



Action Canada for Sexual Health & Rights



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REVIEW OF CANADA'S COMBINED FIFTH & SIXTH REPORT

Update on Action Canada's 2020 Submission to the UN Committee on the Rights of the Child (Annex 1)

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Action Canada for Sexual Health & Rights is a progressive human rights organization committed to advancing and upholding sexual and reproductive health and rights in Canada and globally. Action Canada is a non-governmental organization in consultative status with the United Nations Economic and Social Council since 2004. Action Canada has ECOSOC status.

Sexual Rights Initiative is a coalition of national and regional organizations based in Canada, Egypt, Poland, India, Argentina, and South Africa that work together to advance human rights related to sexuality at the United Nations.

Key words: right to education, comprehensive sexuality education, right to health, access to sexual and reproductive health information and services, evolving capacities.

Introduction

This submission provides an update to Action Canada for Sexual Health and Rights (Action Canada) and the Sexual Rights Initiative's (SRI) 2020 submission to the Committee for the Rights of the Child in advance of the 87th Pre-Sessional Working Group (ANNEX 1). The submission highlights Canada's lack of action on comprehensive sexuality education, the impact of COVID-19 on young people's sexual health in Canada and Canada's inadequate response to the Committee's list of issues related to comprehensive sexuality education. The submission considers these issues under



the Convention of the Rights of the Child Articles 14, 19, 24 and 28 regarding children's rights to health, education and freedom of thought, conscience and religion.

Two years later: The impact of COVID-19 on young people's access to sexual and reproductive health information education and services

Existing inequalities experienced by children and adolescents in Canada has been exacerbated by the COVID-19 pandemic¹, including with respect to access to sexual health information, education and services, which was already poor across Canada. Children's and adolescents' access to comprehensive sexuality education (CSE) has been particularly impacted as schooling has been disrupted since March 2020. Over the last two years, students and educators have had to adapt to constantly evolving public health instructions including the restriction on external visitors, long periods of school closures with students learning online, often with little to no privacy at home, staff shortages due to sickness, student absenteeism and, overall, mounting pressure on school systems already stretched beyond their limits.

With regards to health services, many community-based sexual health centres were forced to close during the pandemic or to restrict services to only those designated as essential or because of shortages of staff and resources as demand rose. Community-based sexual health centres are a critical point of access for children and adolescents as they provide confidential, youth-friendly information and services. In its technical guidance document, UNESCO is clear that to be most effective, comprehensive sexuality education must be paired with pathways to youth-friendly sexual health services. It is therefore crucial that, despite the increased demands on health systems, children and youth should not be denied access to health services,² including sexual and reproductive health services. Canada must respect the right to non-discrimination through its measures to address COVID-19 and undertake a differential approach to ensure the rights of children and adolescents to sexual and reproductive health are respected, protected, and fulfilled including and especially during times of crises³.

Rising rates of STBBIs and gender-based violence across the country during the pandemic

In Canada, the pandemic has accelerated already rising rates of sexually transmitted and blood borne infections (STBBIs). Public health authorities, sexual-health experts and HIV/AIDS advocates are sounding the alarm over rising rates of certain STBBIs after testing, treatment and prevention campaigns were deprioritized during the pandemic. Syphilis infection rates are aggressively increasing across much of the country, with surges reported in Saskatchewan, Alberta⁴, British Columbia⁵, Northwest Territories and Ontario, which recorded 2,678⁶ cases last year, the highest number in at least a decade⁷. In New-Brunswick as well as Newfoundland and Labrador, more gonorrhoea cases were reported in the first three months of 2022 than for all of 2019, according to figures provided by the Department of

¹ Committee on the Rights of the Child [hereinafter CRC], The Committee on the Rights of the Child warns of the grave physical, emotional and psychological effect of the COVID-19 pandemic on children and calls on States to protect the rights of children, 8 April 2020.

² Id.

³ Id.

⁴ <https://open.alberta.ca/dataset/c6850032-20d3-4845-a465-568ed7e61b7c/resource/a50e1cd7-a968-480a-a4a4-332ddb13597/download/health-alberta-sexually-transmitted-infections-and-hiv-2020.pdf>

⁵ http://www.bccdc.ca/resource-gallery/Documents/Statistics%20and%20Research/Statistics%20and%20Reports/STI/CPS%20Monthly%20Surveillance%20Report%20-%20February%202021_FINAL.pdf

⁶ https://www.publichealthontario.ca/-/media/Documents/Surveillance-Reports/Infectious/quarterly-infectious-diseases-surveillance-report.pdf?sc_lang=en

