



Convention on the Rights of the Child

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Committee on the Rights of the Child Sixty-first session

Summary record of the 1743rd meeting

Held at the Palais des Nations, Geneva, on Thursday, 27 September 2012, at 3 p.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (continued)

Initial report of Canada on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CAN/1; CRC/C/OPSC/CAN/Q/1; CRC/C/OPSC/CAN/Q/1/Add.1)

Third and fourth periodic reports of Canada on the implementation of the Convention on the Rights of the Child (continued) (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. Filion** (Canada) explained that the Canadian Criminal Code set out punishments for all forms of sexual exploitation of children, and provided a definition of the child in line with the Convention, although some provisions that were not directly related to the Optional Protocol set the age limit for protection of victims at 16. The implementation of protection programmes and the care for victims of sexual exploitation was the responsibility of the provinces and territories, which offered victims psychosocial and medical support services offered by multidisciplinary teams. As part of the federal strategy for the care of victims, the Government had created the Victims of Crime Fund, which funded programmes giving assistance to victims of sexual exploitation at provincial and territorial level, while increasing the number of Child Advocacy Centres and expanding the services they offered. Under the programme to combat the sexual exploitation of children and human trafficking, the Canadian Centre for Child Protection distributed information on the prevention of trafficking and offered counselling services to victims.
3. **Ms. McCarthy** (Canada) explained that in Quebec the assistance centres for victims of crimes (CAVACs) offered post-traumatic support services to victims, including children, as well as information concerning their rights, technical assistance and accompaniment during judicial and medical proceedings.
4. **Ms. Van Nes** (Canada) said that the Canadian Criminal Code had been amended in 1997 for the purpose of giving the courts extraterritorial jurisdiction to prosecute offences under the Optional Protocol committed by a Canadian national abroad, without the requirement of double criminality.
5. Several legislative texts had been adopted recently, with a view to broadening the scope of the protection given to children in relation to the offences set forth in the Optional Protocol, in particular the Safe Streets and Communities Act, which prohibited anyone from providing sexually explicit material to a child.
6. **Ms. Goldberg** (Canada) said that under the National Defence Act the recruitment of a minor in the Canadian armed forces was subject to the written consent of parents or guardians. With a view to effectively combating the sexual exploitation of Canadian nationals abroad, Canadian embassies kept in close touch with the authorities of the countries concerned. Foreigners in Canada were likewise informed of their rights so as to exclude all sexual exploitation. Since July 2012, the Canadian Government had been rejecting applications for work permits from foreigners in cases where there was sufficient reason to believe that the applicant ran the risk of sexual exploitation. Canada contributed funds to assistance programmes for victims of trafficking in foreign countries, in particular in Colombia, Sudan and Guatemala, in partnership with the United Nations Children's Fund (UNICEF) and Save the Children.

7. **Ms. Aidoo** asked whether the State party provided assistance to children who were victims of sexual offences committed by a Canadian national abroad.
8. **The Chairperson** asked whether obliging a child to engage in forced labour or to serve as a proxy in an adoption were viewed as the sale of children.
9. **Ms. Maurás Pérez** (Country Rapporteur for the Convention on the Rights of the Child) asked whether some provisions of the bill on safe streets and communities might not be used to limit Internet freedom for children.
10. **Ms. Filion** (Canada) said that the bill was compatible with the corresponding international standards.
11. **Ms. Hartly** (Canada) said that Canada had recently decided to halt adoptions of children from countries where the relevant practices were not in keeping with international rules or incompatible with the best interests of the child.
12. **Mr. Kotrane** (Country Rapporteur for the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography) said that, as he understood it, serving as an intermediary in an adoption proceeding was not considered, under the criminal law, as equivalent to selling a child.
13. **Ms. Hartly** (Canada) said that practices leading to unlawful adoptions, such as adoption advertisements were prohibited, although under adoption laws such practices were not considered equivalent to the sale of children under criminal law.
14. **Ms. Filion** (Canada) explained that sexual tourism was prohibited under the Canadian Criminal Code and that any travel agency or other business that facilitated the perpetration by their clients of sexual offences with minors for financial gain could be prosecuted.
15. **Ms. Aidoo** asked whether Bill C-15A to amend the Criminal Code penalized legal persons for promoting sexual tourism abroad.
16. **Ms. Filion** (Canada) replied that such offences were covered by the Criminal Code.
17. **Ms. Goldberg** (Canada) explained that Canada kept a national register of sexual offenders, containing detailed data on sexual offences committed by Canadian nationals both at home and abroad. If Canadian sex offenders were convicted abroad, they were automatically entered in the register on their return to Canada; and could, under the International Transfer of Offenders Act, serve out their sentence in Canada. Foreigners who had been prosecuted for a sexual offence were required to report to the competent services on their arrival in Canadian territory. The Canadian Association of travel agencies had adopted the Code of Conduct of the ECPAT (End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes) Network. In June 2012, Public Safety Canada launched the National Action Plan to Combat Human Trafficking, creating a variety of working groups covering all areas covered by the Optional Protocol.
18. **The Chairperson** asked whether the investigation into the circumstances surrounding the disappearance of several young indigenous Canadian women who had been victims of sexual exploitation since 2009 had yielded any results.
19. **Ms. Filion** (Canada) said that the authorities had invested Can\$ 25 million over a period of five years with a view to improving the living conditions of indigenous women and girls, establishing a disappeared persons search centre, combating violence against indigenous women and providing them with support services.
20. **Ms. Aidoo** asked whether the teaching of human rights and the rights of the child was incorporated into school curricula and teacher training programmes.

