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Tuesday, March 30, 2010

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Chair

Mr. Scott Reid

Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

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• (1305)

[Translation]

The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)): I call to order the fourth meeting of the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development. Today is March 30, 2010.

[English]

Today we are engaging in a study of the universal periodic review. We were to have two witnesses today. Unfortunately, one is unavailable. That's our loss in one respect, but we benefit in that our other witness, Kathy Vandergrift, will be here, and we'll be able to devote more time to her than we would have otherwise been able to do. There's a silver lining to every cloud.

Kathy Vandergrift is the chairperson of the Canadian Coalition for the Rights of Children.

Welcome to our committee.

Ms. Vandergrift typically would speak for 10 minutes, but today we'll have more flexibility than we normally would. I will, of course, have to be somewhat strict, because we only have an hour to deal with questions, but we'll worry about that after you're finished.

Please begin.

Ms. Kathy Vandergrift (Chairperson, Board of Directors, Canadian Coalition for the Rights of Children): Thank you very much for this opportunity to discuss with you what is an important subject.

Let me begin with appreciation for the motion that's under study. It's important. It's timely. Those who work on children's rights and other human rights are pleased that this committee is going to propose alternatives to the current system. We have talked about the problems many times. It is time to move to solutions.

We look forward to seeing your report. We're eager to work with you to see genuine change. That will be the productive result of Canada's first periodical review.

Changing the system in Canada is also essential for international leadership, which I know is one of the primary focuses for this committee. When 40 countries and over 50 non-governmental organizations agree that Canada needs to improve its system for implementing international human rights agreements, it's time for

attention by our parliamentarians. We need to do better at home in order to regain international leadership in the field of human rights.

In this presentation, I would like to draw the committee's attention to four aspects of the current system that need major reform. They are based on my experience with children's rights, but they are shared with other groups who work on human rights issues. I will propose four alternatives for the committee's consideration.

The first is dealing with the general mechanisms of implementation, monitoring, and reporting. Monitoring and reporting progress in the implementation of human rights is a fundamental expectation. It goes with ratification of the international treaties. The experience of children's rights, I think, is instructive for this committee of the need for reform. Canada submitted its combined third and fourth reports on children's rights on November 20, nine months late, without any public consultation, contrary to the requirements under the convention itself and the norm in most developed countries. This was after Canada committed to improvement under the UPR.

While the government's report listed several initiatives for children, it contained very little data on the actual situation of children in Canada, or the outcomes of government programs. It is dubbed the "missing pieces report" within our community. Instead of a brag book, the need for information and analysis of the reality for children in Canada has been emphasized in the first and second review and by Canadian civil society in advance of the report. We also expressed a willingness to work with the interdepartmental committee for children's rights to provide a better report, but there was no engagement beyond a letter asking what topics the report should cover.

During the second review, in 2003, Canada received 45 recommendations relating to children's rights. Most of those recommendations, which address compliance issues, are not addressed in the new report, even though the need for follow-up to previous recommendations was a main theme of public discussion and a senate report entitled "Children: Silenced Citizens", released in 2007.

Furthermore, the current report does not reference the specific provisions of the convention, making it impossible for you as MPs, or the Canadian public, to really know whether Canada is meeting its obligations or not. In short, if you want to know how well Canada's children are doing, the last place you will go to is this report. It should be the first place we go.

Our recommendation is this. We are suggesting that Parliament adopt legislation to clarify the place of the commitments Canada has made under international human rights agreements within Canadian law, including a clear mandate for implementation within Canada. After all, the rule of law is a basic Canadian value. The charter does not adequately address all areas, such as children's rights and socio-economic rights. Any system put in place must also include some mechanisms for consultation with civil society. That is in line with the UN agreements.

The second area I'd like to discuss with you is the place of human rights in the federal government's policy-making process. In theory, Canadian citizens have the rights in the treaties Canada has signed, and the government is committed to be accountable for progressive implementation of them.

• (1310)

One implementation measure is to assess proposed policies for their impact, whether they contribute to or detract from those commitments. That does not happen in the policy-making process in Canada. There is no reference to human rights obligations in the Federal Accountability Act or in any other high-level direction for government decision-making.

There are only two places where there's a reference to human rights treaties. Under existing Treasury Board guidelines for policy formation, the *Guide to Making Federal Acts and Regulations* requires departments to inform cabinet when international agreements have a bearing on proposed legislation. This does include human rights treaties. But it's a negative screen.

The second document, the *Cabinet Directive on Streamlining Regulation*, instructs departments to respect international human rights obligations. In practice, this means that before it goes to cabinet, an obscure official, buried in the justice department, checks off a box saying that the proposed policy does not violate any obligations. It's a narrow, legalistic view. It does not ask if the proposed policy helps fulfill Canada's commitments, and the assessment is done by persons without expertise in the subject matter of the relevant human rights agreements. No wonder the three-year Senate study on children's rights concluded that they are not taken seriously within the federal government policy process.

