
THE ROLE AND IMPACT OF CIVIL SOCIETY UPON CHILD RIGHTS IN CANADA

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SUMMARY

THIS ARTICLE SUMMARIZES SOME FINDINGS ABOUT HOW CIVIL SOCIETY IN Canada has been involved in working to improve the rights of children within the framework of an international human rights convention. The article demonstrates how the focus on an international framework like the CRC and its implementation can be an instrument for policy progress in a particular field, and the critical role of civil society in moving it forward.

Canada ratified the Convention on the Rights of Children in December 1991. Ratification had been the objective previously advocated for some time by many civil societal organizations in the field of children's issues. Ratification brings general obligations for State parties, and the focus of the work within Canada since then has been on the measures to implement the commitments of the Convention. Analysis focuses on four general areas of Convention implementation: law reform, budgeting, monitoring, and education and awareness-raising. This article describes the work of civil society in each of these areas and their particular challenges. In sum, research has found that most advances that Canada has made in implementing child rights have been strongly influenced by the efforts and dedication of actors in civil society, the nonprofit and charitable sector, as well as academics and research organisations. However, this sector is increasingly vulnerable to budget cuts and other adverse factors. The article concludes by recommending the next steps for child rights progress.

INTRODUCTION

"The way a child is treated by a society is an indication of what that society is all about."

– Young person consulted in June 2007

(Landon Pearson Resource Centre, 2007, p. 11)

Child rights, as enunciated in the Convention on the Rights of the Child (CRC) (United Nations, 1989), provide a compelling framework for policy measures for and with children. Based on our research study for UNICEF (Pearson & Collins, 2009), this article offers a brief case study of how civil society has affected policy efforts in relation to children and highlights the challenges it confronts. It considers the role and efforts of civil society in Canada generally, namely the nonprofit and charitable sector as well as academics and

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research organisations. The article also sheds light on how a right-based approach can move forward particular areas of public policy. Civil society advocated and achieved the policy goal of Canada's ratification of the CRC in December 1991. Implementation of this instrument has since been significant for several areas of policy processes and outcomes. In essence, our research has found that most advances that Canada has made in implementing child rights have been strongly influenced by the efforts and dedication of actors in civil society. However, this sector is increasingly vulnerable to budget cuts and other adverse factors.

Attention focuses on the "general measures" of implementation of the Convention, which are the structures and processes that the United Nations Committee on the Rights of the Child considers to form part of the general obligations of state parties. Article 4 of the CRC reads: "State parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention" (United Nations, 1989). This discussion concentrates on four general measures: law reform, budgeting, monitoring, and education and awareness-raising.

LAW REFORM

In our research, we found that progress was achieved in large part due to the advocacy efforts of Canadian civil society, including non-governmental organizations and researchers, which have contributed greatly to the impact of the CRC upon law reform at federal and provincial levels even though there is not yet an act to implement the Convention into domestic law (Pearson & Collins, 2009). Child rights have progressed in the country due to positive developments across a number of federal issue areas detailed in our full report including increased protections of children from sexual exploitation provided by amendments to the Criminal Code, a new *Youth Criminal Justice Act* (YCJA), tobacco control measures to reduce the number of young people taking up smoking, and changes to the *Defence Act* to prevent young people under the age of 18 from being deployed into hostilities. At the provincial level, civil society played a strong role during negotiations for the *Child Advocacy Act* of Ontario. There is a lack of progress, however, in relation to two significant legal issues: repeal of section 43 of the Criminal Code, which provides a defence for care-givers who use force against children; and continued discrimination against Aboriginal children in terms of services provided to them. This latter problem has been consistently documented and is the subject of an important legal challenge to the federal government by the First Nations Child and Family Caring Society and the Assembly of First Nations, currently before the Human Rights Tribunal of the Canadian Human Rights Commission. Major challenges remain in Canada due to these child rights issues.

Despite the positive role of civil society to date in relation to child rights, another difficulty exists in relation to the worrying indications about government resistance and legislative efforts to restrict and regulate the position and efforts of civil society. For example, Alberta has reduced the opportunities for activity by the voluntary sector by reclassifying activists and lobbyists and threatening the removal of charitable status (P. Dudding and G. Phaneuf, personal communication, August 22, 2007). Federal legislation has been introduced (although it is not yet in force) to similarly minimize the communications and impact of civil society by increasing reporting requirements.