21. **Mr. Cardona Llorens** inquired what measures were being taken to ensure that children with disabilities had access to comprehensive education facilities throughout the country and what follow-up had been given to the 2005 report of the Ontario Ombudsman on the placement in institutions of children suffering from mental disabilities.

22. **Ms. Maurás Pérez** said she wondered why the Youth Criminal Justice Act, which had been adopted in 2003, had been amended by the Bill C-10, and why that bill had been called the “Safe Streets and Communities Act”, as she feared that it reflected a wish to improve street security at the expense of stricter rules for youths, a strategy that had resulted in failure wherever it had been tried. She would also like to know why extrajudicial measures, such as “diversion”, which had seemed to work, had been given up, and she expressed concern at the growing number of young people placed in detention.

23. **Ms. Lee** said she would like to know what role in human rights education was played by the Optional Protocol on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict.

24. **Ms. Herczog** (Country Rapporteur for the Convention on the Rights of the Child) said she would like to know the reason for the disproportionate numbers of indigenous children, children with disabilities, and children of African descent in institutions, and what measures were being taken to place such children in kinship care.

25. **Ms. Bossé** (Canada) said that human rights were mainstreamed into school curricula, at all educational levels.

26. **Ms. Hartly** (Canada) said that although schooling for children with disabilities was the responsibility of the provincial and territorial authorities, the federal authorities supported non-governmental organizations that were administering social partnership programmes and other related activities.

27. **Ms. Herczog** expressed the view that the rights of the child were best handled at the federal level, which made it possible to consider the best interests of children systematically and to ensure support for the most vulnerable groups.

28. **Ms. Goldberg** (Canada) said that federalism was favourable to the promotion and protection of human rights, and that the federal and provincial systems were complementary.

29. **Ms. Hartly** (Canada) said that various programmes were being run with the provinces and territories to help vulnerable young people gain access to the job market as soon as they completed secondary school. Several measures including special allowances were also designed to assist adoptive parents.

30. **Ms. Ducros** (Canada) explained that a new, improved approach centred on prevention had been adopted in 2007.

31. **Ms. Irish** (Canada) said that unaccompanied minors were usually placed in the care of child protection services. In cases of ordinary detention, they were detained with a parent or guardian in a special wing.

32. **Ms. Filion** (Canada) said that the Safe Streets and Communities Act was the short title of Bill C-10, which amended several acts.

The meeting was suspended at 4.25 p.m. and resumed at 4.45 p.m.

33. **Ms. Hartly** (Canada) said that kindergarten was free for five-year-old children in all provinces, and that in 2014 all kindergartens should be able to offer full-day services. Several provinces and territories ran forms of free preschool education for very vulnerable children.

34. **Ms. Wijemanne** said that policies and programmes aimed at combating obesity among children should be introduced at federal rather than provincial level, as it was a phenomenon that affected the entire country.

35. **Ms. Lee** asked whether it was true that the State party no longer considered as “child soldiers” children who had fought in certain countries with links to terrorism. In particular, she wished to know whether Omar Khadr was considered a child soldier.

36. **Ms. Bossé** (Canada) said that there was concerted action at different levels of government to combat poor dietary habits that were passed on from one generation to the next. Some initiatives undertaken at provincial level targeted mothers at the time of pregnancy, and were followed by actions aimed at promoting healthy eating and living habits among children throughout their schooling.

