

National Children's Alliance (NCA)

E-mail Digest, week of 16-20 February, 2004

NCA ACTIVITIES:

1. **Register:** for NCA Symposium in Kananaskis, Alberta, March 24th-26th, 2004.
2. **Visit:** of child welfare activist from India
3. **Call:** to members interested in starting up a Working Group on creating a Youth Agenda

NEWS FOR OUR MEMBERS:

1. **Invitation:** Conference on Building a Comprehensive Early Childhood Development System
2. **News:** Op-Ed piece by CCSD
3. **Response:** by NCA to draft National Plan of Action

ISSUE ALERT:

1. Supreme Court brings down ruling on "spanking defence"
2. UN Committee on Rights of Child invites written submissions on Early Childhood Practices
3. Research sought on human rights and the Millenium Development Goals

NCA ACTIVITIES:

1. **Some travel subsidies are still available for this year's NCA Annual Symposium in Kananaskis, Alberta.** Just go to the NCA website (<http://www.nationalchildrensalliance.com/>), click on the "News" section, click on the link "Register Now for the NCA National Symposium..." and enter the username (ncamember) and password (children). Participants are expected to cover their own accommodation and ground costs. The Kananaskis Resort is offering an excellent room rate at 75\$ per night and we have reserved, until late February, a block of 70 rooms for our guests.

- If you are planning to attend, **please register, book your travel and reserve your room before the 27th of February**, as per the instructions on the conference web page.
- **Please note that there are no more spaces available in the "Caring Across the Boundaries" Training Course being offered on Wednesday 24th of March, just prior to the Conference.**

- **As participants are expected to cover their own ground transportation expenses (ie taxis to and from home/airport, transport from Calgary to Resort) and given the cost of the hotel's shuttle from Calgary airport at \$75 per person, we are creating a ride share bulletin board on the conference webpage, for those who would be interested in sharing the cost of renting a car from Calgary with other participants. The Ride Share bulletin board will allow you to coordinate with others whose flight is arriving/departing the same time as your own. Please look for the electronic ride share board to be up by the end of this week.**

If you have any questions or require any further information, please contact the event coordinator, Diane Hull, at (613) 925-5672 or e-mail rhull@sympatico.ca.

2. Another international visitor is meeting with the NCA. Following a very interesting visit by an early childhood delegation from China, the NCA will be receiving a child welfare activist from India. Ms Mridula Bajaj is the Director of Mobile Creches, an organization working in the area of Early Child Care and Development. It works with the children and wives of migratory construction workers on building sites in several cities, providing integrated day care to approx. 3000 children in the 0-6 years age group. Working closely with the community, Mobile Creches has begun holding public information sessions on reproductive health issues, nutrition and basic health and sensitizes both parents and the construction industry about children's rights and about the dangers of child labour. In addition, they are in the process of setting up an informal school where the older children can acquire the basic skills that will enable them to catch up to their peers and enter the public system. Local women are receiving training in providing childcare services so that they can eventually run the daycare centres themselves.

Since the last 35 years Mobile Creches has reached out to approximately 65,000,000 children. They also have an advocacy unit and work in close collaboration with other agencies to bring long term systemic and legal changes in favour of the young child. The organization has expanded services to another Indian city with the financial help of Canada's Child Development Fund.

Ms Bajaj will give a presentation on her work at the offices of the Canadian Family Resources Programmes, 331 Cooper Street, Suite 707, Ottawa, tel: 237-7667, on Wednesday 18 February 2004, from 1-3pm. Ottawa area members are encouraged to attend and learn about civil society activities in the area of early childhood in one of the countries with the highest population of children in the world.

3. Following a stimulating discussion with our Toronto members last week, the NCA would like to gauge the interest of all our membership in creating a Working Group to put forth policy recommendations on a national Youth Agenda. Members would be invited to a half-day policy workshop here in Ottawa, with some travel subsidies available to those coming from Toronto. Please let us know if you would be interested in attending such a workshop and if you would be able to continue your participation by being on such a Working Group. Please e-mail tashtakala@nvo-onb.ca as soon as possible.

NEWS FOR OUR MEMBERS:

1. The Centre of Excellence for Early Childhood Development is holding a conference on Building Comprehensive Early Childhood Development System on 25 May 2004 at the Quebec City Hilton Hotel. The first part of the day will include a review of the economic, biological and physiological determinants of early childhood development and an overview of integrated systems in other countries; the session will conclude with a round table discussion on the gap between what we know is good for young children and what we are actually offering to families and children. For more information and to register, go to www.excellence-earlychildhood.ca/www.excellence-jeunesenfants.ca. Note that registration fees go up after 15th March.

2. Tackling the “social deficit” is the subject of an op-ed piece written by one of our members. Marcel Lauziere, President of the Canadian Council on Social Development, asks in the Halifax Herald of 24 January whether Prime Minister Martin will actually seize the opportunity to create concrete social progress in this country or simply allow the new Ministry of Social Development to function in name only. Despite substantive surpluses and huge spending on health care during the latter years of Mr. Martin’s tenure in the Finance portfolio, poverty indicators in Canada have remained unchanged. The new approach to federal-provincial cooperation and the splitting of the Canada Health and Social Transfer will be a litmus test of whether the new Prime Minister is willing to confront the social deficit in this country with as much skill and vigour as he handled the financial one. For the full text of the piece, go to www.ccsd.ca/pubs/2004/oped-halifax.htm.