For children's rights, there is an interdepartmental committee. It was the only action taken in response to the major Senate study in 2007, which concluded that children's rights were ignored or violated. It may improve internal coordination, but a low-level committee of officials that meets sporadically, has ill-defined objectives, no authority, and restrictions on meeting with public groups that work on children's rights, has not substantively changed anything that is noticeable to those of us across the country who work with children's rights.

As MPs, I would submit, it is extremely difficult for you to know if the rights your constituents hold, including the children in your ridings, are being advanced, ignored, or violated by proposed policies. You should know that, just as much as you now know whether a proposed policy complies with standards for fiscal accountability. This is the very essence of good government, not an afterthought, as it is now treated.

Our recommendation is that the federal government establish a clear and high-level role in the federal policy formation process for assessments of how proposed policies either contribute to the fulfillment of human rights agreements or detract from them. It should be equivalent in weight to what is now given to the fiscal analysis.

I note that tools for those kinds of assessments are being developed rapidly at the international level, but almost none of them are being used in Canada.

The third area I'd like to highlight is federal-provincial relations.

Canada's report to the universal periodic review states that the principal intergovernmental forum for consultation on human rights is a body called the Continuing Committee of Officials on Human Rights. Most people inside and outside government don't know that such a body exists. This body meets twice yearly, behind closed doors, with no public reporting, to discuss what needs to be done to fulfill Canada's obligations.

When questioned before a Senate committee, after we raised some of our concerns, the chair indicated that they were only an information coordinating body. That means that there is really no centre of responsibility for how rights are protected in areas that cross federal-provincial jurisdiction.

I think, again, that our experience in children's rights may help you understand what needs changing. Five years after the second review of children's rights, we asked for information on what was being done to follow up on the recommendations Canada received in 2003. We addressed a letter to the chair of this committee. We offered to assist, because children's rights can only be fulfilled with cooperation among all the actors that affect children. We were assured that the continuing committee takes follow-up very seriously, but they could not meet with us, nor could they tell us what had been done or what would be done, nor could we see minutes of meetings. After repeated prodding, we received old agendas, which were nothing more than a list of the conventions being discussed.

• (1315)

I submit to you that this mechanism is woefully inadequate and out of date, particularly considering that federalism is a major factor in how Canada implements human rights.

Transparency is an essential ingredient, and we have the opposite. Major federal-provincial agreements accompanied by large transfers of money make no mention of relevant commitments that both federal and provincial governments have made. They have huge impacts on the realization of rights for citizens in all areas of human rights, and you as MPs have no assurance that the money you approve reaches the end for which you approved it.

I would submit to you that rights-based measures of accountability could and should tell you that. These include measures like more transparent budgeting, regular data collection, and outcome reporting.

Civil society groups have repeatedly provided evidence that children's issues are falling between the cracks of federal and provincial jurisdiction. The response has been an expansion in the number of federal-provincial task forces, but each one has a very narrow focus, such as the working group on cyber crime or the human trafficking committee, and they have no mandate beyond information-sharing.

A recent report on sexual exploitation of children mentioned eight relevant federal-provincial task forces, but the same report could not provide a consolidated analysis of what is actually being done across the country to prevent sexual exploitation and whether those investments were being effective. I would submit to you that spending resources on all these task forces is relatively ineffective. The resources could be better spent on an integrated, rights-based approach that treats children as whole persons.

We recommend that references to relevant human rights standards be included in federal-provincial agreements and that they include administrative avenues for ensuring equitable treatment of all Canadians in areas where federal funds are allocated. We think doing that would go a long way to addressing the federalism challenge we have in Canada. For MPs, rights-based measures could help ensure that the money for which you are responsible is serving the people and the ends for which you approve it.

The fourth area is avenues for investigation and redress. For children's rights, there is no suitable federal avenue for investigating claims of rights violations. The first experience of an appeal before the Canadian Human Rights Tribunal is instructive for your study. The appeal deals with inequitable child welfare services for aboriginal children. It uses evidence documented by the Auditor General, among others, but instead of addressing the substance of the matter, government lawyers are using every legal technicality to delay and avoid taking responsibility.

I sat in that hearing recently with some young people. I can tell you, no young person in that room would conclude that the federal government, as the duty bearer under the convention, is a protector of their rights. The extreme adversarial approach was uncalled for. It protects only the interests of officials within the Department of Indian Affairs, not aboriginal children. It is unproductive with regard to the objective of equitable treatment for all children, which is a reasonable goal and one that most Canadians support.

By contrast, on the provincial level, the results of rights-based reporting by some provincial children's advocates are beginning to show real benefits in improved outcomes. I think the federal government can learn from what is happening in some provinces. Key to that is a real paradigm shift. It is to see these rights-based tools as assets, useful tools within federalism, rather than seeing them as just an extra burden or a frivolous tangent in the business of governing Canada. They are tools that work from the perspective of citizens, whom you are here to serve.