⁷ <https://www.publichealthontario.ca/en/Data-and-Analysis/Infectious-Disease/Reportable-Disease-Trends-Annually#/54>



Health and Community Services. In some regions, HIV cases are up: Saskatchewan saw a 29-per-cent jump in cases last year compared with 2020, an increase that “partially reflects the impact of the COVID-19 pandemic on risk factors for the disease transmission and access to testing and care,” according to the province’s Ministry of Health. These figures are most probably a fraction of the actual numbers given how the pandemic limited testing, regular medical care, public health follow-up and data entry. Lab capacity was often overwhelmed with Point of Care testing for COVID, with many of those working in sexual health redeployed to help with COVID-19. More than 45 per cent of services providers that test for STIs described significant decreases in their ability to do so in the pandemic, with 31 per cent halting testing altogether at points in the crisis, according to a national report from the Public Health Agency of Canada⁸. In many provinces, STBBI contact tracing was completely abandoned, letting go of an important tool to slow down transmission rates⁹.

STBBI rates are one benchmark pointing to the lack of access to comprehensive sexual health information and education. Rates of sexual and gender-based violence is another one. Every year, an estimated 246 million children are subject to some form of gender-based violence, including mistreatment, bullying, psychological abuse and sexual harassment in or on the way to school. 25% of children experience physical violence and 36 % experience emotional violence¹⁰.

That pandemic accelerated this pressing societal issue. In Canada, federal consultations with frontline organizations found a concerning increase of 20 to 30 per cent ¹¹in rates of SGBV, and specifically domestic violence, in some regions when lockdowns were imposed. The Ontario Association of Interval and Transition Houses says 20 per cent of the 70 shelters¹² it represents had a marked increase in crisis calls during the pandemic. As for children specifically, New Statistics Canada crime data shows victimization of children intensified during pandemic¹³.

Educating young people is the only true, long-term solution to gender-based violence. However, it must be high-quality, age-appropriate, and evidence-based comprehensive sexuality education.

The reality of Comprehensive sexuality education in Canada in 2022

In 2020, Action Canada published its report ‘The State of Sex-ed in Canada’¹⁴ after reviewing and analyzing all provincial and territorial sex-ed curricula. With support from local partner organizations across provinces, Action Canada hosted consultations and focus groups to speak to young people about their experiences of sex-ed in six cities. Our organization also sought out teachers and sexual health educators from different communities to better understand the context in which they must do their work and to what is taking place in Canadian classrooms. Our findings mirrored other Canadian studies on the topic¹⁵. Documented discrepancies in the quality and delivery of CSE curriculums in

⁸ <https://www.canada.ca/content/dam/phac-aspc/documents/services/publications/diseases-conditions/survey-impact-covid-19-delivery-stbbi-prevention-testing-treatment/survey.pdf>

⁹ <https://www.canada.ca/en/public-health/services/publications/diseases-conditions/survey-impact-covid-19-delivery-stbbi-prevention-testing-treatment.html#a4.5>

¹⁰ <https://en.unesco.org/news/comprehensive-sexuality-education-prevent-gender-based-violence>

¹¹ <https://www.cbc.ca/news/politics/domestic-violence-rates-rising-due-to-covid19-1.5545851>

¹² <https://sexualassaultsupport.ca/covid-19-pandemics-and-gender-ocrcc-statement/>

¹³ <https://www150.statcan.gc.ca/n1/daily-quotidien/210727/dq210727a-eng.htm>

¹⁴ <https://www.actioncanadashr.org/resources/reports-analysis/2020-04-03-state-sex-ed-report>

¹⁵ <https://www.utpjournals.press/doi/full/10.3138/cjhs.2018-0036>



Canada represent violations of articles 14, 19, 24, and 28 as interpreted within this cited work of the Committee on the Rights of the Child, in addition to the Committee on Economic, Social and Cultural Rights' General Comment 22¹⁶ and the Special Rapporteurs on the Right to the Highest Attainable Standard of Mental and Physical Health's 2016 report on adolescents¹⁷ and Education's 2010 report on sexuality education¹⁸. Specifically, the Government of Canada has failed to hold provinces and territories accountable for the delivery of comprehensive, quality, evidence-based sexuality education, in line with national guidelines for sexual health education and international human rights obligations despite its duty and responsibility to uphold and advance human rights.

