

Irwin Elman-Individual Expert-Canada-Session

Alternate Report To Canada's Combined Fifth and Sixth Reports on The Convention on the Rights of the Child

Irwin Elman

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Dear Committee Members;

Please accept this document as an Alternate Report to Canada's Combined Fifth and Sixth Reports on The Convention on the Rights of the Child submitted to the United Nations Committee on the Rights of the Child (UNCRC) in 2020. I have also contributed to the Canadian Council of Child and Youth Advocates Alternate Report and the Canadian Coalition on Children's Rights Alternate Report. I am a signatory on the Committee for the Repeal of Section 43 of the Canadian Criminal Code Alternate Report.

From 2008 until April 2019 I was the Provincial Advocate for Children and Youth in the Province of Ontario, Canada (Ontario Child Advocate). From 2011 to 2018 I was the President of the Canadian Council of Child and Youth Advocates (CCCYA).

As the Ontario Child Advocate I was an independent Officer of the Ontario Legislature. My Office was guided by the Provincial Advocate for Children and Youth Act passed unanimously by the Ontario Legislature in 2007. My Office was instructed by legislation to promote the human rights of children through the use of individual complaint advocacy, amplification of children and youth voice, and investigation all providing advice to decision makers, including government. The Office was instructed by legislation to "partner with children and youth to bring their issues forward". The Office was instructed by legislation to be "guided by the Principles of the United Nations Convention on the Rights of the Child"

In November of 2017 after winning election five months earlier the new Ontario government moved to table legislation repealing the Provincial Advocate for Children and Youth Act (2007) in order to close the Office. The Provincial Advocate for Children and Youth Act was repealed, and our Office was shuttered May 1, 2019. Canada's report submitted to your Committee only months prior to the Ontario governments action does not include this huge development in the child rights landscape of the country.

In the UNCRC 's concluding Observations as part of Canada's last review it was "strongly" recommended that Canada have a national comprehensive strategy protecting and promoting child and youth rights. The Committee argued that this national strategy should be implemented at the Provincial and Federal levels. The actions of the Ontario government fly in the face of such a recommendation. Due to no comprehensive national strategy to protect and support children's rights the closing of the Ontario Child Advocate Office was unencumbered by anything but good words from other Provinces and the Federal government.

In Canada there are now independent child advocates in British Columbia, Alberta, Yukon, Nunavut, Saskatchewan, Manitoba, Newfoundland, New Brunswick, Prince Edward Island. In Quebec the Human Rights Commission has a Deputy Commissioner responsible for protecting children's rights. In Nova Scotia the Provincial Ombudsman has a Deputy Ombudsman for Children. The North West Territories has yet to establish an independent Advocate. It is worth noting that in Quebec a Commission of Inquiry currently examining the Quebec child welfare system is expected to recommend a stand-alone Child Advocate Office. In Nova Scotia there is also discussion about establishing an independent child advocate. Perhaps the good news, although it is difficult to find, is that the Ontario government appears to be an outlier in its regressive indifference to children's rights. At the same time given that Ontario, 40 years ago established Canadas first Office of the Child Advocate albeit an Office reporting to a Deputy Minister, the recent decision of the Ontario government ignores a rich history of child advocacy. It is also true that Ontario is the most populous Province in the country and there is

considerable anxiety in many circles that other Provinces and Territories might follow the lead of the Province's government.

In November 2018 when the Ontario government moved to repeal the Office of the Provincial Advocate for Children and Youth Act it took the Province by surprise. There was no public discussion prior. There was no discussion with the Legislature nor the Child Advocate. In the period between the tabling of the Bill to close the Office and the passage of the Bill there were no consultations and only one day of Legislative hearings into an Omnibus Bill containing the repeal of the Act among many other things. There was never a rationale provided for the closure of the Office. The Bill once passed did give the Province's Ombudsman jurisdiction over the Ontario's child welfare system, a small portion of the Child Advocates mandate, yet the Bill expressly instructed the Ombudsman from conducting "any advocacy" for children and youth.

I sit and write this Alternate Report in a small town in Northern Ontario called Sioux Lookout. It is snowy, cold and feels isolated. Certainly, it is far from the busy city of Toronto in the south of Ontario where the seat of government exists. I am in Sioux Lookout supporting and advising the Coroner of Ontario as he develops a new more robust, transparent child death review system – an initiative that the Office of the Child Advocate began with the Coroner while it existed. I am reminded here of the fact that in Ontario a child connected to Ontario's child protection system in some way dies approximately every three days. Monday, Tuesday, Wednesday a child dies. Thursday, Friday, Saturday a child dies...I am reminded of the Coroners Report "Safe With Intervention" looking at the deaths of 12 children who have died in the province's residential care system the report. This information is not included in Canada's submission to your Committee. To this date the Ontario government has done absolutely nothing to stem the tide of suffering of children in residential care. The government did however announce a reduction of \$1 billion dollars over three years to the budget of the Ministry responsible for and funding residential care.

I sit in a Province where thousands of children living with autism wait for service. Their families are under intense pressure to cobble together support for their children if they can afford it and if they have no financial means to do so families struggle to simply hold things together. The government placed on hold, for now over a year, supports to children that would provide crucial needs-based therapy for children with autism. More cruelly children who had been receiving service were cut off from service and left in limbo.

I sit in a Province where teachers, elementary and secondary, are currently conducting rotating strikes. The Provincial government announced an increase to class size. The Minister of Education stating ridiculously that "larger class size builds resiliency in students". The Provincial government cut funding to initiatives in school boards meant to support the educational attainment of the most marginalized students in the Province – racialized students, children in child welfare care, students with special needs. The Provincial government has decided that secondary students must take at least two e-learning courses in order to graduate replacing teacher led in school courses. The rationale for this decision being that e-learning is readying students for the modern world as if students in Ontario do not spend enough time on their screens. The government has stated a worry that the education system is not financially sustainable. Money again is what drives any changes taking place not the best interest of children.

I sit in a Province where a recent report from Children's Mental Health Ontario (CMHO) states that over 28,000 children in the Province are on waitlists for mental health treatment and support. The wait list will see children in some parts of the Province waiting 2 years. The waitlist doubling in size since the present government took power.

I would be remiss to not add that nationally Canada's Federal Government has decided to continue to refuse to accept orders to compensate from Canada's Human Rights Tribunal that held that Canada was discriminatory to First Nation children by inequitably funding First nation child welfare services over a period of many years.

There is so much more to tell suffice to say Ontario and Canada are in a very different place than when your Committee received the submission from the Federal government.

I sit in a Province where government argues that we must be more “open for business”. We hear tropes like “the best social program is a job”. We hear day in day out about the crisis of a fiscal deficit as if this is more than a way of seeing the world but is the gospel truth.

There is a stark inability to perceive the world in any other way than in terms of supporting business. No ability to perceive the world through the lens of child development or childrens rights. No ability to perceive governing as a way to promote climate justice or the very democracy that first elected the government.

I sit here. Where I sit is where I stand, and I will stand with the children of our Province. I urge the Committee to do the same.

In your consideration of Canada’s report to the Committee I urge you to recommend that in any decision-making governments in Canada undertake a child rights assessment (CRIA) process is employed to determine the effects of a particular decision on the rights of the child guaranteed under the Convention.

I urge you to reassert your recommendation that Canada develop a national strategy to promote and protect the rights of the child to be implemented at Federal and Provincial levels of government. I urge the Committee, in particular the Rapporteur responsible for Canada’s review, to visit Ontario and meet with young people of the Province who have lost so much ground in the ability to access their rights.

Sincerely

Irwin Elman