

Bill C-35

An Act respecting early learning and child care in Canada

MARCH 2023

*This is a submission to the House of Commons Standing Committee on **HUMAN RESOURCES, SKILLS AND SOCIAL DEVELOPMENT AND THE STATUS OF PERSONS WITH DISABILITIES (HUMA)** prepared by the **CANADIAN NATIONAL COMMITTEE FOR UNICEF (UNICEF CANADA)***



UNICEF Canada
90 Eglinton St. E - Suite 400
Toronto, Canada
M4P 2Y3
(+1) 416-482-4444
policy@unicef.ca

INTRODUCTION

The Government of Canada is introducing legislation to enshrine its commitment to a national system of Early Learning and Child Care (ELCC) in Canada. UNICEF Canada has advocated for the establishment of such a system for many years, and is extremely pleased to see Bill C-35, *An Act respecting early learning and child care in Canada*, introduced in Parliament. This legislation and its accompanying funding agreements represent the single most significant investment in the rights and well-being of children in Canada in over a generation.

UNICEF plays a key leadership role in the analysis and distribution of high-quality policy analysis and data concerning children, including our flagship publications *The Canadian Index of Child and Youth Well-being* and the *UNICEF Innocenti Report Card Series on Child Well-being in High-income Countries*. Canada has consistently underperformed in international comparisons of children's status relative to its wealth (Canada ranked 30th out of 38 countries considered in Report Card 16 [2021]). In 2019, UNICEF Canada published a Canadian Companion to the UNICEF Innocenti report on family-friendly policies (which include child care, child-focused income benefits, and paid parental leave). While Canada does not currently collect data that allows its ELCC systems to be directly compared to peer countries, variations in enrolment between and within sub-national jurisdictions and challenges regarding accessibility and affordability were clearly apparent. Above all, significantly lower overall investment in this critical service for young children has been a systemic gap in Canada compared to other wealthy countries. Investments in "family-friendly" social care and protection policies and programs are necessary to achieve the kinds of child outcomes observed in the best-performing countries. The national ELCC system is exactly the type of commitment evidenced by many years of comparative international evidence generation and by research and practice within Canada that influences children's outcomes and status across many aspects of health, development and well-being. We look forward to tracking the returns on this momentous investment in Canada's future generations.

While Bill C-35 currently outlines a strong framework for the establishment of national principles of ELCC, further amendments are recommended for consideration so that Canada can seize the present opportunity to pass world-class ELCC legislation for 2023 and beyond, informed by global experience and the principles and jurisprudence of the UN Convention on the Rights of the Child.

SUMMARY OF RECOMMENDATIONS

Recommendation #1: Conduct a Child Rights Impact Assessment to ensure the *Act respecting early learning and child care in Canada* best achieves the interdependent rights protected in the United Nations Convention on the Rights of the Child.

Recommendation #2: Include the principle of the Best Interests of the Child as a guiding principle for the *Act respecting early learning and child care in Canada* and decisions made under the Act.

Recommendation #3: Include the long-term goal of universal and equitable access to child care as a purpose of the *Act respecting early learning and child care in Canada*.

Recommendation #4: Legislation should **ensure** families of **all** incomes access and benefit equitably from affordable early learning and child care programs and services.

Recommendation #5: Make specific provisions for the inclusion of children with disabilities in the *Act respecting early learning and child care in Canada*, including reference to accessibility and appropriate services.

ABOUT UNICEF CANADA

UNICEF Canada is a Canadian non-governmental organization (NGO) first established in 1955, and is one of 34 National Committees for UNICEF located in countries around the world. UNICEF Canada builds awareness, raises funds, and mobilizes Canadians across the country to help save and protect the world's most vulnerable children. We promote public policy and practices in the best interests of children, informed by our global experience and international best practice, to contribute to the fulfillment of children's rights in Canada and around the world.

As a UN agency, UNICEF is active in 190 countries and we have saved more children's lives than any other humanitarian organization. UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the United Nations Convention on the Rights of the Child and strives to establish children's rights as enduring ethical principles and international standards of behaviour towards children.