● (1320)

Again, our recommendation in this area is the establishment of some effective administrative avenues for investigation and resolution of issues arising from Canada's international human rights obligations in a non-confrontational way. Through gathering and analysis of evidence, identification of practical solutions, and working with all the relevant factors, we can move forward on implementing human rights, but not the way we're doing it now.

For children's rights, many countries have a national children's commissioner. For other areas of rights, perhaps other avenues might be more appropriate. But what they all hold in common is the need for strong, clear mandates with appropriate accountabilities to Parliament.

In conclusion, I guess we would submit to you that it's time for a more mature approach to meeting Canada's human rights obligations at home. That is the best and only way for Canada to regain global leadership for human rights, which is essential for international peace and security, something we're all concerned about.

Making a paradigm shift to think about rights-based measures as positive and practical tools of good government in Canada is key to the kind of reform we need. As MPs, such reforms could make your job more effective and satisfying, because they link the real lives of the citizens you serve to the public policy choices you face.

Your committee report will be an important one. I hope it will stimulate the kind of change that can lead to a lasting improvement in Canada and for our role in the world.

Thank you.

The Chair: Thank you, Ms. Vandergrift.

Your presentation has taken us to 1:25 p.m. In order to allow two rounds of questions—that's eight questions in total—we'll have to limit the questions and responses to five minutes each. I'll have to be a little bit ruthless in enforcing these things. Unfortunately, that means I cut you off, even though maybe the MPs.... We tend to go on at length.

That's just my way of encouraging brevity from the MPs so that Ms. Vandergrift, who has important things to say, can actually say them without me having to be rude and interrupt her.

With that, our first questioner is Dr. Bennett from the Liberals.

Thank you.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thanks very much.

Thank you for the frank assessment. I think a lot of us have concerns. I have a bit more experience with CEDAW than I do with your...but as this country is about to ratify the disability, and hopefully indigenous, we have to find mechanisms that work.

First, have other countries set up better methods, particularly around federal systems? Somehow we can do ISO 9000 up here, and we don't seem to have any trouble in Canada agreeing to these internationally. We're about to get the international health regulations. We have to find, whether it's cabinet...but whether it's consistently with every piece of legislation that comes before a committee, that this question is always asked with somebody qualified to answer it, or witnesses as to what's going on.

I guess I would love to know, if you were writing the report, what mechanisms you would be recommending. As well, are there other countries or systems that we should look at in terms of being able to say what would work better?

• (1325)

Ms. Kathy Vandergrift: Thank you.

I don't think there's any one mechanism, but I'm hoping I pointed to some of them.

I think start with being clear in law. We don't have clarity in the law right now on what is the status of these commitments. So I think some enabling legislation that clarifies what their status is in Canadian law would be a first step.

I would suggest that if you do have impact assessments as policies go forward, why can't their contribution to meeting our obligations be part of the assessment? Then you would have one early form of discussion. You mentioned the CEDAW committee. There are tools to assess the impact for women, for example. There are tools to assess the impact of policies that affect children.

Some countries are doing a lot with more transparent budgeting. We see some countries now having clearly in their budgets what affects children in that budget and then track that from year to year. Some countries use offices like ombudsmen. Children's commissioners are proving to be very effective in several countries. Norway and the U.K. have done tremendous work with the children's commissioner that looks at those issues as they go forward. Then there's having some reasonable mechanism whereby when issues come forward they can be investigated and resolved.

I think in Canada in terms of right to housing we are seeing some of those things being incorporated into the private member's bill that is being considered. I think that might be a step forward.

So it's really looking at several points in the system. I don't think it's one magic step.

Hon. Carolyn Bennett: On the ability for civil society to impact or to raise concerns, do countries have websites where that's out there and transparent, or the working of this interdepartmental committee that could always be asking for input from civil society? Is there anything that technology can do to help with the transparency?

Ms. Kathy Vandergrift: I think technology can, but it's really important also to have some face-to-face discussions around these matters.

In terms of the universal periodic review, the process that was used by the United Kingdom in terms of the engagement of civil society was quite good. Just in the area of children's rights, I know there were extensive discussions across the country, including with

young people, as to what some of their priorities were. So some changes were made in advance of the UPR. There were four recommendations relating to children's rights in the UPR, and following that, the U.K. has made some significant changes. So it's an ongoing process.

I think one of our problems is that we work up to the committee, we have the hearing, and then it's dropped. We did try with children's rights at least to follow up, so I think that's crucial, the continuous monitoring. Our view is that it should be a continuous process rather than a report once every five years. We'll make more progress if we work at it continually.

The Chair: That uses up the time exactly to the second, actually.

Ms. Kathy Vandergrift: Sorry.

The Chair: No, it's perfectly timed.

Monsieur Laforest, s'il vous plaît.

[Translation]

Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ): Thank you, Mr. Chair. I am replacing Mr. Dorion and I am not very familiar with the matters we are discussing today. However, I did work for several years with troubled children and it certainly is an area that has always concerned me.