Imagine Canada (2010) for instance, recognizes that the *Canada Not-for-profit Corporations Act (Bill C-4)* heightens the reporting burden for smaller organizations with small or no staff and recommends that these requirements “should be proportionate, in light of their size and capacity” (p. 1). While this legislation applies to fewer organizations than Alberta’s Act and is less restrictive, these federal reforms reveal a different government approach to regulate civil society, minimize advocacy, and impose an unwanted burden on the sector (Pearson & Collins, 2009).

Another problem hindering progress is that not all civil society organizations support a child rights basis in legislation that affects children. For example, the rights-based Canadian Paediatric Society has found challenges in attempting to improve child safety and protection through provincial laws in many areas related to child safety, including all-terrain vehicles and the use of bicycle helmets and booster seats, due to obstacles posed by counter-lobbying and the belief that ‘parents know best’ (M.A. Davis & J. Greenwood, personal communication, August 15, 2007). A rights-based approach would demand that the government ensure the priority of the best interests of children in light of evidence-based research.

BUDGETS

National organizations, coalitions, and policy institutes have been successful in tracking and analysing budgets and expenditures at both the national and provincial levels. Contributors include the Canadian Council on Social Development, the Canadian Policy Research Networks (CPRN), the Caledon Institute of Social Policy, and Campaign 2000. While Campaign 2000 has been vocal on the issue of child poverty and the impact of government measures on children, in general the sector has paid insufficient attention, no doubt impeded by lack of resources – financial and otherwise – to the analysis of budgets and expenditures in relation to child rights. In light of the CRC obligations, this gap remains an important challenge to redress for Canadian civil society.

Moreover, despite many examples of positive contributions to Canadian society, widespread government budget cuts, including the elimination of \$1-billion in federal program funding announced in autumn 2006, have adversely affected civil society in recent years and have had a dramatic impact on the capacity of the sector to advocate for children. One example is CPRN, which, despite positive federal government evaluations of its work and its important independent research on various issues including children’s policy, had \$3-million cut from its funding because it was viewed as a failure under the government category ‘Value for Money’ and has now ceased operations (Pearson & Collins, 2009). Consequently, we have questioned: “Who decides what is ‘good value’ in accordance with what criteria?” (Pearson & Collins, 2009, p. 23). The most recent adverse developments include the following: Invest in Kids has closed operations; the Council for Early Child Development, established by well-known advocate Fraser Mustard in 2004, ceased operations on October 31, 2010, due to “substantial funding issues” (Council for Early Child Development, 2010); and the Canadian Council on Education has been forced to go into dormancy. A fundamental challenge to CRC progress exists due to the fact that the sector is dramatically shrinking and losing capacity for excellent work on children.

Scott and Struthers (2006) argue that, due to short-term funding, the sector’s capacity to develop relevant programs and plan for emerging needs is declining; that this, along

with lessening civic participation and increasing demand for services, have accentuated the sector's problems; and that changes in funding arrangements and demands have weakened the sector, which is unable to accomplish its objectives as before. For example, there have been continual cutbacks to funds for urban Aboriginal peoples (C. Blackstock & J. Formsmma, personal communication, August 29, 2007). The constant work needed to obtain core funding leaves no room for initiatives that are not part of the main mandate of the Friendship Centres, adversely affecting efforts to secure funding for Aboriginal youth leadership development (C. Blackstock & J. Formsmma, personal communication, August 29, 2007). Consequently, "nonprofit and voluntary organizations now operate under intense financial pressures and they face significant operational challenges, the consequences of which are influencing their direction and challenging their legitimacy" (Scott, 2003, p. 149). Organizations hesitate to refer to child rights in funding proposals due to the government's lack of explicit support (see further below) and concern that it will impede resource generation (Collins, 2007). Organizations are not following their missions but are driven to undertake projects or activities with potential or available funding, causing "mission drift," also called "mission yank," for one third of organizations surveyed in Canada (Scott, 2003, p. 150). The changes and loss of contributions to the sector are important, given the significance of the sector for CRC implementation. The sector's contributions as "advocates, representatives and community-builders" are unique (Scott, 2003, p. 154). The current state of nonprofit and voluntary groups means that "the loss of the public spiritedness and the public goods that have traditionally characterized the activities [of the nonprofit and voluntary sector] is in danger of going unnoticed" (cited in Scott, 2003, p. 155). Hence, a major challenge is the fact that the government of Canada has an essential leadership role to sustain the sector. Recommendations made to it to redress the situation include the development of a collaborative mechanism and process to reform government funding; tailoring funding approaches and tools to reflect various needs and improve flexibility; and acknowledging the administrative costs of funding agreements (Scott & Struthers, 2006).

