

Speaking Notes  
The Honourable Noël A. Kinsella  
Speaker of the Senate of Canada

Address at the Opening Ceremony to the Summer Course on the  
Rights of the Child,  
Université de Moncton

Wednesday, August 8, 2012

Ms. Claire Brisset,  
Mr. Bernard Lord,  
Mr. Bernard Richard,  
Ms. Mary Ellen Turpel-Lafond,  
Distinguished guests,  
Ladies and Gentlemen:

Welcome to Canada and to the province of New Brunswick on the occasion of the inaugural Summer Course on the Rights of the Child. As a student, professor and advocate of human rights, and a representative of New Brunswick in the Senate of Canada, I am particularly honoured to have the opportunity to join you today to launch this important initiative. Made possible through the collaboration of important leaders in the area of the rights of the child, namely, the Working Group on the Rights of the Child within the Francophonie, the Canadian Council of Child and Youth Advocates, and the Université de Moncton; we are privileged to have so many interested students, experts and practitioners in attendance.

Moncton had the honour of hosting the 8<sup>th</sup> Francophonie Summit in 1999. With its thematic focus on youth, the Summit highlighted the key contribution of young people to the future of the Francophonie and to the world. The province's commitment to the rights of the child and the Francophonie has continued to grow since that time, complemented by its designation as the only bilingual province in Canada. In the intervening years, Moncton and the province of New Brunswick has emerged as a world-renowned centre for excellence for the advancement of the rights of the child. Indeed, the Working Group on the Rights of the Child within the Francophonie was created at the conclusion of the International Symposium on the Rights of the Child in 2010, an event which Moncton also had the distinction of hosting. It is therefore most appropriate and altogether in keeping with this admirable reputation that we gather here from all parts of the globe to participate in this inaugural event.

This year's Summer Course on The Rights of the Child has a special focus on Article 31 of the United Nations *Convention on the Rights of the Child* on the Right to Rest, Leisure, Play, Recreation, Arts and Culture. More specifically, Article 31 states:

1. States Parties recognize the Right of the Child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the Right of the Child to participate fully in cultural and artistic life and shall encourage the provision of appropriate

and equal opportunities for cultural, artistic, recreational and leisure activity.

While some may interpret leisure and play as an optional activity for children – something of a reward for when more serious matters have been attended to, such as homework and household chores – Article 31 recognizes that these are essential elements for the healthy development of the child.

Canada, and New Brunswick in particular, has been at the forefront of efforts to more justly recognise the rights and well-being of children. For example, in 2011, the non-profit organisation Canadian Coalition for the Rights of Children examined those factors that can hinder unstructured play in its report entitled *Right in Principle, Right in Practice*.<sup>1</sup> Assessed on the basis of the implementation of the *Convention on the Rights of the Child* in Canada, hindering factors include reduced free time, safety concerns, a preference for structured programs, reduced natural spaces for play, an excessive amount of passive time spent in front of TV and computer screens, and professionals who do not understand its vital role in child development.

Likewise, the New Brunswick Office of the Child and Youth Advocate in partnership with the New Brunswick Health Council also released a report in 2011 entitled *Play Matters!* This report focuses on the state of children's rights in the

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<sup>1</sup> Canadian Coalition for the Rights of the Child, *Right in Principle, Right in Practice, Implementation on the Convention on the Rights of the Child in Canada*, November 2011, <http://rightsofchildren.ca/wp-content/uploads/CCRC-Report-to-UN-on-CRC.pdf>, at p. 56–57.

province of New Brunswick, emphasising the value of children having enough time to relax, play and explore.<sup>2</sup>

The report also includes the Child and Youth Rights and Well-being Framework; a Framework that seeks to provide a more accurate picture of the health and well-being of children and youth through a variety of indicators. These indicators were developed with a view to tracking and assessing the province's progress in such matters, and represent an innovative approach to identifying and subsequently addressing any potential gaps that may exist.