37. **Ms. Golberg** (Canada) stressed the importance attached to freedom of religion and freedom of conscience in Canada. Under the Constitution, education was the responsibility of the provinces, which had the task of ensuring that schools protected students’ right to express or not to express their religious beliefs in schools. The right of students not to attend Christian prayers in State schools and of Sikh students to wear their traditional dress had been legally recognized. Some provinces, such as Ontario, Manitoba, Saskatchewan and Alberta, still had religious schools, while others, like Quebec, had done away with them. In any case, according to a decision handed down by the Supreme Court in a case concerning religious discrimination, the fact that State schools might be denominational was not contrary to the principle of freedom of religion.

38. In the absence of any exact definition of “child soldiers” in international law, Canada’s approach in that area was based on the Optional Protocol to the Convention on the involvement of children in armed conflicts and the Rome Statute, with whose principles it fully complied. The Canadian Government was fully aware that Omar Khadr had been a minor at the time of the events, and accordingly had requested that he be treated as such from the beginning of his detention until he had been sentenced.

39. **Ms. Filion** (Canada) said that the amendments to the Youth Criminal Justice Act presented in Bill C-10 were the first major amendments proposed since the Act had entered into force in 2003, and had been made on the basis of nationwide consultations, court decisions, and the report of the commission of inquiry into youth criminal justice. None of the proposed amendments had to do with extrajudicial measures. However, under the Bill, judges who considered it necessary to protect the public could make the identity of minors who had committed violent offences public if there was a risk of reoffending. The Youth Criminal Justice Act provided that girls and boys should be detained separately.

40. **Ms. Herczog** suggested that parents were not really best placed to represent their children before the immigration services. Noting that there was no children’s ombudsman at the federal level, she asked whether there was any provincial or territorial body that was responsible for acting on their behalf.

41. She wished to know what measures had been taken to promote inclusive education for First Nations children and to improve sanitation in reservation schools.

42. **Ms. Bossé** (Canada) said that, in the 2012/13 budget, the Government had allocated Can\$ 131 million to setting up special quality education projects for children on reservations, which were adapted to their cultural background. Three quarters of the allocation would go towards renovating classrooms and recruiting psychologists, educators, speech therapists and counsellors.

43. **Ms. Irish** (Canada) said that the Government’s policy was not for children to be represented before the immigration services by their parents: they were represented by an officially appointed representative, who was familiar with the procedures of the

Immigration and Refugee Board and responsible for looking after children's requests and ensuring their best interests were respected.

44. **Ms. Maurás Pérez** thanked the Canadian delegation. She welcomed the legislation the State party had adopted, the institutional framework it had set up and the investments it had approved, which had made Canada one of only a few countries in the world in which the majority of the population enjoyed a high quality of life. The Committee had never suggested that the State party amend its political and administrative system, because that did not fall within its mandate. However, the Canadian Government could improve coordination between the different levels of government in order to bring greater efficiency and fairness to the system by filling the gaps in the protection accorded to the most vulnerable groups, such as First Nations children, Inuits and Aboriginals, African-Canadians, persons with disabilities, girls who were victims of exploitation and other crimes, migrant and refugee minors, and members of other ethnic and national minorities.

45. **Ms. Bossé** (Canada) recalled that Canada was a land of diversity in many respects, particularly its population, which was bilingual, multicultural, multi-ethnic and multiracial. Canadian society was proud of its democratic values, and preferred dialogue and cooperation to confrontation.

46. All levels of government were fully aware of Canada's international obligations under international human rights instruments, which they took very seriously. In addition, any measure taken by the Federal Government or a provincial or territorial government could be declared contrary to the Canadian Charter of Rights and Freedoms by the courts and repealed. Far from restricting the implementation of the Convention, federalism enabled greater protection of human rights by encouraging all governments to work at their level of authority and to cooperate with each other to find innovative and appropriate solutions to human rights-related problems.

47. It was important for children and civil society to take part in the implementation of the Convention so as to further the cause of Canadian children in the areas covered by the Convention, particularly health and development. For the past two decades, the Canadian Government's commitment in those areas to the principles enshrined in the Convention had enabled the needs of vulnerable and disadvantaged children to be met, and inequalities between the regions and different cultures and linguistic communities to be overcome.

48. The Canadian Government was aware of the progress that remained to be made, and of the need to constantly evaluate and adapt the initiatives undertaken in order not to lose sight of its objective. In that respect, the Government would give all due consideration to the Committee's recommendations.

The meeting rose at 5.30 p.m.