

and

The Honourable Senators:

MEMBERSHIP The Honourable Landon Pearson,

*Jack Austin, P.C. (or William Romo),
George Baker, P.C.

Sharon Carstairs, P.C.

Marisa Ferretti Barth

Marjory LeBreton

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Committee at various times during

The Honourable Raynell Andreychuk, *Chair*

ORDER OF REFERENCE

Extract from the *Journals of the Senate*, Wednesday, November 3, 2004:

The Honourable Senator Andreychuk moved, seconded by the Honourable Senator LeBreton:

That the Standing Senate Committee on Human Rights be authorized to examine and

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CHAIR'S FOREWORD

EXECUTIVE SUMMARY

This Study:

- The Standing Senate Committee on Human Rights was authorized by the Senate to examine and report upon Canada's international

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t u C t a t n s a n d i à s IT eh ne
s t a t C u o t n o v r e y n d t

CHAPTER ONE – RATIONALE AND ROLE OF THE COMMITTEE

on the Rights of the Child in domestic law and policy, and if so, how? Are society and the federal government responding to the challenges confronting today's children? This Interim Report underlines the immediate need to ensure strong protection of children's rights and well-being in Canada today, and looks to *Promises to Keep* and the testimony of numerous witnesses to evaluate the n

Programme on the Elimination of the Worst Forms of Child Labour at the International Labour Office in Geneva), it is critical that Canada continue to be a world leader with respect to the implementation of the Convention. As stated by Minister of Health, Ujjal Dosanjh, “we cannot rest on our laurels.”⁶ Canada cannot “lose the powerful moral high ground”⁷ with which we started:

It is important to note that Canada did not just sign and ratify the UN
a leader; it urged other countries to
sign; it helped in the drafting; and it worked to make this the international
treaty and standard for children’s huma

children are our future.” While the statement remains true, witnesses have emphasized that the government, Parliament, and civil society must move beyond that cliché and

The rights-based approach represents a move from a more reactive case-based focus to one which is more proactive and systemic, centred on prevention.

Special Session on Children in May 2002. “We want a world fit for children,” they said, “because a wo

work with knows that he is just as much of a human being as I am, and that my rights are enhanced when every member of my society has them as well.³⁰

Within this context, witnesses have em

Children's rights have undergone significant evolution in the history of Canada. As will be discussed more fully in Chapter 2 Part A, children are no longer considered a form of chattel or possession, nor are they any longer simply part of a family unit. Children today are persons in their own right. Professor Anne McGillivray of the University of Manitoba indicated that the

achieve that aim, the Committee first examined the framework for the protection of children's rights in Canada.

1. Fact Finding and an In-Depth Examination of the Canadian Context

Beginning in December 2004, the Committee held a series of thorough hearings in Ottawa on international law with respect to the rights of children and the manner in which those international obligations are being implemented in Canada. Witnesses represented perspectives from the academic, legal and advocacy fields, as well as youth. Most recently the Committee heard from various Ministers and Departments within the federal government, on issues related to the implementation of the Convention and children's rights in general.³⁵

In addition to its hearings in Ottawa, the Commission's national missions – nationally, to discover

international obligations in domestic law. The Committee met with a network of

**CHAPTER TWO – HISTORY AND BACKGROUND OF CHILDREN’S RIGHTS
IN CANADIAN AND INTERNATI**

principle of *parens patriae*³⁹ was used by the State to look after orphans or young persons who had been neglected by their guardians. *Parens patriae* was also used in cases of young offenders, where the state took responsibility for promoting their best interests and preventing further destructive behaviour.⁴⁰ This framework was so pervasive that it “eventually became legitimized in common and

a few years. At this time, children in Canada also began to benefit from changing attitudes that considered childhood as a stage in life requiring greater protection.

Improvements in technology facilitated this change to better schools and day care centers in partnership on their families to spare the children for part of the year to attend classes.⁴⁴

The Canadian economy

The origins of child protection laws in Canada can be traced back to 1893, when Toronto established the first Children's Aid Society and the government of Ontario passed the *Act for the Prevention of Cruelty to and Better Protection of Children*.⁴⁸ This was the first child protection law in Canada – it made the abuse of children an indictable offence, promoted foster care and children's aid societies, gave guardianship power to these societies, and established the office of the superintendent of neglected children.⁴⁹ Society's attitude was also changing, as parents began to place more importance on formal education and recognized that children should be able to grow up free from harm. By the late 19th century, many municipalities had established children's aid societies and by the early 20th century, all of Canada's provinces had enacted child welfare legislation.⁵⁰

During the 19

standards of care, as opposed to the situation that exists today, in which child abuse must be reported as soon as clearly established criteria have been breached.

