

CRAN - 2008

Landon Pearson Resource
Centre for the Study of
Childhood and Children's Rights

Children's Rights Academic Network

Inaugural Meeting

November 22nd, 2008

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Introduction – Landon Pearson

Overview of the Inaugural Meeting – Children’s Rights Academic Network

On Nov. 22, 2008, over thirty academics and stakeholders met in Ottawa to inaugurate the Child Rights Academic Network (CRAN). Developed by the Landon Pearson Resource Centre (LPRC) at Carleton University, with support from the Muttart Foundation, CRAN is Canada’s first network of academics involved in teaching, researching, and advocating for children’s rights. The objectives of the inaugural meeting were to engage in a youth-driven discussion of children’s rights, and to develop concrete plans for exploring CRAN’s parameters and future activities.

In the spirit of Article 12 (Youth Participation) of the UN Convention on the Rights of the Child, CRAN’s Nov. 22 meeting was structured to respond to the youth-centred Shaking the Movers II (STM II) conference, hosted by the LPRC in May 2008. At STM II, youth from across Canada discussed their cultural, linguistic, and religious rights, and considered how these rights interacted with Canadian values. A report on the findings of STM II was distributed in advance to CRAN participants, who in turn prepared written responses to the youths’ voices. On Nov. 22, four sessions were devoted to the STM II themes of cultural rights, linguistic rights, religious rights, and Canadian values. Each session began with an overview of youth perspectives, followed by presentations of the participants’ responses to those perspectives. The result was a lively and rich academic discussion grounded in the concerns and perspectives of youth.

Participants then discussed CRAN’s potential roles in the field of children’s rights, one of which would be to enhance collaborative research and another to provide an evidence base for advocacy. Most agreed that the two are intertwined. Several initiatives for future action were considered, including a special children’s rights issue of *Relational and Child Youth Care Practice*, joint recommendations to the UN Committee on the Rights of the Child, and members individually offering to act as partners and mentors with youth involved in the “Shaking the Movers” workshops. The day concluded with a discussion of how CRAN could best serve its members. Annual gatherings and the creation of an online forum were both seen as valuable.

The Landon Pearson Resource Centre will continue to develop CRAN as a significant network for Canadian academics engaged in children’s rights. Concrete next steps will occur in two worlds. Online, a virtual meeting place will be developed to create a space for members to question, discuss, and collaborate. In person, a second meeting will be held in 2009. This meeting will be based on the upcoming Shaking the Movers III conference, the theme of which is child rights in education as requested by the youth who participated in STM II. It is hoped that this

theme will bring greater focus to the importance of teaching children's rights in universities and post-secondary institutions. Finally, CRAN's membership will expand through various outreach programs.

The report that follows is a compilation of the CRAN participants' responses to the STM II themes. Their writing demonstrates that youth have been 'heard' and their perspectives integrated into current academic debate.

Participant Responses

Dr. Christine Ateah
Associate Professor, Faculty of Nursing
University of Manitoba

Response To Youth Perspectives on Religious Rights:

The Right To Profess and Practice Your Own Religion

Comments of youth recorded in *Shaking the Movers II* (June, 2008) regarding the right to profess and practice one's own religion included remarks related to the limits to religious rights. For example, two comments noted are that parents shouldn't force religious practices on children and "... if there are concerns safety-wise, it's a problem" (p. 14). I very much agree with this perspective that there is the need to encourage and facilitate the practice of religious freedom within families, but not to the point where children may feel they are forced to follow practices in which they are uncomfortable or if children are put at risk of psychological or physical harm.

In the preamble to the document Convention on the Rights of the Child (CRC) (1989), the UN proclaimed that "...childhood is entitled to special care and assistance," and "...that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community."

My interpretation of these comments is that families may need assistance to assume their important role in society to raise children in a safe manner. One of the issues which sometimes arises under the umbrella of religious rights, customs or practices is the use of physical punishment with children. Although there has been a concerted effort* over the last number of years to remove what amounts to the legal sanctioning in Canada's Criminal Code of the use of physical punishment with children by parents or caretakers, currently the practice continues although in Canada reported rates and

social acceptance appear to be decreasing. At times the argument of religious rights has been put forward including interpretations of religious doctrine wherein physical punishment is upheld as a necessary aspect of child rearing. However, countering the argument of parental rights is a growing body of evidence as to the harmful nature of the use of physical punishment with children (e.g., aggressive behaviour, injuries that can be fatal, see Gershoff, 2002) and the growing list of countries where its use has been banned. I believe that the Convention on the Rights of the Child acknowledges these risks and under Article 19 outlines that legislative, educative and other measures should be taken so that children are protected "... from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

Therefore, there may be times where religious practices and child safety concerns are at odds and my position is that child safety concerns must always come first. To that end, my area of research focus is on parenting education. I have completed research examining why parents use physical punishment and found that the most important reason was when parents had a positive attitude towards the use of physical punishment and also that they believed the misbehaviour of their young children was both serious and purposeful. Knowing that a lot of child "misbehaviour" is actually expected child behaviour that parents may not understand, I am focusing my research on determining the educational needs of parents of young children in order to develop programming on infant and child safety that would be provided to expectant and new parents. Currently there are no standardized educational programs of any sort for new parents. Parents generally learn from how they were parented and through their cultural groups and support networks. Therefore, unless there is a concerted effort to teach new parents about expected child behaviour and positive discipline (non-physical) responses with children many will continue to practice the type of caregiving behaviours that are common in their families/cultures and which sometimes may be harmful to children. The parent education program that I am developing also includes information related to preventing shaken baby syndrome and the risks of caregiver and infant bedsharing as well as other infant safety and caregiving information.

Dr. Sue Bennett

Director - Child & Youth Protection Program, Children's Hospital of Eastern Ontario
Associate Professor of Pediatrics & Psychiatry, University of Ottawa

Brief comments for Brief on "Identity and Belonging"

Shaking the Movers 11

Introduction

Personal & professional experiences will frame my response.

Personal

- a) I was an immigrant (from England) to Canada (as an adult) 25 years ago.
- b) I have worked in a number of developing countries as a pediatrician and have just returned from a 14 month sabbatical in a developing country in the Middle East and am still in Stage 4 re-adaptation. My life there was in stark contrast to living in Canada, with a very different culture and value system. The themes of identity and belonging relate perfectly to my recent and longer term experiences.

Professional

I am Director of the Child & Youth Protection Program at the Children's Hospital of Eastern Ontario (CHEO) and Associate Professor of Pediatrics & Psychiatry at the University of Ottawa. I have worked in the field of child maltreatment and protection for over 20 years. The scope of my clinical work includes the assessment, management and treatment (and prevention) of maltreated children and youth and their families in Eastern Ontario, Western Quebec and Baffin (Qikkitani) region. I work closely with community multi-agencies (social services, police, legal, justice, education etc) in the identification and investigation and treatment of these children and youth. My work is with high risk children & youth and their families and I recognize that the Aboriginal population is the most marginalized and vulnerable of that group and I will take this latter population's culture as my specific theme in the Brief.

Key Points from "Identity and Belonging"

Several key points from the Final report on "Identity and Belonging" resonate with me both personally and professionally. *Children and youth remarks in italics*

1. Language, culture and religion are crucial for a core personal identity and a feeling of belonging.

Personality is shaped by your culture

Loss of identity if culture is taken away

Language creates a feeling of belonging

Language shows who I am and where I'm from

Religion allows you to grow as an individual

2. The importance of schools and education as the problem, as well as the solution, for cultural reclamation. This issue was so important for the young people that Shaking the Movers 111 in 2009 will centre on Articles 28 and 29.

Suspension for speaking your language in school

Everything starts with education

Schools are a great way to start when learning about a culture

Should be a rights and priority to know about different cultures (Aboriginal, French- Canadian, and Anglo-Canadian)

3. Immigrant, indigenous and minority children are not only in their bio- psycho- social developmental transition but they are also caught in cultural and intergenerational tensions.

Parents should not force the hijab on their daughter

Your parents put stuff in your head-

Racism starts with parents, they put it in our heads...

Parents want their kids to hang around people of their own race...

It's hard to disobey your parents

Specific theme on Aboriginal culture

Aboriginal children and youth are the most marginalized and vulnerable group in Canada. This population represents Canada's own developing country.

Recent and relevant research relating to Article 30 and Article 29 1 C

1. **Final Report of the Aboriginal Healing Foundation (published January 2006)** <http://www.ahf.ca/publications/research-series>

The Report relates to the themes of Identity and Belonging, not only to the denial of the right to enjoy culture, practice his or her own religion and use his or her language but actual active obliteration of such during the residential school era. Between 1800-1990s over 130 government funded church run industrial schools, boarding schools and Northern hostels operated in Canada for Aboriginal children. Many children suffered physical and sexual and other abuses (loss of childhood, family, community, language and culture). This was an assault on the very essence of cultural identity and continuity by introducing institutionalized patterns of violence and abuse into the Aboriginal family and community systems.

Widespread family violence and abuse in Aboriginal communities has, since the days of the residential schools, passed through at least 3 and sometimes 4 generations in which chronic abuse and violence has been allowed to flourish and spread. The UN Convention on Genocide Article 2 (e) defines genocide to include "forcibly transferring children of the group to another group". Article 2 (c) "deliberately inflicting on the group conditions of life calculated to bring about the physical destruction of the whole or a part". The Foundation's Report recognizes that the family and societal levels of violence in Aboriginal communities has its roots, in part, in this historical trauma and the legacy includes a societal post traumatic stress as well as a wide range of social problems including addictions and physical and sexual abuse. The Report recognizes the need for an extended period of time for a supported healing process in order to recover.

2. **John Richards in Public Policy Simon Fraser University commented on a study published by the C D Howe Institute. *Globe & Mail October 29th, 2008***

A high school diploma makes any Canadian nearly twice as likely to hold a job.

Aboriginal Youth 20-24 yrs 60% completed high school
(50% First Nations (vs. Métis and Inuit), <40% on reserves)

vs.
Non – Aboriginal Youth 20-24yrs 90% completed high school

University Degree obtained by
Aboriginals 25-34yrs 8% (vs. 6% for 45yrs or older)

vs.
Non – Aboriginals 25-34yrs 30%

The report indicates that reserve schools are a federal responsibility with 30% less funding per student than provincial government funding (“Jordan’s principle in the education sector”)

The Study gives several recommendations:

Allow reserve schools to be run by Aboriginal Education authorities (e.g. Michael Mendelson at Caledonian Institute of Social Policy) which would professionalize administration and provide leadership on curriculum and assessment.