UNICEF is entirely supported by voluntary donations and helps all children, regardless of race, religion or politics. The only organization named in the United Nations Convention on the Rights of the Child as a source of expertise for governments, UNICEF has exceptional access to those whose decisions impact children's survival and quality of life. We are the world's advocate for children and their rights. For more information about UNICEF, please visit www.unicef.ca

A. CHILDREN'S RIGHTS AND BEST INTERESTS

Recommendation #1: Conduct a Child Rights Impact Assessment to ensure the *Act respecting early learning and child care in Canada* best achieves the interdependent rights protected in the *United Nations Convention on the Rights of the Child*.

UNICEF Canada is extremely pleased to see the repeated reference to the *United Nations Convention on the Rights of the Child* throughout Bill C-35 including in its stated purposes. In accordance with the stated purposes and with international best practice, it is recommended that Bill C-35 be subjected to a thorough Child Rights Impact Assessment (CRIA).

The use of CRIA is an approach to consider the impacts of proposed legislation on diverse children and youth and ensure their best interests. It supports decision-makers to take into account the potential positive, negative and/or inequitable impacts of a proposal on a range of rights and achieve the best balance or potential to fulfill these rights.

Globally, CRIA are considered best practice in the implementation and monitoring of children's rights under the UN Convention on the Rights of the Child (UNCRC, the Convention). The Government of Canada, led by the Department of Justice, is currently developing a suite of tools, training, and resources for the use of CRIA across federal government departments. Bill C-35 would make an excellent candidate for a "test run" of the CRIA process within the federal government, and would lead to a stronger Bill in the process.

General Comment No. 7 (2005) of the UN Committee on the Rights of the Child provides detailed guidance to state parties on implementing child rights in early childhood. While General Comment No. 7 should be considered in its entirety as part of a comprehensive CRIA process, the following paragraphs are of particular relevance to Bill C-35:

28. Early childhood education. The Convention recognizes the right of the child to education, and primary education should be made compulsory and available free to all (art. 28). [...] The Committee interprets the right to education during early childhood as beginning at birth and closely linked to young children's right to maximum development (art. 6.2). [...] States parties are reminded that children's right to education include all children, and that girls should be enabled to participate in education, without discrimination of any kind (art. 2).

23. Programme standards and professional training appropriate to the age range. [...] States parties must ensure that the institutions, services and facilities responsible for early childhood conform to quality standards, particularly in the areas of health and safety, and that staff possess the appropriate psychosocial qualities and are suitable, sufficiently numerous and well-trained. Provision of services appropriate to the circumstances, age and individuality of young children requires that all staff be trained to work with this age group. Work with young children should be socially valued and properly paid, in order to attract a highly qualified workforce, men as well as women. It is essential that they have sound, up-to-date theoretical and practical understanding about children's rights and development

24. Access to services, especially for the most vulnerable. The Committee calls on States parties to ensure that all young children (and those with primary responsibility for their well-being) are guaranteed access to appropriate and effective services, including programmes of health, care and education specifically designed to promote their well-being. Particular attention should be paid to the most vulnerable groups of young children and to those who are at risk of discrimination (art. 2). This includes girls, children living in poverty, children with disabilities, children belonging to indigenous or minority groups, children from migrant families, children who are orphaned or lack parental care for other reasons, children living in institutions, children living with mothers in prison, refugee and asylum-seeking children, children infected with or affected by HIV/AIDS, and children of alcohol- or drug-addicted parents.

32. The private sector as service provider. [...] The Committee recommends that States parties support the activities of the non-governmental sector as a channel for programme implementation. It further calls on all non-State service providers ("for profit" as well as "non-profit" providers) to respect the principles and provisions of the Convention and, in this regard, reminds States parties of their primary obligation to ensure its implementation. Early childhood professionals - in both the State and non-State sectors - should be provided with thorough preparation, ongoing training and adequate remuneration. In this context, States parties are responsible for service provision for early childhood development. The role of civil society should be complementary to - not a substitute for - the role of the State. Where non-State services play a major role, the Committee reminds States parties that they have an obligation to monitor and regulate the quality of provision to ensure that children's rights are protected and their best interests served.

