



Canada's Compliance with the UN Convention on the Rights of the Child:
Comments to the Standing Senate Committee on Human Rights
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respectfully submitted by

Rita Karakas, CEO
Save the Children Canada, Toronto, Ontario

Honourable Senators,

It is Save the Children Canada's pleasure to speak before you on such an important subject, one that impacts not just the lives of millions of children living in Canada, but millions more in the countries in which we trade.

As the world's leading child-rights organization, Save the Children is known for delivering immediate and lasting improvements to children's lives worldwide. We have been working for over 85 years to improve the quality of children's lives through the realization of their rights.

I would like to take this opportunity to thank you for inviting Save the Children Canada to offer comments on Canada's compliance to the United Nations Convention on the Rights of the Child.

Why is Canada's compliance to this convention important?

The short answer is that because a healthy, sustainable and secure Canada depends on it. When children and young people are protected, respected and included, they become key contributors in shared social contexts motivating a nation to strive for excellence, whether or not this excellence lies in the field of private sector development, technological innovation, community mobilization, human rights, socio-cultural expansion and so forth. I have seen this time and time again in the programs Save the Children Canada operates here in Canada and throughout the world, when children and young people are valued they establish the conditions that most contribute to human flourishing. We as a nation perhaps best understood this when Canada afforded an opportunity to children to be present at the UN General Assembly Special Session on Children in 2002 to articulate their right to participate in decisions affecting their lives.

To explore what Canadians knew about child rights and role the Canadian government played in fulfilling its obligations to the UN Convention of the Rights of a Child, Save the Children Canada commissioned an Ipsos-Reid study three months ago, in November of 2004. The results were overwhelming: from coast to coast adult Canadians scored poorly when quizzed on issues affecting Canadian children. Only 33% of the 1000 interviewed answered questions accurately when it came to Canadian children living with HIV, in poverty, abuse, labour and child care. Seventy one percent of those interviewed gave Canada a grade "C" or lower in fulfilling its obligations to improve the lives of Canadian children. These results show that Canadians are concerned about Canada's commitment to children's rights, but they also show that more needs to be done to ensure Canadians are learning about children's lives and rights, most notably, the most marginalized and socially excluded.

Article 42 of the UN Convention on the Rights of the Child obligates Canada to make the Convention widely known to adults and children and Article 44 (6) requires Canada to make their reports on child rights widely available to the public and to have the public actively engage in children's rights. The support of Canadians is needed to advance child rights policy options obtained from the meaningful input of children and their families.

The Canadian education system, although a provincial jurisdiction, must play a crucial role in the dissemination of the Convention and knowledge and understanding of it.

In 2003 the UN Committee on the Rights of Child's assessment report on Canada's compliance stated, among things, that the "federal government must ensure that provinces and territories are aware of their obligations under the Convention and the rights in the Convention have to be implemented within all the provinces and territories through legislation and policy and other appropriate measures."

To ensure that this is a reality in Canada, we call on the Canadian government to:

- Establish an integrated, interdepartmental approach to mainstream the UN Convention on the Rights of the Child across all government levels, departments and agencies.
- Create a reporting verification and monitoring system that would create periodic reviews of the implementation of the UN Convention on the Rights of the Child. A system that would be an evolving process, ensuring that children's rights are being realized.

The need for these actions is illustrated by the case of *Zheng v. Canada (Minister of Citizenship and Immigration)*. Although the case does not deal specifically with a Canadian child, it does draw attention to a child in Canada and Canada's ability to provide protection to this child and to ensure the realization of her rights.

In 2002, Zheng, a 14 years old girl, was one of approximately twenty other minors apprehended by Immigration officials while entering Canada illegally from China. She applied for refugee status in Canada, claiming to have been trafficked into Canada on route to the United States and fearing prosecution if she was returned to China. She was denied refugee status and thus made an appeal. Her appeal, along with the other claimants, was denied and Zheng and the others were returned to China.

This was an extremely important case not only because it raised the important questions of whether or not a child can give CONSENT to being trafficked and whether or not a state is obligated to ensure that a child, upon returning to a country of origin, is protected, but also because it interpreted the UN Convention on the Rights of the Child against the best interest of this child.

Zheng was viewed as a voluntary migrant who left China to improve the economic status of herself and her family. The reasoning of the decision was centred on the use of the Convention's position that maturity is an on-going process. This position is stretched in this case to defend the argument that as children age, their consent can be given more weight and can eventually be legally binding before adulthood.

Children's rights to protection from violence, abuse and exploitation are not in any way limited or circumscribed as a result of their age. Children's limited capacity to protect themselves always means that consideration of age and capacity can only suggest stronger rights for protection, never weaker.

Canada needs to ensure that adequate legislation is in place to protect children. In some cases, as in the case of trafficked child victims, independent legislation maybe required to address the full needs of victims.

Perhaps the need for this legislation is greatest felt at the current time when Canada is developing new legislation to secure its borders from the global threat of terrorism.