Allow students to take provincial exams

Good administrations to check decreasing grades and drop out

Curricula to add Aboriginal components

Engage Aboriginal Elders

Teach the language that is dominant in the community

Offer different languages after school for those who are interested in learning them.

It should be mandatory to learn native languages and about native culture. Likewise, you should teach not only the official languages, but also the culture behind them as well.

Before French, it should be native languages that we learn in school

There should be classes that teach our language

Within Ontario education system there is a lack of Indigenous teachings (history), rather it is a much more Eurocentric focus.

School is a great way to start, when “learning a culture” and for those who have lost their culture

There is a lack of education when it comes to other cultures and also a lack of communication and understanding

There is a lack of opportunity to learn

My own work relevant to Article 30 and 29 1 c:

Presently conducting a needs assessment with social services in Baffin (Qikkitani)
Boulton Initiative infusing child rights into health and mental health curricula and front line services and policy

Natasha Blanchet-Cohen, PhD
Assistant Professor, Faculty of Arts and Social Sciences
International Institute for Child Rights and Development
Concordia University

‘Cultural Rights’: The Value of Dialogue

A dialogue among children, youth, policy makers and academics has begun, and I am honoured to be at the table.

The issue of culture is particularly delicate, as we are all products of different cultures with their own biases; our worldview shapes who we are. Living in a multi-cultural society, we need tools to dismantle our cultural differences.

Dialogue is a first step to peer into and understand other cultures, so we can build community together.

As you evocatively state, culture is both inherited, and also actively created. Nowadays, young people constantly cross frontiers, and navigate between cultures, facing conflict, but also building bridges of communication among home, friends, school and community. You bring history, and will also shape it.

You express agency as you intentionally give meaning to events in your surroundings, a reality that educators and decision-makers can no longer ignore (Blanchet-Cohen, 2008). You are not only social actors who express wishes, demonstrate strong attachments, and so on, but are agents whose interactions make a difference to relationships and decisions. You play an active role in negotiating both your own development and that of your societies (Mayall, 2001).

Supporting your cultural rights is about recognizing your realities, while multiplying the opportunities for you to define yourselves within a changing culture. Often, there have been misunderstandings because of the colour of your skin, where you live or what you eat. You may be a 'victim' of preconceived judgments and discrimination. You speak boldly against discrimination and marginalization. As educators and decision-makers, we need to learn how to genuinely engage 'marginalized voices' (Blanchet-Cohen & Salazar, 2009). Across our country, young people are opening paths of communication. We as adults need to dispel our fear of your leadership, give you space to bring your views to the table, and engage you in dialogue around difficult issues. There are no simple answers to the complex issues affecting you; what affects you affects us all. Understanding your issues begins with respecting your worldviews. Supporting cultural rights of children requires that we have appropriate knowledge, but also self-awareness, skills and commitment to have difficult conversations!

You include in your solutions a request for holidays that reflect diversity, and museums that show varied culture. Indeed, these tangible ideas can be part of a comprehensive solution that addresses the depth of the issues you identify (Fletcher, 2000). Culture is complex and alive. It can be risky to box culture into a museum or to reduce its celebration to holidays. Perhaps, we could look at how cultural rights can be embedded into our communities to transpire in the methods and content of our programming and practices.

In my view, answers lie in your identification of the 'lack of education and opportunity to learn' about other cultures. Real progress can be made by creating spaces for dialogue in our schools and community, amongst young people with different lived experiences, as well as with and between adults. Respect of cultural rights will come from discussing

not only our differences, but also our commonalities. The process will not be easy; as you so eloquently identify, culture is a sensitive topic, closely tied to who we are. The learning will be ongoing, and at times will be neither clear nor conclusive. Perhaps we need to accept that as being our challenge!

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Dr. Carole H. Carpenter
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A Response To "Shaking the Movers" (2007)

As a newcomer to CRAN, I am loathe to enter into general debates of which I am not fully away; hence in this brief commentary I propose to focus on the points made with respect to "Article 12: The right to participate and to be heard." Many of the issues raised in this section were central to the discussions that occurred at York as the Children's Studies Program was reviewed, adapted, approved at various levels and eventually mounted in Fall 2007. Even now, in our second year of operation, faculty and students in the program frequently encounter critics who query the promotion of child and youth participation. This situation underscores just how difficult it is for people generally to understand let alone embrace, the participation rights outlined in the UNCRC. Provision and protection rights fall easily within the preoccupation with safety and the concerns about "stranger-danger" that pervade the construction of contemporary childhood. But the very consideration of participation rights involves a reconstruction of children/youth as authoritative sources on the state of being a child/youth today. It is this leap in what amounts to respect for children's voices that is necessary for young people's participation rights to be realized.

If children's voices are to be not merely voiced, but truly *heard* in the sense of being carefully listened to, weighed and considered in any discussion/context to which they might pertain, then they must be perceived as of potential worth, as bearing knowledge of some nature and being important to the development of understanding. It was the authoritative nature of children's voices on their own state that was invariably challenged by my colleagues at York. But given that their status as, first and foremost, human beings was never questioned, the movement to acceptance of their special knowledge of what it is to be a child/to live a contemporary childhood/to have the special rights contingent on this state be ignored or violated eventually had to be accepted. Who better to know? What greater authority might there be? Whose voice demanded greater credence?

The core issue in such discussions invariably came down to the widespread belief that today's child already has too many rights (as indicated on p. 6), and far too little understanding of the responsibilities directly associated with the exercise of those rights. As noted on page 5, "Participation is not only exercising a right but also a responsibility to get involved." That said, how is the principle that "one person's right isn't more important than another person's right"(p. 6) to be promoted to the current generation of "me-centered" young people.

Evidently enhanced and enriched rights education is needed, though not necessarily in schools, but perhaps better through parenting workshops that make adults more aware of the value of rights-based child-rearing as the best means to prepare youngsters to become empowered to deal with the exigencies of life. It is inadequate to state that adults "should" or "must" do whatever – children need to assume some ownership of their rights by offering considered opinions on matters of concern, strategies for change that really might work, programs that embody the wisdom of insiders AND address agenda of social concern. It comes down to assuming personal responsibility for enacting change – to do so is to be in possession of one's rights. As in any social movement involving marked change, the success of those who lead through putting the principles into action is the surest guarantee of converting others to adopting the principles themselves.

How important might it be for children to be heard on how best to support child migrants to this country; to decrease the violence in our schools or homes, for that matter; to help children manage the media aggressively marketed

to them in ways that promote their best interests and so forth. Children *know* and they are called upon to help adults understand young people and their needs in order to effect changes in the larger world.

It is to this end that York's Children's Studies Program seeks to train persons who can discern and work in the BIOC; to engage children as active participants in (not merely subjects of) research concerning matters on which theirs is an invaluable and authoritative voice; and to recognize the importance of hearing from children by preserving such research (in the Canadian Children's Culture Collection at York) so that it may inform future studies of children and childhood.

Through its journey of discovery and articulation of its distinctive philosophy and methodology, York's Children's Studies Program emerged as humanistic, rights-based, child-centered and, essentially "childist" in the sense that it focuses on empowering children and giving them agency in their lives. To this end, the program recognizes and interacts with children as authorities on the state of being child and seeks to understand that state from the perspective of the child rather than in terms of adult agenda. It also involves children as researchers and as primary participants in community-based programs that help develop Children's Studies students' abilities to interact ethically with children, to listen carefully so that they can hear the voices of young people and thus, work in their best interests. Participation truly is "not only exercising a right but also a responsibility to get involved"(p. 5). It is making what young people know about their state as children matter in effecting changes in their world and, thereby, in the lives of future children.

Dr. Cheryl van Daalen-Smith, RN, PhD
Associate Professor, School of Nursing
Faculty of Health, York University

BROADENING ARTICLE 24:

Children's Rights to Health, to Health Care and *in* Health Care.

For the purposes of our first meeting as a group of child rights scholars, I chose to comment on some of the youth comments regarding health found in *Shaking the Movers I*. In that report, the young persons assembled by Senator Pearson took up Article 24. To me, the CRC doesn't go far enough in articulating children's rights to health. Indeed, I

believe that the entire CRC is not only a treaty, but a *health* treaty. In fact, I believe that Article 24 should outline children's rights to health, to health care and within health care settings. Below are some introductory comments concerning two components of the expansion I'm calling for. Above all else, my message to the youth that the Honorable Landon Pearson has and will assemble: I believe that all children and youth have a right to health in its broadest of conceptualizations, but to also be heard and have their opinions and needs taken into full account in every health care setting. *For the full commentary see:*

Van Daalen-Smith, C. (2007). A Right to Health: Children's Health and Health Care Through a Child-Rights Lens. In K. Covell & B. Howe, (Eds.), *A Question of Commitment: Children's Rights in Canada*. Waterloo: Wilfred Laurier Press, pp 101-136

Children's Rights to Health

By signing the UNCRC, Canada agreed that children have a right to health and health care. An entire text could be written about the state's responsibility to protect and promote children's health. From autonomy, dignity and justice to education and freedom from harm, understood in the broadest terms, "health" underpins the UNCRC. The primary article in the UNCRC that describes children's health rights is article 24. This article describes the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. In addition, under article 2, the principle of non-discrimination requires that these health rights be accessible to every child regardless of their situation or status, and, under article 3, all decisions affecting the health or health care of the child require that the best interests of the child be a primary consideration. However, a broader definition of health would encompass all the substantive rights in the UNCRC.

Defining Health

In order to understand how health is ensured through the implementation of the UNCRC, a broad conceptualization is necessary. The word "health" is derived from the Old English word "hæle", which means whole. According to the World Health Organization, health is much more than the mere absence of disease. Health is most often experienced as harmony of body, mind, spirit and environment.ⁱ Health is a state of physical, mental and social well beingⁱⁱ. According to the Ottawa Charter for Health Promotion, the pre-requisites for health include: food, water, shelter, a stable ecosystem, equity, peace and social justiceⁱⁱⁱ. Raphael goes further and adds that in order to achieve health, one

must also have social inclusion, security, health-care services, adequate income, and particular attention to an individual's well-being during childhood^{iv}. Labonte says that health is most often experienced as a sense of control over one's life and living conditions, as having hope, as being able to do things one enjoys, and as having a sense of purpose, belonging and connectedness to others. In addition he argues that health includes a sense of being energized, being loved, loving, fitting in, doing, giving, receiving, sharing, having meaning in life, happiness, creativity, spiritual contentment, wholeness and playfulness^v.

