

Guest Editorial

Democracy in the 21st Century: Children: The Silenced Citizens

Canada took a leadership role in drafting the United Nations Convention on the Rights of the Child and in encouraging widespread adherence. The convention took its final form in 1989 and Canada ratified in 1991. The Convention is the first legally binding international instrument to describe civil, cultural, economic, political and social rights specifically for children.

In 2004, the Senate Committee on Human Rights began a study on the rights of children. Over the next three years the Committee heard eye-opening testimony about Canadian children and youth whose futures were at risk. We heard stories about children who were being subjected to violence, who were being exploited sexually, who were tangled in the justice system, children with disabilities who were not receiving the services they need to grow into their full potential. We heard about immigrant children who were separated from their families and about children who were forced by the system to be on their own just when they were starting to put their troubled lives back together.

The Convention could be a useful mechanism for these children. It protects children's rights by setting standards in health care; education; and legal, civil and social services. International human rights treaties are rarely incorporated directly into Canadian law, but are indirectly implemented by ensuring that pre-existing legislation is in conformity with the obligations accepted in a particular convention. Parliament plays no role in ratification, thus international human rights treaties that are not directly incorporated into domestic legislation bypass the parliamentary process. Implementation of international law where provincial laws and policies are affected is the responsibility of the federal, provincial and territorial governments.



Numerous witnesses expressed concern about the lack of awareness in government, in Parliament, and among the public, of the Convention on the Rights of the Child and the rights enshrined in it. Throughout our hearings, we became aware that there is very little knowledge of the Convention outside academic and advocacy circles. Canada does report to the UN Committee on the Rights of the Child and receives that Committee's Concluding Observations, but there is little follow-up.

In government, even among those dedicated to protecting children's rights, knowledge of the nearly 20-year-old Convention is spotty at best. The Committee has discovered that some government officials working towards the protection of children's rights seem to operate in ignorance of the international tool at their disposal. In many respects, the Convention is simply not used as a means or a framework to protect children's rights.

In its Report tabled on April 26, 2007, the Committee found that the federal government's approach to compliance with children's rights, and with the Convention in particular, is inadequate. Jurisdictional complexities, the absence of effective institutions, an uncertain approach to human rights law, and lack of transparency and political involvement indicate that the Convention is being ineffectively applied in the Canadian context.

To push both the issue and respect for the democratic process further, we need enhanced accountability, increased parliamentary and public input, and a more open approach to compliance that promotes transparency and enhanced political will.

The UN Convention on the Rights of the Child is not solidly embedded in Canadian law, in policy, or in the national psyche. Governments and courts use it only as a strongly worded guiding

principle with which they attempt to ensure that laws conform, rather than acting as if they are bound by it.

No body is in charge of ensuring that the Convention is effectively implemented in Canada, and the political will is lacking. Implementation is the key to making the Convention work. For Canada to claim that it fully respects the rights and freedoms of its children and to remain a human rights leader in the international sphere, it must improve its level of actual compliance. The government needs to take the lead with respect to implementation of the Convention.

The Committee proposed measures to guarantee systematic monitoring of the Convention's implementation in order to ensure effective compliance. In order to comply with the UN Convention, Canada must establish a Children's Commissioner and ensure greater coordination of children's issues at the federal level through a Federal Interdepartmental Working Group for Children.

The Committee also emphasized the need for awareness-raising with respect to both the Convention and the rights-based approach embedded within it. Most importantly, through its recommendations, the Committee sought to strengthen the active involvement of children in all institutions and processes affecting their rights. Children's voices rarely inform government decisions, yet they are one of the groups most affected by government action or inaction. Children are not merely underrepresented; they are almost not represented at all. Our Committee strongly believes that children should be meaningfully consulted on all significant issues affecting their rights and lives.

The child's right to participate and to be heard is an important political right - it is one of the most fundamental principles underlying the Convention on the Rights of the Child. Our Committee heard over and over again how children and youth feel that they are not consulted or that their views are discounted, often on matters that have a significant impact on their lives. Articles 12 to 15 of the Convention stipulate that in the appropriate circumstances, the child has a right to be heard in matters that affect his or her well-being. Not only is this a right, but it is also an important part of effective decision- and policy-making.

We must also ensure meaningful participation from children in decision-making about laws and policies affecting their lives. Parents, educators, governments can help in addressing the problems of these particular groups by ensuring that children are involved and consulted on issues concerning them; by becoming aware of the Convention rights themselves - learning about their own rights and responsibilities as well as those of children; by putting the Convention into school curricula; by passing laws and developing policies that are sensitive to children's rights; and by

ensuring that the political will exists and is acted on in order to ensure the effective protection of children's rights.

In terms of specific rights, the Committee made these, among other recommendations:

- Implement a national strategy to combat bullying;
- Develop and implement a strategy to combat the commercial sexual exploitation of children;
- Develop a federal strategy to combat child poverty that should include preventative measures aimed at high-risk families and a comprehensive housing strategy.
- That the federal, provincial and territorial governments, as well as parents, ensure that safe conditions exist for children who do work, and that such children are informed of their rights and encouraged to remain in school.

In terms of Aboriginal children in Canada, we must:

- Target funding as a priority for "least disruptive measures" with respect to child welfare, accompanied by an increased emphasis on prevention and early intervention;
- Make housing a top priority and develop enhanced initiatives to promote economic development on-reserve;
- Provide more funding to ensure that support services continue for Aboriginal children living off-reserve;
- Review the services that it provides to Aboriginal communities to ensure that the approach and content are effectively tailored to meet the specific needs of Aboriginal children, youth, and families - this includes working directly with Aboriginal communities in the development of programs and services designed to meet their needs;
- Expand the ability of health services to provide in-home supports, and to get involved early and work with children in their homes;
- Accelerate work with provincial and territorial ministers of education to discuss ways in which Aboriginal people can be encouraged to become teachers and to work on reserves;
- Ensure that all federal policies and legislation with respect to Aboriginal children place particular emphasis on the need to take the cultural needs of Aboriginal children into account.

In 2005, there were 7 million children in Canada. Those children are citizens, and as citizens, they have rights with concomitant responsibilities. If we want our children to mature to their full potential as adult citizens, we have a responsibility as a country to give them the best start in life we can offer. Implementing the UN Convention on the Rights of the Child in Canada is an excellent first step.

Senator Raynell Andreychuk is Chair of the Standing Senate Committee on Human Rights.