As noted in our report, these cuts have occurred despite the finding that 79 percent of Canadians believe that nonprofit organizations better understand their needs than the government, and 72 percent feel these organizations are better than the government in meeting these needs (Johns Hopkins Comparative Nonprofit Sector Project, in Scott & Struthers, 2006). This sector has a fundamental role in the country: "The programs funded by federal grants and contributions to this sector fulfil essential public policy purposes in every field of human and social development.... A successful and enduring partnership between the federal government and the community nonprofit sector is essential to the delivery of many vital services for Canadians" (Independent Blue Ribbon Panel on Grant and Contribution Programs, 2006, p. 13). The onset and nature of the challenges experienced by the nonprofit sector are causing several issues. A participatory forum in Toronto, for example, highlighted three main concerns: poor government communication about cuts in funding, particularly affecting marginalized groups, without concern about the impact and lacking a rationale; the cuts exacerbating the "democratic deficit" by eliminating programmes and research efforts and, in effect, silencing voices; and fear that these cuts will worsen in the future (Community Social Planning Council of Toronto, 2006). Consequently, the government should seriously consider the following words of Chelsea Howard, a young presenter to the Senate Standing Committee on Human Rights:

We say we value children – but what do our actions and decisions reflect? Everyday decisions are made to allocate resources, but when it comes to living up to our obligations to children under the Convention, I have to question if we truly value children as we say we do? (Howard & McGrath, 2005)

MONITORING

Another lesson learned about the positive impact of the CRC in Canada is that civil society has distinguished itself in the collection and assessment of data related to child rights over the years. The relationship, however, with government has not been clear, posing an obstacle to progress. The Society for Children and Youth in British Columbia and the Canadian Coalition for the Rights of Children are two organizations that have focused on monitoring child rights in the country. In the past, these organizations have received government funding to carry out monitoring work, but the sector still does not have a role in the government reporting process to the UN Committee on the Rights of the Child. Moreover, the lack of government follow-up to this reporting process and the recommendations from the UN Committee continues to frustrate participants involved in the process and likely impede commitment to the monitoring process. Furthermore, while there are numerous nonprofit organizations involved in assessing the situation of children, including, for example, attention to child health, a rights-based approach is not unanimously adopted or appreciated, impeding CRC progress. It seems that the rights framework is not the inspiration for most monitoring efforts, leading to limited, sporadic, and needs-based monitoring (Collins, 2008). There is a need for additional and adequate resources, and agreed-upon indicators (Santos Pais & Bissell, 2006), for successful child rights monitoring processes in Canada.

EDUCATION AND AWARENESS-RAISING

Although many civil society actors support the CRC through child rights awareness, education, and training, there is much room for improvement. Two national surveys to ascertain awareness of the Convention on the Rights of the Child, undertaken by the Canadian Coalition for the Rights of Children (CCRC) and Save the Children Canada, repeatedly find lack of CRC knowledge (K. Covell, personal communication, September 26, 2007). A 2005 survey, for example, indicated that a majority of Canadians (61 percent) believed that children's rights are already fully implemented in the country, but only 46 percent of those surveyed were even aware of the CRC (Howe & Covell, 2007). In another example, a survey of 801 British Columbians over the age of 18 from across the province revealed that 52 percent know very little or nothing at all about children's rights, and 86 percent "strongly or moderately agreed that the public needs more information about child rights in BC" (Society for Children and Youth of BC, Child and Youth Officer for British Columbia, and Institute for Safe Schools of British Columbia, 2006). This lack of awareness poses a real challenge to CRC progress in that few individuals in society are able to appreciate the significance of child rights in various situations, or of issues concerning children. One young person made a special note: "Parents need to be informed of children's rights as well; this will help kids rights to be respected and met in daily life" (Landon Pearson Resource Centre, 2007, p. 6).

