



# Convention on the Rights of the Child

Distr.: General  
14 December 2012  
English  
Original: French

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## Committee on the Rights of the Child

Sixty-first session

### Summary record of the 1741st meeting

Held at the Palais des Nations, Geneva, on Wednesday, 26 September 2012, at 3 p.m.

*Chairperson:* Mr. Zermatten

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*Third and fourth periodic reports of Canada*

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*The meeting was called to order at 3 p.m.*

**Consideration of reports of States parties (continued)**

*Third and fourth periodic reports of Canada (CRC/C/CAN/3-4; CRC/C/CAN/Q/3-4 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Canada took places at the Committee table.*
2. **Ms. Bossé** (Canada) said that in 2011 there had been over 7.3 million children under 18 years of age in Canada, more than 400,000 of whom belonged to the First Nations, Métis or Inuit communities. On 11 June 2008, the Prime Minister of Canada had made an historic apology for the treatment of Aboriginal children in Indian residential schools and the Government had provided 1.6 billion Canadian dollars of compensation, which had been distributed among the persons concerned. All provincial and territorial governments in Canada worked in partnership with Aboriginal communities and families to promote the well-being of Aboriginal children across Canada and a number of measures had been adopted to improve educational outcomes for all First Nations students. At the Crown-First Nations Gathering held on 24 January 2012, the Prime Minister and First Nations Chiefs had renewed their commitment to education reform for First Nations children living on reserves. In 2011 and 2012, the Canadian Government had provided the largest federal investment in early childhood development, early learning and childcare in Canadian history.
3. Canada had recently introduced two new offences in its Criminal Code to prevent child sexual exploitation: making sexually explicit material available to a child, and using telecommunications for the purpose of committing a sexual offence against a child.
4. A national action plan to combat human trafficking had been adopted in June 2012.
5. In 2010 and 2012, Canada had allocated funds to support the creation or enhancement of 14 support centres for child victims of violence across Canada.
6. The Operating Manual for Immigration Officers Working with Minors had been updated in 2012. It contained a clear directive that children should be given an opportunity to express their views in proceedings and that children's vulnerability to risks such as trafficking, smuggling and abduction should be taken into consideration.
7. In the area of health, Canada continued to invest in the prevention of obesity, youth suicide and substance abuse.
8. Canada was very active at the international level in children's rights. In particular, it had launched the Muskoka Initiative on Maternal, Newborn and Child Health. It also continued to speak up for the most vulnerable, including by condemning the practice of early forced marriage and promoting the United Nations Human Rights Council resolution on the elimination of all forms of violence against women and girls.
9. **Ms. Maurás Pérez** (Country Rapporteur) thanked the Canadian Government for all the information provided in its report and in its written replies to the list of issues. She regretted, however, that the report had not followed the reporting guidelines on the preparation of periodic reports and failed to respond to the Committee's request in its concluding observations of 2003 to provide a synthesis report based on both federal and provincial reports, which would provide the Committee with a comparative analysis of the implementation of the Convention and a more coordinated and comprehensive picture of the valuable measures adopted by Canada to implement the Convention (CRC/C/15/Add.215, para. 2).

10. She asked what obstacles were preventing the setting up of a national body to coordinate child-related activities at the federal level and between the provinces and territories. While it was true that the basic needs of children were being met in the State party, there were still significant shortcomings that needed to be addressed. Figures from the Organization for Economic Cooperation and Development (OECD) pointed to growing inequality of income and evidence showed a rise in poverty and inequities between children, including Aboriginal, Afro-Canadian, immigrant and other children of minorities.

11. She also asked what was preventing the State party from establishing a children's budget in order to identify the amount and proportion of resources spent on children at the federal, provincial and territorial levels, and asked how the impact of the National Plan of Action for Children had been evaluated. She asked for information on measures taken by the State party to regulate certain business sectors that might have a harmful impact on the rights of the child, including the fast food sector, which promoted obesity and related diseases, and extractive industries, responsible for violations of children's rights abroad. She also wished to know whether the State party provided children with information on the environment and climate change. She requested information on efforts to eliminate persistent discrimination against Aboriginal people in a number of areas, including education. Lastly, she asked whether the State party intended to withdraw its reservations to article 21 and article 37 (c) of the Convention.

12. **Mr. Madi** said that, according to his information, the 2009 amendments to the Citizenship Act, which limited transmission of Canadian nationality to the first generation born abroad to Canadian parents, had created problems for the acquisition of nationality by children born abroad to expatriate Canadian parents. Such a situation could lead to cases of statelessness. Moreover, it would appear that the children of Canadian public officials were not affected by those restrictions, which could be perceived as discrimination based on the parents' job. She asked the delegation to provide further clarification to the Committee on that issue and to indicate whether Canada was considering becoming a party to the 1954 Convention relating to the Status of Stateless Persons. Apparently, some Canadians had discovered that their father's name had been deleted or omitted from birth registers under a law permitting the name of unmarried fathers to be deleted from the registers. Those cases occurred between 1960 and 1980 in Ontario and other Canadian provinces. He would welcome further information on the issue.