Health and quality-of-life are related, and this relationship is central to a discussion of children's health. For example, various health scholars understand health as wholly related to the notion of "human becoming," and have argued that the role of health professionals is to advocate for the quality-of-life of people for whom we care^{vi}. Quality-of-life is often defined as the degree to which a person can take advantage of important possibilities in his or her life. According to Raeburn and Rootman, the capacity to make the most of opportunities depends to a great extent on how much control a person feels she or he has. Control has to do with autonomy and the ability to do things. It also involves how much choice a person has which, in part, is an environmental or social issue^{vii}. To have one's rights respected by default enables health, quality-of-life and well-being. Given that health is the continued enjoyment of dignity, respect, choice, agency, autonomy, belonging and purpose, the UNCRC is, in my view, a document that ensures the health of children and youth in the broadest sense.

Children's Rights *In* Health Care

Absent in article 24 and in the 2003 *Concluding Observations* of the UN Committee is reference to children's rights *in* health care. Virtually all of the rights described in the UNCRC apply to the health care system. Among these include the child's right to be heard in health decision-making, a right to privacy and confidentiality in regard to medical information, a right to respect of culture and religion, a right to rest, leisure, play, and association, and a right to be educated about one's rights. There are a number of problems in Canada's implementation of articles in the UNCRC dealing with these rights. I will focus on two areas of concern: (1) awareness of the UNCRC among health professionals (article 42), and (2) the child's right to a voice in health decisions (article 12).

Problem of Awareness

Article 42 requires that adults and children be made aware of the rights of the child as described in the UNCRC. As urged by the UN Committee on the Rights of the Child, it is particularly important that professionals working with children, including health care professionals, be made aware of the rights of the child. The reason for this is that with knowledge, professionals will be keener to respect the Convention rights of the child and to inform children themselves of their basic rights. However, few pediatric health care professionals are familiar with children's rights despite the UN Committee's repeated recommendation that state parties integrate the Convention into training curricula for professional groups who work with children.^{viii} In fact, the Convention has not been implemented in any systematic, sustainable or policy-based way, and this inattention leaves the Convention's policy and practice implications largely misunderstood or unrecognized by most health-care professionals.^{ix}

Canada's future pediatric practitioners must be taught the UNCRC while in university or college. Pediatrics must be reaffirmed as a specialty worthy of compulsory study for all health professionals. All health professionals will engage with children or youth over the course of a career and, whether the children are their community aggregate, patients, or a significant person to their patients, understanding of children's rights is critical. In addition, for those who then earn a privileged position as pediatric health professionals after graduation, every health-care institution, service or agency must be not only well versed in the UNCRC itself, but must make orientation to the Convention a compulsory component of each employee's orientation. An expectation must be developed across the country that practice rooted in children's rights is a component of competence for pediatric health care practitioners, and annual articulation of such practice should be made a part of every performance-review template. There is no reason that this cannot be done. The provision, protection and participation rights afforded to Canadian children in the UNCRC *fit* with the various codes of ethics of most of the health professionals who work with children in Canada's health-care system.

A Right to Be Heard in Health Care Settings and Situations

Participation rights are described in articles 12 and 13. Children have the right to a voice in matters that affect them, including health matters, and they have a right to seek, receive and impart information, including health information. Given that some adults believe that children are incompetent or incapable of making an informed decision on

their own health or life, children's rights to have their views considered are often denied. Children and youth must be free to share their opinions regarding all matters that affect them and, under article 12, these views must be given "due weight in accordance with the age and maturity of the child". This right is found to be problematic by many health professionals and institutions.

There remains much debate across the country regarding a child's right to consent to health care. In Ontario, consent is determined through a child's ability to pass tests of understanding and appreciating the consequences of a medical treatment. But in provinces such as Alberta, it is based on a specific age – age 18. In Nova Scotia, it is based on a different age – age 19. But there is hope. *Consent and Confidentiality in Health Services* is a new report that examines critical issues concerning consent and confidentiality for children and youth engaged with the health-care system.^x The report culminates in a helpful list of critical principles associated with ethical understanding of consent and confidentiality. Firmly rooted in the UNCRC, these recommendations are helpful for health-care professionals hoping to navigate article 12. They start with the notion of "presumed capacity." The argument is that children should be presumed capable of consenting to treatment and to decisions regarding the release of personal information. Children and youth should not be presumed incapable simply because of age, disability, status or medical condition^{xi}. Secondly, the notion of "developing capacity" is introduced. Consent should be conceived as an ongoing process rather than an isolated event. A good consent process, the report's authors argue, involves an ongoing and active dialogue between the child, medical practitioner and, in some cases, the guardian or another adult. The ideal process allows all involved parties to consult one another, share fears, concerns and information, and invite and respond to each other's ideas. Consent must be informed^{xii}.

Canadian pediatric health professionals strive to inform children and youth regarding their health status, the available treatments and the potential results. At times, however, this information is tempered based on what the individual practitioner decides is *appropriate* for a child based on his age, supposed cognitive ability, and mental health status. The information that a child or youth receives is often decided by the adults who are providing the service. Pediatric health professionals *must* ensure that the child or youth be provided with all available information regarding their health and the options in front of them, even if this information leads to that child or youth refusing treatment. The 2008 outcome involving 13 year-old Hanna Jones in the UK, is promising. Hannah, who after nearly 10 years of being

treated for leukemia, refused to be placed on a heart transplant list – explaining she had been through enough. She was heard, and *her* lens on her lived experience was taken into account. It is my hope that with Hanna’s leadership, this can be viewed as an exemplar in any and all upcoming ethics reviews concerning the rights children and youth have when engaged in health care settings.

ⁱ Jean Watson, *Nursing: The Philosophy and Science of Caring*, (Boulder, CO: Colorado Associated University Press, 1985)

ⁱⁱ World Health Organization (WHO), *Constitution*, (Geneva: WHO, 1946)

ⁱⁱⁱ World Health Organization (WHO), Health and Welfare Canada (HWC), & Canadian Public Health Association (CPHA), *Ottawa charter for health promotion*. (Ottawa: CPHA, 1986)

^{iv} Dennis Raphael, “Introduction to the Social Determinants of Health,” in Dennis Raphael, ed., *Social Determinants of Health: Canadian Perspectives* (Toronto: Canadian Scholars Press, 2004), p 85.

^v Ron Labonte, “ Exploring Health,,: In *ParticipACTION* (Centre for Health Promotion, University of Toronto, 1998), pp 15-20.

^{vi} Rosemary Rizzo Parse, “Human becoming: Parse’s theory of nursing”, *Nursing Science Quarterly* 5, (1992): 35-42.

^{vii} *Ibid*, p. 55.

^{viii} See, for example, CRC/C/15 (Add.37 (June 1995). For a broader discussion, see R. Brian Howe and Katherine Covell, *Empowering Children* (Toronto: University of Toronto Press, 2005), pp. 29-35.

^{ix} Richard Mitchell, “Ideological reflections on the DSM-IV (or Pay no attention to that man behind the curtain Dorothy”, *Child and Youth Care Forum* 32, 5 (2003): 281-298.

^x Judy Finlay, Jill Magazine and Amanda Hotrum, “*Consent and Confidentiality in Health Services: Respecting the Right to Be Heard*”(Toronto, ON, Office of Child and Family Service Advocacy, 2005)

^{xi} *Ibid*, p. 29.

^{xii} *Ibid*, p. 31.

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Response to young people at *Shaking the Movers* workshop on Belonging and Identity

Thank you for providing the space and support for young people to articulate their views about their rights as well as the opportunity to respond to the young people’s contributions to *Shaking the Movers*. This brief paper will first summarize some of the workshop findings and then identify relationships with some of my past work and describe the recent inspiration of future research.

There are many strong messages from the workshop participants. A child's culture forms an essential dimension to his or her identity. As the young people discussed, identity concerns such concerns as linguistic, cultural and religious rights, which are all elements that have generally divided, rather than united Canadians.

The participants recognize the role of family to language and identity and clearly linked the right to life issue and belonging from Aboriginal languages. To me, these comments about language and its importance in defining a person and his/her way of life immediately illustrates the catastrophe of discriminatory residential schools upon Aboriginal children and their families.ⁱ In relation to Canadian values, one comment was particularly thought-provoking, that: “Canadians try to keep the Americans out, the French in and hide the Aboriginals” (p. 19). Reactive responses, based on fear and control, highlight the importance of overcoming discrimination. Young people recognised the importance of money in measuring political will (p. 13), and as we also found in our recent report on CRC general measures of implementation, money in terms of budgets and expenditures also have great significance for children’s rights including Aboriginal children.ⁱⁱ

There was also great insight in relation to language and religion, which the participants acknowledged can support either exclusion or belonging. The significance of French for Francophones is very clear whereas Anglophones are able to take their means of communication for granted in their environment. The participants’ support for diversity is striking (p.15) as is their recognition of the debate related to children’s unwanted medical treatment due to religion (p.15).ⁱⁱⁱ

The young people’s discussion of culture is holistic, reflecting an all-encompassing perspective, and their attention to solutions is forward-thinking. The comment about: “You need to meet people halfway, you can’t get everything you want” (p. 16) reflects a balance between rights, that rights are not zero-sum. It reflects the objectives of collaboration and communication, mirroring the outcome from another example of consultation. Children with disabilities in South Africa identified themselves as central to overcoming the many daily barriers that thwart their most important right of inclusion and to effecting change.^{iv}

There are various areas requiring academic attention as child rights remains a relatively new discipline, particularly in Canadian academe. Consistent with the approach and findings of this workshop, my recent preoccupations have been monitoring and child participation. I have considered the relationship between the two processes.^v My doctoral research found different approaches to monitoring, which have significance for both the process and result.^{vi} My thesis explores and affirms the importance of a child rights-based approach,^{vii} which is guided by the CRC’s four guiding principles.^{viii} I argue the general principles are not only essential to implementation, but also monitoring. For instance, non-discrimination in monitoring requires every child be considered regardless of his/her background or circumstances to prevent excluding or marginalising anyone and should also recognise the importance of group identity to which a child might ascribe. For instance, attention must be given to the needs of a child. Data collection and analysis must ascertain the implications of one or several affiliations, such as membership in a rural population, an Aboriginal nation, or having HIV/AIDS, in order to highlight discrimination. As the workshop highlighted the differences among young people, my dissertation also affirmed the importance of disaggregated data to understand the realities of rights for individuals and across group distinctions that relate to a child’s identity and yet may not be considered or inadequately so.