Canada also needs appropriate training of professionals on child rights, studies on the impact of existing child protection legislation as applied in practice, the results of which need to contribute to law reform. An interdisciplinary approach is needed involving diverse experts and practitioners for law reform on child protection and appropriate resources allocated to ensure their full implementation.

Child protection, however, cannot be considered as a separate and stand alone issue.

The following areas have potential concern with regard to child protection: Economic development policies, security measures, criminal law, trade provisions, labour regulation, educational policies, health, immigration, taxation, social welfare and child care policies.

The UN Committee on the Rights of the Child recommended in its 2003 report that Canada take the necessary effective measures to prevent the exploitative employment of children. In that same year, British Colombia chose to weaken the role of parents and school authorities in deciding whether Canadian children aged 12 to 14 can work. The new regulations ended the requirement to get a permit from the government and allowed the employment of children with the consent of only one parent or guardian.

Over the past couple of years, Canadian media has reported stories of exploitative child labour use in the provinces of Ontario, Manitoba, Saskatchewan and Alberta. Canadians have also heard several stories of thousands of migrant agricultural workers and their families (the majority from Mexico and the Caribbean) who come and toil on Canadian farms for four to nine months of the year, earning subsistence wages in conditions that are described as exploitative and hazardous. Canadian consumers are also increasingly resisting to buy products made from the worst forms of child labour. An Ipso-Reid study undertaken two years ago indicated that 44% of those Canadians polled said that they have boycotted a corporation because of concern with child labour use in product supply line. While Canada has taken an international stand against the worst forms of child labour, its domestic regulations and rules of corporate compliance falls short in protecting child workers.

Canada should make all voluntary codes of corporate compliance on child protection issues mandatory and amend national laws that accord corporations their legal status to reflect child protection as a priority. Furthermore, increased resources and training on child rights need to be put into labour inspection and a nation wide coordinated monitoring effort needs be developed to get a true estimate of Canadian and migrant children working in Canada.

Full implementation of the UN Convention on the Rights of the Child will only be realized if all levels of government and civil society not only understand the Convention but are also equipped to apply the Convention's principles to their work.

The Canadian International Development Agency has recognized that integrating children's rights into programming is key to sustainable development. They have built the capacity of their civil society partners to not only understand the principles of the Convention but also to apply them to their programming work. Yet most other, domestically focused, departments still have not demonstrated the same level of support, understanding or awareness of a rights based approach, highlighting the discrepancy between Canada's behaviour internationally and domestically.

Building the capacity of Canadian governments and our civil society to integrate children's rights into programming will be a necessary step towards ensuring Canada's compliance to the Convention and the realization of children's rights nationally. To make progress in this area, increased cooperation and capacity with regard to children's rights, among government, private and voluntary sectors is needed.

We must also look at increasing the capacity of government, civil society and private sector agencies to promote the full and active participation of children in Canada's social and economic life; and to facilitate meaningful child input into social and economic policies and programs.

Within our civil society and within Canadian governments, the resources, knowledge and vision needed to be a country that is in compliance with the UN Convention on the Rights of the Child exists. Whether we are calling for:

- An integrated, interdepartmental approach to mainstream the Convention across all levels of government;
- A monitoring system that would create periodic reviews of the implementation of the Convention;
- Congruent legislation to protect children, including victims of child trafficking and all forms of exploitation.
- Appropriate training of professionals on child rights, including judges, lawyers, teachers and other duty bearers
- Children's rights to be incorporated into government and civil society programming, or;
- The promotion of full and active participation of children in Canada's social and economic life.

Neither these calls to action nor the recommendations presented to the Committee thus far can possibly be realized, without proper resources, commitment and leadership.

The Canadian government can be commended for its recent efforts to ensure that children's rights were key at the negotiations during the UN Special Session on Children as well as during the development of Canada's National Plan of Action for Children. Canada can also be commended for ensuring the meaningful participation of children during these processes. However, already, we can see the momentum of these landmark events diminishing and if ever, now is a time to mobilize resources, establish future leaders and secure the future of children's rights in Canada.

Rita S. Karakas

Ms. Karakas joins **Save the Children Canada** with over 20 years of global experience in both the government and non-government sector. She has considerable expertise and proven specialization in developing solid strategies for policy development, advocacy, international program development and communications.

Ms. Karakas has a substantive track record as a determined and conscientious senior executive and has demonstrated her ability to bring about continual and recognizable transformation at, the United Way/Centraide Canada, YWCA of/du Canada, TVOntario, and Oxfam Great Britain. Ms. Karakas was the principal and managing partner of RSK Associates Inc., an international organizational development practice specializing in non-governmental organizations. She has worked extensively with global clients such as the International Federation of Red Cross Red crescent Societies, the Australian Government's Aboriginal and Torres Strait Island Council, Oxfam International, the federation of Oxfam Affiliates.

Save the Children Canada is the world's leading child-rights organization: working 85 years to improve the quality of children's lives through the realization of their rights. We deliver immediate and lasting improvements to children's lives worldwide. **Save the Children Canada** is a member of the International **Save the Children** Alliance. With **Save the Children** Members organizations in 29 countries and operating programs in over 100 countries, the Alliance is the world's largest global movement for children.