



Defence for Children International-Canada

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Defence for Children International-Canada is pleased to have an opportunity to present this submission to the Human Rights Council.

Background:

Defence for Children International-Canada (DCI-Canada) is the Canadian section of DCI, a world-wide organization committed to providing information and education on the United Nations Convention on the Rights of the Child and working towards its full implementation both nationally and internationally. DCI-Canada was federally incorporated in 1989 and is a registered charity. Our board members have extensive experience in the area of children's rights and three members of our board are previous provincial child advocates in Canada's province of Ontario.

When it comes to children's rights, I was always proud to be a Canadian. Canada was one of the countries providing leadership when the United Nations Convention on the Rights of the Child was adopted and we were very hopeful that the children of our world would soon benefit from the promises made in that document. When Canada ratified the Convention in 1991, we celebrated the prospect of a world where children would be respected, their voices heard and their rights protected.

Examples of Canada's Failure to Meet the Promises of the Convention:

Today, some twenty years after the adoption of the Convention, we must admit to a deep sense of disappointment. Canada's leadership role has been tarnished by events that have negatively affected the children of our country. This submission will make reference to four examples:

- 1) A report from the Senate of Canada
 - 2) The case of Omar Khadr
 - 3) Inquests on the deaths of children in the care of the State
 - 4) Canada's proposed legislation affecting youth involved with the justice system
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- 1) In 2007, the Canadian Senate's Committee on Human Rights released its report called **Children: The Silenced Citizens**. The report concluded that Canada had failed to incorporate the principles and Articles of the Convention into domestic legislation and that, in many instances, children's rights are pushed aside and violated. The report particularly highlighted the issue of child poverty, the abysmal living conditions of our aboriginal children, and our treatment of children in conflict with the law.

The document was a thorough and balanced description of the state of children's rights in Canada and made a number of recommendations to improve the situation. One critical recommendation was that Canada establish an independent Children's Commissioner to monitor the implementation of the Convention on the Rights of the Child, and the protection of children's rights in Canada. I regret to report that at this time, we do not have a Children's Commissioner and there is little evidence that legislation to create this position is even being considered.

- 2) Omar Khadr was a child soldier when he was captured by American forces at age fifteen during a firefight in Afghanistan in 2002. He was one of the youngest prisoners held at the Guantanamo Bay detention camp and he made repeated reports of being abused. In spite of the urgings of Amnesty International, UNICEF and other respected organizations, the government of Canada made no attempt to repatriate him. When the Federal Court of Canada ruled that Canada was in violation of the Charter of Rights and Freedoms, the Canadian Government appealed this decision to the Supreme Court which confirmed that Omar Khadr's rights had been violated. In spite of a plea agreement, this young man, a Canadian citizen, still remains in Guantanamo Bay today.
- 3) DCI-Canada has observed or had standing at a number of inquests into the deaths of children in the care of the state. There is significant and credible evidence that large institutional settings create a dangerous environment for youth and in fact, in some cases the result is a death sentence. An inquest in the Province of Ontario provides a shameful example. The case involves a youth, J., who had been abused within his family since early childhood. At a young age he was involved in a number of violations of the law and by age 16 he was in secure custody. Although he had been in the child welfare system, his case was closed when he was placed in secure custody. His family had abandoned him and he had no one to advocate or support him. In a nine-month period, J. was transferred thirteen times with little opportunity to form any type of relationship. Small for his age, he was an easy target for bullies.

While in custody J. was placed in a small cell with no bed and a hole in the floor for a toilet. Although this isolation cell was intended for one person, a second youth who was known to be violent was placed in the cell with him.

In this small space, about the size of an elevator, J. was beaten for hours while he screamed for help, asked to call the Child Advocate and pleaded to be moved. His pleas were ignored until he was unconscious and bleeding from his nose and mouth. He was taken to hospital where he died from severe head injuries. The guards indicated that they did not take earlier action as they thought the youths were joking. There were numerous recommendations from that inquest including "that all youth in Ontario must have the right to benefit from the fundamental human rights outlined in the U.N. Convention on the Rights of the Child".

In spite of this example and others, we are still building large institutions for youth involved in the justice system.

- 4) The crime rate for youth in Canada is decreasing and there is significant evidence that putting young people in locked settings for longer periods of time does not lead to safer communities. In fact, the studies indicate that youth who are locked up often become repeat offenders. In spite of this evidence, the government of Canada has adopted a “get tough on youth crime” agenda and is in the process of changing our current Youth Criminal Justice Act to focus on punishment and public safety rather than rehabilitation and reintegration. The proposed legislation requires judges to consider denunciation and deterrence in sentencing, although these punitive principles have not proven to be useful in deterring youth from offending. The definition of “violent” offences has also been expanded, leading to more young people being placed in pre-trial detention for longer periods of time. The legislation also will lead to a greater number of offences that will be subject to adult sentences.

Conclusion and recommendation:

When we compare Canada to some other countries, where young people have been exposed to the brutality of war and conditions of starvation, it may seem that the concerns outlined above are minor in comparison. But we feel that Canada is in a rapid downward spiral with regard to young people involved in the youth justice system. By emphasizing the “tough on youth crime” agenda and escalating an atmosphere of fear, we are demonizing some of our most vulnerable young people, the poor, visible minorities and our aboriginal youth.

In our presentation on this issue today, we are asking that the Human Rights Council to keep a watchful eye on Canadian practices involving youth who are exposed to the youth justice system

Presented by Agnes Samler on behalf of Defence for Children International-Canada