The *Shaking the Movers* report from the workshop on Belonging and Identity has inspired me to undertake new research. The findings, along with some other influences as of late, have brought me to a new conclusion. If children are considered in public policy for example, they are generalised into one amorphous group, lacking in distinction. But as we all know, child rights transform approaches to, and understandings of children and that rights empower children. It is my recent observation that some children in various contexts (war-affected, sexually exploited, etc.) are rejecting discrimination against them in the form of labels, stereotypes and stigmas associated with their situation, identity, experiences and/or group membership. The importance of an individualised identity, which is authentically true to oneself, respects human dignity,^{ix} but this understanding of identity is not yet protected in child rights law.^x Indeed, the *Shaking the Movers* workshop clearly shows the differences in opinion, experiences and perspectives. Hence, child rights not only inspire and guide adults in approaching and understanding children, but they also support children to define themselves and determine their own identity, and defend themselves against stigmas, labels and so on. Identity develops “always through dialogue and sometimes struggles with significant others - those persons who matter to the individual constructing their identity”.^{xi} So some children are determined to ensure that others know that there is more to them than these

categorizations. While there may hold some truth or relevance, nonetheless these generalizations only reflect part of them, not all of them.

Hence, children should be given opportunities to explore and develop themselves as they have in this workshop. Ronen explains that identity involves two dimensions for every child: 'A children's rights regime should ideally be responsive to the complementing needs 'to be' and the need 'to become'.^{xii} Child participation is critical in the process of elaborating the right to identity as enshrined in article 12 in the UN Convention on the Rights of the Child (hereinafter CRC). The *Shaking the Movers* workshop is another example, as has been many times before, that we cannot talk about children without them. Moreover, as the report demonstrates, children have positive, proactive approaches to issues and offer valuable solutions to issues.

In terms of follow-up, I plan to develop a paper to explore what children consider relevant to their right to identity in the CRC. While identity is related to the right to a name, birth registration and the right to be cared for by parents (CRC a. 7), identity also requires preservation in some instances as per CRC a. 8 as well as the child's perspective as per CRC a. 12. The law as well as society must encourage child participation in defining who the child is^{xiii} because a child's definition of their identity should be protected as part of the commitment to his or her human dignity.^{xiv} Such an interpretation is not only influencing the child's role in realizing his or her right to identity but also others' image of children from victims of situations to autonomous and responsible actors who have much to contribute to situations.^{xv} The paper would discuss the child's right to identity, recognition of that right, and particularly engagement, and would incorporate some workshop perspectives. Analysis would relate to demands of family life, non-discrimination, and, potentially some harmful cultural demands. It will be argued that a comprehensive, static understanding of the child's right to identity and its requirements is inappropriate and likely harmful due to the range of circumstances, priorities and values of the diversity of children. In general, efforts to preserve a child's identity should be contextualised to respect the particular demands of the situation.

Endnotes:

ⁱ The General Comment on the rights of Indigenous children from the UN Committee on the Rights of the Child will be welcomed so that Canada and other countries, who do not seem to heed their own indigenous peoples, can receive authoritative international guidance about better approaches to Aboriginal children and their rights.

ⁱⁱ See Chapter Two, in Tara M. Collins, Ph.D. & The Honourable Landon Pearson, "Not There Yet: Canada's Implementation of the General Measures of the UN Convention on the Rights of the Child", Landon Pearson Resource Centre for the Study of Childhood and Children's Rights, *Carleton University, Ottawa, Canada*, March '08. In press with UNICEF- Innocenti Research Centre, Florence, Italy, expected publication in November 2008.

ⁱⁱⁱ This point is also recently reflected in the recent statement of the Canadian Paediatric Society in supporting the wishes of young peoples with life-threatening illnesses; Canadian Paediatric Society, News Release: "Provinces should recognize the wishes of children and youth with life-threatening illnesses, advise paediatricians", Nov. 5, 2008, www.cps.ca/english/Media/NewsReleases/2008/LifeThreateningIllnesses.htm last visited 18 Nov. 2008.

^{iv} Youth Workshop report (2001), organised by DICAG, Cape Town, in G. Lansdown (2002), *Disabled Children in South Africa: Progress in implementing the Convention on the Rights of the Child, 2002, 2002*. London: Disability Awareness in Action for Rights for Disabled Children, 26.

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- ^v See further: Tara M. Collins (2006), "Focus on Child Participation in Monitoring Child Rights" Submitted to the UN Committee on the Rights of the Child September 2006, http://www.crin.org/docs/GDD_2006_Tara_Collins.pdf; and manuscript submitted for consideration to *Children & Society*, on 06-Nov-2008.
- ^{vi} See further Tara M. Collins, "The Significance of Different Approaches to Monitoring: A Case Study of Child Rights", 12 *International Journal of Human Rights*, pp. 159-187, April 2008.
- ^{vii} Tara M. Collins, *The Monitoring of the Rights of the Child: A Child Rights-Based Approach*, Ph.D. dissertation (law), University of London, defended in December 2006.
- ^{viii} UNCRC (1991), *Guidelines for initial reports of States Parties*, UN Doc. CRC/C/58, III.
- ^{ix} Taylor et al., in Ronen, 'Redefining the Child's Right to Identity', 18 *International Journal of Law, Policy and the Family*, 149 (2004).
- ^x Ronen, 'Redefining the Child's Right to Identity', 18 *International Journal of Law, Policy and the Family*, 149 (2004). He suggests the drafting of an Optional Protocol to the Convention on the Rights of the Child on p. 173.
- ^{xi} Taylor et al., in Ronen, 'Redefining the Child's Right to Identity', 18 *International Journal of Law, Policy and the Family*, 149 (2004).
- ^{xii} Ronen, 'Redefining the Child's Right to Identity', 18 *International Journal of Law, Policy and the Family*, 150 (2004).
- ^{xiii} *Ibid.*, 153 (2004).
- ^{xiv} Taylor et al., in Ronen, 'Redefining the Child's Right to Identity', 18 *International Journal of Law, Policy and the Family*, 151 (2004).
- ^{xv} See for example, discussion of the child's image involved in the resolution of parental separation in Kaganas and Diduck, 'Incomplete Citizens: Changing Images of Post-Separation Children', 67 *Modern Law Review* 959 (2004).
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Response to Shaking the Movers II: Canadian Values

The importance of identity is a recurrent theme in each of the four areas the youth discussed –linguistic, religious, and cultural rights, and Canadian values. Developing a sense of personal identity is a vital developmental task for adolescents and youth, and the three rights under discussion are key to the exploration and articulation of the self. The irony is that while so many young people appear to be denied free expression of their religion, language, and culture, Canada professes to place high value on the provision of these rights. The two articles of the Convention on the Rights of the Child that the youth discussed (29.1C and 30) reflect well the official Canadian values of respect for diversity and multiculturalism. However, there remains a gap between values expressed and values practiced.

As the youth explained, *linguistic rights* are important to a sense of self and a sense of belonging to family and community. But linguistic rights are not always respected. Those whose linguistic rights are denied (in Canada this is often our Aboriginal youth) feel marginalized. *Cultural rights* are important in helping youth express themselves; and they are important also in providing youth a psychologically desirable link to their past and to their future. Yet cultural rights too frequently are denied. Discrimination toward youth is common. In their discussion, the youth provided examples of how they are treated in stereotypic ways on the basis of their clothing, skin color, sexual orientation, and music preferences. *Religious rights* are needed for young people to develop their values framework and their spiritual selves. These rights also often are denied. Parental wishes, personal wishes, and societal discriminatory practices often collide forcing youth to hide, rather than practice, their religious beliefs.

The denial of these rights, despite their official value in Canada, suggests the importance of educating children and adults about the Convention on the Rights of the Child as described in article 42, and as frequently recommended by the UN Committee on the Rights of the Child. There is now clear and compelling empirical evidence that when children's rights are explicitly taught, respected, and modeled in schools, mutual understanding and respect increase, and discrimination and stereotyping decrease. In essence, rights education is a type of global citizenship education through which we can achieve rights-respecting societies – societies in which all young people are free to express their religion, language, and culture.

Few signatories to the Convention have taken their article 42 obligations seriously. The county of Hampshire in England is an exception. Now in its fourth year of a comprehensive program of school reform, Hampshire Education Authority provides not only a model of how to implement article 42, but also a demonstration of the very powerful outcomes of so doing.

Children who learn about their rights in a rights-respecting school show the values, attitudes, and skills that comprise democratic global citizenship. They value rights for all others and they embrace diversity. Their classroom and school-wide experiences with participation and with rights-respect promote critical thinking within a rights-framework. They also become increasingly socially responsible, and respectful and protective of the rights of others. The types of

intolerances and discriminatory practices that the youth who convened in Ottawa in 2008 described are significantly lessened or even eliminated.

The children of Hampshire have learned what their Convention rights are, and have learned that these same rights apply to each and every child around the globe. They have learned that if they want *their* rights to be respected – including their linguistic, religious and cultural rights – then they must respect the rights of all others. And they have developed empathy for all others based on identification with them; not sympathy that leads to charity, but empathy that is based on shared rights and the realization of the negative effects of rights violations. In consequence, these children are taking action to respect the rights of others. Such action has included respect for and friendship with children with religious, linguistic, cultural, and sexual minority status. They have taken initiatives to help children whose rights are being infringed upon locally and in the developing world. And they have pressured local and national politicians to take more seriously the rights of the child. Of particular interest has been seeing these rights-respecting attitudes spread from the school to the home and to the community. Teachers, parents, and community leaders have become increasingly supportive of children's rights, and of rights-respecting schools as they observe their powerful effect on the children.