In 2019, the Canadian guidelines for sexual health education by Sex Information and Education Council of Canada (SIECCAN), endorsed by the Public Health Agency of Canada, were re-released. They are meant to guide educators and policy makers when it comes to comprehensive sexuality education in Canada. **In 2022, it is still the case that the Government of Canada has not taken any steps to standardize sex-ed across provinces and territories or to even disseminate or raise awareness to the existence of the 2019 Canadian guidelines for Sexual Health Education, nor has it engaged provinces and territories towards strengthening the quality or implementation of CSE across jurisdictions in line with human rights obligations.**

The Federal Government has repeatedly shirked responsibility for implementing its human rights obligations concerning CSE, stating the division of power between federal and provincial jurisdictions as reason for refusing to take a leadership role. This is made evident by the absence of any mention of comprehensive sexuality education in both its 2021 and 2022 Federal Budget¹⁹, with no investment made to ensure the capacity for provinces and territories to comply with the 2019 Canadian Guidelines on Sexuality Education. Similarly, Comprehensive Sexuality Education was not mentioned in Federal Electoral Platforms²⁰ or any of the Mandate letters²¹ penned following the election of the current government, elected in 2021 despite how many states from all regions of the world have recognized the transformative impact of comprehensive sexuality education and have taken political, financial, and policy steps to ensure that children and young people have access to high quality and scientifically accurate comprehensive sexuality education within their jurisdictions.

The lack of federal action in this area is concerning given that some provinces have taken active steps to deny young people access to comprehensive sexuality education, a situation that has continued to evolve since Action Canada's 2020 submission. In 2018, the Government of Ontario announced the repeal of the 2015 sexual health education curriculum and replacement with the 1998 curriculum.²² The 2015 curriculum had only recently been updated to reflect sexual orientation and gender identity and the concept of consent, among other issues.²³ Action Canada submitted an urgent appeal²⁴ to the UN's Special Procedures to draw attention to the human rights violations occurring as a result

¹⁶ E/C.12/GC/22

¹⁷ <https://undocs.org/A/HRC/32/32>

¹⁸ <http://undocs.org/A/65/162>

¹⁹ <https://www.actioncanadashr.org/news/2022-04-08-2022-srhr-federal-budget-analysis>

²⁰ <https://www.actioncanadashr.org/news/2021-09-13-election-2021-srhr-party-promises>

²¹ <https://www.actioncanadashr.org/news/2021-12-16-srhr-2022-ministerial-mandate-letters>

²² <https://globalnews.ca/news/4325268/ontario-sex-ed-curriculum/>

²³ Rushowy, Kristin. "Sex education in Ontario schools outdated, teachers say." *The Toronto Star*, October 10, 2013.

²⁴ <https://www.actioncanadashr.org/action-canada-calls-on-un-to-intervene-in-ontario-sex-ed-crisis/>



of the repeal. In December 2018, Canada received an official communication²⁵ endorsed by seven UN human rights experts demanding Canada take immediate steps to ensure compliance with human rights obligations; including:

- (1) providing information on the actions taken by the Federal Government of Canada to ensure that the State, including in Provincial jurisdictions, comply with its international human rights obligations, notably in terms of Economic, Social, and Cultural Rights, including the rights to non-discrimination, health, and education, and
- (2) explaining measures taken to ensure that all individuals and groups have access to comprehensive, non-discriminatory, evidence-based, scientifically accurate, and age-appropriate information on all aspects of sexual and reproductive health, including gender equality, sexual and gender-based violence, and the issue of consent.

Following Canada's response to this communication citing lack of jurisdiction, Alberta followed suit in 2019 with the provincial government halting the sex-ed curriculum reform and introducing Bill 8: The Education Amendment Act, which removed protections introduced by a bill meant to support Gay Straight Alliances (GSA). Bill 8 removed provisions that had made it illegal for teachers to 'out' students. Bill 8 also removed the obligation for principals to immediately approve students' request to establish a GSA, as well as the safeguard affirming students' right to use "gay" or "queer" in the name of the organization²⁶. Alberta also reaffirmed parental rights to remove children from comprehensive sexuality education lessons.