You do not paint a very positive picture of the state of government action on children's rights in Canada. First, you point out federal-provincial agreements under which it falls to the provinces to apply the legislation and implement the measures that support children and their development, and you say that the federal government, in a sense, asks for no accountability and so has no real idea of what is going on.

It is as if they are washing their hands of what happens in the provinces. Yet, at the same time, where they have direct responsibility for children, for aboriginal children, that is, the situation with regard to their development and to upholding their rights is one of the worst.

Not only that; you also say that no specific assessment measures have been established. Where do you get the information that allows you to give testimony of that kind? As I understand it, you do your own observations and conduct your own tests. You say that the government is not able to conduct the assessments and that there are really no appropriate mechanisms with which to structure an adequate evaluation. But you have your own data.

• (1330)

[English]

Ms. Kathy Vandergrift: Thank you for those questions.

I would certainly agree with you that the questions with regard to aboriginal children, who are a direct federal responsibility, are one of the primary concerns we have, but there is also a federal government obligation to look at equitable treatment of children across the country. When the committee did its last review of Canada, there were also concerns raised about children with disabilities and children living in remote regions of the country. While there can be diversity of programs across provinces, the federal government has an obligation—also under the charter, frankly—to look at equitable treatment of children.

On your question about data, my point was that in the government report they are asked to provide data about the situation of children across the country. That's what is missing in the reports. Yes, as a coalition, we can try to put together an alternative report. We are going to try to respond to the government, but we don't have access to all the data. I can tell you that I have good reason to believe they actually have more data than what went in the report about what the real situation is of children across the country. We certainly will be trying to highlight some areas.

One of the distressing ones is the rate of deaths of children under five, and that maternal health has actually decreased in this country. That's a very primary indicator. So we will bring forward some, but really the government should be putting forward that kind of analysis—the situation of children in Canada—as part of its report.

When Canada appeared the first time and when it appeared the second time, the committee asked for that. It asked for better data, and certainly we're hoping to work with the government to make that shift. That's the only way we're going to assess how children are really doing.

[*Translation*]

Mr. Jean-Yves Laforest: Do you feel that you have access to enough data? Do you feel that there is information that you should have access to that you do not? Is there information that is hidden from you, so to speak?

[*English*]

Ms. Kathy Vandergrift: I have reason to believe there is more recent data in existence than is in the report. It seems to stop at 2006.

Now, some of the federal-provincial agreements were changed such that there's less incentive for provinces to submit data to the federal government than there was prior to 2006. In 2000 we actually had a federal-provincial agreement about children. It was a national children's agenda, and there was some information-sharing under that.

I cannot follow that past 2006. That's pretty old data in terms of the real impacts for children. That's a long time in the lives of children.

I do have reason to believe there is some more recent data than was put in the report.

• (1335)

The Chair: Thank you, Mr. Laforest.

Just for clarification, are you referring to the reporting committee on the convention on the rights or status of children? Is that correct?

Ms. Kathy Vandergrift: Yes. When I refer to the report, I'm referring to Canada's third and fourth reports on implementation of the convention, which was submitted to the UN Committee on the Rights of the Child on November 20.

The Chair: Thank you.

Mr. Marston, please.

Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP): Thank you very much for a very thoughtful and thought-provoking presentation. It brought to mind, as I sat here, that the first and

probably the most important role an MP has is to protect and ensure the rights of all Canadians, of course including children.

We have had presentations from government officials on the Continuing Committee of Officials on Human Rights, and talked about their processes. One of the things that is almost an undercurrent in the halls of this place is about the UPR and the assessment of Canada in that UPR: that those countries that were being critical were somehow rogue states that seemed to be attached to the Middle East and some other things that were going on at the UN. When I looked at the report, I found strong allies of Canada with some sincere criticism. Did you see it that way?

As well, I will go directly to the point: do you find the continuing committee—the officials—dismissive of NGOs? You seemed to indicate that you had problems accessing information and you were not included. That seems to be the story we've heard from other NGOs prior to these hearings—Amnesty International, for one.

We have a number of protocols on torture, people with disabilities—which the government is moving on—and of course aboriginals as well. So in the context of all of that, if you look at the report, we have to say to some degree that the report had some foundation in the realities of what is happening in Canada.

I'd like your comments.

Ms. Kathy Vandergrift: Thank you. I appreciate that.

I too heard those comments about the review of Canada at the universal periodic review. Of course, the great hope was that this mechanism at the UN Human Rights Council would be a little more free of those kinds of political factors than the previous commission was. But I very carefully went through the discussion of Canada that day, and there are countries asking questions from all parts of the world and from all levels, from very developed countries, who ask questions about Canada's record of implementation, to those, yes, who might have less attractive records than Canada says it has.

I would also highlight that there was input to that process from the treaty bodies that are made up of experts. Those are not country political figures, and they had input into the process and suggested that Canada needed to improve.