4. Children's Rights in Child Protection and Child Welfare Laws

The concept of children as persons with their own rights, rather than as objects of welfare did not become widespread until after World War II, and “[u]p until recently, ‘children’s rights’ was an oxymoron, a contradiction TDterms – children do not have rights because they are children.”⁵⁵ Children on their own did not have the right to demand adequate protection and care from their parents.

In the last half of the 20th century, the concept of human rights took on sharper form, the concept of TDdividual children’s rights culminating TDthe UN *Convention on the Rights of the Child*. Through the rights-based approach, children were considered full citizens entitled to minimum guarantee of social goods.⁵⁶ Recognizing children as full

B. HISTORY OF THE *CONVENTION ON THE RIGHTS OF THE CHILD*

The 1959 Declaration marked a turning point in children's rights. Unlike the 1924 Declaration, which viewed children as objects of international law – “[it] basically dealt with welfare rights”;⁶² in 1959, children were no longer considered the passive recipients of rights. Children were now viewed as subjects who were able to enjoy the benefits of specific rights and freedoms.⁶³ However, neither Declaration had an enforcement mechanism.

The geopolitical realities of the time made many States wary of a binding treaty on the rights of the child. It took 20 years for some States to withdraw their opposition. 0003 Tw[while it can be said that they remained reluctant participants,⁶⁴ the Member States of the UN had nonetheless recognized that children required their own set of rights and protections.

resulted in submissions from 28 states, 4 from specialized agencies, and 15 from non-governmental organizations (NGOs).⁶⁷

In 1979, the Commission on Human Rights established an open-ended Working Group, chaired by Dr. Lopatka, to negotiate and draft the Convention. The open-ended nature of the group allowed states who were not members of the Commission to participate in the drafting process.⁶⁸

The creation of the *Convention on the Rights of the Child* was an ambitious and complex undertaking.⁶⁹ Drafting took eleven years, from March 1978 to March 1989. From the beginning, the members of the Working Group wanted the Convention

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rights, than to conclude the negotiations quickly for the sake of symbolism. The delay in completing the draft of the Convention was also partially due to disinterest on the part of

limit. If some members of the Working Group had insisted on increasing the age for military participation, the negotiations on the Convention could have collapsed. The creation of the Optional Protocol on child

UN Working Group drafting the Convention.⁸⁸ In 1982, a federal-provincial-territorial Working Group was established to review the progress achieved in drafting the Convention and to provide advice to the Canadian delegation. This Working Group

CHAPTER THREE – INTERNATIONAL TREATIES IN DOMESTIC LAW:

THE IMPLEMENTATION PROCESS

A. RATIFICATION

Canada's Executive branch of Government has the power to sign and ratify

provinces and territories through the vehicle of [the] continuing committee; and with Aboriginal groups and other non-governmental

treaties respects the jurisdictional boundaries laid out in the *Constitution Act, 1867*. As stated by the Privy Council in the seminal 1937

**CHAPTER FOUR – IMPLEMENTING THE CONVENTION ON THE RIGHTS
OF THE CHILD**

A. IMPLEMENTING THE CONVENTION

Government and academic witnesses, as well as those representing children's

ratified that Protocol in September 2005, the fact remains that nearly 4 years elapsed between signature and ratification.

The majority of the court in *Baker* ruled that although Canada had not incorporated the *Convention on the Rights of the Child* into domestic law, the Convention's guiding principle making the best interests of the child a primary consideration in decision-making concerning children should have played a role in the government's decision-making process in this

Despite a certain degree of openness by the Supreme Court of Canada to relying on the *Convention on the Rights of the Child* for interpretation purposes, it nevertheless remains that, as long as the *Convention on the Rights of the Child* has not been incorporated in domestic law, it will not have force of law, and compliance with its principles will be subject to the laws in effect in Canada.¹³³

Because the *Convention on the Rights of the Child* has not been incorporated into Canadian law, it cannot be used as the direct basis for any claim. Irit Weiser clarified this point in her testimony before the Committee in 2001:

If someone felt that Canada was violating a particular article of that Convention, they could not start an

Statement of understanding

Article 30

It is the understanding of the Government of Canada that, in matters

However, despite these justifications, Canada has been criticized by the Committee on the Rights of the Child, and by numerous witnesses such as Professors

exchange information on implementation of human rights treaties,
including the *Convention on the Rights of the Child*.