13. **Ms. Sandberg** asked whether the Canadian authorities took gender issues into consideration in the drafting and implementation of policies concerning children, particularly Aboriginal children, in all areas covered by the Convention. She also wished to know whether children were involved in discussions on climate change and the environment.

14. **Mr. Polar**, noting that the report submitted by Canada provided no information on the implementation of article 14, asked whether the State party had struggled to ensure the enjoyment of the rights guaranteed under that article of the Convention, whether the education system allowed for freedom of religion and whether all religions were treated equally in terms of State funding.

15. **Mr. Guráñ** welcomed the establishment of the system of Provincial and Territorial Children's Advocates and asked whether the State party intended to establish a federal office that would have the authority to oversee and monitor all policies and legislation relating to children.

16. **Mr. Kotrane** asked whether non-governmental organizations (NGOs) and children had participated in the drafting of the report, whether the Convention had already been applied by the courts and what status it had in the domestic legal order. He believed that some provisions would be discriminatory against children and some Indian communities,

particularly regarding paternity issues, and he requested further information on the matter. Lastly, he asked for examples of cases in which the principle of the best interests of the child had been directly applied.

17. **Mr. Cardona Llorens** asked how the principle of the best interests of the child had been taken into account in the Tlicho Agreement signed in 2003. He asked whether the principle was clearly defined as a specific set of requirements to be observed by all stakeholders, including judges and prosecutors.

18. **Mr. Gastaud** asked whether the study of the Convention was included in school curricula and whether social workers, teachers and members of the medical profession received training on it. He also asked whether it had been translated into indigenous languages and whether studies had been carried out to ascertain whether children knew their rights.

19. **Ms. Wijemanne** asked whether the State party had data disaggregated by region and sex on the number of child victims of abuse, child asylum seekers and children belonging to minority groups, which would lead to the development of more targeted policies.

20. **The Chairperson**, recalling that some provinces set the age of sexual consent at 16 years, asked whether the State party had considered adopting a nationwide unified definition of the child. He was also surprised that criminal responsibility could be lowered to 16 years of age for serious offences.

*The meeting was suspended at 4.10 p.m. and resumed at 4.30 p.m.*

21. **Ms. Bossé** (Canada) said that responsibility for the application of the Convention lay with the federal Government, but also the provincial and territorial governments, which shared responsibility in that area. The Continuing Committee of Officials on Human Rights was the body charged with coordinating intergovernmental consultations and sharing information on the implementation of international human rights instruments. A number of tripartite agreements had been signed between the federal Government, provincial governments and Aboriginal organizations to facilitate intervention measures in areas such as health, child protection and education in order to guarantee the effectiveness of the federal system.

22. **Ms. Maurás Pérez** (Country Rapporteur), noting that the federal structure could hamper coordination, asked how the State party ensured that all Canadian children were adequately protected under the Convention, without inequalities or disparities, and that resources were allocated according to the needs of each province and territory.

23. **Ms. Golberg** (Canada) said that members of the interministerial federal working group on children's rights drafted the broad outlines of policies on children's rights, the issues subsequently being reviewed by their counterparts in the provinces and territories.

24. **Ms. Bossé** (Canada) said that the body responsible for disseminating the Convention was the Department of Canadian Heritage, which published the recommendations emanating from consideration of the reports of Canada by the treaty bodies on its website. A number of initiatives had been launched to raise awareness of the rights of the child, including National Child Day, educational workshops on the rights of the child and themed activities in schools. All children's policies were formulated with a view to ensuring gender equality. Canada developed tools to assess programme compliance with the principles of gender equality and trained public officials to be mindful of the issue in their work.

25. **Ms. Filion** (Canada) said that, in accordance with article 3 of the Convention, the best interests of the child was a primary consideration in developing policies, laws and programmes relating to children. That principle was taken into account by judges in their decisions regarding child custody, divorce and maintenance, and by immigration authorities

when deciding on an application for asylum or residency. Government officials, legislators and immigration officials stationed abroad or in Canada and port of entry officers had been made duly aware of the rights of the child.

26. **The Chairperson** asked whether it was true that some refugee children were placed in detention.

27. **Ms. Irish** (Canada) said that the best interests of the child were enshrined in the Immigration and Refugee Protection Act and were taken into account in the final decisions on the granting of refugee status to persons seeking asylum in the country under the Resettlement Assistance Programme established in partnership with the United Nations High Commissioner for Refugees (UNHCR). The protected persons manual, "Processing Claims for Refugee Protection in Canada", outlined in detail how to deal with children on initial contact and all subsequent stages of the asylum process or the procedure to obtain protected person status. The best interests of the child were also taken into account in applications for permanent residency on humanitarian and compassionate grounds, especially if the asylum seeker was an unaccompanied child.

28. **Ms. Sandberg** asked how the State party ensured that immigration authority officials adhered to the rules on the treatment of children and what arrangements were made for hearings involving child asylum seekers.

29. **Mr. Polar** understood that the Immigration and Refugee Protection Act stipulated that applications for refugee status from children who had been involved in armed conflict were not accepted and he asked what would happen in the case of a former child soldier seeking asylum.

