

Canadian Council of  
Child and Youth Advocates

Conseil canadien des  
défenseurs des enfants  
et des jeunes

September 26, 2012

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Secretariat  
Committee on the Rights of the Child  
Human Rights Treaties Division  
Office of the United Nations  
High Commissioner for Human Rights  
Palais Wilson - 52, rue des Pâquis  
CH-1201 Geneva  
Switzerland

Dear Secretariat:

I am writing on behalf of the Canadian Council of Child and Youth Advocates on an urgent basis to register our concern that aspects of Canada's response to Issue 7 on the list of issues you raised appears to use the existence of the Canadian Council for Child and Youth Advocates as part of a justification that there is no need for a federal official responsible for children's rights:

"Issue 7: Please provide information regarding the establishment of a federal ombudsman's office responsible for children's rights, in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), that coordinates with the ombudsmen at provincial and territorial levels, as suggested in this Committee's previous Concluding Observations (CRC/C/15/Add.215 para. 15).

83. Many issues relating to children fall within the jurisdiction of the provinces and territories and independent children's commissioners, advocates or ombudspersons have been established in most provinces and territories. Each of these institutions monitors laws, policies, programs and services for children within their jurisdiction; advise the relevant government, legislature and other competent body on specific violations of children's rights; consult one another; educate and inform the public on children's rights; and some are given a quasi-judicial competence. Their respective roles and responsibilities are further explained in Appendix 3 to Canada's Third and Fourth CRC Report.

As an example of enhancements, in 2011, a new advocacy protocol was established between British Columbia's child and family services and the Representative for Children and Youth (RCY), to ensure both are committed to working together in promoting and supporting meaningful and effective advocacy on behalf of children and youth receiving government services.

84. In 1996, these independent offices formed the Canadian Council of Provincial Child and Youth Advocates, which meets twice yearly to share information and explore possibilities for effective advocacy.

85. In addition, F-P/T governments continue to coordinate their efforts on issues relating to children through various forums. As noted in response to Part I, Issue 4 above, the Government of Canada coordinates actions and addresses areas of greatest need through working groups and committees, both longstanding, such as the Continuing Committee of Officials on Human Rights, and more recently created such as the Interdepartmental Working Group on Children's Rights.

86. The Government of Canada acknowledges both the importance of its strong partnerships with the provinces and territories and the effective work done by established independent children's commissioners, advocates or ombudspersons in many provinces and territories. The work of those bodies and ongoing partnerships ensure that, together, Canada promotes and protects the rights of children."

We wish to re-iterate our perspective, outlined on pages 9 through 11 of our submission to you in October 2011, entitled "Aboriginal Children – Canada Must do Better, Today and Tomorrow":

In Canada, children's specialized offices exist in most provinces and territories. We concur with the Committee, however, that these offices must exist in every province/territory and that their functions need to be consistent with the Committee's General Comment 2, the Paris Principles and child rights principles that support promoting, protecting and monitoring the implementation of children's rights. The existing offices will continue to promote children's human rights and to assist children with pursuing effective remedies – individually and collectively – for human rights violations within the allowable limits of our current legislated mandates. Aboriginal children, as this report identifies, are among the most vulnerable to human rights violations. Some provincial and territorial offices, however, do not have clear jurisdiction on Aboriginal lands, which leaves a gap in child advocacy that a federal Children's Commissioner can fill for affected Aboriginal children, including those children with concerns about possible rights violations.

Canada's 2009 report indicates that the "...Government of Canada endeavours to strengthen coordination and monitoring of children's rights through

interdepartmental and intergovernmental initiatives... By ensuring regular discussion of children's rights and related issues, the working group [Interdepartmental Working Group on Children's Rights] promotes awareness and understanding of the obligations under the *Convention on the Rights of the Child* (CRC) amongst officials' (para 34). While an important initiative, we ask the Committee to remind Canada about the key role that a federal Children's Commissioner, along with the provincial/territorial child advocacy offices, can also play in monitoring and strengthening child rights implementation.

With adequate resources in place, the federal Children's Commissioner and the provincial/territorial children's offices can jointly support one another in educating, monitoring and implementing child rights. We envision our work informing the federal Children's Commissioner's work, noting that together we can also:

- establish common policies and practices;
- clarify overlapping jurisdictions;
- contribute to Canada's reporting process to the Committee;
- contribute to other UN human rights treaties' reporting processes where Canada has obligations and when issues arise that impact children's lives.

We encourage the federal and provincial/territorial governments, therefore, to recognize our mandates as potentially complementary to implementing Canada's legal obligations under various international human rights treaties, including the CRC. Our mandates have particular significance for all children, including Aboriginal children, because Canada has no federal children's commissioner (unlike other countries) and because children often lack opportunities to be heard about policy matters affecting their everyday worlds. In our experience, children, who are vulnerable to human rights violations, may also lack access to meaningful processes that provide opportunities for children to express their concerns and pursue meaningful remedies for breaches of rights. As the Committee has recognized, NHRI are essential to advancing children's rights in these areas.

In keeping with the Committee's 2003 observation that, regrettably, Canada has not established a Children's Commissioner for Canada, we ask the Committee to request that Canada make the creation of a federal children's commissioner a priority for all children. It is critical that a human rights perspective informs this role and that it ensures children have a voice in matters affecting their everyday worlds, particularly when children experience human rights violations and seek reparation for those violations.

We made the following recommendations:

R5. That Canada establish a federal Children's Commissioner role with a human rights mandate, consistent with the Paris Principles, and General Comment 2 and General Comment 5, to address significant issues affecting children's lives, including the lives of Aboriginal children. (The Commission des droits de la personne et des droits de la jeunesse of Quebec agrees with this recommendation, insofar as the National Children's Commissioner's mandate respects the constitutional distribution of legislative powers.) Canada should develop and implement this role in collaboration with children and adults working with and for children in key areas of children's lives.

R6. That Canada establish a federal Children's Commissioner role that ensures that children have access to justice, including access to effective non-judicial administrative mechanisms for hearing their concerns and providing remedies to human rights violations.

In addition, Recommendations 16, 17 and 26 make reference to the functions/roles for such an official.

We believe that our collaborative work makes an important contribution, but does not fulfill the important functions that a federal official responsible for children's rights could achieve, particularly in relation to implementation of the United Nations Convention on the Rights of the Child.

Yours sincerely,



Mary Ellen Turpel-Lafond  
President  
Canadian Council of Child and Youth Advocates