Canada's Response to the Committee's List of Issues

Canada's response to the LOI for Children's rights is disappointing on the issue of access to comprehensive sexuality education. In paragraphs 52 and 53 of its response, Canada demonstrates its intention to continue to abdicate its responsibilities as the primary duty-bearer for the implementation of Convention on the Rights of the Child by taking a narrow view of education, including sexuality education, as an exclusive provincial and territorial jurisdiction, except for First Nations Kindergarten to Grade 12 schools on reserves that fall under the responsibility of the Government of Canada. As a response to the concerns raised by civil society, Canada points to how, although each government develops sexual education curricula separately, they "generally address common themes, including Sexually Transmitted and Blood-borne Infections (STBBI) and how to prevent them". This response demonstrates a serious lack of understanding of the current state of sex-ed in Canada and of its commitment to comprehensive sexuality education within its own territory. Action Canada's review and analysis of every provincial sex-ed curriculum as well as other Canadian studies looking at Canadian sex-ed curricula reveal that, there is a severe lack of consistency between curricula when it comes to content, quality of content, timing of lessons, date of publication and even amounts of time dedicated to sex-ed. Some sex-ed curricula are so outdated, they make no mention of cell phones or the Internet, to say nothing of gender identity and sexual orientation or consent. There is no mention to retrogressions that have taken place in certain provinces such as Ontario (2018)²⁷ and Alberta (2019)²⁸ or of the lack of monitoring of the actual delivery of sex-ed.

Canada's unsatisfactory response further highlights Canada's action plan for reducing the health impacts of STBBI by

²⁵ https://www.ohchr.org/Documents/Issues/Women/WG/Communications/OL_CAN_20_12_2018.pdf

²⁶ <https://globalnews.ca/news/5463387/alberta-legislature-bill-8-education-gay-straight-alliances-debate/>

²⁷ <https://globalnews.ca/news/4327836/doug-ford-1998-sex-ed-curriculum-dangerous/>

²⁸ <http://activehistory.ca/2019/06/sex-ed-alberta/>



2030 and of provinces and territories having developed specific STBBI strategies to manage and plan interventions to minimize their impacts as the proof that the Government of Canada is addressing civil society's concerns over the consequences of the absence of adequate sexuality education. This further demonstrate the lack of understanding or recognition of the breadth and depth of topics international and even Canadian guidelines recommend as gold standards for the kind of sex-ed that uphold young people's rights. Educating young people about STBBI is both one of the topics necessary to uphold young people's rights and even for STBBI prevention, information and skills development around healthy sexuality and relationships and gender and power among other topics are key for an effective intervention. It also denies the preventative role comprehensive sex-ed plays in preventing the spread of STBBI, to say nothing of gender-based violence, including sexual violence, unplanned pregnancies, and other negative health outcomes. We find no mentions of human rights in their response or any indication that they have a strategy to ensure young people's rights are upheld regarding their right to health, to information and to non-discrimination.

Canada's implementation of human rights recommendations

Canada has not made meaningful progress in monitoring the implementation of UN human rights recommendations across its jurisdiction. Canada's Response to the LOI for Children's Rights does not address this key intervention.

Processes by which the Government consults civil society and Indigenous organizations before and after treaty body reviews continue to be unsatisfactory. The Federal Government must establish a robust human rights accountability framework to ensure compliance with international human rights law. Such a framework or mechanism would engage all levels of government, maintain adequate resources for the implementation of human rights recommendations and Concluding Observations, incorporate regular monitoring and evaluation functions, and regularly engage civil society organizations and Indigenous peoples' organizations towards greater implementation of and compliance with human rights law.

Meaningful participation of children, adolescents, and youth

Canada must ensure the meaningful engagement of young people in any programming directed at them and meant to impact them. In its 2021 Electoral Platform, the Liberal Party of Canada which currently forms the Government, included a promise of providing up to \$10 million over 3 years to youth-led grassroots organizations that respond to the unique sexual and reproductive health needs of young people. However, information on the roll-out of this funding, including timelines and parameters, is not publicly available.

Furthermore, despite several recommendations from UN treaty bodies, Canada lacks a national body responsible for Children's rights. Bill S-210 introduced in 2020 would establish an office of a Commissioner for Children and Youth in Canada²⁹ but has yet to conclude its second reading in the Senate. Such an Office would undoubtedly support Canada's obligations for greater accountability for the realization of children's rights and provide a forum to facilitate dialogue and education with children, adolescents and youth, a key component of meaningful participation.

²⁹ <https://senmoodie.sencanada.ca/en/children-and-youth-commissioner/>



Recommendations

1. In collaboration with civil society, youth-led organizations, young people, and experts, develop and adequately resource a national comprehensive sexuality education strategy to equalize access to comprehensive sexuality education across provinces and territories.
2. Allocate financial and human resources to the Public Health Agency of Canada and the Women and Gender Equality ministry to promote the full implementation of the Canadian Guidelines for Sexual Health Education and the integration of recommendations on Comprehensive Sexuality Education in Canada's National Action Plan on Gender-Based Violence.
3. Allocate funding to youth-led organizations responding to the unique sexual and reproductive health needs of children, adolescents, and youth to facilitate their meaningful participation in policy processes impacting their human rights.
4. Enact legislation to establish a national body with responsibility for monitoring and supporting children's rights.