Recommendation #2: Include the principle of the Best Interests of the Child as a guiding principle for the *Act respecting early learning and child care in Canada* and decisions made under the Act.

The best interests of the child is a standard for legal decision making that:

- a) considers their rights in the UNCRC;
- b) prioritizes the child's physical, emotional, and psychological safety, security, and well-being, and;
- c) incorporates the child's views and wishes, to the extent that they can be ascertained.

While the best interests of children are clearly the concern of Bill C-35, specific reference to the best interest of children should be included in the legislation as a guiding principle of decision-making under the *Act*, including for decisions regarding funding. The inclusion of this principle would ensure that decisions made under the proposed Bill would move the Government closer to its stated purposes, and that it cannot regress from that progress once made.

B. UNIVERSALITY

Recommendation #3: Include the long-term goal of universal and equitable access to child care as a purpose of the *Act respecting early learning and child care in Canada*.

The purpose of Bill C-35 is to “set out the Government of Canada’s vision for a Canada-wide, community-based early learning and child care system” and the principles that will guide federal investments in that system. Yet the current text of the Bill it is silent on what should be the most important principle of early learning and child care in Canada: universal access.

Children and families in Canada continue to face significant challenges in consistently accessing quality early learning and child care. These challenges are inequitably distributed across households in Canada, and are borne disproportionately by households who are already otherwise systematically disadvantaged. This includes Indigenous households, which are addressed in Bill C-35, but also low-income households, racialized households, geographically-isolated communities, and household with children and/or parents with disabilities.

As addressed in the introduction to this submission, the proposed investments covered by this legislation will have a tremendous impact on child health and well-being outcomes. But if not all children and their families are included, it will only increase the equity gaps that exists across childhoods. It is for this reason that we recommend that universal access to quality ELCC be included in the purposes of Bill C-35 as an explicit objective of the government.

Recommendation #4: Legislation should *ensure* families of *all* incomes access and benefit equitably from affordable early learning and child care programs and services.

Per Recommendation #3 above, the language contained in s.7(1)(b) of the Bill should be strengthened to outline as a guiding principle the government's aim to "**ensure** families of **all** incomes benefit equitably from affordable early learning and child care programs and services."

C. ACCESSIBILITY

Recommendation #5: Make specific provisions for the inclusion of children with disabilities in the *Act respecting early learning and child care in Canada*, including reference to accessibility and appropriate services.

Article 23 of the United Nations Convention on the Rights of the Child specifies that children with disabilities "should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community." As a State Party to the Convention, the Government of Canada has a duty to ensure that the rights articulated in art. 23 are duly considered in all policy and legislation, including Bill C-35.

Many Canadian households have suffered from a lack of access to appropriate ELCC in recent years, but nowhere has this been felt more acutely than among families with children with disabilities. Without dedicated training requirements for ELCC staff and specific frameworks for the inclusion of children with disabilities, many such families have been turned away from child care centres *even when there are spaces available*. While this may be understandable at the individual level where centres may be unable to guarantee child safety and well-being, at the systemic level it clearly constitutes discrimination and requires specific government intervention.

The inclusion of children with disabilities in ELCC settings should be a stated purpose of Bill C-35. Specific supports for workforce training and requirements for clearly

articulated strategies for integrated should also be considered, either in legislation or regulation.

Additional UNICEF resources for consideration:

[Are the world's richest countries family friendly? Policy in the OECD and EU \(unicef-irc.org\)](#)

[Canada ranks in the middle of the pack for family-friendly policies among wealthy countries | UNICEF Canada: For Every Child](#)

[Childcare and Working Families: New Opportunity or Missing Link | UNICEF](#)

[Family-friendly policies: Redesigning the workplace of the future | UNICEF](#)

Contact:

Lisa Wolff, Director of Policy and Research
LWolff@unicef.ca

Terence Hamilton, Policy Specialist
THamilton@unicef.ca