The Convention on the Rights of the Child describes a global consensus on what childhood should be. As such, the Convention provides a shared values framework. It is a values framework that can guide decision-making and behavior as we have seen among the children of Hampshire. It is a values framework that, consistent with articles 28, 29 and 42, should be adopted for all schools in Canada. It is, after all, a values framework that is consistent with Canadian values. When we treat and educate Canadian children as full contemporaneous citizens with independent rights, we take seriously Canadian values. Only then will the gap between values expressed and values practiced be closed. Only then, will youth really enjoy the promise of the Convention to enjoy their linguistic, cultural, and religious rights, and the freedom to define themselves.

Cultural Rights and the Right to Protection

The youth participants have spoken to the multi-faceted nature of the concept of “culture”. They have identified:

- the knowledge dimension: wisdom, history, learning and experience, and also the importance of others’ knowledge of our cultures
- the communication dimension: language, symbols and the passing down of knowledge from one generation to the next
- the belief dimension: morals, values, worldviews and spirituality
- the identity dimension: a sense of belonging and of place, community
- the tradition dimension: food, clothing and dancing

Our notions of “culture” include all of these dimensions and they are profoundly meaningful. They give us our sense of who we are, where we belong and what we value. But while we value our own cultures deeply, we so often devalue those of others whose languages, beliefs and traditions are different from our own. The youth provided examples of racism manifested as fear, hate, segregation, discrimination and stereotyping. It is ironic that one of the aspects of life we value most – culture – is also our most powerful weapon against others. To denigrate another person’s identity is to shoot an arrow through their heart and spirit.

At the societal level, the denigration and destruction of culture is a weapon of war. While wounding bodies can weaken an enemy, wounding spirits can destroy it. Tragically, although we view ourselves proudly as a multicultural society in which all beliefs and traditions are respected, our history is one of committing cultural genocide. Laws have been used as tools of oppression, and education has been a means of stripping children’s identities from them. Today, we have begun to recognize that attacks on culture are attacks on the souls of individuals and communities.

And so I have found myself confronting the question of whether my efforts to promote children’s rights to protection conflict with my efforts to promote children’s rights to their culture. My work is focused on the protection of children from violence in their homes. We have known for decades that the foundation of family violence against children is what Gelles and Straus call “the hitting license” – the explicit approval of hitting children in the name of discipline. Physical punishment of children is the only form of violence that is sanctioned in law and legitimated culturally. This situation constitutes a violation of children’s rights to protection.

I have worked for many years to change the societal and parental attitudes that perpetuate physical punishment. I have advocated for changes to our Criminal Code that would abolish all physical punishment of children, including that in the home. I have travelled to many countries, including Thailand, Greece, Fiji, England, Hong Kong and New Zealand to promote positive discipline. I approach all of my work from a children’s rights framework. I constantly inform audiences about Article 19 and the CRC’s repeated admonishments of countries that have not prohibited all physical punishment.

But I have been faced with an apparent contradiction. In virtually every country I have visited, I have been told at some point that changing parents’ behaviour and changing laws will be extremely difficult, if not impossible. Why? Because physical punishment is part of the culture: “it’s a tradition”; “it’s normal”; “it’s just what we do.” In some cases, it is argued that physical punishment “is how we show love.” The youth participants in the *Shaking the Movers* forum

identified parenting as an aspect of culture. We view our childrearing practices as bound up with our values, our traditions and even our morality.

So is the effort to end physical punishment a violation of children's rights to their culture? An American psychologist, Diana Baumrind, has argued that prohibiting physical punishment would be an attack on culture – particularly African-American culture. She believes that if physical punishment is normalized, and if children view it as a sign of parental love, it is not harmful. Some researchers have even argued that it might be a protective factor for black children.

This debate has required me to think carefully about what “culture” and “tradition” mean. It has led me to research on the history of physical punishment in the African-American community and, from there, to its history in other colonized populations. I have also examined the research on the effects of physical punishment in various ethnic/racial/cultural groups. And I believe that I have resolved the contradiction between the right to protection and the right to culture.

First, I have come to understand “culture” as those aspects of identity that create a sense of belonging – and of safety within that circle of belonging. “Traditions” contribute to this sense of belonging. They build children's inner strength, they are uplifting and they celebrate membership in that culture. Physical punishment does none of these things. Traditions also preserve unique cultural knowledge. But physical punishment is not unique to any culture; it is found all over the world. And it harms children, physically and emotionally. It is not a tradition, but a habit.

Second, I have discovered that physical punishment was not traditional in many indigenous cultures. It is most likely to be found in countries that have been colonized by Europeans who used it to oppress indigenous peoples. In many of these countries, it became internalized and integrated into the indigenous peoples' belief systems over time. In Canada, the residential schools relied on physical punishment to induce compliance through fear. It was a powerful tool for assimilation, used against children for speaking their languages and practicing their cultures. In the United States, slavery could not have existed without physical punishment. From ancient societies to the present, physical punishment has been used as a means of control, coercion and oppression. Through that process, it became ingrained in the existence of those it was used to oppress.

We see the same phenomenon in the case of honour killings, in which women are often complicit. We also see it in the case of female genital mutilation, which is carried out by women. These practices maintain power hierarchies and are all the more effective because they are approved by members of the oppressed group. Should these practices be maintained because they are “traditional”? Or should these practices, despite their longevity, be eradicated if they inflict harm on members of the culture?

The growing recognition of physical punishment as a harmful practice, rather than as a cultural tradition, is seen in the expanding list of countries that have prohibited it. These countries (now 24) represent diverse regions of the globe - Western Europe, Eastern Europe, Southern Europe, the Middle East, Australasia, South America and Central America. These countries have prioritized children's rights to protection over the perpetuation of a harmful practice in the name of tradition. They also represent the realization of one of the goals of the *UN Study on Violence against Children*: “The Study aims to mark a definitive global turning point: an end to the justification of violence against children, whether accepted as ‘tradition’ or disguised as ‘discipline’ (Pinheiro, 2006, p.3).

Canada, in contrast, has missed numerous opportunities to end the legal and cultural legitimization of physical punishment. Section 43 of the *Criminal Code* provides a “justification” for the use of corrective force with children. Six Private Members' Bills introduced in the House of Commons to repeal this law, and four Private Members' Bills introduced in the Senate, have failed. A Constitutional challenge to this law ended with the Supreme Court not only

upholding the law, but specifying how, when and by whom children may be physically punished.

It is beginning to look as though physical punishment is more strongly entrenched in Canadian culture than it is in many others where “tradition” was claimed as a justification for its use. My interest is in exploring how we can overcome the fear of letting go of this practice and affirm children’s rights to protection in our country.

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Response to ‘Shaking the Movers II: Identity and Belonging’

Ensuring the protection and realization of children’s human rights is a responsibility that concerns us all. All children are entitled to basic rights as stipulated by the Universal Declaration of Human Rights and treaties such as the Convention on the Rights of the Child. Children’s cultural rights was a topic discussed at the Landon Pearson Resource Centre’s (LPRC) workshop: ‘Shaking the Movers II: Identity and Belonging’. Children who participated in the workshop stressed the important role culture plays in shaping their identity. In fact, children equated the word ‘culture’ with words such as ‘identity’, ‘ethnic origin’ and ‘sense of belonging’. Children also noted that the lack of education and therefore misinterpretations of different cultures is a challenge they often face when exercising their cultural rights. In order to facilitate preserving and exercising children’s cultural heritage, workshop participants suggested that government should make it a priority for children to learn about different cultures. Although there are various mechanisms through which this can be accomplished (ie. school curriculum could be designed to incorporate learning blocks about different cultures etc), children offered various ideas such as creating museums or establishing holidays that reflect the diversity of cultures that exists in Canada.

Providing opportunities for children to learn about different cultures would not only lead to more understanding, tolerance, solidarity, and acceptance of cultural diversity in Canada but would also produce young Canadians with the multicultural knowledge needed to succeed both within Canada and internationally. Further, promoting a context through which all children can happily enjoy their own culture would also contribute to the development of a positive ethnic identity and ultimately, a positive bicultural identity or strong identification with both the majority and children’s own

minority culture (Dacey & Kenny 1997). Indeed, research has consistently found a positive association between ethnic identity and self-esteem, wellness, positive student behaviours, and coping or adaptive mechanisms. The link between ethnic identity and self-esteem has been examined in studies with university, high school, and middle school students (Carlson, Uppal, & Prosser, 2000; Phinney, 1989; Phinney & Alipuria, 1990). A stronger sense of ethnic identity has been consistently associated with higher self-esteem, self-confidence, and a positive self-concept (Martinez & Dukes 1997; Phinney & Kohatsu, 1997). Having a strong sense of ethnic pride has also been associated with wellness and lower levels of depression, anxiety, and stress (Rayle & Myers, 2004; Sawrikar & Hunt, 2005). Ethnic identity has also been associated with positive school adjustment, decreased adolescent drug use, and increased levels of coping and optimism (Kulis, Napoli, & Marsiglia, 2002; Phinney, Horenczyk, Liebkind, & Vedder, 2001; Roberts et al., 1999).

Another by-product of providing a context through which children can enjoy their culture is the preservation of language. There are many advantages to encouraging the learning of a second language in children. Research suggests that learning a second language in childhood is associated with cognitive gains for children (Bialystok, 1991; Chipongian, 2000). For instance, bilingualism has been demonstrated to enhance concept formation, creativity, semantic development, and metalinguistic skills such as sensitivity to the structure of language and correction of ungrammatical sentences (Baker, 1993; Bialystock, 1991; Chipongian, 2000). Research also suggests that bilingualism has positive effects or facilitates the acquisition of additional languages (Cenoz & Valencia, 1994; Sanz, 2000). In addition to these cognitive and linguistic benefits, there are communication, cultural, and employment advantages. Bilingual children are able to communicate with a wider range of people (whether orally or in writing) and therefore have an in-depth understanding and access to more than one culture. Further, speaking more than one language may also confer a broader variety of employment opportunities in the future.

The advantages or possible positive outcomes associated with encouraging children to learn about different cultures (as recommended by workshop participants) really suggest that it is in Canada's best interest for our government to work collaboratively with government departments, decision-makers, experts, researchers, academics, social service providers, educators, families, and children to ensure children's recommendations with regards to their cultural rights are

incorporated into Canadian practices and policies. In doing so, our government would be promoting acceptance of cultural diversity in Canada, contributing to the healthy development of children and maximizing their success as individuals in society, but also protecting and investing in Canada's multicultural and multilingual resources.