The committee is also involved in preparing for Canada's appearances
before UN treaty bodies, an(vots m)8.2(e)-5.8(mbers are m)8.2(o)0.4(re frequently)]TJT*0.0006 Tc-

The process of consolidating lengthy reports from each jurisdiction has, in the past, led to dense documents. Canada's last country report, submitted in May 2001, was 284 pages. In its latest Concluding Obse

It is not an open process. There is no dialogue in general... it is basically not a consultative process, which I think is extremely unfortunate. There is no reason it could not be a more cons

that you may have on the nature of the committee will be much appreciated.¹⁵⁰

In testimony before the Committee this year, Eileen Sarkar of Canadian Heritage stated that “Your comments were taken into account, and I believe at the last meeting of the [Continuing] Committee there was some discussion of the possibility of proposing to

*Protection Act.*¹⁶³ Rather than having one Advocate with staff, the Commission is composed of 15 members who investigate individual and more systemic complaints of discrimination, harassment, as well as child protection issues. The Commission can refer any situation to the tribunal, where the Commission has reason to believe that a child's rights have been violated by persons, bodies, or institutions. The Commission may also make recommendations or refer issues to the provincial government.

- **Nova Scotia**

A real strength that we have is the diversity in this country. Jurisdictional challenges should not be considered a barrier that cannot be overcome.¹⁷³

The Committee concluded that it should look for ways to handle the framework for implementation of children's rights in Canada more effectively so as to breathe life into the Convention and foster an environment that supports the strong protection of children's rights.

c) Compliance

In its discussions about implementation and compliance, the Committee learned that a key concern among a wide variety of witnesses is the federal government's unwillingness to directly incorporate international human rights treaties. In particular, these concerns were expressed by Jeffrey Wilson, Kathy Vandergrift, Jean-François Noël of the International Bureau for Children's Rights, lawyers at Justice for Children and Youth, and the Canadian Council of Pr

Convention itself. As stated by John Holmes at the Department of Foreign Affairs in 2001,

we do not ratify until all jurisdictions indicate they support ratification and are in compliance with the obligations contained therein... We would

our international human rights obligations, including the children's rights convention...

[Since ratification], we have continued to review all proposed legislative and policy initiatives that have a direct impact upon children to ensure

In government, even

and in New Brunswick, the Committee met with self-aware youth from a variety of

implemented in Canada, the public and the Convention's primary stakeholders must know how particular rights affect their lives and have the potential to alter the framework around them when they are not being respected. Witnesses emphasize that for children, learning about their rights is often a transformative experience. As stated by the Committee on the Rights of the Child, when we as individuals are unaware of our rights, we cannot work to ensure that they are respected:

If the adults around children, their parents and other family members, teachers and carers do not understand the implications of the Convention, and above all its confirmation of the equal status of children, it is unlikely that they

CHAPTER FIVE – MECHANISMS FOR CHANGE

We must do more to ensure that the goals and principles of the *Convention on the Rights of the Child* are fully and meaningfully realized for all children in Canada... We need not only dream of a just and humane society – we can build it.¹⁹¹

A. INTRODUCTION

Months of testimony – complemented by the observations, criticism, and recommendations of Committee on the Rights of the Child – have convinced the Committee of the inadequacy of Canada’s approach to implementing the *Convention on the Rights of the Child*, and by extension, international human rights treaties more generally. The Committee has arrived at a number of proposals for change based on what

T h e C o s m u m g i g t e t s e t e
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information network allowing provincial and territorial governments to know what is expected of them in terms of Canada's commitments under any given international human rights treaty.

b) Getting the Process Started

Based on its hearings, the Comm

that **a mechanism is needed**

specifically incorporated into Canadian law through some form of enabling legislation.¹⁹⁷ In response to these concerns, **the Committee suggests that the federal government table a “Declaration of intent to comply” in Parliament** once the Continuing Committee’s consultations are completed, the Executive branch has signed the international instrument, signalling its intent to proceed towards ratification and implementation, and the federal government has determined that all legislation across the country conforms with the treaty.

This need not be an onerous process. The Committee is aware of the difficulties of adopting specific enabling legislation with respect to expansive human rights treaties that deal with broad principles and touch on the legislative powers of all

jurisdictions. The reasoning contained in the *Practice of States Parties: Canada* – as cited in Chapter 3 – is valid. Witnesses such as the Director of the Child Welfare League of Canada and Dr. Claire Crooks of the Centre for Prevention Science, told the Committee that concrete enabling legislation has

infrastructure does not exist, does little and may even be counter-productive in some respects.¹⁹⁸

However, the tabling of an informal Declaration of intent to comply could officially signal the federal government's intentions and create tangible promises against which the government can be measured in Canadian courts and law. **This could simply involve tabling the treaty in Parliament, accompanied by a Declaration that the federal government has reviewed all relevant legislation and assures Parliament that Canada's laws are in compliance with the treaty obligations, as well as a formal statement that the federal government agrees to comply with the treaty.**

The simpler the better. As stated by Mike Comeau at the New Brunswick Department of Justice,

Standard form anythings... that facilitate provincial and territorial work

ratification without realizing that this act in no way fully binds the nation. As stated by Martha Mackinnon at Justice for Children and Youth,