Over the years, various non-governmental organizations have supported progress by contributing what they could to CRC awareness and education. Save the Children Canada, for example, contributed to rights awareness in the country through its Right Way programme, by training children and service providers throughout the country, including in British Columbia, Nova Scotia, and Ontario. The programme has been effective and expanded by partners; however, the elimination of Save the Children's domestic programming has ended the organization's important role. UNICEF Canada works with school boards and educators across the country to incorporate child rights education and pedagogy through curriculum resource development, teacher in-service education, and youth engagement activities for more than 15 years (L. Wolff, personal communication, September 14, 2007). Recent CIDA funding led to expansion of its resources, partnerships, and engagement with educational institutions and thousands of Canadian teachers (UNICEF Canada, 2006-07, 2007-08, slide 3). The United Nations Association in Canada developed lesson plans for teachers and students, entitled, *What Kind of World...*, to inform them about the UN and consider global issues (United Nations Association in Canada, n.d.). Such organizations as World Vision and Plan also have awareness programmes for a range of professionals, and for children themselves, both domestically and overseas (World Vision, n.d.; Plan Canada, n.d.). CCRC has developed documentation to popularize the concluding observations of the Committee on the Rights of the Child (K. Vandergrift, personal communication, August 29, 2007). The International Institute for Child Rights and Development at the University of Victoria, British Columbia, developed a manual with youth-friendly tools to support youth participation in municipal governance, including ascertaining youth understandings of the situation in the communities, and developing action plans (Cook & Blanchet-Cohen, 2006).

Professional organizations, including the Canadian Paediatric Society (CPS), promote child rights through didactic lectures and experiential learning (M.A. Davis & J. Greenwood, personal communication, August 15, 2007). However, there is room for improvement for other organizations, as CPS explains: "If paediatricians can find the time, there is no excuse from any other profession not to do so"; hence, law schools, teachers, and social workers can and should do more to advance child rights understanding and approaches (M.A. Davis & J. Greenwood, personal communication, August 15, 2007).

Individual children are also raising awareness. Aboriginal children and youth are addressing educational needs. In the Arctic, for example, Inuit youth are creating educational and counselling programs within their communities to support youth in developing their cultural identity and overcoming depression (Buscemi, in Rae, 2006), efforts that are consistent with articles 29(1) and 30 of the Convention. In another example, Shannen Koostachin was a powerful advocate to raise awareness about child rights on the Attawapiskat reserve in James Bay. She informed and engaged both Aboriginal and non-Aboriginal people in response to the diesel fuel contamination of the school grounds due to inadequate government response. Her impact was felt throughout the country as described by Charlie Angus, MP for Timmins James Bay (with whom Shannen lived for one year while attending school): "Within months, their heartfelt plea had inspired thousands of students, teachers, and church groups across Canada. She had moxie. She challenged government ministers and spoke at rallies and youth conferences" (Angus, 2010). Alas Shannen was killed in a motor accident in May 2010 at 15 years of age.

The commitment to these aforementioned and other efforts to support implementation of the CRC by civil society organizations is important; however, many funders continue to dismiss the role and significance of the CRC. This significant problem is perpetuated since governments and foundations rarely ask for CRC implementation in proposals by civil society (P. Dudding & G. Phaneuf, personal communication, August 22, 2007). Moreover, civil society is seriously impeded in promoting the CRC due to inadequate resources. Consequently, the Canadian Foundation for Children, Youth and the Law recommends consistent core funding from the Government of Canada to support the work of the CCRC, which is the only coalition of non-governmental organisations mandated to monitor and educate others about the CRC (Mackinnon & Milne, 2005). In fact, the primary challenge for CCRC is capacity-building so that it may accomplish its mandate (Vandergrift, 2007). The Canadian Foundation for Children, Youth and the Law also recommends general education and awareness-raising about the CRC, led by the federal government, as well as specific education for Members of Parliament, provincial and territorial politicians, the judiciary and lawyers (Mackinnon & Milne, 2005). Hence, improvement in CRC education, awareness-raising and training is essential for progress.