If you look at all of the reports coming to Canada from the various treaty bodies over the last five years, I would suggest that you're going to find a common theme.

Another thing I would highlight for MPs is the number of Canadian NGOs who chose to make submissions under that process because they are concerned and have not been able to find avenues to improve that.

So when you put all of that together, I would say this cannot be dismissed as simply a few rogue states who want to punish Canada for another vote at the Human Rights Council. It's more substantive than that.

In terms of NGOs and the Continuing Committee of Officials on Human Rights, the latter has no mandate to meet with anybody. That's what they told us. Then we asked if they could just tell us what was being done, but they have no mandate to do that either.

What I'm saying here is that I don't think a mechanism of that kind can be adequate when it comes to human rights and when the government and others continue to say.... And we know that federalism is a challenge for us in terms of meeting human rights. But then surely you put in place some mechanisms that have some transparency and that can work with civil society across those boundaries, because that's the way you will make real progress.

So it's simply inadequate and outdated. It simply needs reform. To find out what could work, that's the challenge we face now.

• (1340)

Mr. Wayne Marston: Do I have some more time, Chair?

The Chair: You'll have to be really fast.

Mr. Wayne Marston: The implication, to my mind, is that the MPs and NGOs, at some place in this process, should be involved with the workings of the officials on that committee. Would you see that as an answer?

Ms. Kathy Vandergrift: As I mentioned in my submission, I think that having some kind of accountability to Parliament is an essential piece of the reform. I think that's where putting it into law and having some accountability to Parliament would help.

Canada was asked to table the report from the UPR in Parliament. Has that happened?

Mr. Wayne Marston: I don't recall it happening.

Ms. Kathy Vandergrift: For children's rights, we've asked that the reports be given to MPs so they can see what is being said about Canada and about Canada's children. I don't believe that's happened.

So there needs to be a greater engagement of MPs. I know you have many things on your plates, so you'll have to structure that properly, but there should be accountability to Parliament.

Mr. Wayne Marston: Thank you.

The Chair: Mr. Hiebert, please.

Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC): Thank you, Mr. Chair.

Thank you, Ms. Vandergrift, for being with us today.

Your testimony was very informative. I appreciate the format you used in outlining the problems and the solutions that you recommend. It did raise a couple of questions for me that I hope you can clarify.

In your second proposed reform of the human rights policy process in Canada, you mentioned that there are two references to an obligation to fulfill our international treaties. One was at Treasury Board and the second was at departments, which have an obligation to evaluate whether or not their initiatives respect international human rights obligations.

Then you stated that those decisions in departments are being made by people without expertise in international agreements. I wonder if you could elaborate on that. How would you know they don't have expertise?

Ms. Kathy Vandergrift: My comments in this regard resulted after the Senate did the three-year study on children's rights. The

government responded and said, "But we do look at children's rights." I said, "Well, then, I want to know where."

We looked at it, and there are two places under Treasury Board guidelines for policy formation. One is when they bring forward legislation, and one is sort of at the regulations level. In each case what it amounts to is a check-off box that we are not violating some international agreement. That check is done by officials in the justice department. But when officials check off on a policy....

Take as an example the national income program for children, which we think has some inequities in it. When the justice official checks that box off as that policy is going forward to cabinet, he is simply looking at whether we are doing some egregious violation of an international agreement. He isn't an expert in how that policy would affect children in the end, to make that kind of fuller assessment.

What some countries do is this: those policies are assessed from the perspective of how they will affect children, and that assessment goes forward to cabinet at the same time.

I think that's what we mean when we say if you did a rights impact assessment at the beginning, you could improve the policy-making process.

Mr. Russ Hiebert: What I heard you say, then, was that the justice officials don't really comprehend the consequences of our policy on our international obligations?

Ms. Kathy Vandergrift: They're not experts in the subject area. In other words, they review documents in a range of areas, so they're not experts necessarily in children's issues and children's programming.

Mr. Russ Hiebert: I see. So you would rather have experts in that particular field—

Ms. Kathy Vandergrift: That's right.

Mr. Russ Hiebert: —but you don't know for certain that these people don't have the knowledge of our international obligations.

Ms. Kathy Vandergrift: They are lawyers in the human rights division, so they certainly have some expertise about human rights law, but I think my bigger concern is that it's primarily a negative screen. We asked; it's to show that we aren't violating something, and it's—

Mr. Russ Hiebert: So you would like to see something more proactive.

Ms. Kathy Vandergrift: That's right: how is it contributing? Many of the human rights treaties that we have signed deal with areas of social economic rights. How are we contributing? For example, to reduce child poverty, how does this proposal contribute to that?

That kind of an assessment is not done.

• (1345)

Mr. Russ Hiebert: All right.

A little bit later on you mentioned that the charter does not address children's rights, but then in answer to a question from one of my colleagues, you said that the charter does have an obligation to establish equitable treatment for children.