At the risk of appearing somewhat counter-intuitive in the context of a course about the importance of *unstructured* play and leisure, I would like to take this opportunity to make reference to an analytical framework often referred to as the rights-based approach or rights-based perspective. Many, if not all of you are no doubt intimately familiar with this approach, but may be less aware of how it has been applied in the context of the work of the Senate of Canada. More specifically, it has been used by the Standing Senate Committee on Human Rights over the course of its studies on various aspects of children's rights.

The Committee outlined the importance of this approach in its influential 2007 report on the *Convention on the Rights of the Child*, entitled *Children: the Silenced Citizens*.<sup>3</sup> It has continued to keep this approach front and centre, exemplified by its more recent report on the sexual exploitation of children in

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<sup>2</sup> Office of the Child and Youth Advocate, *PLAY MATTERS! 2011 State of the Child Report: A Children's Rights and Well-being Framework for New Brunswick*, November 2011, <http://www.gnb.ca/0073/Child-YouthAdvocate/playmatters-jouercacompte/Report/2011StateChildReport.pdf>.

<sup>3</sup> Senate, Standing Committee on Human Rights, *Children: The Silenced Citizens, Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, April 2007, <http://www.parl.gc.ca/Content/SEN/Committee/391/huma/rep/rep10apr07-e.pdf>.

Canada.<sup>4</sup> The Committee is now in the process of completing a study on how cyber bullying affects Canadian youth, where a rights-based approach to this issue has been referenced and discussed at length by witnesses.<sup>5</sup>

Such an approach is well-suited to considerations of issues relating to the rights of the child, including the right to play, and is applied frequently in the study of children's issues. Indeed, the United Nations *Convention on the Rights of the Child* is itself often described as a rights-based treaty, while leaders in the field of the rights of the child, such as the Canadian Council on Child and Youth Advocates, engage in rights-based public education.

The Senate Committee's 2007 report emphasizes the need to focus on children as individuals with their own set of rights. The central idea is that children are not merely objects of concern or of charity requiring protection, but should also be recognized as persons *in* their own right and *with* their own rights. By treating them accordingly, they will also come to understand their responsibilities in society.

According to Justice Jean-Pierre Rosenczveig, President of the Board of Directors of the International Bureau for Children's Rights, the *Convention on the Rights of the Child* is deliberately oriented towards the 21<sup>st</sup> century in its recognition of the child as a person. Moreover, he asserts that a child should not be viewed as a small, fragile being that has to be defended against others, and against

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<sup>4</sup> Senate, Standing Committee on Human Rights, *The Sexual Exploitation of Children in Canada: the Need for National Action*, November 2011, <http://www.parl.gc.ca/Content/SEN/Committee/411/ridr/rep/rep03nov11-e.htm>.

<sup>5</sup> Senate, Standing Committee on Human Rights, *Studies and Bills*, [http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeStudies.aspx?parl=41&ses=1&Language=E&comm\\_id=77](http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeStudies.aspx?parl=41&ses=1&Language=E&comm_id=77).

him or herself.<sup>6</sup> Rather, children are endowed with a heart and feelings, and are possessive of rights.

As per the findings of the Senate Committee in its 2007 report, the three primary features of the rights-based approach reflect that:<sup>7</sup>

- all rights are equal and universal;
- all people, including children, are the subject of their own rights and should be participants in development, rather than objects of charity; and
- an obligation is placed on states to work towards ensuring that all rights are being met.

This approach demands a holistic form of programming to ensure widespread protection, while paying particular attention to the most vulnerable and marginalized persons in our society to ensure the full and equal development of individual rights.

Viewing children's rights within this framework means that children should be afforded protection beyond the level of simple survival or the provision of their basic needs. They should be further engaged in the creation of an environment where their rights can be protected as they grow into adulthood. One example in particular cited in the Senate Committee report illustrates how a rights-based

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<sup>6</sup> Justice Jean-Pierre Rosenczveig, President of the Board of Directors of the International Bureau for Children's Rights, International Bureau for Children's Rights Conference, *Making Children's Rights Work: National and International Perspectives*, Montréal, 18 November 2004, as cited in *Children: the Silenced Citizens*, supra note 3.