CONCLUSION

With ratification of the Convention on the Rights of the Child in 1991, Canada committed itself to protecting and promoting the rights of children. The country also supported the 1990 World Summit for Children goals and the Declaration and Action Plan of the 2002 United Nations General Assembly Special Session on Children, entitled *A World Fit for Children*. And in 2004, the government of Canada released its own plan of action in response to the Special Session entitled *A Canada Fit for Children* (Government of Canada, 2004). Progress, however, on the commitments made in these documents has been uneven. Although some children are doing well, others are not. Full implementation of the general measures of the Convention by government and civil society is necessary for progress.

There are numerous challenges to the role of civil society in Canada in relation to the implementation of the CRC's general measures. In addition to aforementioned budget cuts, there is the ongoing retreat of government from social engagement. There is little funding for public consultation on children's issues to advocate on their behalf or for coalitions and national organizations. Consequently, the voices of those with direct experience are silenced, allowing the perpetuation of unequal treatment of children across the country to continue. For example, the Voluntary Sector Initiative (VSI) that was carried on between 2000 and 2005 with substantial federal funding (\$94.6 million) had little impact on the sector's capacity for monitoring children's rights (Voluntary Sector Initiative, n.d.). Moreover, despite a stated goal to improve the relationship between the sector and the federal government, the modest contributions once available are now uncertain since the VSI no longer exists. In response to the federal government's undermining of civil society and the protection of civil rights, a broad coalition called "Voices" has been formed to react and protest the loss of space for dissent in Canada. The Voices Coalition has developed a declaration that as of February 1, 2011, has 4171 signatures (Voices Coalition, 2010).

Despite these challenges, there are a number of assets in place. The CRC is increasingly used by civil society to approach and understand children and programs related to children. There are a growing number of legal scholars, academics, health experts, and social innovators who understand the implications of implementation for children. Canada's leadership in social innovation is an advantage. Civil society groups focused on children and youth can also be effective in establishing national standards framed on the basis of child rights. Coalitions such as Canadian Coalition for the Rights of Children and the National Alliance for Children and Youth add greatly to collective efforts. Canadian civil society is willing and interested, with substantial potential for furthering CRC implementation if adequately supported through partnership with government, as outlined in the VSI's Voluntary Sector Accord (2001).

Finally, children and young people are the best asset to implement the general measures of the CRC. Increasing numbers of active, interested, and engaged youth are forming networks across the country and the world with great impact. As the United Nations Committee on the Rights of the Child has noted: "Participation also offers opportunities for children from diverse backgrounds to build a sense of belonging, solidarity, justice, responsibility, caring and sensitivity" (2007, para. 11).

RECOMMENDATIONS

As the CRC recognizes, parents and families have the first responsibility for the care and nurture of their children and for protecting and promoting their rights. The Convention also acknowledges the essential roles governments and civil society play in providing "the legislative and policy framework, the institutional and organizational structures, the fiscal and other supports and services to enable families" (Government of Canada, 2004, p. 16) to do what families do best. As a result of our research, we developed a number of recommendations to overcome the barriers we have identified above. By ratifying the CRC, Canada had accepted that children are rights holders and we, whether politicians, government officials, or members of civil society, are duty bearers and, as such, we must:

1. Promote political will to implement the spirit and intent of the Convention within federal, provincial, and territorial governments, at the municipal level, and in the corporate sector and the voluntary sectors.
2. Budget for adequate financial, human, and technical resources for child protection and for the promotion of children's rights at both the federal and provincial levels, with meaningful consultations with and involvement by Aboriginal peoples and cooperation with civil society.
3. Build more constructive working partnerships among sectors. An example is the Many Hands, One Dream coalition involving 14 national NGOs active in Aboriginal child health to implement shared principles for the benefit of Aboriginal children.
4. Improve the number of professionals from all disciplines related to children who have been trained in the Convention so that it may influence their work. The CRC is increasingly guiding academic researchers and professional organizations, such as the Canadian Child Care Federation, the Canadian Paediatric Society, the Child Welfare League of Canada, and the First Nations Child and Family Caring

Society of Canada and such international development NGOs as the Canadian Red Cross, Plan, Save the Children Canada, UNICEF Canada, and World Vision. Their knowledge and experience advance CRC implementation.

5. Ensure monitoring mechanisms at all levels of government and society in order to discover problems and shortcomings affecting children in a timely manner, so that decision-makers can rectify them.

6. Empower children and youth who are the experts on their own lives and provide more support and funding to youth-run organizations focused on the development of national and regional youth-related policy.

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