Ms. Kathy Vandergrift: The area of equitable treatment is one that... There's a general provision in the charter, so even under the charter, as I said, we have a limited federal obligation. Children are not mentioned anywhere in the charter, and there are very few cases that try to apply the charter to children's rights.

Mr. Russ Hiebert: But do they need to be mentioned to be covered? Does the charter not cover all Canadians, regardless of age?

Ms. Kathy Vandergrift: It covers all, but one of the unique aspects of children's rights is a balancing between the need for protection and the need for self-determination. The charter is much more along the lines of people's rights of self-determination.

The charter was adopted before the Convention on the Rights of the Child; another reason. Increasingly, the charter is being interpreted to take into account the conventions, but that's a long and detailed process, and I would submit it would be helped by legislation from Parliament that would clarify those issues.

The Chair: Actually, we're out of time, unfortunately, Mr. Hiebert.

Mr. Oliphant.

Mr. Robert Oliphant (Don Valley West, Lib.): Thank you.

Thank you not only for being here but for your life's work. It's impressive, and we're glad you do it, glad you bring these things here.

I want to pull us right into the UNUPR. You have raised lots of other issues too, which I think are good. I can read children into all the recommendations if I want to, but explicitly I can only find about seven recommendations that talk about either children or families. All of them have been accepted by Canada, so that then tells us we have an agenda to do. All seven, and they relate to violence against women and children, sexual exploitation, juvenile detainees, economic rights, low-income families, and aboriginal women and girls. Those are the things that I find here.

What I'm concerned about, and would like your comments on, is this: are you happy enough with the UNUPR process or do you think it too needs to be revised because the children's lens was not adequately...?

I don't want to put words in your mouth, but I don't think the lens of children's rights was not really put on this. Maybe Canada has a role internationally to raise this issue to get back, so we will be criticized, but...

Ms. Kathy Vandergrift: Well, obviously I would love to see more focus on children, but I'm going to say to you that even our participation as a coalition in this process was to focus on the general mechanisms for implementing human rights in Canada, not so much on children. We will focus on children very specifically in front of the UN committee on children's rights, because that's where the expertise lies.

Our frustration is that until the general mechanisms for human rights in Canada improve, we aren't going to make progress on children's rights either, or women's rights. There are certainly areas where those overlap. CEDAW looks at girls, for example.

When we participated in this process, what we wanted to see out of the universal periodic review was a commitment by Canada to improve the process. In that regard we think there are strong recommendations in this report. Our concern now is are they being implemented? We're one year after, and we have not seen one action being taken to implement them. We have four years. It takes a long time to get something in place. My concern is that by the time we hit the next review, we probably will just begin to be thinking about a change versus having something substantive in place.

We were very concerned about the way Canada proceeded with the third report under children's rights, which was after the UPR. Here was an example to do a better job, and that's why I highlighted it for you. Then we received a letter from the minister, actually saying they were going to improve the process through the UPR, but we haven't seen a step. So our plea with you is to help us improve that general process through the UPR. Then we'll deal with children's rights, primarily before the UN Committee on the Rights of the Child.

• (1350)

Mr. Robert Oliphant: Domestically we have a system of human rights legislation, provincially, territorially, and federally. Can children—this is out of my ignorance—bring human rights complaints to a commission or tribunal?

Ms. Kathy Vandergrift: It does not happen very often. I mentioned the first example...because we decided the situation for aboriginal children was so severe that we were going to use every avenue. As you know, the first appeal for children is being made now.

Part of my submission was to tell you that the way that is being handled, I don't think the commission is an appropriate forum for children's rights. Or something needs to change; it was.... I mean, the delays: children will be well through child welfare before they ever get a resolution.

It was excessively confrontational. There was no focus on the children. The lawyers were focused on damaging the credibility of the organization that brought forward the complaint, and the organization was de-funded in the process.

If this is how the commission is going to protect children's rights, I don't know who else is going to bring a complaint, frankly.

Mr. Robert Oliphant: I was on a human rights commission. I ended up as the chair of one. We never had a complaint from a child, but I think we could have, within our legislation, designed a non-adversarial process that would have actually been child-friendly.

Ms. Kathy Vandergrift: If the commission is going to hear more cases relating to children, then they need a child-friendly process.

What I would point you to at the provincial level concerns complaints to children's advocates. New Brunswick, Ontario, and Saskatchewan have very good records of complaints being made to children's advocates, and they work very cooperatively—not with lots and lots of lawyers—to solve the problems.

Mr. Mike Wallace (Burlington, CPC): Not that there are any lawyers in the room.

Ms. Kathy Vandergrift: Oh, sorry, I don't mean to....

Mr. Robert Oliphant: No, go on—

The Chair: Unfortunately, much as we'd all like to dis lawyers, on this or any other occasion, we are out of time for this round of questions.

We have to move on to Mr. Laforest.

Ms. Kathy Vandergrift: I don't.... I would like to see more lawyers protecting children's rights, actually.

The Chair: You're quite right. I was paraphrasing you incorrectly.

