health services they need.

Recommendations:

Culturally diverse and age-appropriate mental health services and resources for children and their families.

Action plans by provinces and territories to monitor how and where funds allocated for mental health are spent with accountability through transparent reporting to children and CSOs who work with them.

Access to Sexual Education

In the Response to the LOI, the government says that provinces have jurisdiction for education in Canada, making it difficult for them to mandate sexuality education (Paragraph 52 of the Response). While provinces have primary jurisdiction for education in Canada, the federal Public Health Agency could do more to ensure that all children have access to comprehensive sexual education, as a matter of children's rights.

Recommendation: Canada's Public Health Agency plays a leading role, in cooperation with related CSOs, to ensure that every child in Canada has access to adequate and accurate information about sexual and reproductive health.

Housing: children living in inadequate housing conditions

In the LOI, the Committee asked the government about children living in inadequate housing. The government notes that over 1 million children face this violation of their social and economic rights, but does not discuss how the National Housing Strategy specifically will alleviate this for children as rights holders. It is unclear how many children were supported by the National Housing Strategy as figures pertain to families and individuals, even though the strategy specifically names women and children fleeing violence as a target population.

Furthermore, it is important that the Federal Housing Advocate and Review Panels hear directly from children in regards to housing issues; this will play a role in ensuring the elimination of homelessness among children as an immediate obligation of the highest priority – with particular reference to Indigenous children and those exiting care. The Best Interests of the Child must be applied in the adjudication of evictions of households with children, all adjudicators should be adequately trained in children's right to housing and relevant governmental agencies should be party to any eviction proceedings to ensure that children are not evicted into homelessness and that their rights are not violated.

Recommendation: Give children priority in implementation and monitoring of the National Housing Strategy.

New Developments:

Age of Voting: The CCRC has filed a legal challenge to declare the current minimum age of 18 for voting unconstitutional and private members' bills have been introduced into the House of Commons and Senate to lower the voting age to 16.

Environment and Children's Rights: The CCRC has recommended that the right of children to a healthy environment be specifically recognized in a scheduled review and revision of the Environmental Protection Act, that the impacts and views of children be integrated into its provisions, and that a full CRIA be done to ensure that all areas of environmental policy include focused attention on impacts for children.

Media and Children's Rights: The CCRC has recommended that the Convention, specifically Article 17, be explicitly referenced in upcoming legislation to establish rules with regard to matters such as hate, on-line exploitation, and radicalization, and that Canada's legislation reflect international guidance and good practices with regard to children's rights in the context of digital and social media.

These would be significant steps to incorporate children's rights into areas that are under federal jurisdiction and provide leadership to other levels of government in Canada on the benefits of taking children's rights seriously. So far there is no evidence that the Interdepartmental Working Group on Children's Rights is engaged in advancing children's rights into these new areas of legislation, illustrating the weakness of its role as an effective mechanism for co-ordinating or advancing children's rights in Canada.

In March 2020, we chose the title "Close Gaps through Systemic Change" because too many children were falling through the gaps. We provide this additional feedback to inform you of how things are going two years into a pandemic, when many children continue to struggle to realize their rights in Canada.

We thank you again for your consideration of this additional submission.

Sincerely,

The Board of Directors of the Canadian Coalition for the Rights of Children