30. **Ms. Irish** (Canada) said that the protected persons manual, "Processing Claims for Refugee Protection in Canada" listed a set of criteria and rules to be followed by the immigration authorities to protect the best interests of the child. Immigration authority officials were required in particular to clearly establish the relationship between the child and the accompanying adult and to take into consideration the specific needs and views of the child. Programmes implemented by the Canada Border Services Agency and Citizenship and Immigration Canada were subject to ongoing assessment, with the UNHCR also having a say on those issues.

31. **Ms. Filion** (Canada) said that in March 2012, Canada had approved the bill on Safe Streets and Communities, which repealed certain provisions of the Youth Criminal Justice Act, and prohibited the detention of juveniles alongside adults. Once those legislative amendments had entered into force, Canada would be able to reconsider its position regarding its reservation to article 37 (b) of the Convention, and would update the Committee on that issue in its next report.

32. The reasons for maintaining the reservation to article 21 of the Convention remain unchanged, especially since no Aboriginal group had called for its withdrawal.

33. **Ms. Maurás Pérez** (Country Rapporteur) asked whether Canada intended to consult the Aboriginal population again on the validity of the reservation.

34. **Ms. Filion** (Canada) said that the reservation concerned formal adoptions and not customary adoptions, which were recognized under domestic legislation. The reservation did not prevent Aboriginal governments from authorizing formal adoptions to ensure the transmission of Aboriginal heritage.

35. **Ms. Maurás Pérez** (Country Rapporteur) asked whether the Convention had been incorporated into domestic legislation.

36. **Ms. Filion** (Canada) said that there was no current legislation giving effect to international instruments, which were incorporated individually into domestic legislation

through a specific law. The courts acted on the principle that legislation was in compliance with the international instruments ratified, as Parliament was required to take into account any legal obligations arising as a result when formulating laws.

37. **Ms. Harty** (Canada) said that, according to the 2011 census, fewer than 30,000 children under 14 years of age, that is 0.5 per cent, lived in residential care homes. According to the 2006 census, 2,000 children with disabilities over 15 years of age lived in separate special institutions.

38. **Ms. Aidoo** suggested putting to good use the numerous social studies and research conducted in Canada on minorities in order to adopt a truly analytical approach.

39. **Ms. Herczog** (Country Rapporteur for the Convention) sought clarification on measures adopted at the federal level to ensure access to preschool education. She asked whether parenting skills programmes were only for First Nations families and whether there were plans to include the ban on corporal punishment in the Criminal Code.

40. **Ms. Lee** asked for details on how implementation of the plan of action adopted in 2004 entitled *A Canada Fit for Children* was assessed. She wondered what the root causes were for the high rate of teenage suicide in Quebec and expressed concern about the overprescription of methylphenidate.

41. She was concerned that the school dropout rate was high among students of African descent, who were overrepresented in alternative schools, and that 48 per cent of Aboriginal children over 15 years of age had not completed secondary school. She asked whether the programmes initiated for Aboriginal, Métis and off-reserve First Nations children and for children who had recently arrived in Canada were effective.

42. While welcoming efforts made by the Canadian International Development Agency (CIDA), she pointed out that Canada had still not met the objectives of the Monterrey Consensus, given that for the 2014/15 financial year the share of gross national product allocated to official development assistance (ODA) would amount to 0.28 per cent, against 0.33 per cent for 2010–2011.

43. She asked whether there was a comprehensive national policy on asylum seeking children who were unaccompanied or separated from their parents. She suggested exploring alternatives to detention for children arrested under the Protecting Canada's Immigration System Act.

44. She regretted that the State party had not included in its third and fourth periodic reports information on the implementation of the Optional Protocol on the involvement of children in armed conflict. She asked whether children were aware of the provisions of the Optional Protocol and recalled that the Committee had requested, following its technical review conducted on 17 May 2006, that the periodic report should contain information on the impact of the CIDA Action Plan on Child Protection and on the National Plan of Action, *A Canada Fit for Children*, on the establishment of extraterritorial jurisdiction for violations covered under the Optional Protocol when the victims or perpetrators were Canadians, or had a link with Canada, on raising the age of voluntary recruitment, on the status of students of the Royal Military Academy, and on legislation prohibiting the trade in small arms and light weapons to countries where the under 18s took part in hostilities.

45. She asked whether it was true that Afghan children had been routed through Afghanistan's National Directorate of Security, rather than through a civilian child protection agency, and recalled the situation of Omar Khadr, who was still being held in Guantanamo Bay.

46. **Mr. Madi** asked why Canada had not ratified the ILO Minimum Age Convention, 1973 (No. 138).

47. **Ms. Aidoo** expressed the Committee's concern at the lack of a consistent and sustainable approach to combating child poverty. She wished to know how the State ensured that the tax credits granted to families with children, along with other measures, were received not only by better-off families. Lastly, she asked whether the State party had put in place a coherent national poverty reduction strategy based on the Convention.

*The meeting rose at 6 p.m.*