I first discovered [that ratification did not mean that a treaty was necessarily enforceable in Canadian law] a month or two into my first public international law course... and I was horrified. I felt cheated. It

The Committee suggests that after the Executive officially ratifies the treaty,

commitments. Rather, the Committee has recommended mechanisms to promote consciousness-raising among all jurisdictions and stakeholders in order to ensure cooperation, coordination, and compliance with Canada's intern

emphasized the absolute need to hear the voices of children and ensure that their presence

ts. In Quebec, the Commissi

e proposed amending the Quebec
to include a statement that the Quebec is inspired by international
legal instruments relating to human rights and freedoms – in particular the *Universal
Civil and Political Rights*

Such recommendations are an example to other
provinces, territories, and Human Rights Commissions across Canada.

In the Committee's discussions with the Committee on the Rights of the Child,
Members emphasized that “implementation is

p r o o p f o i s m
o r d e e i r n t c
f e d r e k r i a n
o f y f r e a i d f g e f h
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l e v c e a l t a e
t h e o C n o t m h
d r e e b a s m n p e d e t c h
i m p C o o r m t m
i n v a o n l d v p

E R
o l B n. l h v y e e w n i e t t d i h
C h i l d r e
T h e B o d

The Committee recommends that the State party establish at the federal level an ombudsman's office responsible for children's rights and ensure appropriate funding for its effective functioning.²²⁰

In its General Comment on the implementation of monitoring bodies, the UN Committee emphasized that the establishment of

around child welfare, in particular, around the functioning of our statutory child welfare agency... the focus is now more clearly on children's rights. Thus, a shift from a welfare focus and, in particular, I would suggest, a reactive individual case-based focus to

explicitly link the Ombudsman's mandate to domestic implementation of the Convention.²³⁰ As well, in addition to referring to the Convention, the New Zealand legislation includes the international instrument as an appendix, thus emphasizing its centrality to the Commissioner's role.

Finally, Canada's new law should include a statutory responsibility for the Children's Commissioner to hear

and funding for programs affecting children and their rights – making “recommendations, assessments and criticisms”²³² of government action or inaction in order to facilitate change. The Commissioner must work to keep the government to its promises,²³³ highlighting ways in which Canadian law, policy, and practice fail to respect

As stated by the Committee on the Rights of the Child, tabling an annual report would “provide parliamentarians with an opportunity to discuss the work of the [Commissioner] in respect of children’s rights and the State’s compliance with the Convention.”²³⁶ It would also sensitize government and the public as to the rights enshrined in the Convention. The UNICEF Innocenti Research Centre highlights the fact that annual reports “create visibility for children’s real lives and they further increase understanding and hopefully initiate debate on the breaches of their rights.”

jurisdictional barriers. As stated by Cindy Blackstock of the First Nations Child and Family Caring Society of Canada, “there needs to be someone at a federal level to look at the violations of Aboriginal children’s rights across different disciplines so that we know what they are.”²⁴¹

does it feel like to do this? What are you most proud of? What bugs you?
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Finally, Professor Aynsley-Green, England's Children's Commissioner, emphasized to the Committee that participation can often create more momentum than rights on their own.

In response to these concerns, **the Committee strongly suggests that the Children's Commissioner have a statutory obligation to listen to and involve children.** According to article 12 of the *Convention on the Rights of the Child*, children have a right to express their views and have those views taken seriously in all matters affecting them. The Commissioner should be mandated to fulfill this obligation as defender of children's rights at the federal level. As stated by Committee on the Rights of the Child, the Children's Commissioner should "have direct contact with children and [ensure] that children are appropriately involved and consulted."²⁴⁷ The Committee notes that participation is a basic political right.

Howaisione r be mandated to involve children, the Committee notes that **such involvement should be meaningful and effective.** As one example, the New Zealand Children's Commissioner is assisted by a young people's reference group, providing the Office with representation and perspectives from children across the country. The Committee on the Rights of the Child comments that

appearing to "listen" to children istrelas003smmlle.98 0.06D-0.0001 Tc(30004 Tw[The ng)6.; givth

know that, when growing up, I never thought about politics because no one listened.”²⁴⁹

Facilitating expression often allows people to exceed all expectations.²⁵⁰ Joelle LaFargue stated that,

One thing I have noticed about kids my own age or younger, or sometimes even older, is that when you ask them their opinions, they shrug and say, “I don’t know.” I find this sad because I believe that everyone is entitled to have their own opinions and to be heard. Often, kids do not have opinions or they do not say that they have opinions because they feel that it does not matter because they are either

RECOMMENDATION 3

Parliament shall enact legislation to establish an independent Children's Commissioner to monitor implementation of the *Convention on the Rights of the Child*, and protection of children's rights in Canada. The Children's Commissioner shall report annually to Parliament.

