

THE UNITED NATIONS' SECRETARY GENERAL' S STUDY ON VIOLENCE AGAINST CHILDREN

The North-American Regional Consultation - Toronto, Canada, 3-4 June 2005

A Compilation of the Concluding Observations adopted by the Committee on the Rights of the Child

Canada

CRC/C/15/Add.215, 27 October 2003

<p>Violence in the home and family</p>	<p>Abuse and neglect</p> <p>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 children, supporting studies on the incidence of abuse, promoting healthy parenting and improving understanding about child abuse and its consequences. However, the Committee is deeply concerned that the State party has not enacted legislation explicitly prohibiting all forms of corporal punishment and has taken no action to remove section 43 of the Criminal Code, which allows corporal punishment.</p> <p>33. The Committee recommends that the State party adopt legislation to remove the existing authorization of the use of “reasonable force” in disciplining children and explicitly prohibit all forms of violence against children, however light, within the family, in schools and in other institutions where children may be placed.</p>
<p>Violence in schools and other education settings</p>	<p>Abuse and neglect</p> <p>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 children, supporting studies on the incidence of abuse, promoting healthy parenting and improving understanding about child abuse and its consequences. However, the Committee is deeply concerned that the State party has not enacted legislation explicitly prohibiting all forms of corporal punishment and has taken no action to remove section 43 of the Criminal Code, which allows corporal punishment.</p> <p>33. The Committee recommends that the State party adopt legislation to remove the existing authorization of the use of “reasonable force” in disciplining children and explicitly prohibit all forms of violence against children, however light, within the family, in schools and in other institutions where children may be placed.</p>

	<p>Education, leisure and cultural activities</p> <p>45. The Committee recommends that the State party further improve the quality of education throughout the State party in order to achieve the goals of article 29, paragraph 1, of the Convention and the Committee's general comment No. 1 on the aims of education by, inter alia:</p> <p>(d) Adopting appropriate legislative measures to forbid the use of any form of corporal punishment in schools and encouraging child participation in discussions about disciplinary measures.</p>
<p>Violence in other institutional settings and alternative care, including children in conflict with the law</p>	<p>Abuse and neglect</p> <p>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 children, supporting studies on the incidence of abuse, promoting healthy parenting and improving understanding about child abuse and its consequences. However, the Committee is deeply concerned that the State party has not enacted legislation explicitly prohibiting all forms of corporal punishment and has taken no action to remove section 43 of the Criminal Code, which allows corporal punishment.</p> <p>33. The Committee recommends that the State party adopt legislation to remove the existing authorization of the use of "reasonable force" in disciplining children and explicitly prohibit all forms of violence against children, however light, within the family, in schools and in other institutions where children may be placed.</p> <p>Juvenile justice</p> <p>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. However, the Committee is concerned at the expanded use of adult sentences for children as young as 14; that the number of youths in custody is among the highest in the industrialized world; that keeping juvenile and adult offenders together in detention facilities continues to be legal; that public access to juvenile records is permitted and that the identity of young offenders can be made public. In addition, the public perceptions about youth crime are said to be inaccurate and based on media stereotypes.</p> <p>57. The Committee recommends that the State party continue its efforts to establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention, in particular articles 3, 37, 40 and 39, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System. In particular, the Committee urges the State party:</p> <p>(a) To ensure that no person under 18 is tried as an adult, irrespective of the circumstances or the gravity of his/her offence;</p> <p>(b) To ensure that the views of the children concerned are adequately heard and respected in all court cases;</p> <p>(c) To ensure that the privacy of all children in conflict with the law is fully protected in line with article 40, paragraph 2 (b) (vii) of the</p>

	<p>Convention; (d) To take the necessary measures (e.g. non-custodial alternatives and conditional release) to reduce considerably the number of children in detention and ensure that detention is only used as a measure of last resort and for the shortest possible period of time, and that children are always separated from adults in detention.</p>
<p>Violence in the community and on the streets</p>	<p>Non-discrimination</p> <p>21. The Committee notes positive developments with respect to measures to promote and protect cultural diversity and specific legislative measures regarding discrimination, including the Multiculturalism Act, in particular as it bears upon the residential school system, the Employment Equity Act, and the amendment to the Criminal Code introducing racial discrimination as an aggravating circumstance (see also the 2002 annual report of the Committee on the Elimination of Racial Discrimination (CERD) (A/57/18), paras. 315-343). However, the Committee joins CERD in its concerns, in particular as they relate to children, such as those relating to the Indian Act, to the extent of violence against and deaths in custody of Aboriginals and people of African and Asian descent, to existing patterns of discrimination and expressions of prejudice in the media and to the exclusion from the school system of children of migrants with no status, and remains concerned at the persistence of de facto discrimination against certain groups of children (see also <i>ibid.</i>, paras. 332, 333, 335 and 337).</p> <p>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 decisions and in projects, 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 and Aboriginal children. 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 to promote cultural diversity, taking into account the general principles of the Convention.</p> <p>Adolescent health</p> <p>36. The Committee is encouraged by the average decline in infant mortality rates in the State party, but is deeply concerned at the high mortality rate among the Aboriginal population and the high rate of suicide and substance abuse among youth belonging to this group.</p> <p>37. The Committee suggests that the State party continue to give priority to studying possible causes of youth suicide and the characteristics of those who appear to be most at risk, and take steps as soon as practicable to put in place additional support, prevention and intervention programmes, e.g. in the fields of mental health, education and employment, that could reduce the occurrence of this tragic phenomenon.</p>

Standard of living

40. The Committee is encouraged to learn that homelessness was made a research priority by the Canada Mortgage and Housing Corporation, as the sources of data are limited. However, the Committee shares the concerns of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, paras. 24, 46) which noted that the mayors of Canada's 10 largest cities have declared homelessness to be a national disaster and urged the Government to implement a national strategy for the reduction of homelessness and poverty.