Although not a topic of discussion at the LPRC's workshop on Identity and Belonging, children's right to protection from all forms of violence including corporal punishment is of particular interest to me. As a doctoral student in the area of child physical maltreatment, I'm very interested in examining parental attitudes toward and use of physical punishment in disciplining children as well as parental support for legal prohibition of this practice. The use of physical punishment with children is a violation of children's right to protection from any type of harm, abuse, or maltreatment. My dissertation work, though in its developing stages, will centre around these topics.

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The youth who participated in the Shaking the Movers workshop in May 2008 made a number of excellent observations about the importance of freedom of religion for children and limits on freedom of religion. Although they felt that freedom of religion was a very important value, they also recognized that it is not absolute. Parents, for example, should not force religious practices on their children. And limitations on religious rights sometimes are necessary in the interests of safety or health. The youth also pointed to major challenges for freedom of religion such as judgmental attitudes, lack of knowledge, and lack of acceptance. Among the solutions they suggested were greater understanding and acceptance and a greater effort to spread knowledge about different religions in schools.

The importance of freedom of religion for children is affirmed by the UN Convention on the Rights of the Child. Under Article 30, a child of a minority or indigenous community has the right to “profess and practice his or her own religion.” Furthermore, under Article 14, all children have the right to freedom of religion, subject to the reasonable limits of safety, health, and the freedom of others. And under Article 2, all children have the right to be free from discrimination based on – among other things -- their religion or on their parents’ religion.

Are Canadian laws, policies, and practices consistent with these articles? On the positive side, under the Canadian Charter of Rights and Freedoms, children as well as adults have the right to freedom of religion (section 2), subject to reasonable limits such as safety and health (section 1). They also have the right to equality without discrimination based on religion (section 15). And under provincial human rights laws, children as well as adults have the right to freedom from discrimination based on religion and the right to what is called “reasonable accommodation” of religious practices. For example, schools must be able to accommodate the wearing of kirpans (ceremonial daggers) or veils that are used for religious purposes.

These rights generally have been backed by the courts and human rights commissions. For example, in the 1980s, in response to an Ontario school board forbidding the wearing of a kirpan by a Sikh student, the Ontario Human Rights Commission and the Ontario courts ruled that the board policy had to be changed because it violated the child’s right to freedom of religion. Similarly, in Quebec, in response to schools that had ordered Muslim female students to remove their veils, the Quebec Human Rights Commission affirmed that schools must seek reasonable accommodation of religious

practices, including allowing the wearing of veils. Finally, in 2006 in the *Multani* case, the Supreme Court of Canada ruled that a total school ban on the wearing of a kirpan (and presumably other religious objects) was unconstitutional, violating the religious freedoms of young people in the Charter of Rights.

Freedom of religion is sometimes a very complicated issue, as the youth participants pointed out. In 2002, 17-year-old Bethany Hughes, a Jehovah's Witness, claimed freedom of religion in her decision to refuse a blood transfusion in leukemia treatment. Her claim was rejected by medical authorities and by the courts of Alberta. The argument was that although freedom of religion is a very important value, it is not absolute. It is ultimately trumped by concerns about life and health. Bethany died. Her lawyers attempted to appeal the case to the Supreme of Canada but this was denied, indicating the Court's view that the issue was settled. Freedom of religion is not absolute.

It would appear that freedom of religion for children and youth (subject to limits) is reasonably assured in Canada by the law and by court decisions, at least in regard to schools and other public institutions. But let me point to two problems. First, children do not have specific legal protection against parents who may want to force them to participate in a particular religion, against their will. The Charter of Rights does not apply to private associations such as the family. To deal with the problem, perhaps a public education program would be useful, informing parents that children have basic rights under the Convention, including the right to freedom of religion, in accord with their evolving capacities. Alternatively, as in Germany and Austria, perhaps a law should be enacted giving children age 14 and over the right to enter or exit any religious group. Second, most children and youth do not know that they have basic rights under the Convention, including freedom of religion. Education authorities and most schools have failed to educate children about the rights of the child so a lack of knowledge is not surprising. Education on rights would be helpful not only in imparting knowledge but also in promoting the understanding of the need to be accepting of others rights, including their religious rights.

Dr. Richard Mitchell
Assistant Professor, Faculty of Social Sciences
Brock University

Response to Shaking the Movers II Themes

I am a Canadian university-based teacher and author with a Ph.D. in Sociology and Social Policy from Stirling University in Scotland who has researched, taught and written about the UN Convention on the Rights of the Child for 18 years. I have published the results of my research in Canadian and international journals to do with human rights, social work, youth justice, education, and health promotion as well as in legal, policy and practice texts. Since my early career was spent in British Columbia with young people in foster care, in-patient psychiatric treatment, educational and youth justice settings, the focus of my research has been to make this Convention accessible and understood by professionals across all of these service systems.

The theme I would like to address for the workshop is that of finding *common ground* within the diversity of Canadian values in order to promote a new level of respect for Aboriginal communities through rights-based policies, practices and within our education systems. I'm convinced this common ground has already been established by the Convention, and one of my graduate students travelled to the Punjab Region of India recently with a \$10,000 grant from Canadian International Development Agency to explore the international implications of this assumption. My perspective on these issues also echoes that of the recent Senate of Canada study entitled "Children: The Silenced Citizens" where the authors note that 'within Canada the Convention is not well understood in theory or in practice'. Nevertheless, it must be acknowledged upfront that in the past many discussions of citizenship in Canada and elsewhere in the world have been used to exclude women, children, First Nations and other indigenous and ethnic groups.

I teach and carry out my research program from the perspective of Brazilian educator Paulo Freire - that is that all teaching and learning must be based upon ideals of social justice, critical thinking and equal power relationships - within the interdisciplinary Child and Youth Studies Department at Brock University in the Niagara Region. The majority of my undergraduate students plan to become public school educators within Canadian classrooms. They frequently express amazement and frustration that they never heard or learned about the Convention in Canada, or about our shared history of colonialism and its assimilationist policies with regard to political relationships with First Nations peoples since contact with Europeans began centuries ago.

I have also discovered the Eurocentric, left-brain-oriented curriculum we think of as normal in Canadian schools - with its emphasis on the memorization and regurgitation of selected facts without appreciating the historical or political context of such facts - has so far failed to contribute to healthy relationships between the dominant, increasingly 'multicultural' society and young people of Aboriginal descent. Within educational settings at all levels, I have found that these dominant values do not appreciate and most often exclude open and honest discussions of...

- Residential Schools
- Gendered and other relationships impacted by the statutes of the Indian Act
- Land Claims disputes or resolution processes
- Poverty
- Discrimination/Social Exclusion
- Youth Justice and adult prison populations

...and how these issues impact today's First Nations, Aboriginal, Métis and Inuit children, young people and their families. Also as a result of these omissions in many post- secondary settings, the majority of Canadian teachers omit these potentially liberating discussions from their own elementary and secondary classrooms. This is not to point a finger of blame, but I am convinced that any discussion of how Canada came to be the rich, diverse and well-regarded nation that it is, without any appreciation or understanding of the impact on First Peoples along the way, will not result in establishing common values of multiculturalism and inclusion as most educators and politicians wish for in coming generations. While all is not totally bleak (witness this past summer's Day of Reconciliation in Canada's federal Parliament) there is still a long way to travel. One of the paths I have walked in my teaching is to use the Convention to illustrate the potential within all professions - not simply those that work day-to-day with children - and its inherent focus on consultation, participation and inclusion of young people in all matters that impact young people. In my writing and teaching I argue that this approach would alleviate much of the 'tower of babble' that goes on within multidisciplinary discussions between psychiatrists, lawyers, teachers, social workers, politicians and all others trying to interpret their disciplinary view of 'the best interests of the child'. These interpretations in mental health clinics, schools, courtrooms, adoption and foster care offices, primary healthcare settings, and drop-in centres most often exclude the very person who knows a great deal about their own best interests! Any consideration on the part of adult professionals of the 'best interests' of young people that ignores issues of discrimination (Article 2), issues of health and development (Article 6), and issues of active, ongoing participation with young people (Article 12) is simply a violation of the Convention, and demonstrates a lack of understanding of its core principles.

Finally, it is important to note that I also have had a great deal of fun as I increase the enthusiasm of most of my students for this new, rights-based knowledge and the possibilities for different relationships between dominant society - that would include teachers, lawyers, doctors, psychiatrists, social workers, politicians, and other citizens in Canada's multicultural communities - and First Nations descendants living here. I have attached a journal paper from the *First People's Child and Family Review* that represents some of that enthusiasm for this new knowledge, and just a bit of fun in its title "Quallunaat Crossing" which is a reference to teachers and other professionals from the southern regions working in Nunavut as 'those who pluck their eyebrows'. This paper was written with a Brock faculty colleague and a shared student who had travelled from her teacher's training in Newfoundland to twelve years of 'education' in Iqaluit before coming to Brock for her Master degree. The paper cites the development of a unique translation of the Convention on the Rights of the Child into Inuk syllabics which is available to anyone upon request. I look forward to our journey together, in solidarity, Richard Mitchell.

Dr. Ellen Murray
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Mount Royal University

Canadian Values... placing values of respect, rights, and responsibility at the centre of education

Greetings to all who gathered last May at the second "Shaking the Movers" workshop. I read with great interest your thoughts on "Canadian values" in general and your comments on education in particular. What I heard you tell us in part is that Canadian youth do value *education*, and, you also said improvements ought to be made to education now. What are some necessary improvements? According to your report, we need to "improve education (which is currently curriculum-focused with values as secondary)." And so how might values become a primary focus of education? In what follows, I offer you my thoughts on the issue of placing values of *respect, rights, and responsibility* at the centre of education, while I also pose further questions for you to consider...

You and all youth everywhere have special rights and freedoms such as being provided with adequate food, clothes, housing, and education, protected from harm. And youth have a right to express views in matters of importance to their lives. Those rights and freedoms are outlined in *United Nations Convention on the Rights of the Child (CRC)*. This document was adopted by the United Nations on November 20, 1989. As you know, this international law reaffirms rights of provision and protection rights, and with the inclusion of participation rights for children and youth, it recognizes young people as developing persons who are capable of participating in civic life.