Ms. Kathy Vandergrift: Yes. The quick resolution is what we need.

[Translation]

Mr. Jean-Yves Laforest: Thank you, Mr. Chair.

Still on the matter of children's rights, we heard earlier that the Charter protects all Canadians, everyone. But children's needs are different from those of adults. Essentially, what you are saying—that is what I heard subsequently—that it has to be more clearly defined. Children—and that also has to be defined—have different needs at 0 years than they do at 16. A child between 0 and 2 years of age does not have the same needs as a child between 6 and 10. So it must be clearly defined that children need protection, love, education, clothing, and so on. A mechanism must be put in place. The family is one, but, at the same time, there must be an educational process that allows the child to develop normally. Nothing of that kind exists and that is why we often see major gaps when children's rights are correctly examined, especially, as you say, those of aboriginal children. I certainly agree that there should be a chapter dealing very specifically with children's rights, so that they can be protected.

I have a more specific question. At the beginning of your presentation just now, you said that there had been no public consultation. Was that before the report was submitted? You say that a report was submitted without public consultation, contrary to the requirements. Is that the report that we were talking about just now?

• (1355)

[English]

Ms. Kathy Vandergrift: Yes.

[Translation]

Mr. Jean-Yves Laforest: Would you not say that the lack of public consultation at very least undermines the credibility and reliability of the report?

[English]

Ms. Kathy Vandergrift: There were no consultations before the report on children's rights, and none after. And yes, it does undermine the credibility.

The UN Convention on the Rights of the Child is strong in the area of wanting to see consultation with the people who work with children, and with the young people themselves. Some countries are doing leading-edge work in terms of listening to children on what needs to be addressed. We'd like to see much more of that in Canada.

Some civil society groups are doing that, and we will be bringing those voices forward in our report. We will try to bring that information to the committee. We would have preferred to work cooperatively with the government through the process. It doesn't have to be as adversarial as it is.

Again, I look to Norway, to the United Kingdom. They've done some excellent work in terms of how you engage young people to address some of these issues.

[Translation]

Mr. Jean-Yves Laforest: I have a quick question about children's rights. Are there provinces in Canada where the situation is more dramatic than in others?

[English]

Ms. Kathy Vandergrift: The outcomes of Canada's second review outlined that children in remote regions, for example, need special attention. When we ask why the maternal mortality rates and under-five rates have gone up, it's largely in rural and more remote regions. That was one group.

Children with disabilities were named in terms of some inequitable treatments in education. Canada did not have any information on street children in its second report, and some civil society groups brought information to the committee about children in the streets—in Montreal, Toronto—and homelessness with young people. So there's a category of vulnerability.

We would say that there are different groups of vulnerabilities in Canada. The inequity among children—that's why I come back to that theme—is really important in Canada. It makes it harder, in some ways, because many children are doing quite well in Canada, but we have real pockets of concern. A rights-based approach should lead you to address those.

The Chair: It's Mr. Wallace's turn. I got things out of order. He should have gone first, but we'll make up for it now.

Mr. Mike Wallace: Thank you, Mr. Chair.

The Chair: Sorry, there's one more thing.

I'm going to ask the committee for its unanimous consent to go a little past our time of adjournment. That will allow Mr. Marston as well to ask a question and get a response.

Ms. Kathy Vandergrift: I'll try to be quick.

Mr. Mike Wallace: I'll try to not take up all five minutes. How does that sound?

It's because I want to share with you, Wayne. You know that.

I'm actually filling in today. I'm not normally on this committee, so I'm really naive about a number of the issues.

I read your title here, chairperson of the board of directors of the Canadian Coalition for the Rights of Children. Can you tell me a little bit about the organization? Is it all volunteers? Who do you actually represent? How big is that organization?

I'm trying to get a sense of the authority that you're speaking with.

Ms. Kathy Vandergrift: I didn't lead with that because I have been before the committee before. I assumed—

Mr. Mike Wallace: Yes. Sorry.

Ms. Kathy Vandergrift: The Canadian Coalition for the Rights of Children is an umbrella group of organizations across the country that work with children. We have a 10-member board, which has a number of the larger children's organizations on it. It also has some academics who work on children's issues.

Right now we don't have any sustained funding, so yes, I work as a volunteer. I guess my age shows I'm doing that now as a volunteer. At one time it did have more funding. It doesn't now.

We are doing what we can. Our mandate is to increase public awareness about children's rights across the country. It is to bring the children's rights perspective to a variety of issues, which we have done. Also, we have a particular role in responding to the reports on monitoring children's rights in the country.

• (1400)

Mr. Mike Wallace: I have a little bit of knowledge because I used to work for Easter Seals, and my wife actually works for Easter Seals in Ontario, which helps support disabled children and their families. Regarding children with disabilities, what are the main issues that your organization is looking at from a human rights perspective?