41. The Committee reiterates its previous concern relating to the emerging problem of child poverty and shares the concerns expressed by the Committee on the Elimination of Discrimination Against Women (CEDAW) relating to economic and structural changes and deepening poverty among women, which particularly affects single mothers and other vulnerable groups, and the ensuing impact this may have on children.

42. The Committee recommends that further research be carried out to identify the causes of the spread of homelessness, particularly among children, and any links between homelessness and child abuse, child prostitution, child pornography and trafficking in children. The Committee encourages the State party to further strengthen the support services it provides to homeless children while taking measures to reduce and prevent the occurrence of this phenomenon.

43. The Committee recommends that the State party continue to address the factors responsible for the increasing number of children living in poverty and that it develop programmes and policies to ensure that all families have adequate resources and facilities, paying due attention to the situation of single mothers, as suggested by CEDAW (A/52/38/Rev.1, para. 336), and other vulnerable groups.

Sexual exploitation and trafficking

52. The Committee is encouraged by the role Canada has played nationally and internationally in promoting awareness of sexual exploitation and working towards its reduction, including by adopting amendments to the Criminal Code in 1997 (Bill C-27) and the introduction in 2002 of Bill C-15A, facilitating the apprehension and prosecution of persons seeking the services of child victims of sexual exploitation and allowing for the prosecution in Canada of all acts of child sexual exploitation committed by Canadians abroad. The Committee notes, however, concerns relating to the vulnerability of street children and, in particular, Aboriginal children who, in disproportionate numbers, end up in the sex trade as a means of survival. The Committee is also concerned about the increase of foreign children and women trafficked into Canada.

53. The Committee recommends that the State party further increase the protection and assistance provided to victims of sexual exploitation and trafficking, including prevention measures, social reintegration, access to health care and psychological assistance, in a culturally appropriate and coordinated manner, including by enhancing cooperation with non-governmental organizations and the countries of origin.

	<p>Street children</p> <p>54. The Committee regrets the lack of information on street children in the State party' s report, although a certain number of children are living in the street. Its concern is accentuated by statistics from major urban centres indicating that children represent a substantial portion of Canada' s homeless population, that Aboriginal children are highly overrepresented in this group, and that the causes of this phenomenon include poverty, abusive family situations and neglectful parents.</p> <p>55. The Committee recommends that the State party undertake a study to assess the scope and the causes of the phenomenon of homeless children and consider establishing a comprehensive strategy to address their needs, paying particular attention to the most vulnerable groups, with the aim of preventing and reducing this phenomenon in the best interest of these children and with their participation.</p>
Violence in the work situations	-
Positive aspects and/or other concerns and recommendations	<p>General measures of implementation - The Committee' s previous recommendations</p> <p>4. The Committee, while noting the implementation of some of the recommendations (CRC/C/15/Add.37 of 20 June 1995) it made upon consideration of the State party' s initial report(CRC/C/11/Add.3), regrets that the rest have not been, or have been insufficiently, addressed, particularly those contained in: paragraph 18, referring to the possibility of withdrawing reservations; paragraph 20, with respect to data collection; paragraph 23, relating to ensuring that the general principles are reflected in domestic law; paragraph 24, relating to implementation of article 22; paragraph 25, suggesting a review of the penal legislation that allows corporal punishment. The Committee notes that those concerns and recommendations are reiterated in the present document.</p> <p>5. The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide effective follow-up to the recommendations contained in the present concluding observations on the second periodic report.</p> <p>Reservations and declarations</p> <p>6. The Committee notes the efforts of the Government towards the removal of the reservation to article 37 (c) of the Convention, but regrets the rather slow process and regrets even more the statement made by the delegation that the State party does not intend to withdraw its reservation to article 21. The Committee reiterates its concern with respect to the reservations maintained by the State party to articles 21 and 37 (c).</p> <p>7. In light of the 1993 Vienna Declaration and Programme of Action, the Committee urges the State party to reconsider and expedite the withdrawal of the reservations made to the Convention. The Committee invites the State party to continue its dialogue with the Aboriginals with a view to the withdrawal of the reservation to article 21 of the Convention.</p>

Independent monitoring

14. The Committee notes that eight Canadian provinces have an Ombudsman for Children but is concerned that not all of them are adequately empowered to exercise their tasks as fully independent national human rights institutions in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134 of 20 December 1993, annex). Furthermore, the Committee regrets that such an institution at the federal level has not been established.

15. 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. It recommends that such offices be established in the provinces that have not done so, as well as in the three territories where a high proportion of vulnerable children live. In this respect, the Committee recommends that the State party take fully into account the Paris Principles and the Committee's general comment No. 2 on the role of national human rights institutions.

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 recall its previous concern and recommendation relating to information gathering (CRC/C/15/Add.37, para. 20), maintaining that it has not been addressed sufficiently.

20. The Committee recommends that the State party strengthen and centralize its mechanism to compile and analyze systematically disaggregated data on all children under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups (i.e. Aboriginal children, children with disabilities, abused and neglected children, street children, children within the justice system, refugee and asylum-seeking children). The Committee urges the State party to use the indicators developed and the data collected effectively for the formulation and evaluation of legislation, policies and programmes for resource allocation and for the implementation and monitoring of the Convention.

Ratification of the Optional Protocols

60. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Rights of the Child on children in armed conflict and the signature in November 2001 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Committee urges the State party to consider early ratification of the latter.