<sup>7</sup> Tara Collins, Senator Landon Pearson and Caroline Delany, Discussion Paper, *Rights-Based Approach*, April 2002, p. 3; Anne McGillivray, Professor, University of Manitoba, testimony before the Committee, 26 September 2005, as cited in *Children: the Silenced Citizens*, supra note 3.

approach represents a move from a more reactive case-based focus to one which is more proactive, systemic, and centred on prevention:

[I]f 100 children need to be immunized, the needs- or problem-based approach would say that after 70 children are immunized we have a great success rate of 70%. The rights-based approach recognizes that there are still 30 children that need immunization. The rights-based approach reaches out to even the most marginalized children and makes a difference in all children's lives.<sup>8</sup>

The rights-based approach is of particular importance in the discussion of children's rights because of their vulnerability. Parents, care-givers and other adults are for the most part in a position of authority, making the decisions that determine the course of children's lives. When the rights of children are at odds with the interests of their parents or other adults, it is all too easy to take a traditional, paternalistic and needs-based approach and forget to truly consider the best interests of the child and their rights.

As per the rights-based perspective, the right to play is a right that is equal to all others and is universal. Therefore, it is fundamental and must form an integral component of programs developed for children. In emphasizing the right to play, the Convention reminds us that this essential aspect of what it means to be a child is in fact something that is guaranteed in international human rights law. State Parties are required to respect this right and treat this aspect of children's lives with

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<sup>8</sup> Suzanne Williams of the International Institute for Child Rights and Development, testimony before the Committee, 21 February 2005, as cited in *Children: the Silenced Citizens* at p. 29, supra note 3.

the dignity it deserves. As stated by Fred Milowsky, the Deputy Child and Youth Officer of British Columbia when appearing as a witness before the Standing Senate Committee on Human Rights, the Convention “is a vision that asserts the fundamental dignity of children ... If you focus on dignity, then it is a natural flow to rights, because it becomes an entitlement.”<sup>9</sup>

State Parties to the Convention are obliged to find ways to promote and protect the right to play, whether by ensuring that all children have access to sports, libraries, playgrounds, and fitness programs, or by simply giving them the time to take in their surroundings and learn of life around them. The rights-based approach emphasizes that children should be participants in their own development. They should in turn be afforded opportunities that are unstructured by adults and thereby given the freedom to create their own rest, play and leisure.

It is also important to remember that the right to play does not cease at childhood. Article 24 of the *Universal Declaration of Human Rights*, drafted by a fellow New Brunswicker, John Peters Humphrey, guarantees the right to rest and leisure. The more recent United Nations *Convention on the Rights of Persons with Disabilities* also places high importance on the right to participate in leisure, sport and cultural events under Article 30. This treaty, which has been signed and ratified by Canada, is very much a contemporary rights-based treaty that focuses on the specific obligations of State Parties. Again, this was a focus of the Senate Committee’s recent work and it reported on Canada’s progress in meeting its

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<sup>9</sup> Fred Milowsky, Deputy Child and Youth Officer of British Columbia, testimony before the Committee, 21 September 2006, as cited in *Children: the Silenced Citizens* at p. 28, supra note 3.



obligations under this provision in its 2012 report: *Level the playing field: A natural progression from playground to podium for Canadians with disabilities*.<sup>10</sup>

As you proceed in the days ahead, during what will no doubt be a remarkable course, remember that play is healthy for all of us – both children and adults alike. It helps us to enjoy life. It helps us relax. It keeps us mentally and physically fit. And, it keeps us young.

There is no question that the combined efforts of the Working Group on the Rights of the Child within the Francophonie, the Canadian Council of the Child and Youth Advocates and the Université de Moncton will meet with great success and lay the foundations for an invigorating annual gathering of students, experts and practitioners. With that, I would like to take this opportunity to wish all participants a very rewarding – and playful – experience.

Thank you for your attention.

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<sup>10</sup> Senate, Standing Committee on Human Rights, *Level the playing field: A natural progression from playground to podium for Canadians with disabilities*, June 2012, <http://www.parl.gc.ca/Content/SEN/Committee/411/ridr/rep/rep07jun12-e.htm>.