According to the CRC, youth are seen as having civil rights to participate in society, such as expressing their views freely about matters concerning their lives and future, without discrimination. This right also means that the views of children and youth need to be heard and considered. When exercising participation rights, there are responsibilities for respecting the human rights, freedoms, and reputations of others. With regards to education, what are some ways for you to play

meaningful roles in society? When do you believe that your views are heard and considered by others, including teachers and other adults in school?

Although all young people have the same right entitlements, the denial of the rights of some is evident, such as lack of adequate food or shelter. Educators need to be sensitive to this reality and to help young people realize they are not responsible for their own circumstances, but rather the responsibility for the protection and realization of rights belongs to everyone.

Young people are seen as individuals with special rights and freedoms, who need protective care from prejudice and discrimination. A prejudice is a belief or idea about certain individuals or groups linked to stereotypes, which is not based on fact. These preconceived ideas or beliefs can cause someone to pre-judge another person, group, or race, and have a prejudicial attitude. When a person acts on their preconceived ideas or beliefs and treats another individual or group unfairly or differently from others, then the act is discrimination. For example, if people are treated unfairly or differently by others because of their race or skin colour, or for other reasons, then they are being discriminated against.

The rights stated in the CRC must be applied to all young people without discrimination, and in most situations we are protected by non-discrimination law when someone discriminates against us. Non-discrimination means that we cannot be judged on basis of status, such as age, race, class, disabilities, and gender, or our family's status, activities, or beliefs. At school, how might you feel if treated unfairly or differently from others because of something like your age or choice of clothes? What could you do if you were not allowed an education because you were disabled?

All youth and children have the right to survive according to the CRC. Components of survival include adequate food, water, clothes, and housing. But did you know that one fifth of the world's population lives in poverty? Poverty can be defined as being poor without enough money for adequate food, water, clothes, and housing. Poverty is more than having little or no money because it can involve a lack of self-respect, personal freedom, and physical and mental health. Poverty is a complex problem that is linked to other social and economic issues that are local, national, and global in nature.

In Canada, for example, poverty can make access difficult to basics such as bus fare or clothes for a job interview. Anti-poverty social programs are necessary to support children, youth, and families to help ensure the right to survive, with an adequate standard of living. Is poverty a problem in your school? What indicates poverty to you? What sorts of anti-poverty programs could be developed in Canada to ensure an adequate standard of living for children, youth, and families? Poverty is a global problem. What can be done where you live (local), in Canada (national), or around the world (international) in order to ensure meaningful work and decent incomes for citizens within our global community.

Youth and children have the right to live in a safe and caring environment, with protection from all forms of harm including conflict or violence. When physical or verbal conflict or violence arises at school, it needs to be resolved. Consideration should be given to searching for fair and non-violent resolutions. How might physical or verbal conflict hinder a person's learning? What are some non-violent ways of resolving a conflict at school?

According to the CRC, youth and children have the right to an education that fully supports their development to the fullest potential. This education includes learning about and having a respect for the natural environment -- as all life is sustained by it. What sort of actions can we take to protect people, water, air, plants, and the earth from harm in the natural environment? What should be done to individuals or corporations that pollute, or in some other way, cause damage to the environment?

What my discussion here is promoting is responsible citizenship through education. This approach to education offers youth opportunities to develop their citizenship skills such as expanding their understanding of rights, as well as fostering a sense of respect and responsibility – making respect and rights and responsibility operative values in the lives of young

people. What is meant by the term *respect* is a regard for human rights, dignity all human beings, and our environment as all life is sustained by it.

Cherishing our rights and freedoms, taking care of oneself and others, and making the world around us a better place to live and grow are all considered aspects of personal and social *responsibility*. So that youth can develop their skills of responsible citizenship and learn to exercise rights with appropriate guidance and direction within their capacities to do so, young people need to recognize consequences of their choices and actions. In my opinion, schools need to provide ongoing opportunities for youth to exercise their participation rights – such as helping make decisions, group membership, privacy, and expressing views.

Perhaps the right to express views is most meaningfully exercised when adults support the participation of children and youth. Educators need to take the time and make the effort to ‘listen’ respectfully to what youth think and care about and what they do. Listening can include both hearing and considering the more subtle ways that children and youth express points of views -- through words, stories, poems, or drawings. Young people should not be obligated to participate, but if they choose to do so, they should be encouraged and fully supported by adults throughout their education. Perhaps when youth improve their understanding of these values – respect, rights and responsibility, they may begin to see themselves as both beneficiaries of rights as well as protectors and advocates of global human rights. Youth may be moved to protect the rights of others by advocating for the inclusion, respect, responsibility, and safety of all persons at school as well as within their homes and communities as active participants in society.

Dr. Tom O’Neill
Assistant Professor, Department of Child and Youth Studies
Brock University

On “the right to enjoy your own culture”

Allow me to preface my comments with a confession. I am a cultural anthropologist who recognizes and champions the value of the CRC as a tool for achieving social justice for children and youth around the world. While that may not be an unusual position to adopt in a forum such as this, I am something of an odd bird among other cultural anthropologists, because unfortunately we have a long history of doubting the value of universal human rights in general, and children’s rights in particular. I won’t go into the details here; suffice to say that many of my colleagues have been very critical about the role that the CRC has played around the world, and particularly in developing societies (see for example Boyden, 1997, Burr, 2004, Cheney, 2007). Anthropologists are trained to be critical of anything that smacks of cultural domination, anything that seems to impose the Western liberal project on other cultures around the world. So, in my comments I would like to address the proposition in article 30 that children have the right to enjoy their own culture,

which is something that most cultural anthropologist would take issue with. Let me explain why I think that would be, bearing in mind that as a cultural anthropologist, I just can't help myself.

What is troubling is the notion that culture is only something that should be enjoyed, when we know of many examples, cross culturally, in which cultural codes and practices cause people to struggle and suffer. Children, in particular often bore the burden of painful transition to adulthood; the *Hamatsa* initiate on Canada's West Coast in pre-colonial times was temporarily exiled from their villages to survive, alone and hungry, among the fearful spirits of the forest; the boy in the Sepik Valley on the island of New Guinea who has the skin on his back cut repeatedly to create rows of scars that mark his induction into the clan, and into adulthood. As horrific and abusive as these examples may seem, they provided a meaningful context for the initiate that resonated with them for the rest of their lives. One cannot speak of such practices as enjoyable, but one should understand them as being vital to the transmission of culture across generations. Though examples of such extreme forms of deprivation and physical discipline seem alien to our own culture, it is not so hard to think of examples of child and youth experience that many of us think are vital to the transmission of values and practices across generations that are clearly not enjoyed by them. Parents who quickly wean infants and remove them to sleep in their own rooms, do so because they feel that this is necessary to the child's developing autonomy. This would be regarded as abusive in many other cultures, where the physical bond between the parents and child is cherished, and the value of rugged individualism that we Northern Euro-Americans try to cultivate from a very early age is not a priority for most other cultural groups (Corbin, 2003).

A culture that is only "enjoyed" is culture that has been stripped of much of its value for growth and development. It is also a partial culture, a culture that refuses to admit many of the challenging, unpleasant realities of life. What the authors of the CRC had in mind in article 30 was the protection of cultural minorities, but the wording suggests that children's cultural identity should be protected only in part. I don't think that that is really what the authors intended, but like most of us they were constrained by the limits of discourse that existed when the treaty was written. One of the interesting things in the child and youth comments in *Shaking the Movers* is that they appear to be unconstrained by legal

or academic discourse, and thus they reveal some of the contradictions inherent in our own conceptualizations of cultural identity.

Take for example the statement “I create my own culture as I go”, which is how one of the participants defined culture. This answer is not likely to impress a professor marking an anthropology exam, but it does convey what I think is a contemporary reality in our globalized and multicultural world; that children and youth do not passively inherit the cultural identity of their parents. At some point during their childhood and youth examine that identity, modify parts of it, reject others, and add influences from other traditions. Children and youth are involved in constructing hybrid cultural identities, not only in Northern Euro-America but almost everywhere. Some Chinese youth, for example, have invented *dakou* culture, a name taken from foreign music CDs that are discarded on the Chinese market, to find ways to create a “sonic tactics” with which they create their own space in modernizing China (de Kloet, 2005). In Egypt, children read magazines that fuse Islamic identity with Western consumerism, producing contradictory allegiances in the post 9/11 world (Peterson, 2005).

But another of the voices heard in *Shaking the Movers* draws our attention to a sometimes unpleasant pitfall to hybrid identity making; “...it is hard not only to challenge society’s ignorance but even more difficult when it is within your own family or your inner circle”. A child’s search for their own identity can come into conflict with the cultural identity that they are supposed to be enjoying. Think of the adolescent struggling to inform their religious parents about their sexual identity, or the child of first generation immigrants defying their parents’ plans for her arranged marriage. “Parents put stuff in your head” says another voice in *Shaking the Movers*, and children sometimes want to get it out. A child’s right to explore their own identity is very often a struggle with the cultural identity that they inherit. That struggle is not enjoyable, but it is an important part of identity making.

Mona Paré
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University of Ottawa

**Cultural Rights and Identity:
Where the group and the individual intersect**

Youth perspectives on cultural rights, which were expressed at the workshop “Identity and Belonging” in June 2008, used Articles 30 and 29.1(c) of the CRC as a starting point for discussion. My initial comments will take the youth perspectives beyond those two articles and show how the different reflections made under the theme of “culture” clearly allow to draw links with other articles of the CRC. This helps to illustrate the strong presence of “culture” in the Convention.

For example, some people had experienced or witnessed discrimination linked to manifestations culture, such as wearing a hijab, having a name that clearly indicates the race of the person, sexual orientation, or listening to music that is not considered mainstream. Article 2 of the CRC protects children’s right to enjoy their own culture, as it prohibits discrimination based on the child’s (or his/her parents’) race, colour, sex, language, religion, opinion, origin, etc.

Some comments demonstrated the importance of belonging to a family, a community, and preserving one’s origin and roots. Many articles in the CRC protect the child’s connection with his/her origin and family. Articles 5, 7, 9, 18 and 20 can be related to cultural preservation through establishing and maintaining a strong relationship between children and parents, including the right to be cared for by parents; the right to maintain relations with both parents; and considering the child’s ethnic, cultural, religious and linguistic background when the child needs to be placed outside the family.