3. The NCA’s response to Senator Pearson’s draft National Plan of Action for children is now on our website. You can also see some individual responses prepared by our members, like the Canadian Association of Social Workers, Canadian Association for Community Living, Canadian Coalition for the Rights of Children.

ISSUE ALERT:

1. Supreme Court upholds s. 43 of the Criminal Code: In a landmark decision, the case of Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General) 2004 SCC 4, six of the nine justices ruled that Section 43 of the *Criminal Code* justifies the reasonable use of force, for purposes of correction by parents and teachers, against children in their care. Dismissing an appeal from the Ontario Court of Appeal, the majority said that the century-old provision of the *Code* does not violate a child's rights under sections 7, 12 and 15 of the *Canadian Charter of Rights and Freedoms*.

Chief Justice McLachlin and Justices Gonthier, Iacobucci, Major, Bastarache and LeBel opined that: 1) s. 43 was not so overly broad a defence to corporal punishment of a child that it constituted a violation of a child's s. 7 right to life and security of the person. Rather, the Justices said, there are clear limits to the use of corrective force: the force must have been intended to be for educative or corrective purposes, relating to restraining, controlling or expressing disapproval of the actual behaviour of only a child who is capable of benefiting from the correction. Furthermore, "determining what is 'reasonable under the circumstances' in the case of child discipline is assisted by Canada's international treaty obligations, the circumstances in which the discipline occurs, social consensus, expert evidence and judicial interpretation."; 2) they also said that the application of corrective force, so long as it is not used on infants or teenagers, not exerted with an object and not directed at the head of the child, does not constitute cruel and unusual punishment under s. 12; 3) finally, while children need a safe environment, they also need the guidance and discipline of parents and teachers to protect them from harm and to promote their healthy development within society. Removing s. 43, they argue, would open the door to criminalizing corrective behaviour that falls far short of corporal punishment; "The decision not to criminalize such conduct is not grounded in a devaluation of the child, but in a concern that to do so risks ruining lives and breaking up families -- a burden that in large part would be borne by children and outweigh any benefit derived from applying the criminal process".

Justices Binnie (in part), Arbour and Deschamps dissented with the majority on the s. 15 argument; to deny protection against physical force to children at the hands of their parents and teachers is not only disrespectful of a child's dignity, but also turns the child into a second

class citizen. Justice Binnie questioned the majority's dismissal of the s. 15 equality rights based on the view that children should be treated differently (that is, they are entitled to substantive and not formal equality) because of this society's prevailing view of the importance of the role of the family. He said that this argument amounted to an implicit justification of s. 43 under s.1 of the Charter (NB s. 1 is used to justify a law, even when it is found to be unconstitutional, if it is needed for the "proper functioning of a democratic society", on condition that the disadvantage that the law in question causes is not disproportionate compared to the benefit to society). In Justice Binnie's view, the extension of s. 43 protection to teachers in particular has not been justified under the s. 1 test. Justice Arbour said that the majority were mistaken in reading the words of s. 43 (ie "reasonable") as excluding certain forms of behaviour; she said it is not the role of the courts to restrict the meaning of a statute before determining its constitutionality; thus, s. 43 is vague and consequently does violate a child's right to security of the person under s. 7. Finally, she argued, striking down s. 43 will not expose parents and persons standing in the place of parents to criminal charges for every minor instance of technical assault, because common law defences adequately protect parents and teachers from excusable and/or trivial conduct. Justice Deschamps added that the fact that children are one of the most vulnerable groups in society makes s. 43 fail the test under s. 1 of the Charter for causing a disproportionate disadvantage to children.

2. Early Childhood will be the object of a General Day of Discussion at the UN:

The Committee on the Rights of the Child will hold a day of discussion at headquarters in Geneva on 17 September 2004 to raise awareness about the rights of the youngest children and facilitate their implementation by the States parties to the Convention on the Rights of the Child. Two Working Groups will examine survival, protection and development practices of young children and will look at ways in which young children can participate as full actors in their own development. The discussion day is a public meeting at which government representatives, UN bodies and specialized agencies, NGOs, aboriginal organizations, individual experts and youth groups are welcome. The Committee is inviting written contributions on best practices in the early childhood area. For more information, contact: The Secretariat for the UN Committee on the Rights of the Child, UN High Commissioner for Human Rights, Palais des Nations, 1211 Geneva 10, Switzerland, E-mail: crc@ohchr.ch

3. Human Rights Internet and CIDA are also seeking written submissions, research and analysis on the topic of human rights concerns with regard to the Millennium Development Goals signed by all 189 members of the United Nations

in the year 2000. The aim of the study is to clarify the gaps which may hinder progress towards achieving the 2015 targets. Information is being gathered from governments, the UN, international organizations, NGOs, academics, internet sources, etc. with the aim of presenting the perspective of people who experience the shortcomings of the Goals on a daily basis; grassroots and community development organizations are especially encouraged to contribute their research and policy work. To submit information, e-mail: aleks@hri.ca.

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