Ms. Kathy Vandergrift: Regarding children with disabilities, we could have another hour, and I would like to then bring to the table the Canadian Association for Community Living, which is on our board. Their focus is on issues of children with disabilities, and they will be writing a chapter for the alternative report. There are a number of concerns in relation to health care. There are issues in relation to education for children with particular learning disabilities and sometimes there are issues of access.

I can maybe bring you a report from them, if you would like, but they are working very strongly on that area for us.

Mr. Mike Wallace: I appreciate that.

Do we have any time? Russ has one question left.

The Chair: You have 30 seconds, Mr. Hiebert.

Mr. Russ Hiebert: Thank you, Mr. Chair.

I have just one question.

Ms. Vandergrift, I understand and appreciate that your comments are directed at constructive criticism of the process through which

Canada evaluates its human rights. I was wondering, however, if you could comment on how we're doing as a nation. Are we making progress? I want to draw to your attention just a couple of the items that were included in our recent throne speech and get your feedback on them.

I'm thinking of things like our commitment to increasing penalties for offences against children, launching a national childhood injury prevention strategy, bringing forward legislation for safe drinking water on reserves, and establishing a registered disability savings plan.

Would you consider those to be steps in the right direction or, on balance, do you think we're still heading in the wrong direction?

Ms. Kathy Vandergrift: I would want to carefully consider each one of those. Certainly there are some positive measures in there, and there are some on which we have concerns or would suggest what a rights-based approach might add.

I'll pick up on a couple of those. Certainly we share the priority being given to sexual exploitation, but we would very much value looking at that a little more strongly through the lens of children's rights. That would also put greater focus on prevention. Increasing penalties helps if there are convictions, but there's a very low rate of conviction, and that is partly because you need to support children through the process.

If you look at the number of people who are charged and then you look at the conviction rate, it's a very small number. Why? If young people don't have adequate support, they aren't going to testify and we won't get convictions.

So you can have a strong penalty at the end, but if you don't have the entire system working, it doesn't help. We would like to see much more focus on the prevention, on the support for the young persons who are faced with sexual exploitation.

In terms of injury prevention, certainly injuries are one of the priority health issues, and the Canadian Paediatric Society works with us on that. We would like to expand the mandate of the injury prevention to also include other kinds of injuries, such as violence against children. That's the non-accidental injury, not just limiting it to physical injury but looking at other types of injuries.

If you're going to do a large campaign, we could have a much bigger impact if we took that just a little bit broader. We could do that with children's rights.

The safe drinking water is an excellent move. It is certainly one that was highlighted in the second review and is part of dealing with the serious issues of aboriginal children.

Did I miss one?

Mr. Russ Hiebert: The registered disability savings plan.

Ms. Kathy Vandergrift: It's excellent. Our members who work on the issue of children with disabilities are supportive of that measure for sure.

The Chair: Thank you.

Mr. Marston, you're batting cleanup for us today.

Ms. Kathy Vandergrift: I'd like to add a quick point. The reason I didn't go into the catalogue of children's issues today is because I understood we were here to talk about the UPR and how Canada improves. If you want, we would gladly bring a briefing on children's issues.

• (1405)

The Chair: Mr. Marston, please.

Mr. Wayne Marston: Coming back to the UPR and Canada's response to the UPR, to my understanding, neither document has been tabled in the House. So they're not in the hands of members.

I'd like to highlight a couple of things from the UPR. First of all, concerns that were raised about Canada's treatment of aboriginal and indigenous peoples were by Switzerland, Austria, Norway, Mexico, the Netherlands, Finland, United Kingdom, and India. Concerns about actions on the optional protocol to the convention on torture were by Chile, Brazil, France, and Denmark.

When we start looking at the validity of some of the concerns raised, they're being raised by folks with whom we have been allies for a long time, and hopefully this committee will reach a point where they will listen to you, and some of the other presenters we're about to have, on ways we can improve the work of the continuing committee.

You mentioned Norway and the United Kingdom in your remarks as being fairly progressive. Would they, or others, be countries we could turn to for some examples of perhaps changes we might make?

Ms. Kathy Vandergrift: I would name those, and the Netherlands, on children's rights and I think generally. They have done

some excellent consultations, with excellent ways of engaging their public.

In terms of federal states, Australia and New Zealand have done very good work in the areas of children's rights. Those would be ones I would look at.

The European Union is doing some very interesting work in terms of how one can do these assessments and develop indicators that can move rights-based mechanisms into the policy process. Of course, the European Union is doing that as a region, as well as individual countries.

Those would be some good practice examples. I will get back to you with a firm list.

Mr. Wayne Marston: Thank you very much.

That's all I have, Mr. Chair.

The Chair: In that case, thank you.

Thank you very much as well, Ms. Vandergrift. We really appreciated you coming here. While it was unfortunate that our other witness couldn't make it, I'm glad we had the time to give you a full hour. There certainly were enough questions to fill that time, and, I suspect, some additional time as well.

Thanks from all of us.

Ms. Kathy Vandergrift: You're most welcome.

The Chair: We are adjourned.

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