through a children's rights lens – conducting a “child impact assessment” to determine

Witnesses emphasized that establishing the implementation working group is a necessary response to the criticisms of the Committee on the Rights of the Child concerning the Continuing Committee or any other body's ability to effectively coordinate respect for children's rights in Canada:

[T]he Committee remains concerned that neither the Continuing Committee of Officials on Human Rights nor the Secretary of State for Children and Youth is specifically n42]8a:

5T]

of workshops across Canada to get communities to look at community legislation in terms of how it affects children through the lens of children's rights... Within a variety of organizations, whether the YM-YWCA or the teachers' college, they were able to mobilize a tremendous amount of energy about the *Convention on the Rights of the Child*.²⁷⁴

And yet witnesses emphasized that this Coalition is unable to operate effectively. Even officials at Health Canada commented that the Coalition's "funding is project-based and tenuous."²⁷⁵ The Coalition's prime asset – the fact that it is a coalition – is one of the primary obstacles, as it cannot receive funds as an entity. Only its various components receive money for their various projects and mandates. The government prefers to fund technical and service organizations because they are specifically project-based, with

The Committee notes that another key component of capacity-building is adequate funding for the NGO sector. The NGO Group and almost every other non-profit agency witness emphasized that so many organizations are doing good work, but that they are not getting the money needed.

Witnesses commented that what is needed is continuity and sustainability. Current issues come in “fads”, and if funding is only given in response to them – rather than proactively – nothing can be done to change culture and protect children’s rights in the long term.²⁷⁸ The NGO Group noted that dialogue between NGOs and the donor community is necessary so that continuity is maintained beyond the “momentary”.²⁷⁹ Such dialogue only serve to encourage collaboration and networking to more effectively protect children as a whole.

4. Broader Issues of Funding

The question of money is also of great importance to the process of reform. The Committee notes that the funding of NGOs is a critical issue for the success of the reform process. The Committee also notes that the funding of NGOs is a critical issue for the success of the reform process.

The Committee also notes that the funding of NGOs is a critical issue for the success of the reform process. The Committee also notes that the funding of NGOs is a critical issue for the success of the reform process.

Beyond the issue of children's rights, this study further emphasized the Committee's observations made in *Promises to Keep* about the inefficiency and inadequacy of Canada's mechanisms for ratifying and implem0resm

B. ABORIGINAL CHILDREN

Many issues were raised with respect to Aboriginal children and youth in Canada.

- The aftershock effects of Canadian history are still apparent and it is imperative that policy makers devote significant attention to improving the lives and well-being of these particularly marginalized children.²⁸⁵
- Aboriginal children are significantly overrepresented in the child welfare and youth criminal justice systems. Adding to problems in this regard is the fact that many non-Aboriginal social and other front-line workers are not trained to understand Aboriginal language and culture, resulting in the further marginalization of the children in their care.²⁸⁶
- Aboriginal children face elevated poverty rates. This situation is not improved by the fact that the government does not ensure the provision of adequate funds, services, and proper housing to Aboriginal communities.²⁸⁷
- The suicide and diabetes rates among Aboriginal youth in Canada are among of the highest in the world.²⁸⁸
- Aboriginal children living off reserve or

D. MIGRANT CHILDREN

Children fleeing root causes of migration, such as war, sexual exploitation, and persecution, arrive at Canada's borders regularl

attempts have been made by the federal government and provinces to deal with the commercial sexual exploitation of youth, including amendments to the *Criminal Code* ensuring harsher penalties for those who exploit children, and Alberta's *Protection of Children Involved in Prostitution Act*³⁰⁰ which allows authorities to detain a child suspected of being in need of protecti

G. CHILD PROTECTION

While child protection legislation is under provincial jurisdiction, it is one that

have in the past been housed in the same facility in

APPENDIX A : List of Witnesses

WITNESSES

Fact Finding Mission to London, Edinburgh and Oslo, October 7 to 15, 2005

October 10, 2005

Canadian High Commission, London

H.E. Mel Cappe, High Commissioner
Chris Berzins, Political Officer

Youth Justice Board

Prof. Rod Morgan, Chair
Steve Bradford, Policy and communications
Manager
Jon Hayle, Head of Policy for the Secure Estate and
Demand Management Representative

Department for Education and Skills

Anne Jackson, Director of Strategy, Children,
Young People and Families Directorate
Lucy Andrew, Team Leader, Children, Young
People and Families Directorate
Denise Walsh, Children, Young People and
Families Directorate
Prof. Al Aynsley-Green, Children's Commissioner
for England