Many comments, such as “Everything in my head is my culture”, were more directly connected to a child’s own personal culture. Some articles in the CRC can be used to protect the personal aspect of the child’s culture. For example, Article 8 deals with the right of the child to preserve his/her identity; Article 16 prohibits interference in the child’s privacy, family and home; and Articles 13, 14, 15 and 17, protect the rights to freedoms of expression, thought, conscience, religions and assembly – meaning the child’s right to access culture, disseminate it and participate in it.

While parents’ and children’s culture usually coincide, some of the reactions from young people recognised the possibility of a clash. Nowadays one is surrounded by so many influences that defining one’s personal culture tends to be more complex than it was for earlier generations. However, there are principles in the CRC that help to deal with cultural “conflicts”: the best interests of the child, the principle of participation, implying the child’s right to be heard, and the concept of evolving capacities, which relates to the age and maturity of the child. Other provisions are also relevant, notably the prohibition of harmful traditional practices (Article 24.3), and education geared towards respect for one’s own

and other civilizations and preparing the child for life in a spirit of understanding, peace, tolerance and friendship (Article 29.1). In fact, an excellent recommendation by young people was that we should know about different cultures, because this leads to respect.

To illustrate the complexity of culture and identity, I propose to add two groups of children to a discussion that revolved mainly around aboriginal children, and children from racial, linguistic or religious minorities.

The first is street children - a group that I became very familiar with during my doctoral studies. While the term might naturally lead one to think about young children begging in the streets of big cities in developing countries, this group includes street youth, who are not uncommon in Canada. What makes this group of children relevant to our topic, is the culture that they have created for themselves while living on the streets: a street culture. It is something that gives them an identity, and it is shaped by their lifestyle and their peers. Their culture is fundamentally different from that of their parents and their communities of origin, as the street has literally become their home. These children have their own language, values and codes of conduct. Many feel incapable of living at home or any other structured environment. The street culture has become part of their identity, and ignoring this has led to the failure of many rescue and educational programmes designed for them.

The second group is children with disabilities. I only started grasping the multiple cultural aspects related to this group after witnessing the negotiations on the Convention on the Rights of Persons with Disabilities (CRPD). Two seem particularly noteworthy. First of all, there is the question of access: measures must be taken to ensure the accessibility of cultural materials, places and events to all persons with disabilities. A second aspect is equally important, as many persons with disabilities identify themselves as part of the disability movement, or a group of persons with disabilities, such as blind people or the deaf. Article 30 of the CRPD guarantees for persons with disabilities the recognition and support of their specific cultural and linguistic identity, including sign language and deaf culture. In fact, deaf people who are sign language users do not consider themselves as persons with disabilities, but as members of a linguistic minority. As most deaf children are born to hearing parents, these children do not share their parents' culture.

Discussing cultural rights as they relate to street children and children with disabilities reinforces some of the messages relayed by young people at the June workshop. Culture can be simultaneously very individual and connected to group membership, and it can lead to reinforcing or loosening ties with one's family or community of origin. Culture is complex and can be found where it is least expected. Culture shapes our identity, and it is protected in its different forms by the international rights of the child.

Carol Stuart
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Response to Shaking the Movers II

The youth who attended focused on 2 articles from the convention.

Article 30 - Children of minorities or of indigenous peoples

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess or practise his or her own religion, or to use his or her own language.

Article 29 1 C – The aims of Education

1. State Parties agree that the education of the child shall be directed to:

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

The purpose of report is twofold:

1. Distribution for discussion and dialogue (with adults).
2. To promote and fully recognize, value and incorporate in practice, research and policy youth recommendations.

Messages from Youth

As an adult I recognize and understand the messages from the report to include:

Official recognition of languages and heritage is essential because simply knowing your language and heritage does not bring about a feeling of belonging. In fact, it identifies one as different denies identity and personhood within Canadian society.

Language is closely connected to culture and the place where children learn (school) holds multiple challenges when you cannot learn in your own language, more so when native speakers are absent. Language is lost, both individually culturally and marginalization occurs when you can't communicate the ideas in your own language or translation is required. (eg. Even as I read the French in the report, with my very basic and old grade 12 French, I cannot comprehend the concepts; only the words if I'm lucky. Therefore I cannot comprehend the experience of those youth and my understanding of their experience cannot be translated back to them.)

Youth experience a variety of cultures and develop into multi-cultured youth with knowledge of and participation in many cultures, which have context sensitive rules and norms for relating to each other. Multi-cultural or multi-cultured they still feel dominated by European cultural and religious traditions. There are challenges blending youth culture with cultural symbols arising from religious or ethnic practices and traditions in their family (eg. ipods and head coverings) which perhaps come from adult ignorance and/or lack of willingness to learn, grow, and change as youth do. Youth do more than "accept" difference they actually engage together eg. gay /straight alliance.

Implications for Practice

- collaborative approaches that involve youth in truly defining the nature of service in partnership with youth workers
- use of multi-lingual adults, family members, etc. in learning environments and service delivery environments
- encourage youth to develop language and cultural museums places of learning and invite adults to join them in learning and teaching in their communities

Implications for Policy

- youth policy analysis by youth
- policy translation by youth

Implications for Research

- have youth define research areas related to language, identity, and culture
- focus on description of experience of youth and broad dissemination of this experience as a forum for educating adults-leading to sensitization for program and policy change
- study of engagement approaches and the experiences of youth in those engagement approaches

Next year's conference will focus on -Articles 28 and 29, a full focus on young people's education. Recommend that the youth coming to the conference identify adult roles that they want present and anticipate will have maximum impact from their recommendations.

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RESPONSE TO SHAKING THE MOVERS II:

IDENTITY AND BELONGING

(CRC Articles 29.1.c. and 30)

THEME: CULTURE

Let me first of all highlight the importance of policies and practices being guided by the voices of children and youth, and commend all of those involved with the workshop and subsequent publication and dissemination of the report, *Shaking the Movers II*. The sections highlighting youth perspectives are revealing and informative. In my comments, an attempt is made to relate some of these perspectives to the area of child welfare and foster care, while deeply cognizant of the fact that youth engagement requires and implies that non-youth do more listening than anything else. At the same time, we are all interested in improving policy and practice, and I appreciate the opportunity to share my thoughts and, more significantly, to garner valuable feedback from youth participants.

Youth Perspectives

The extent to which youth participants identify with and support Articles 30 and 29.1.c. of the UN Convention is apparent. The idea that a child from a minority (ethnic, religious, linguistic or of indigenous origin) “shall not be denied the right... to enjoy his or her own culture”, and that the education of the child shall be directed to the “development of respect for the child’s parents” and “his or her own cultural identity”, clearly resonated with youth. Comments on the importance of language and culture for the identity of youth are commonplace and revealing, and have special

significance in relation to child welfare and foster care. “Protection for children in care is having their language and culture; it’s a form of resiliency.” “It’s hard to speak your language when you don’t live with your parents.” “You have no sense of belonging to your culture if you don’t know your language.” (pp. 6-7) Culture is defined as “a sense of belonging...security...fulfillment...”, and there is a revealing affirmation of the importance of culture to identity: “There is a loss of identity if culture is taken away.” (p. 11) Also apparent is the awareness of injustices associated with policies and practices not in accordance with the spirit and emphasis of Article 30: “Fix the damages done by residential schools.” (p. 9)

Commentary on Youth Perspectives: Child Welfare and Foster Care

Youth perspectives on the importance of culture to identity are consistent with the emphasis of Articles 30 and 29.1.c of the UN Convention. What is the ‘lesson’ here for child welfare policy and practice? In short, it is the same ‘lesson’ that should have been learned from the history of child welfare as it relates to the treatment of Aboriginal peoples in particular; as much literature notes, issues of colonization and assimilation have been most apparent in child welfare, - at times expressed in terms of cultural genocide - with child welfare approaches or paradigms often inconsistent with Aboriginal world-views. The importance within Aboriginal culture of holistic approaches, interdependence, family (including extended members and kin networks), and community, has not been sufficiently respected in child welfare policy and practice. Generally speaking, dominant child welfare paradigms have conflicted with Aboriginal culture. Others more qualified than myself (with research focused on this history and experience) can elaborate on what is a ‘long story’ indeed. Solutions put forward often entail more Aboriginal control of child welfare services, and the development of culturally appropriate services and resources (in particular, foster care resources).

What I want to address in my commentary is the need to go ‘beyond’ general statements about the need to respect Articles 30 and 29.1.c in child welfare. Such statements, if left unexplored, underestimate the complexity of the issues in child welfare. In my view, there is no question that a family-service orientation which emphasizes proactive and preventative approaches to supporting parents, families and communities, is more in-line with the UN Convention’s

emphasis on providing assistance to children and caregivers through supportive child and family policies. A family-service orientation also is more in harmony with Articles 30 and 29.1.c., since it is premised on preventing neglect and abuse in the first place, and thus potentially avoiding the need for reactive intervention in families. Yet unlike some countries (Sweden, for example), Canada has not seriously pursued this approach; reactive approaches to neglect and abuse have been the norm.

But aside from the positive possibilities and potential of a family-service orientation to policy and practice, there is a reason that child welfare has been referred to as an ideological battleground, and there continues to be a lack of consensus defining the field. Many have referred to the swinging pendulum of child welfare services, where historically paradigms have shifted between so-called ‘child-centred’ and ‘family-centred’ models of policy and practice. There are no easy answers here, and we cannot gloss over the very real tension that exists between claims about the “best interests of children” as autonomous ‘rights-bearers’, defined in universal terms (i.e. all children) and by universal standards, and claims about the “best interest of children” as embedded in and constructed by particular cultural realities, generally defined in relative terms (i.e. children in the context of particular cultures). To bring this point to light, it might be beneficial and instructive to consider or discuss the relationship between Article 3 of the Convention (“the best interest of the child shall be a primary consideration”), and Articles 30 and 29.1.c.? Many questions could be addressed. While the “best interest of the child” encompasses and entails the right to culture as constructive of identity, are there other aspects of a child’s ‘best interests’ which might supersede or override the importance of culture? Is the “best interest of the child” ever separate from the family’s or community’s best interests, or are these interests inextricably interwoven and interconnected? While a full discussion of these and other questions is beyond the scope of my comments here, perhaps such questions can serve as a point of departure for further consideration or discussion.