Save the Children

Tom Hewitt, Coordinator, Children's Rights
Information Network

October 11, 2005

National Children's Bureau

Alison Linsey, Policy and Parliamentary Officer
Lisa Payne, Principal Policy Officer
Baroness Massey of Darwen, Chair of the All Party
Parliamentary Group for Children

House of Commons – London

Nick Walker, Commons Clerk of the Committee,

Mary Creigh, M.P., Parliamentary Joint Committee
on Human Rights

Department for Education and Skills

Maria Eagle, Parliamentary Under Secretary of
State for Children, Young People and Families

Steven Kerr, US and Canada Policy, International
Division

October 14, 2005

Canadian Embassy - Oslo

Jillian Stirk, Ambassador

(n) 2 7 5 0 (

Public Hearings in Canada

September 26, 2005

The Honourable Ken Dryden, P.C., M.P.
Minister of Social Development Canada
The Honourable Andy Scott, P.C., M.P.
Minister of Indian and Northern Affairs
Canada

**Association of Community Living of
P.E.I.:**
Bridget Cairns, Director
Michele Pineau

Citizenship and Immigration Canada:

Daniel Jean, Assistant Deputy Minister,
Policy and Program Development

Brian Grant, Director General, Strategic
Policy and Partnerships

May 30, 2005

Government of New Zealand:

Cindy Kiro, Children's Commissioner of
New Zealand

May 16, 2005

Justice for Children and Youth:

February 14, 2005

Child Welfare League of Canada:

January 28, 2005

**Office of the UN High Commissioner for
Refugees**

Terry Morel, Senior Advisor on Refugee Children

Ron Pouwels, Chief of Women, Children and
Community Development Section

UNICEF

againsn,Childre()JTJT*0.3006

Tc2.7495

Rigmore Stenmark, M.P.
Jan Lindholm, M.P.

Olof Palme International Center
Thomas Hammarberg, Secretary General

Children's Ombudsman Office

APPENDIX B: *Convention on the Rights of the Child*

Adopted and opened for signature, ratifica

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the chil

131 2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save

Article 14

1. States Parties shall respect the right of the child to free religion. dom of thought, conscience and
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a

3. Such care could include, inter alia, foster

with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities

Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, nor the national values of the country in which the child is living, the country from which he or she may originate, and civilizations different from his or hers in which

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international inst

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or

punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments,

3. States Parties shall seek to promote the establishment of laws, procedures, authorities

(a) Within two years of the entry into force of the Convention for the State Party

(d) The Committee may make suggestions and general recommendations based on

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

Believing also that efforts to raise public

child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

a. Sexual exploitation of the child;

b. Transfer of organs of the child for profit;

c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instrument for adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures,

Article 4

1 . E a c h S t a

jurisdiction over the offences referred to in e s a s m a y

a r t i c l e 3 , p a r a g r a p h
committed in its territory or on board a ship or aircraft registered in that State.

(e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate proce

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further informa

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed

Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment

permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.

3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:

(a) Such recruitment is genuinely voluntary;

(b) Such recruitment is carried out with the informed consent of the person's parents or legal guardians;

widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their

Article 11

**APPENDIX E: 2003 Concluding Observations of the Committee on the Rights of the
Child**

Convention on the Rights of the Child

Distr. GENERAL CRC/C/15/Add.215 27 October 2003

- National Child Benefit;
- The establishment of the Secretary of State for Children and Youth;
- The Federal-Provincial-Territorial Council of Ministers on Social Policy Renewal;
- The Social Union Framework Agreement;
- Enactment of Bill C-27 amending the Criminal Code;
- Canada School Net;
-

evaluate the impact of the expenditures on children and their effective utilization. The Committee encourages the State party to continue to take measures to prevent children from being disproportionately affected by future economic changes and to continue its support to non-governmental organizations working on the dissemination of the Convention.

Data collection

19. The Committee values the wealth of statistical data provided in the annex to the report and in the appendices to the written replies to the list of issues and welcomes the intention of the State party to establish a statistics institute for Aboriginal people. Nevertheless, it is of the opinion that the information is not sufficiently developed, disaggregated and well synthesized for all areas covered by the Convention, and that all persons under 18 years are not systematically included in the data collection relevant to children. The Committee would like to see the Commission on the Status of Women

22. The Committee recommends that the State party continue to strengthen its legislative efforts to fully integrate the right to non-discrimination (article 2 of the Convention) in all relevant legislation concerning children, and that this right be effectively applied in all political, judicial and administrative acts, programmes and services that have an impact on all children, in particular children belonging to minority and other vulnerable groups such as children with disabilities. The Committee further recommends that the State party continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes and practices. The Committee requests the State party to provide further information in its next report on its efforts.

facilitating the acquisition of citizenship for children adopted abroad by Canadian citizens. It is equally encouraged by the establishment of the First Nations Child and Family Service providing culturally sensitive services to Aboriginal children and families within their communities.

32. The Committee welcomes the efforts being made by the State party to discourage corporal punishment by promoting research on alternatives to corporal punishment of

38. The Committee welcomes measures taken by the Government to provide assistance to

o n s p e n d i n g ,

further notes the steps taken to address the concerns of parents and the community concerned about the reduction in educational standards and the reduction of the number of schools.

§ Social and Cultural Rights (E/C.12/1/Add.31, para. 49) also reiterates the commitment of school boards, the high dropout rate of children and the availability of instruction in both official languages only “where

by, inter alia: Discrimination (A/57/18, para. 337) about allegations that children are not being treated equally in the area of education and access to quality education.

the right in the Convention and the Committee’s

45. The Committee recommends that the State party further improve the quality of education throughout the State party.

- (b) Standard procedures for the appointment of legal guardians for these children;
- (c) A definition of “separated child” and a lack of reliable data on asylum-seeking children;

Juvenile justice

56. The Committee is encouraged by the enactment of new legislation in April 2003. The Committee welcomes crime prevention initiatives and alternatives to judicial procedures.

59. The Committee urges the Government to pursu

A message from the young people of CEERT

Through our involvement in the process of developing A Canada Fit for Children, children and young people have been engaged in the rewarding and exceptional process of entrenching children's rights into Canadian society to bridge the gap between goals and realities.

The Special Session on Children set an historic precedent in May 2002 by actively involving young people in a meeting of the General Assembly. The Government of Canada led the way by bringing young people as official delegates to the regional and preparatory committee meetings for the special session held in Jamaica and New York.

Five young Canadian delegates who had attended the international meetings reunited in August 2002 and created the

A CANADA FIT FOR CHILDREN

I. PREFACE

1. In May 2002, more than 7,000 people from around the world gathered in New York to take part in the United Nations General Assembly Special Session on Children, the most important international meeting on children to be held in more than ten years. The Special Session on Children was attended by heads of state and government and other high-level delegates, as well as representatives of non-governmental organizations and hundreds of boys and girls aged nine to 18. It was an opportunity for governments to join with civil society to review progress since the World Summit for Children in 1990, identify emerging issues and renew the commitment of the international community to the world's children.
2. The Special Session on Children ended with the nations of the world adopting by unanimity a declaration and plan of action called A World Fit for Children. Issuing from three years of intense negotiations, A World Fit for Children

government has jurisdiction over certain subject matters, Canada is committed to a federalist, province-based cooperative approach to governance. With the federal government, the provinces and territories are committed to a federalist, province-based cooperative approach to governance. With the federal government, the provinces and territories are committed to a federalist, province-based cooperative approach to governance.

19. The National Children's Agenda, developed by the federal, provincial and territorial governments in consultation with the public, sets out a shared vision for ensuring that child

in 1998 – the Government of Canada provides income benefits for low-income families to reduce the depth of child

has three main functions: disease and injury prevention and control; protection from health threats; and health promotion. Canada's public health efforts include programming and services related to communicable (infectious) and non-communicable (chronic) diseases; injuries; threats to health such as environmental toxins; poor nutrition; pollutants; and the safety of food and blood supplies. Canada's current efforts have focused on individual threats to health such as specific diseases or conditions like diabetes and the promotion of protective factors such as healthy

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reiterated its commitment to ensuring Aboriginal children get a better start in life in the 2004 Speech from the Throne. The 2004 Budget announced a further investment in early learning and child care for First Nations children living on reserves, in addition to the increased investment announced in the 2003 Budget.

45. Since 1998, under the First Nations National Child Benefit Reinvestment initiative, First Nations have been reinvesting social assistance savings in programs and services for low-income families with children in such areas as child care, nutrition, early childhood development, employment and training supports, and community enrichment. In 1998, the Government of Canada launched an Education Reform Initiative in partnership with First Nations stakeholders and communities, to strengthen management

Participation of children

60. Children who are capable of forming their own views have the right to express those views freely in all matters affecting them, their views being given due weight in accor

school systems and may live with their families in inadequate housing. Culturally appropriate care and services for Métis children are underdeveloped.

81. Aboriginal communities (including urban, rural and remote northern communities) are integral to the social fabric of Canada. Partners will strive to ensure that Aboriginal children are provided with opportunities to flourish. We will move toward closing the gap between Aboriginal children and others in Canada. This includes building on our

and recreation programs provide considerable physical benefits for children and can also serve as tools to teach important values and life skills including self-confidence, teamwork, communication, inclusion, discipline, respect and fair play.

89. We in Canada will promote and support physical and mental health among children through sports, physical activity, healthy eating and good nutrition, play, recreation, and opportunities for artistic and cultural expression. We will create supportive social and physical environments that enable young Canadians to make informed choices about healthy eating and physical activity. Efforts will also be

of vaccine preventable disease and immunization coverage, research and professional and public education. Partners will continue to work to enhance t

and in the media. We, together and in consultation with children and adolescents, will strive to create a healthy, addiction-free Canada.

(h) The health of Aboriginal children

(m) HIV/AIDS

116. Of the estimated 40 million people in the world living with

134. We in Canada will continue efforts to prevent the involvement of young people in crime. We will strive to create an equitable youth justice system that protects society at large while upholding the rights of young people who commit crimes, and the rights of children who witness or are victimized by these crimes. In response to the evolving capacities of young people, we will strive to provide clear and coherent principles for decision-making around youth justice issues. We will work toward improved sentencing and timely interventions for young people to ensure that responses are both meaningful and sufficient for the offences committed. We will encourage alternative processes, like conferences, that allow youth greater voice in shaping decisions that affect them and their peers. We will strive to reduce the high rate of incarceration and support the effective rehabilitation and reintegration of young people within their communities.

135. Partners will work collaboratively to improve the yout

inclusion. Working together, we will build on individual, family and community assets, strengthening their capacities to provide quality-learning opportunities. We will also continue to incorporate new learning methods that involve technological resources and build media awareness, while emphasizing the importance of arts education from early childhood. Promoting quality learning through various means, we can continue to ensure that all children develop the knowledge and skills they need to become full participants in the larger society.

(b) Arts and culture

160. Research has demonstrated that participation in artistic and cultural activities is a vital part of healthy child development. Children need opportunities for self-expression and play, and thrive when they get them. Through participation in the creative processes in a variety of media, including technology, children experience alternative

(e) Environmental learning and sustainability

168. Despite the many successes of the environmental movement, much more needs to be done if our society is to understand the complexities of environmental conditions. Children in Canada are concerned about the quality of the air they breathe, the water they drink, safe food production, the recycling of waste, threats to biodiversity, climate change and the integrity of our ecosystems. They are looking for opportunities to learn about and engage in ensuring environmental sustainability both for Canada and the world.

169. We in Canada will support the United Nations Decade of Education for Sustainable Development beginning January 1, 2005, that resulted from the Jw[airTJ-nesburg W[(airTld.SusmmijTJ26.1308 T TD0.0011 Tc-0.0007 Tw[(t n fustaina)le)velopment) We i-7

be directed to support sustainable development in developing countries, in order to reduce poverty and to contribute to a more secure, equitable and prosperous world.

178. In Canada we have already made substantial progress to

1. Signpost A

2. Signpost A : Toward effective parenting within strong and cohesive families

Milestones

Investments

Milestones

Investments

Under the **On-Reserve Housing Program**

6. Combat HIV/AIDS, malaria and other diseases

- Halt and begin to reverse the spread of HIV/AIDS.
- Halt and begin to reverse the incidence of malaria and other major diseases.

7. Ensure environmental sustainability

Goal includes:

- Reduce by half the proportion of people without sustainable access to safe drinking water.

8. Develop a global partnership for development

Goal includes:

Milestones

(i) Health and Nutrition

In support of health and nutrition related MDG targets, CIDA works with many partners (including international organizations, UN agencies and governments) to improve health policies, programs and systems in areas such as nutrition, sexual and reproductive health, communicable and non-communicable diseases, and water and sanitation; and also to ensure these policies and programs are particularly responsive to

Investments

Article 17: **Access to appropriate information.** *Children shall have access to information from national and international sources. The media shall encourage materials that are beneficial, and discourage those which are harmful to children.*

Article 18: **Parental responsibilities.** *Parents have joint responsibility for raising the child, and the State shall support them in this.*

Article 19: **Protection from abuse and neglect.** *Children shall be protected from abuse and neglect. States shall provide programs for the prevention of abuse and treatment of those who have suffered abuse.*

Article 20: **Protection of a child without family.** *Children without a family are entitled to special protection, and appropriate alternative family or institutional care, with regard for the child's cultural background.*

Article 21: **Adoption.** *Where adoption is allowed, it shall be carried out in the best interests of the child, under the supervision of competent authorities, with safeguards for the child.*

Article 22: **Refugee children.** *Children who are refugees, or seeking refugee status, are entitled to special protection.*

Article 23: **Disabled children.** *Disabled children have the right to special care, education and training*

involved in their production or distribution.

Article 34: **Sexual exploitation.** *Children shall be protected from sexual exploitation and abuse, including prostitution and involvement in pornography.*

Article 35: **Sale, trafficking and abduction.** *The State shall take all appropriate measures to prevent the sale, trafficking and abduction of children.*

Article 36: **Other forms of exploitation.** *tksoaer forms of explocta49y.*

Article 36: