

**Passive, not Active: The Response of Prince Edward Island to the United Nations'
Convention on the Rights of the Child, 1989-1991**

by

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**A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfillment of
the requirements for the degree of**

Master of Arts

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Abstract

This thesis discusses the United Nations' Convention on the Rights of the Child as a vehicle for the promotion and guarantee of children's rights in Prince Edward Island (PEI) policy and legislation from 1989 to 1991. It covers relations between the Government of Canada and the Province of PEI concerning the Convention, evaluates the World Summit for Children in 1990 and the National Action Plan in 1991, and demonstrates that the province's legislation on children underwent no immediate changes resulting from the UN document or federal-provincial diplomacy. Records from the United Nations, the Government of Canada, the Government of Prince Edward Island and provincial Nongovernmental Organizations (NGOs) illustrate the erratic nature of the Convention's implementation in PEI and the paucity of measures taken by a limited number of government organizations and NGOs within the province, where it was regarded as a federal initiative and not a provincial priority.

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List of Abbreviations

ACLRC	Alberta Civil Liberties Research Centre
CCCY	Canadian Coalition on Children and Youth
CCOHR	Continuing Committee of Officials on Human Rights
CCSD	Canadian Council on Social Development
CIDA	Canadian International Development Agency
CLIA	Community Legal Information Association
CRC	Convention on the Rights of the Child/ Committee on the Rights of the Child
CWLC	Child Welfare League of Canada
DCI	Defence for Children International
ECOSOC	United Nation Economic and Social Council
HRC	Human Rights Commission
HSS	Department of Health and Social Services
IBCR	International Bureau of Children's Rights
INGO	International Nongovernmental Organization
LAC	Library and Archives Canada
NAP	National Action Plan
NGO	Nongovernmental Organization
OAG	Office of the Attorney General
OHCHR	Office of the United Nations High Commissioner for Human Rights
PARO	Public Archives and Records Office
P.E.I.	Prince Edward Island
RAP	Rights Awareness Project
R.S.P.E.I.	Revised Statutes of Prince Edward Island
SCY	Society for Children & Youth of British Columbia
SIDA	Swedish International Development Agency
S.P.E.I.	Statutes of Prince Edward Island
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNICEF	United Nations Children's Fund
UPEI	University of Prince Edward Island
WS	World Summit for Children

Introduction:
“It Meant Standards, High Standards”¹:
The United Nations 1989 Convention on the Rights of the Child

Mr. Speaker, 20 November 1989 the United Nations General Assembly adopted the Convention on the Rights of the Child

Mr. Speaker, Canada played an active role in the drafting and adoption of this Convention with the support of the Canadian Continuing Committee of Officials on Human Rights, the membership of which includes the Chairperson of the Prince Edward Island Human Rights Commission.

Mr. Speaker, Today it is my pleasure to inform this House and the citizens of Prince Edward Island that our Premier, by letter dated January 2, 1990, provided this Province’s enthusiastic support for Canada’s signing of this Convention.

Mr. Speaker, We look forward to signing and eventual ratification of this Convention by Canada and other countries and see it as an important vehicle to promote the rights of the children in Canada and around the world.²

Roberta Hubley, Minister Responsible for Human Rights
Legislative Assembly, Province of Prince Edward Island 1990

On 28 March 1990, the Honourable Roberta Hubley, the Minister responsible for Human Rights for the Province of Prince Edward Island, gave the above statement regarding the United Nations Convention on the Rights of the Child³ in the Legislative Assembly. The Convention was adopted by the United Nations General Assembly on 20 November 1989, and set international standards for children’s rights. The Convention was one in a series of international covenants and conventions that evolved from the United Nations Declaration of Human Rights adopted by the General Assembly on 10 December 1948. The Office of the United Nations High Commissioner for Human Rights (OHCHR) best describes the four main principles embedded within the articles of the Convention. These are noted as non-discrimination (article 2), best interest of the

¹ Brian Mulroney, Interview by Kathryn Morrell, 21 November 2006, Messines – Montreal, 4-5.

² Statement by Roberta Hubley, Prince Edward Island. Legislative Assembly. [sound recording], 1990, Public Archives and Records Office of Prince Edward Island (hereafter PARO).

³ Hereafter noted as the Convention.

child (article 3), the right to life, survival and development (article 6), and the views of the child (article 12).⁴ Combining five main elements of human rights and the civil, political, economic, and social and cultural, the Convention provides a legally binding framework that identifies children as a group in society that needs protection based not only on their vulnerability, but also based on their right as fundamental right holders.⁵ Although the rights and principles embodied in the Conventions articles are based on previous international children's rights documents, the Convention is the first human rights treaty to combine all five categories of rights in one instrument.⁶

International instruments regarding children prior to the Convention such as the *1924 Declaration on the Rights of the Child*⁷ and the *1959 United Nations Declaration on the Rights of the Child* were declarations of principle that emphasized protection based mainly on the physical and mental immaturity of children as a group in society.⁸ Philip E. Veerman⁹ used twentieth-century declarations and conventions as a means of identifying the changing image of childhood and the changing view by society of children's rights in his work *The Rights of the Child and the Changing Image of Childhood*. These declarations are known as "soft law" as the supporter does not assume any obligations, beyond moral ones. Conventions are known as "hard law" as the state parties are obligated to meet its standards within their respective domestic legislations.

⁴ Office of the United Nations High Commissioner for Human Rights. Fact Sheet No. 10 The Rights of the Child. 1989. New York. New York: UNICEF [producer and distributor], Available: <http://www.ohchr.org> [Sept. 2006].

⁵ United Nations Children's Fund (UNICEF)/Defence (DCI) for Children International. 1989 Briefing Kit 3rd Edition. 1989. New York. New York.

⁶ UNICEF/DCI. Document No. 1: Human Rights of Children. 3pp.

⁷ *The Declaration on the Rights of the Child* was adopted by the League of Nations and is also known as *The Geneva Declaration*.

⁸ United Nations. 1959 United Nations Declaration on the Rights of the Child. 1959.

⁹ Philip E Veerman, *The Rights of the Child and the Changing Image of Childhood* (Dordrecht, London: Martinus Publishers, 1992), xv.

Therefore, ratification only occurs once the state party actively decides to adopt the minimum standards contained in the Convention.¹⁰ A binding convention that, once brought into force, would become international law was the desired result for the Polish Government when it initially submitted the proposal for a children’s convention in 1979 during the International Year of the Child. Ten years later, the Convention on the Rights of the Child was adopted unanimously by the United Nations General Assembly, on 20 November 1989.

The Honourable Roberta Hubley noted Canada’s “active role in the drafting” of the Convention in her statement to the Provincial Legislature.¹¹ The ten-year drafting period commenced when the United Nations Commission on Human Rights (UNCHR) established an Open Ended Working Group on the Drafting of the Convention on the Rights of the Child.¹² The Open Ended Working Group consisted of representatives from over forty countries.¹³ The working-group, with Canada as a member, was instrumental in negotiating the language of the Convention in an effort to ensure that there would be no major impediment to ratification.¹⁴ In *The Challenge for Children’s Rights in Canada*, Katherine Covell and Brian Howe explain that the broad language of the Convention would ease problems of implementation, but that it would not avoid them all. They use child welfare as an example, arguing that “there could be conflict between the

¹⁰ UNICEF/DCI. Document No. 2: The Future Convention How It Came About.

¹¹ Statement by Roberta Hubley [sound recording]. PARO.

¹² The Working Group mostly consisted of member states of the CHR, but since it was ‘open ended’ it also allowed for other interested member states, UN bodies, UNICEF, Non Governmental Organizations (NGO), and International Governmental Organizations (IGO).

¹³ Philip E. Veerman, *The Rights of the Child and the Changing Image of Childhood* (Dordrecht, the Netherlands: Martinus Nijhoff Publishers, 1992), 182.

¹⁴ Landon Pearson, Interview by Kathryn Morrell, 21 August 2006, Charlottetown, 2

role of the family and the role of the state in providing for the welfare of children.”¹⁵

Initially there was little enthusiasm for a children’s convention, but the International Year of the Child in 1979 had sparked a world-wide interest in child’s rights. Lawrence LeBlanc explains in his work, *The Convention on the Rights of the Child: United Nations Lawmaking on Human Rights*, that the Convention’s proposal raised “the fundamental philosophical question of whether a special convention was either necessary or desirable” when children’s rights “should be addressed only within the larger context of human rights.”¹⁶ In addition to this, Covell and Howe acknowledge resistance to the proposal by “staunch defenders of the institution of the family” whose “laissez-faire” attitude demanded limited state involvement in the realm of the family, where parents already take the best interest of their children into consideration.¹⁷ The drafting of the Convention also signified the rise of importance and attention that children’s rights were gaining internationally. International attention and the legitimization of children’s rights brought a new dimension to the debate about children in Canada.

As the international debate became more visible domestically, in Canada the content of the debate on children shifted dramatically. This shift is evident within the House of Commons debates. In 1986, the debate on children in the House of Commons focused entirely on child care in Canada. In 1989, the debate shifted so that the emphasis fell on the child. On 7 April 1989, Member of Parliament Joy Langan, from the New Democratic Party in British Columbia, submitted a motion for a *Children’s Bill of Rights*. It read:

¹⁵ Katherine Covell and Brian Howe, *The Challenge of Children’s Rights in Canada* (Ontario: Wilfred Laurier University Press, 2001), 24.

¹⁶ Lawrence LeBlanc, *The Convention on the Rights of the Child: United Nations Lawmaking on Human Rights* (Lincoln and London: University of Nebraska Press, 1995), xv.

¹⁷ Covell and Howe, 21.

That, in the opinion of this House, the government should consider the advisability of negotiating with the provinces to provide a comprehensive bill of rights for children which would standardize laws throughout the country, and that this Bill of Rights include a child protection commission and an emergency hotline which children could contact in times of crisis.¹⁸

This bill, by being national in form, would do much to resolve the main jurisdictional problem for Canada, which the United Nations Committee on the Rights of the Child attributed to the “federal nature of Canada”.

All parliamentarians supported the principle of a children’s bill. David Barrett, also a New Democratic parliamentarian from British Columbia, explained, “no political party has a monopoly on what is best for the children of this country.”¹⁹ This was reflected in the fact that many of the members of Parliament proceeded to speak at length of the importance of child’s rights. In principle the bill united parliamentarians, but in practice it divided them. The motion gave rise to increased discussion within Parliament on problems within Canada that impact children and their rights, such as racism²⁰, abuse²¹ and poverty.²² The international documents pertaining to children’s rights that Canada was party to were declarations such as the Declaration on the Rights of the Child, 1959. David Walker, a Liberal from Winnipeg, argued that “The UN lacks the legal authority to enforce the principles in this [Declaration] bill.”²³ He closed this argument by stating that in the past “children’s rights in Canada were nothing more than a

¹⁸ Canada. Parliament. House of Commons. Debates, 34th Parliament, 2nd Session, 1989-1991, vol. III., September 25, 1989. Ottawa: Canadian Government Publishing, 3863pp.

¹⁹ Canada. Parliament. House of Commons. Debates. 25 September 1989, 3870pp.

²⁰ Canada. Parliament. House of Commons. Debates. 25 September 1989, 3870-72pp.

²¹ Canada. Parliament. House of Commons. Debates. 25 September 1989, 3864-3868pp.

²² Canada. Parliament. House of Commons. Debates. 25 September 1989, 3864pp.

²³ Canada. Parliament. House of Commons. Debates. 25 September 1989, 3869pp.

statement of principle.”²⁴ The Canadian government, furthermore, supported the Convention, which Walker felt obviated the need for a children’s bill.

Public involvement was limited in the debate on children, consisting of newspaper editorials and letters sent by the public to their local Members of Parliament.²⁵ The New Democratic Party in British Columbia was the only party to acknowledge this involvement. The motion was defeated 27 March 1990, but two months later the opposing arguments for the *Children’s Bill* would intensify in both international and domestic literature on the United Nations Convention on the Rights of the Child.

Canada became a signatory of the Convention on 28 May 1990. Before ratification, the country became a leader at the first World Summit for Children organized by the United Nations Children’s Fund (UNICEF) in September 1990, when Canadian Prime Minister Brian Mulroney agreed to co-chair the Summit.²⁶ It was more than a year after the World Summit when Canada actually ratified the Convention on 13 December 1991. Ratification meant that the federal government, as the Canadian authority for signing and ratifying international treaties, thought that it had enough provincial support to comply with the Convention’s obligations, obligations the federal government was required to report on through a system established within the text of the Convention itself. Article 44 of the Convention establishes the system where the states parties are required to submit reports²⁷ on “the measures they have adopted which give effect to the

²⁴ Canada. Parliament. House of Commons. Debates. 25 September 1989, 3869pp.

²⁵ Canada. Parliament. House of Commons. Debates. Vol. V, 21 November 1989, 5941-5942pp.
Canada. Parliament. House of Commons. Debates. Vol. V, 23 November 1989, 6067pp.

²⁶ Canada, Egypt, Mali, Mexico, Pakistan and Sweden attended the World Summit for Children. For an overall appraisal of the Mulroney record on international issues, see *Diplomatic Departures: The Conservative Era in Canadian Foreign Policy, 1984-93*, edited by Nelson Michaud and Kim Richard Nossal (Vancouver: UBC Press, 2001).

²⁷ Ratified states are obligated to submit their first report two years after ratification, and every five years thereafter. United Nations. Convention on the Rights of the Child. 1989. Article 44, section 1,

rights recognized herein and on the progress made on the enjoyment of these rights.”²⁸ Article 43 establishes a committee of experts to examine these reports and to help states parties “in achieving the realization of the obligations undertaken in the present Convention.”²⁹ This is significant for Canada because it requires cooperation between the provincial, territorial and federal governments to report on their respective areas.

The only means for a country to be in full compliance with a Convention is to have complete and successful implementation.³⁰ For Canada, successful implementation involves provincial, territorial and federal cooperation since jurisdictions vary depending on the article of the Convention. Based on the *Constitution Act of 1867*,³¹ it is the Government of Canada’s jurisdiction and right to negotiate and ratify treaties; however, “in considering treaty-making power it is important to bear in mind the distinction between the power to enter into treaties and the power to implement such treaties by legislation.”³² The Department of External Affairs had the lead in negotiating international instruments for Canada.³³ The Minister of External Affairs issued notice to all jurisdictions that ratification also meant that each jurisdiction was required to review its respective policy and legislation to make sure that it met the standards of the Convention, reservations and statements of understanding excepted.³⁴

paragraphs (a) and (b). (Online). Canada: Human Rights Program, 2007. Available: http://www.pch.gc.ca/progs/pdp-hrp/docs/crc_e.cfm [September 1, 2006].

²⁸ Convention on the Rights of the Child. Article 44, section 1.

²⁹ Convention on the Rights of the Child. Article 43, section 1.

³⁰ Landon Pearson Interview, 16.

³¹ *The Constitution Act, 1867*. (Online) Department of Justice, Canada, 2007. Available: http://laws.justice.gc.ca/en/const/c1867_e.html [February 20, 2007].

³² Department of External Affairs on International Treaties. 1994, RG 25, Series A-3-c, Box 11581, File 30-3, Vol. (9), (10), and (11). Library and Archives Canada, Ottawa.

³³ Telephone conversation with solicitor at the Human Rights Law Section by Kathryn Morrell, Department of Justice, Canada. 2006. Messines-Ottawa.

³⁴ Government of Canada. Convention on the Rights of the Child: Backgrounder/Convention/Summary/Canada’s Reservations and Statement of Understanding/Children’s Issues: Home and Abroad/Partners on the Convention/Importance of Parents.

In Canada, previous experience with treaties ratified without provincial and territorial involvement, such as the Covenants in the 1960s on civil and political rights and on social, cultural and economic rights meant that the provinces had sometimes been implicated where jurisdiction would have required otherwise.³⁵

The Continuing Committee on Human Rights was established by the first federal-provincial Ministerial Conference on Human Rights in 1974.³⁶ The committee is a means to involve the provinces in discussion on international treaties where provincial and territorial jurisdiction came into play. Representatives from each jurisdiction gathered. Then, the federal government would explain what it wanted to do, and then the provincial and territorial governments would respond saying what they felt could or could not be achieved.³⁷

In her 1990 statement to the Provincial Legislature, Minister Hubley discussed the federal request to PEI for support.³⁸ Before the federal Government of Canada signed and subsequently ratified the United Nations Convention on the Rights of the Child, the Minister of External Affairs sent letters to each province and territory requesting support. On 22 December 1989, Minister Joseph Clark sent a letter to the Premier of Prince Edward Island, Joseph Ghiz, requesting his support for federal signature of the Convention. The following month on 20 January 1990, Premier Ghiz answered Minister Clark writing, "I enthusiastically support Canada's signing of the convention and take

³⁵ Landon Pearson Interview 19 August 2006,4.

³⁶ Canadian Heritage. Human Rights Program: Continuing Committee of Officials on Human Rights," *Human Rights Program/Canadian Heritage*. [producer and distributor], Available: http://www.pch.gc.ca/progs/pdp-hrp/canada/comite_committee_e.cfm [February 20, 2007].

³⁷ Father Leo Trainor, Interview by Kathryn Morrell, 4 September 2006, Charlottetown, 2.

³⁸ Statement by Roberta Hubley [sound recording]

pride in the leading role which our country has played on its adoption.”³⁹ Although Premier Ghiz stated that Minister Clark could also take the letter as support for ratification, he waited three months before responding to new Minister of External Affairs Barbara McDougall’s request for support for ratification. External Affairs sent requests for support for ratification on 25 September 1991. It was not until 3 December 1991 that Premier Ghiz responded to the call, writing “I am pleased to confirm Prince Edward Island’s support for ratification of this Convention.”⁴⁰

In part of her statement to the Provincial Legislature, Minister Hubley described the Convention as a “vehicle to promote the rights of children in Canada.”⁴¹ It is this statement that leads us to the purpose of this paper – identifying the impact of the Convention as a vehicle for the promotion and the guarantee of children’s rights in Prince Edward Island. In practice, were the principles of the Convention implemented into provincial legislation and policy? In the late twentieth century, Premier Joseph Ghiz gave the province’s support to the federal government for the adoption and ratification of the United Nations Convention on the Rights of the Child. His support for the Convention was requested by the Department of External Affairs because successful implementation of the Convention to Canada, under the Constitution of 1867, meant that much of the Convention’s content fell under provincial jurisdiction. Therefore, it was up to the provincial government to ensure that the convention’s principles and rights were enshrined within provincial legislation and policy. The impact of the Convention on the Rights of the Child’s implementation to the provincial Government of Prince Edward

³⁹ Intergovernmental Affairs, Premier’s Papers, Acc 4547, s.4, file 1096, Public Archives and Records Office of Prince Edward Island.

⁴⁰ Intergovernmental Affairs, Premier’s Papers. PARO.

⁴¹ Statement by Roberta Hubley, [sound recording] PARO.

Island and to the provincial nongovernmental organizations (NGOs) was passive. The language of Prince Edward Island's legislation and policy, the erratic nature of the Convention's implementation, the minimal measures taken by a limited number of government and nongovernmental organizations within the province prove that the implementation of the Convention was limited by the reality that the Convention was a federal initiative and not a provincial priority. Therefore, only the most necessary steps were taken by the province in order to acquiesce to federal pressure and to popular notions of children's rights, widely regarded as being in the same category as "motherhood and apple pie"⁴² for their easy popularity and their insignificance for serious policy making.

An in-depth examination of the Convention and its impact on provincial legislation and policy touches on many different fields of academic study, including childhood in Canada, child law in Canada, and the United Nations Convention on the Rights of the Child and Canada, as well as the field of PEI history. Although these areas are intensely complex and it was impossible to study them in detail, it is important to be familiar with the themes and concepts within each field. The history of childhood in Canada may provide answers for questions that arise relating to the definition of the child, the role of the state and the role of the parent concerning that child. These issues and concerns surface when the implementation of the Convention in Canada is brought to the table. Also, there is an important connection between the Convention and the evolution of children's rights in Canada. In Canada, there was a piecemeal acceptance of rights for children. Children started out as property, and then society began to view them as a group, separate from adults and in need of protection. Finally, they became citizens

⁴² Father Leo Trainor Interview, 5.

with fundamental human rights. As there are no published works on childhood and Prince Edward Island, national and regional studies help up to understand the state of children's rights in Canada prior to the ratification of the Convention. Works authored or edited by Joy Parr, the Canadian Council on Social Development, Robert MacIntosh and Patricia Rooke and R.L. Schnell best elucidate the issues in childhood at the national and regional level.

Joy Parr studies gender history as well as the history of childhood and of the family in her edited work entitled *Childhood and Family in Canadian History* (1980). The work examines what it was like to grow up in Canada from the beginnings of New France into the twentieth century, and what it was like for the families in which they developed.⁴³ She explains the methodology for studying childhood and the theories that a childhood historian should always keep in mind. She warns of the dangers of drawing inferences between the present and the past, and then explains the fundamental theory behind childhood history: "childhood and family are shaped by historical rather than biological processes; they are social rather than natural relationships; they form and are transformed by their economic and cultural context."⁴⁴

Parr also notes that childhood history is intervention transformed by politics and the government when she discusses the growth of the state in the twentieth century into the previously private institution of the family. She argues that "as teachers offered youngsters guidance in the classrooms, social workers and government officials theorized in public about the proper management of home and family."⁴⁵ When researching the

⁴³ Joy Parr, ed., *Childhood and Family in Canadian Childhood*, (Toronto: McClelland & Stewart, 1982), 7.

⁴⁴ Parr, 8.

⁴⁵ Parr, 15.

impact of the Convention on children's rights in Prince Edward Island, it is important to concentrate on the dynamic relations between childhood, children and their society and culture. Joy Parr's arguments pertinent to the study of childhood reflect in the study of the Convention's implementation. The cultural context plays a major role in how a child is viewed by a society. It is a society's view or understanding of a child that, in part, makes for the success or failure of the Convention's implementation within that jurisdiction.⁴⁶

An excellent assessment of the relationship between childhood and the Convention rests in the reports published by the Canadian Council on Social Development. The CCSD is a nonprofit organization that researches poverty, social inclusion, disability, cultural diversity, child well-being, employment and housing in Canada.⁴⁷ It publishes reports on "the progress of Canada's children" as part of its mandate. It has reports on the state of childhood and children's rights in Canada for the years 1996-2000. The reports, in chronological order, are entitled, *Progress of Canada's Children 1996*, *Progress of Canada's Children 1997*, *Progress of Canada's Children: Focus on Youth 1998*, and *The Progress of Canada's Children into the Millennium 1999-2000*. They are the products of round table discussions held by a panel of experts from Canadian universities and children's aid organizations on children and youth in Canada.⁴⁸ They discuss the factors that influence the development of the child in the community and in the family, in addition to reporting on the status of the child with regards to their

⁴⁶ Please refer to Chapter One: Legislation and Policy on Prince Edward Island prior to the Convention.

⁴⁷ Canadian Council on Social Development, Available: <http://www.ccsd.ca/> [19 February 2007].

⁴⁸ *The Progress of Canada's Children into the Millennium 1996*, (Canada's council on Social Development, 1996), contents.

health and education.⁴⁹ The aim of the 1996 report was to better understand certain elements of the Convention on the Rights of the Child in the late twentieth century. The 1997 report discussed the situation for children growing up in Canada, including an analysis of their environments, such as the community and the family, and the improvements in different social sectors such as health. The 1998 study included “six focus groups with young people between the ages of 12 and 24 in three Canadian centres – Ottawa, Montreal and Sydney, Nova Scotia,” concentrating on the child’s right to be heard.⁵⁰ The 1999-2000 report concluded that the later part of the decade of the 1990s was “marked by reductions on education, health care and social services – all things that are crucial to the healthy development of children and families.”⁵¹ These reports provide excellent references for the state of childhood in Canada.

Robert MacIntosh works at Library and Archives Canada in special collections. In his historiographic article entitled, “Constructing the Child: New Approaches to the History of Childhood in Canada” (1999), he examines the history of childhood within the regional context. He first defines the theory behind his methodology – the difference between what he calls the traditional and the reconstructed child. “The traditional child”, he states, “participated in the adult world, indeed inhabited a world where no hard and fast distinctions were made between children’s activities and those of adults.”⁵² On the other end of the spectrum is the “reconstructed child” who, “in contrast, was segregated

⁴⁹ *The Progress of Canada’s Children into the Millennium 1999-2000*, (Canada’s council on Social Development, 1997), 5.

⁵⁰ *The Progress of Canada’s Children into the Millennium 1998*, (Canada’s council on Social Development, 1998), 2.

⁵¹ *The Progress of Canada’s Children into the Millennium 1999-2000*, (Canada’s council on Social Development, 2000), 2.

⁵² Robert McIntosh, “Constructing the Child: New Approaches to the History of Childhood in Canada,” in *Acadiensis XXVIII*, 2 (Spring 1999), 126.

in special institutions developed for ‘children’.”⁵³ MacIntosh’s work introduces the transition from work to play in the mid 19th-century that, in turn, altered society’s definition of the child. He discusses how religious reform, labour reform, educational reform and state reform all impacted children as a group, and the study of childhood. He includes references to Prince Edward Island’s legislation and to the changes in it resulting from various societal reforms, although this is mostly limited to the period of the late 1800s and the early 1900s.

Patricia T Rooke is a professor of gender history at the University of Alberta and R.L. Schnell is a professor of educational policy and administration with the University of Calgary. A section of their collected work, *Studies in Childhood History: A Canadian Perspective* (1982), concerns the Atlantic Provinces. Their work is very influenced by the theories of John Locke and Rousseau on child rearing. This work also analyzes the changing perceptions of childhood on the east coast. Of particular interest was the argument given to “the attitudinal shift, which made childhood a distinct social category defined by criteria of protection, segregation, dependence, and finally delayed responsibility....”⁵⁴ Attitudinal shift indeed is the underlying theme throughout the collection of essays, and it is broken down into the “four criteria” separation, protection and dependence, and delayed responsibility each discussed chronologically with the aim of explaining the evolution of the three main stages of childhood in Atlantic Canada in the nineteenth century that formulate the “modern concept of childhood”.⁵⁵ Examining attitudes towards children in Prince Edward Island and its stage in the development of the

⁵³ McIntosh, 128.

⁵⁴ Patricia T Rooke and R.L. Schnell, ed., *Studies in Childhood History: A Canadian Perspective* (Calgary, Alberta: Detselig Enterprises Limited, 1982), 82.

⁵⁵ Rooke and Schnell, 82.

concept of modern childhood will help explain what rights and protections were guaranteed for children and when.

One aspect of the field of childhood is the study of children's rights. Their evolution both within the international community and within Canada is crucially important to include when studying the Convention. Historian Dominique Marshall argues that the forerunner to the Convention, the Declaration of the Rights of the Child in 1924, signaled "the passing of social work for childhood into an official object of international relations."⁵⁶ Her methodology is interesting to note because she argues that to examine the tensions surrounding this transition "contemporary political philosophies and ideas about citizenship and about family life" had to be included in the study.⁵⁷ This solidifies the connection between the areas of culture and family in childhood with the evolution of children's rights in international instruments, a theme picked up by Landon Pearson⁵⁸ is the former Canadian "children's" Senator and life-long child advocate. In a speech given in 1997 entitled, *Seen and Heard: Children's Rights in Foreign Policy*, she discusses the history of the international evolution of children's rights and its implications for Canada. Her closing remarks summarize her main argument that Canada is an international partner in securing children's rights. She ended by saying "there is no

⁵⁶ Dominique Marshall, "The construction of children as an object of international relations: The Declaration of Children's Rights and the Child Welfare Committee on the League of Nations, 1900-1924," *International Journal for Children's Rights* 7 (1999): 103-104.

⁵⁷ Marshall, 104.

⁵⁸ Landon Pearson attended the University of Toronto, the University of Ottawa and received an honorary doctorate from Wilfred Laurier University. She was first summoned to the Canadian Senate in September 1994.

global security without human security; no human security without respect for human rights” and “no respect for human rights without respect for children.”⁵⁹

The history of child law in Canada is helpful, but to an historian, it is important to tread lightly when utilizing the field of legal studies or even legal history. An emphasis on legal theory rather than history will in all likelihood produce an a-historical work.⁶⁰ That being said, an introduction that is historically grounded to legal work is necessary as it puts the study of the impact of the Convention in provincial legislation into context. The Convention has raised many concerns and much discussion on rights theory and legal practice. For our purposes, there are three main areas of interest to take from this field: the history of childhood, child welfare and child protection. Several legal works on child law in Canada include a section on the history of child law or of childhood as, in essence, they discuss the evolution of children’s rights in legislation. Works that compare earlier laws with the Convention focus on two main areas of analysis: child welfare legislation and child protection legislation, which lawyers understand to be the two areas most influenced by the Convention. The goal of this research is to use these works as a framework to understand the main issues and arguments surrounding child legislation in Canada. The works that best portray the interests of history and childhood, childhood welfare legislation and child protection legislation, are those by Jeffery Wilson, Nicholas Bala, Douglas Beshavor, Marvin Bernstein et al., as well as three

⁵⁹ Landon Pearson, “Seen and Heard: Children’s Rights in Foreign Policy,” *Foreign Affairs and International Trade*. 17 March 1997. Available: <http://www.international.gc.ca/department/skelton/pearson-en.asp> [February 19, 2007].

⁶⁰ R.L. Schnell, “Childhood Rescued and Restrained in English Canada,” In *Studies in Childhood History: A Canadian Perspective* ed, Patricia T Rooke and R.L. Schnell (Calgary, Alberta: Detselig Enterprises Limited, 1982.)

separate reports submitted under the auspices of various NGOs in three different provinces: British Columbia, Alberta and Ontario.

Jeffery Wilson is an Ontario lawyer. His work, *Up Against It: Children and the Law in Canada* (1980), emphasizes the importance of a society's interpretation of childhood. Misinterpretations, he argues, stem from our visual images taken from stories such as *Anne of Green Gables* and *Who Has Seen the Wind*.⁶¹ These interpretations are false, he argues, because life is not as cut and dried; reality draws a much more broken picture.⁶² Canadian child legislation more often than not, indirectly affects children and their best interests.⁶³ He reiterates this point in one succinct statement: his is a book about children and the law, not about the law of children.⁶⁴ He sets out to examine these laws that directly affect the family unit, citing Canadian case law as evidence.

Child Protection Law in Canada (1990) edited by Marvin Bernstein, an Ontario lawyer and the province's child advocate, and others used the UN Convention as a main platform from which to examine child protection law in Canada in the twentieth century.

The authors insist:

Abuse, rights, opinions, and best interests of children, viewed from their perspective know no boundary. It is up to us [the legal community], with the assistance of this book to protect them and to advocate for them so that Canada may be a proud signatory of the United Nations Convention on the Rights of the Child.⁶⁵

This work is a blueprint of child protection law in every province in Canada. Bernstein and his associate editors briefly discuss the *Family and Child Services Act* R.S.P.E.I., 1988 in Prince Edward Island, the province's child protection legislation. The province

⁶¹ Jeffery Wilson, *Up Against It: Children and the Law in Canada* (Toronto: Anansi, 1980), 7.

⁶² Wilson, 7.

⁶³ Wilson, preface.

⁶⁴ Wilson, preface.

⁶⁵ Marvin Bernstein et al., ed., *Child Protection Law in Canada* (Toronto: Carswell, 1990), v.

listed this Act in their section of Canada's 1994 Report on compliance to the UN Committee on the Rights of the Child. PEI's report in turn clearly outlines the *Family and Child Services Act* in relation to questions surrounding the definition of the child, the definition of a child in need of protection, and the best interests of the child.

David Cruickshank, a law professor at the University of British Columbia, compiled a report examining the province's compliance to the Convention, under the auspices of the Rights Awareness Project (RAP) Society for Children & Youth of British Columbia (SCY). The SCY was established in 1974 as a provincial advocacy organization with the mandate to improve life for children and youth in such areas as law, health, education, child development and social services.⁶⁶ This report entitled *The UN Convention on the Rights of the Child: Does Domestic Legislation Measure Up?* offers a detailed comparison between provincial legislation, especially welfare and protection, to the Convention. He examines each piece of British Columbia's legislation that deals with children and rates it according to the relevant section of the Convention. He concluded that overall, the majority of legislation was in good compliance. However, there were those that were in fair, poor, or in non compliance in addition to several in excellent compliance.⁶⁷

Anna S Pellatt, professor of law at the University of Calgary, wrote a report on the compliance of Alberta's provincial legislation entitled, *United Nations Convention on the Rights of the Child: How Does Alberta's Legislation Measure Up?* (1999). She wrote it under the auspices of the NGO Alberta Civil Liberties Research Centre (ACLRC). The

⁶⁶ Society for Children and Youth of British Columbia. Available: <http://www.scyofbc.org/> [February 20, 2007].

⁶⁷ David Cruickshank, *The UN Convention on the Rights of the Child: Does Domestic Legislation Measure Up?* (Rights Awareness Project (RAP) Society for Children & Youth of British Columbia), 9-10.

ACLRC's mission is the dissemination of information on civil liberties and human rights to the public.⁶⁸ A copy of Pellatt's report was submitted as a parallel study on the province's compliance to the Convention.⁶⁹ Her methodology was similar to Cruickshank's in that she examined all provincial legislation relevant to children and compared it to the relevant articles of the Convention. She concluded that overall compliance to the Convention was average and that compliance to the respect for the views of the child was also fair.⁷⁰

In Ontario, Nicholas Bala, professor of law at Queen's University, and Martha Bailey, assistant professor of law also at Queen's, released their report entitled *Does Ontario and Federal Legislation Comply with the U.N. Convention on the Rights of the Child?*, which was completed with the support of the Child Welfare League of Canada (CWLC). The mandate of the CWLC is to promote the "well-being and protection" of children and youth, emphasizing such areas as child welfare, health and justice as means to do this.⁷¹ In addition to the examination of Ontario's child legislation, Bala and Bailey include an examination of federal compliance as well. Specifically citing David Cruickshank's report, they follow a similar methodology of rating legislation. With respect to the views of the child, they argue that overall, compliance was above average in most areas.⁷² None of these reports offer any insight into the Atlantic region and none of them focus on the implementation process. Their analysis is primarily legal and their

⁶⁸ Alberta Civil Liberties Research Centre (ACLRC). Available: <http://www.aclrc.com/index.html> [20 February 2007].

⁶⁹ Anna S Pellatt, *United Nations Convention on the Rights of the Child: How Does Alberta's Legislation Measure Up?* (Calgary, Alberta: Alberta Civil Liberties Research Centre, 1999).

⁷⁰ Pellatt, 133.

⁷¹ Child Welfare League of Canada. Available: <http://www.cwlc.ca/> [February 20, 2007].

⁷² Nicholas Bala and Martha Bailey, *Does Ontario and Federal Legislation Comply with the U.N. Convention on the Rights of the Child?* (Child Welfare League of Canada, 1999)13-14.

aim is clear – to see if their respective provinces legislatively comply with the Convention.

There have been no similar works published from the perspective of Prince Edward Island regarding the Convention. There have been, however, a limited number of articles published on the Convention and the Atlantic Provinces, dealing mainly with the theoretical debates on the Convention's articles.⁷³ They do not examine the implementation of those articles. Therefore, any sources available on implementation are left to works that offer an overwhelmingly national focus.⁷⁴

Two themes have captured the majority of the works on Canada and the Convention. The first theme is the theory of children's rights, questioning the rights and principles of the Convention, the definition of the child and of childhood, and the changing roles of the parent and of the state in society. The second theme, and the one of particular interest, is implementation. Provincial, territorial and federal dynamics have made the implementation process a complicated one, and one of the greatest interest for Canadian academics as well as to the United Nations Committee on the Rights of the Child. It was in its concluding remarks that the committee criticized Canada's slow implementation of the Convention, and attributed the delay to the "federal nature of Canada".⁷⁵ This theme also includes issues of jurisdiction and of enforcement, which shortly follow ratification. Works by Katherine Covell and R Brian Howe, Sonja Grover, Stephen Toope, and Kwong-leung Tang best emphasize these two themes.

⁷³ Brian Howe, "Do Parents have Fundamental Rights?" In *Journal of Canadian Studies* 36, no.3(2110): 61-78.

⁷⁴ There are exceptions to this statement. Please see the reports submitted by the provinces of Alberta, British Columbia and Ontario on the Convention and their respective legislations.

⁷⁵ United Nations. Committee on the Rights of the Child: 1995 Concluding Observations of Initial States Parties Report – Canada. 1995.

Katherine Covell has a background in psychology and R Brian Howe has a background in political science and both are professors at the University College of Cape Breton. The work by Covell and Howe, *The Challenge of Children's Rights for Canada* (2001), uses the Convention as a framework when examining children's rights in Canada. The premise of the work is that children's rights under the Convention means freedom from "any toxins, social or physical, that threaten their healthy development."⁷⁶ They argue throughout their work that there are two factors involved. The first is "that society acknowledge much more than it does that children are not the property of parents, but are individuals with inherent rights" and the second is that "we need to change our laws, policies, and practices regarding children from being reactive to being proactive, in which the primary principle is the best interests of the child."⁷⁷ In these statements, the authors solidify the connection between childhood (influences of culture and tradition) and legislation and policy (importance of the government as legislator and policy-maker) relating to the Convention. They suggest that the Second World War ushered in "an era of expanding human rights and children's rights consciousness, when in the late twentieth century children came to be viewed as subjects and bearers of rights."⁷⁸ This statement is true in its own right as it was not until after the Second World War and the United Nations Declaration on Human Rights when a "rights based society" became conceivable. The violations and atrocities committed during the Second World War shifted concern to the area of human security. The aim of the work, however, is to identify issues and offer recommendations for the challenges within the community, the

⁷⁶ Katherine Covell and R Brian Howe, *The Challenge of Children's Rights for Canada*, (Waterloo, Ontario: Wilfred Laurier University Press, 2001), 2.

⁷⁷ Covell and Howe, 2.

⁷⁸ Covell and Howe, 11.

school system, the legal system, the family and the environment that limit the spirit of the Convention. They suggest that these areas had previously been handled by parents and society in a “reactive” way and not a “proactive” way, which they feel has limited the success of children’s rights in Canada.⁷⁹

Brian Howe addresses the themes of children’s rights and principles. His article titled, “Do Parents Have Fundamental Rights?” in the *Journal of Canadian Studies* (2000) raises some concerns frequently voiced regarding parental authority and rights. His is a study of the philosophical debates, a theorizing about one right versus another. This short article briefly touches on principles surrounding the Convention’s implementation that do arise, albeit in a limited fashion, within Prince Edward Island. An example of this is the debate about whether the rights of the child trump the rights of the parent.

Sonja Grover, a professor of education, focuses on the theme of implementation. In her article, *Advocating for Children’s Rights as an Aspect of Professionalism: The Role of Frontline Workers and Children’s Rights Commissions* (2004), she emphasizes the role of NGOs within the implementation process, which in her opinion, is fundamental for the Convention’s success in Canada. She argues that child advocacy “is viewed largely as a matter of mediation and child welfare rather than legal rights.”⁸⁰

In his chapter on the necessary requirements for successful implementation titled, “The Convention on the Rights of the Child: Implications for Canada”(1996), Stephen Toope of the University of British Columbia discusses the obvious jurisdictional

⁷⁹ Covell and Howe, 161.

⁸⁰ Sonja Grover “Advocating for Children’s Rights as an Aspect of Professionalism: The Role of Frontline Workers and Children’s Rights commissions,” *Child and Youth Care Forum* 33, no.6 (2004): 405-423.

problems in Canada as well as the problems that develop from the Convention's principles. These problems, he argues, require Canadian adults to alter their attitudes towards children in order for society to see them as rights bearers.⁸¹ The reality of this statement is embedded in the themes found in the history of childhood.

Kwong-leung Tang is a professor of social work at the University of Northern British Columbia. He provides the best explanation for the Convention's implementation in Canada in his study, *Implementing the United Nations Convention on the Rights of the Child* (2003). Not only are there jurisdictional problems that affect Canada due to its "federal nature," but Tang argues that there are heavy fiscal restraints that face all jurisdictions.⁸² He continues to say that all aspects of the implementation are greatly impeded by "the lack of a unified, child-focused federal approach to policy; the lack of a national monitoring body; and the opposition of pro family groups."⁸³ However, he also argues that "some positive results have come out of the convention."⁸⁴

Literature on Atlantic history allows us to place the study of childhood in Canada, child law in Canada, and the Convention and Canada within the context of Prince Edward Island. Of particular interest are the key factors which make the history of both the Atlantic Provinces and Prince Edward Island distinct from the national experience. This has proven of great significance for my research. The theme of Island "uniqueness" transcends the decades and continues to alter events into the twentieth century. Although as a fact and as an idea, there has been no published work on children's rights on Prince

⁸¹ Stephen Toope, "The Convention on the Rights of the Child: Implications for Canada," ed. Michael Freeman, In *children's Rights: A Comparative Perspective* (Brookfield, US: Dartmouth Publishing Company Limited, 1996), 56.

⁸² Kwong-leung Tang, "Implementing the United Nations Convention on the Rights of the Child: The Canadian Experience," *International Social Work* 46, no. 3 (2003): 277-88.

⁸³ Tang, 277-88.

⁸⁴ Tang, 277-88.

Edward Island, some works do offer insight into “uniqueness” and remain important guide in this respect. Works by Margaret Conrad and James Hiller, G.A. Rawlyk, Charles J McMillan, Edward MacDonald and John Eldon Green⁸⁵, best highlight the specialty of maritime and Island history.

Atlantic Canada: A Concise History (2006) by historian Margaret Conrad and historian James K. Hiller argue that national changes in Canada affected the Atlantic region differently. The work discusses the beginnings of the region with the aboriginal peoples and the European explorers up until the 21st century. Their account of the years 1975 to 2005 places the Atlantic region within the national and international context. Federal decisions, such as Prime Minister Brian Mulroney’s 1988 Free Trade Agreement, gave the region no choice but to adjust with the times, signifying that the region had no input on this matter. An even more interesting argument to note is that the east coast had no input in the adjustment and that “Atlantic Canadians had no option but to adjust.”⁸⁶ They also argue that, in the face of change, “old economic and social patterns remained in place.”⁸⁷

Historian G.A. Rawlyk edited a work entitled *Historical Essays on the Atlantic Provinces* (1967). He too puts forth the theory of the “uniqueness” of the Atlantic Provinces. National events seem to translate a little bit differently in the Atlantic region, a factor Rawlyk has attributed to the ocean. He argues “it is the sea that has given the Atlantic Provinces their special character; their historical development has been largely

⁸⁵ John Eldon Green attended St. Dunstan’s University in Charlottetown.

⁸⁶ Margaret Conrad and James Hiller, *Atlantic Canada: A Concise History* (Toronto: Oxford University Press, 2006), 210.

⁸⁷ Conrad and Hiller, 209.

conditioned by the sea.”⁸⁸ This line of argumentation flows throughout the essays, but it is initially shaped in the introduction by the editor. The maritime landscape has undeniably shaped the province’s social, economic and cultural development, Rawlyk argues.⁸⁹ He also discusses the importance of society and the economy, much along the same lines as Margaret Conrad and James Hiller.⁹⁰ We can tie these themes to Joy Parr’s assertions about influencing factors on history of childhood.

Charles J McMillan’s study of the economic and social challenges that face the region as it approached the millennium drew a connection between economic limitations and partisan politics limiting individual provincial growth and constantly disrupt potential Atlantic cooperation.⁹¹

A source solely dedicated to Prince Edward Island is historian Edward MacDonald’s *If You’re Stronghearted: Prince Edward Island in the Twentieth Century* (2000). He sets out to identify how Prince Edward Island differs in the year 2000 from the year 1900.⁹² Along the way, he promotes the theory of “uniqueness,” but offers what no other existing secondary source does – a general history of “Canada’s Smallest Province” in the twentieth century.⁹³ The successful aim of this work is to discuss the changes and continuities that shaped the Island. Thus, the Island changes, yet remains the same.⁹⁴ With an emphasis on family, society, religion and politics, he argues also for

⁸⁸ G.A. Rawlyk, edited, *Historical Essays on the Atlantic Provinces* (Toronto: McClelland and Stewart limited, 1967), 1.

⁸⁹ Rawlyk, 1.

⁹⁰ Rawlyk, 1.

⁹¹ McMillan, 1.

⁹² Edward MacDonald, *If You’re Stronghearted: Prince Edward Island in the Twentieth Century* (Prince Edward Island: Prince Edward Island Museum and Heritage Foundation, 2000), xii.

⁹³ *Canada’s Smallest Province* (Prince Edward Island 1973 Centennial Commission, 1973).

⁹⁴ McDonald, 12-24.

their interconnectedness on Prince Edward Island, in a society where religion and politics for the greater part define the family and vice versa.

John Eldon Green is the former Deputy Minister of Social Services for the province in the late 1980s, and long-term federal and provincial civil servant. In his memoirs entitled *A Mind of One's Own: Memoirs of an Albany Boy* (2006), he offers a first-hand account of the state of children's rights from the government's perspective, providing a narrative on the government's attitude towards the family and the child. The picture painted is prior to the United Nations Convention, setting up the beginning of its story, suggesting how the Convention might have been handled by the government. He is critical of the government and he outlines concerns in the community regarding children. He notes that within two Christian denominations in particular, the Roman Catholic church and the Church of Christ, groups feared the loss of parental authority.⁹⁵ The connection between politics and religion is fundamental to these groups which have much clout in the Legislative Assembly. Illustrated with examples within the government, he notes that "we were unable to enact provisions on the rights of children."⁹⁶ This presents a clear setting about where children's rights stood on the political agenda in the late 1980s.

The Government of Prince Edward Island was obligated and responsible upon ratification of the Convention to examine its policy and legislation relating to children. Article 4 of the Convention states that "States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention...States Parties shall undertake such measures to

⁹⁵ John Eldon Green, *A Mind of One's Own: Memoirs of an Albany Boy* (Charlottetown, PEI: Tangle Lane, 2006), 417-18

⁹⁶ Green, 418.

the maximum extent of their available resources and, where needed, within the framework of international co-operation.”⁹⁷ When dealing with international instruments, Canada has a dualist system, which implicates both national and provincial legislation, for the implementation of international treaties. International laws are not adopted into Canadian laws. Existing Canadian laws are amended to account for international obligations, thus bypassing the parliamentary process.⁹⁸ The dualist system, however, means that Canada must rely on changes made in legislation and on a growing body of jurisprudence mechanisms to meet the rights prescribed in the Convention.⁹⁹ As a result, existing legislation is extremely important within this process.

This thesis is based on records from the United Nations, the Canadian government, the province of PEI, and upon a large number of interviews. An interim report on compliance in all Canadian jurisdictions to the Convention by the Senate Standing Committee on Human Rights in 2005 was especially useful. Published materials at the provincial level include the two leading newspapers in the province, the *Guardian* and the *Journal Pioneer*, annual reports from the Department of Health and Social Services, Justice and the PEI Human Rights Commission, and the Journal of the PEI Legislative Assembly. The only records found from the provincial government pertaining to the Convention were at the Department of Health and Social Services.

The language of existing Prince Edward Island legislation and policies is compared to the language of the principles and rights outlined in the Convention on the

⁹⁷ Canadian Heritage. Human Rights Program: *United Nations. Convention on the Rights of the Child*. Available: http://www.pch.gc.ca/progs/pdp-hrp/docs/crc_e.cfm [September 1, 2006].

⁹⁸ Canada. Parliament. Senate. Standing Committee on Human Rights. Interim Report: *Who's In Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*, 2005. Available: http://www.canadiancrc.com/Senate_hearings_child_rights_38th/Sen... [23 November 2006], 4.

⁹⁹ Standing Senate Committee on Human Rights, 4.

Rights of the Child. Chapter one will examine bygone pre-Convention provincial attitudes towards children in policies and legislation on child welfare and child protection issues. Problems arose when the Convention was to be implemented into existing provincial legislation and policy, highlighted in the erratic nature of its implementation. Chapter two will examine the search for records on the Convention in the province. This search is important as it identifies and bears witness to the erratic nature the Convention's implementation in the province. The PEI provincial response was limited to a few government departments and NGOs. Chapter three will also examine the necessary measures that were taken by the province within the context of provincial attitudes towards children. Federal-provincial relations regarding the Convention also included the World Summit and the National Action Plan, which will be examined in chapter four. The reality of these relations, based on the Island's size and influence, meant that the government was a passive participant in the Convention's implementation. The Convention's implementation was not a priority for the province. PEI did only what it absolutely had to do.

Chapter One
“Change comes very difficult to PEI”:¹⁰⁰
A History of Island Politics and Culture

In Canada, international human rights treaties are rarely incorporated directly into Canadian law, but are indirectly implemented by ensuring that pre-existing legislation is in conformity with the obligations accepted in a particular convention. Parliament plays no role in ratification, thus international human rights treaties that are not directly incorporated into domestic legislation bypass the Parliamentary process. Implementation of international law where provincial laws and policies are affected is a shared responsibility of the federal, provincial and territorial governments.¹⁰¹

Standing Senate Committee on Human Rights
Interim Report, November 2005

Between November 2004 and March 2006, the Standing Senate Committee on Human Rights was given approval by Senate to examine Canada’s international obligations. It chose to examine Canada’s international obligations as they apply to the rights and freedoms of children, basing its report on a nation-wide study. The focus for the study was the UN Convention on the Rights of the Child¹⁰² and its aim was to identify the extent to which the country complied with the Convention by examining its impact on Canadian policy and legislation.¹⁰³ A main component of this was an examination of provincial legislation, as the provinces have jurisdiction over the majority of the articles of the Convention, a right dating back to the *Constitution Act* of 1867.

The language of the Convention not only prescribes rights for children, but institutionalizes certain attitudes towards children.¹⁰⁴ However, Stephen Toope, argued in 1996 that among the barriers to change in Canada are adult society’s “attitude towards

¹⁰⁰ Father Leo Trainor, Interview by Kathryn Morrell, 4 September 2006, Charlottetown, 14.

¹⁰¹ Canada. Parliament. Senate. Standing Committee on Human Rights. Interim Report: Who’s In Charge Here? Effective Implementation of Canada’s International Obligations with Respect to the Rights of Children. 2005. Available: http://www.canadiancrc.com/Senate_hearings_child_rights_38th/Sen... [November 23, 2006], 4.

¹⁰² Hereafter Convention.

¹⁰³ Senate. Standing Committee on Human Rights, 1-4.

¹⁰⁴ Ron Stanley, Interview by Kathryn Morrell, Messines-Charlottetown, 30 October 2006, MA.

children” and that the Convention cannot be successful until these attitudes shift, allowing children to be seen as “right’s bearers.”¹⁰⁵ Another of those barriers, one specific to Prince Edward Island, is a political culture on the Island that has always been resistant to change. This chapter will examine provincial policies and legislation in the areas of child welfare and child protection, introduce the history of Island politics, analyze Island culture in the late twentieth century, and will place these within the national context.

Welfare and protection are the two main policy and legislative areas tied to the history of children’s rights. The briefing kit sent out in 1989 to government and nongovernmental organizations (NGOs) by the two leading organizations for children, Defense for Children International (DCI) and United Nations Children’s Fund (UNICEF), emphasized this connection. The kit stated that “logically, the origins of the future Convention on the Rights of the Child can be traced back to the five basic principles for child welfare and protection set out in the ‘Declaration of Geneva,’ which was promulgated in 1924 by the then ‘Save the Children Fund International Union’.”¹⁰⁶ The importance of child protection and child welfare legislation to the Convention and children’s rights was not lost on the Standing Senate Committee on Human Rights. Its interim report in November 2005 included a history of child protection and child welfare in Canada.¹⁰⁷ In addition to this, Minister for External Affairs Joe Clark wrote the Premier of Prince Edward Island, Joseph Ghiz, on 16 July 1990, to explain the

¹⁰⁵ Stephen Toope, “The Convention on the Rights of the Child: Implications for Canada” in *children’s Rights: A Comparative Perspective* (Brookfield, US: Dartmouth Publishing Company Limited, 1996), 56.

¹⁰⁶ UNICEF/DCI, Briefing Kit, 3rd Edition: *The Future Convention: How it Came About*. New York: United Nations, 1989.

¹⁰⁷ Standing Senate Committee on Human Rights, 12.

importance of child welfare and child protection for the World Summit for Children, which was to be held in that year. The first aim of the Summit was the worldwide ratification of the Convention.¹⁰⁸ He wrote that “while Canadian children rarely face issues of life and death, a regrettable number among them confront abuse, neglect or other problems that impede their healthy physical, mental and emotional development.”¹⁰⁹

Joy Langan, an NDP Member of Parliament from British Columbia, discussed the need for Canada to focus on the welfare and protection of Canadian children on 7 April 1989, after the reading of a private member’s bill for a *Children’s Bill of Rights*, known as motion M-254. This motion was an attempt to deal with issues of jurisdiction because there was no national framework for the well-being of Canadian children. The motion read:

That, in the opinion of this House, the Government should consider the advisability of negotiating with the provinces a comprehensive bill of rights for children which would standardize laws throughout the country, and that this Bill of Rights include a hold protection commission and an emergency hotline which children could contact in times of crisis.¹¹⁰

The motion did not pass, because of the complexities of children’s rights, but it did serve to raise the profile of children’s issues in Parliament.

Poverty, especially child poverty, had been on the rise in Canada since 1973.¹¹¹ In September 1989, a motion unanimously passed honouring the retiring leader of the New Democratic Party, Hon. Edward Broadbent of Ontario: “that this House express its

¹⁰⁸ Please note that at the time of the World Summit in September of 1990, Canada had not yet ratified the Convention.

¹⁰⁹ External Affairs. *Premier’s Papers*, Acc 4547, s.4, file 1162 (1990), Public Archives and Records Office of Prince Edward Island.

¹¹⁰ Canada. Parliament. House of Commons. Debates. Vol. 1, April 7, 1989, 231pp.

¹¹¹ Canada. Parliament. House of Commons. Debates. 25 September 1989, 3864pp.

concern for the more than one million Canadian children currently living in poverty and seeks to achieve the goal of eliminating poverty among Canadian children by the year 2000.”¹¹²

What of Prince Edward Island? On 16 May 1990, the provincial branch in Charlottetown for the Secretary of State received a document submitted to interested parties, from Dan Martenson, the Under Secretary General for Human Rights at the United Nations. Martenson pressed the importance that cultural perceptions have on the implementation the Convention in policy and in legislation.¹¹³ He discussed the issue of culture to explain some of the concerns about implementation that arose for many of the countries involved in the drafting of the Convention. Attitudes towards children vary within different cultures and societies. However, he argued that most societies have an understanding of the basic, fundamental rights to which children are entitled. In many ways, cultural perceptions in Prince Edward Island were similar to the rest of Canada, but in other ways unique experiences and traditions have made Island culture distinct from the rest of Canada.

The memoirs of John Eldon Green, former provincial Deputy Minister of Social Services and long term civil servant, illuminate the government’s policy on welfare with respect to children and families during the 1970s and 1980s. Although the author’s story begins and ends before the Convention’s implementation in the province, this is the only work to date that gives insight into the ideas of the provincial government on child welfare. He supports his frequent criticisms with examples of his experience within the government.

¹¹² Canada. Parliament. House of Commons. Debates. 25 September 1989, 6173pp.

¹¹³ United Nations Children’s Fund (UNICEF) and the United Nations Centre for Human Rights. *The Future of the United Nations: Convention on the Rights of the Child*. New York. New York.

One especially pointed example dealt with the drafting of a child welfare bill. Movement towards a new child welfare act began in 1979, the International Year of the Child. The Premier gave the go ahead to Eugene MacDonald, the Director of Child Welfare, and a field team of social services workers, to draft a child welfare bill which would “combin[e] several pieces of legislation, and introduc[e] some long overdue concepts.”¹¹⁴ Existing legislation on such issues such as illegitimacy, the right to a name and identity, and the incorporation of the concept of “children’s rights,” had, in the words of Green, long safeguarded fathers in the province to the detriment of children, and more generally, been a huge obstacle for children’s rights. Three years were given to the preparation of this bill, and there was much support for it, Green explains, “because of the bill’s novel position.”¹¹⁵ It would “garner Prince Edward Island international attention in this field.”¹¹⁶ The bill passed its second reading in the Legislative Assembly but, shockingly and without warning, “disappeared before the third.”¹¹⁷ It vanished without reason or opportunity to confront any opposition from the politicians. The reason for the bill’s abrupt departure from the Assembly was given in three short paragraphs by Chairman of the Assembly, Albert Fogarty. On 5 May 1981, he stated that it was recommended that the Legislature not continue with this bill:

Although indicating a consensus on some issues, these representations revealed that a wide divergence of opinion continues to exist among the public on several fundamental and often times controversial issues associated with the entire area of child welfare.¹¹⁸

¹¹⁴ John Eldon Green, *A Mind of One’s Own: Memoirs of an Albany Boy* (Charlottetown, PEI: Tangle Lane, 2006), 415.

¹¹⁵ Green, 415.

¹¹⁶ Green, 415.

¹¹⁷ Green, 417.

¹¹⁸ Prince Edward Island. Journal of the Legislative Assembly of Prince Edward Island. 1981, 55th Session, 3rd Session.

The main reason, argues Green, why the child welfare act was not passed was because there was “too much emphasis on rights.”¹¹⁹ Three years were spent drafting this new piece of legislation by individuals within the area of child welfare, a community united by the need for updated legislation. A background paper on the Act, written by a branch of the Department of Health and Social Services, argued that:

Existing child welfare legislation on Prince Edward Island does not reflect current practices or theory in this field. Three of the acts which deal with children are the Children’s Act, and the Children’s Protection Act, and the Adoption Act, but these Acts do not share a common philosophy and many provisions are unrelated.¹²⁰

John Eldon Green gave a second example that portrays the provincial government’s attitude towards child welfare. He argues in his memoirs that, when he became Deputy Minister of Social Services for the province in the 1970s, “abused, neglected, disabled and otherwise vulnerable children were simply not on anyone’s radar. They were never discussed in the Legislature, never mentioned in the churches....”¹²¹ Child welfare was denied any time in the Legislature for debate. Deputy Minister Green had requested that one day of business in the provincial legislature be dedicated to family issues. He felt this was a reasonable request as the legislature had just spent two days on energy matters, but he was told: “not a chance.”¹²² The lack of interest in child welfare issues was a theme in the Legislature throughout the 1980s. Nor has there been interest since. No child welfare act as been passed. Possible explanations for the bill’s abandonment are similar to the lack of attention given to the area of child welfare.

¹¹⁹ John Eldon Green, Interview by Kathryn Morrell, Charlottetown, 31 August 2006, MA,5.

¹²⁰ Prince Edward Island. Department of Health and Social Services: Social Services Branch: *Child Welfare Legislation: Background Paper*. 1980. Charlottetown, PEI.

¹²¹ Green, 396.

¹²² Green, 19.

The attempts of the PEI Department of Social Services to introduce child welfare onto the political agenda failed, but legislation, like Conventions, comes from a growing body of interest and concern and in many ways is “an encapsulation of thinking.”¹²³ Legislation is a significant part of children’s rights because it is in laws where they are recognized, as children as a group do not have a voice with which to speak for themselves.¹²⁴ The Director of Child Welfare for the province in 2007, Ron Stanley, explains that there has been “no grand statement of rights” but that there has been an evolution of “some” rights over time as the child becomes “more of a human being” in society.¹²⁵ The province in this regard has been “slow,” he explains, “compared to some jurisdictions,”¹²⁶ and major change would be “too radical a shift.”¹²⁷

The province’s child protection legislation offers the best insight into provincial attitudes towards children. In 1910, *An Act for the Protection of Neglected and Dependent Children* (also cited as *The Children’s Protection Act of Prince Edward Island*) was the first child legislation in the province.¹²⁸ The 1940 *An Act Respecting Children* (also cited as the *Children’s Act*), included all areas of child legislation; in 1951 the section on Protection was proclaimed as its own act. The 1961 *Children’s Protection Act* was a completely new act, proclaimed under the same title as the 1951 *Children’s Protection Act*. The 1981 *Family and Child Services Act* replaced the *Children’s Protection Act* as the new protection act for the province. It is the *Family and Child Services Act* that is most frequently cited by the province as proof of compliance with the

¹²³ Landon Pearson, Interview by Kathryn Morrell, 21 August 2006, Charlottetown, 5.

¹²⁴ Father Leo Trainor Interview by Kathryn Morrell, 4 September 2006, 13.

¹²⁵ Ron Stanley, Interview by Kathryn Morrell, 8 September 2006, Charlottetown.

¹²⁶ Ron Stanley Interview.

¹²⁷ Ron Stanley Interview.

¹²⁸ PEI. HSS: *Background Paper*.

Convention, as in PEI's section of Canada's first report to the United Nations Committee on the Rights of the Child. The chronological order of these acts and their amendments are significant as they show a gradual change in how Island legislators view children. Two important aspects that show these changing views are age and poverty. A systematic study of these changes introduces Island society's definition of the child and definition of the child in need.

In the protection acts between the years 1910 to 1961, a child was described as "a boy or a girl," whereas this became "a person" in the 1981 act. In the protection act of 1910, chapter I describes a child as 16 years or younger. In 1951 and 1961, chapter I defines a child as seventeen years or younger. In 1981, chapter I uses eighteen years as the age of majority. The very language surrounding the definition of a child in need of protection changed over the years. In the child protection acts of 1910 through 1961, the definition of protection was not similar to the definition of protection that is associated with the Convention. These definitions are not "rights" based, but are ones founded on the "morality" of the child. For example, the act would only come into effect if the child was immoral or at risk of becoming so. It was not until the 1981 act that the definition of protection was one based on external factors bearing upon the child, and not on the internal traits of the child; it was not based on the child's situation, but on the situation that parents and society had placed the child in.

The province's child protection legislation touched on poverty only negatively. John Eldon Green explained that poverty was an issue that the government avoided in the sense that it did not understand the ramifications of the issue. He argued that:

The parents may have money, the children are poor so to eliminate child poverty you eliminate parent poverty. They don't talk about that. It's more noble to say

child because children don't speak, and children aren't ugly and children don't live in slums unless they are children of the poor, so they can talk about children and it's a beautiful concept, these pretty baby-faced things, but you address the needs of children through the needs of the parents and that's something governments have turned their backs on for the last fifteen years.¹²⁹

In the 1960s there was a Canada-wide recognition that poverty was the result of two causes, either discrimination or socio-economic conditions, such as economic conditions.¹³⁰ This recognition resulted in the Canada Assistance Plan. However, Green found that it was the old English Poor Law of Britain that was the “government’s traditional way of dealing with destitute people on Prince Edward Island, following the spirit of a 350-year-old law from another country.”¹³¹ The 1951 *Children’s Protection Act* of Prince Edward Island defined a “neglected child” as one whom “is a vagrant, orphan, destitute,”¹³² or has been seen “begging, receiving alms, thieving, homeless, associated or living with a thief, drunkard, or vagrant.”¹³³ Although the entire 1951 protection act was repealed in 1961 and a new act proclaimed under the same name, the language had not changed. In the 1961 *Children’s Protection Act*, a “neglected child” was defined as, among other things, “a child who habitually uses obscene, profane or indecent languages or is guilty of immoral conduct in any place whatsoever.”¹³⁴ The language changed by the 1981 *Family and Child Services Act*, where procedure was to be guided by the “best interest of the child.” Also, the idea of “protection” was much closer

¹²⁹ John Eldon Green, interview by Kathryn Morrell, 31 August 2006, Charlottetown, 5.

¹³⁰ John Eldon Green Interview, 1.

¹³¹ Green, 482.

¹³² “Children’s Protection Act,” In *Statutes of Prince Edward Island*, 1951, Chapter I. Charlottetown: Queen’s Printer, 1951.

¹³³ “Children’s Protection Act 1951.”

¹³⁴ “Children’s Protection Act,” In *Statutes of Prince Edward Island*, 1961 Chapter I. Charlottetown: Queen’s Printer, 1961.

to that of the later Convention, where a child in need of protection was one “who is living in a situation where there is severe domestic violence.”¹³⁵

However, it was not until 2000, almost a decade after the Convention’s ratification in Canada, that the language of child protection legislation started to mirror the language of the Convention. For example, the preamble of the provincial child protection legislation states: “AND WHEREAS children have basic rights and fundamental freedoms no less than those of adults and a right to special safeguards and assistance in the preservation of those rights and freedoms.”¹³⁶ It is in the Child Protection Act of 2000 that we first see a “rights based” approach where children are “entitled” to protection from their parents when necessary or from environments which may place the child at risk. The Director of Child Welfare for the province, Ron Stanley, has a position close to that of children’s ombudsman in the province and so has an interest in seeing the province’s child protection legislation become “rights based intervention.” Yet, progress is at a snails pace. At a conference held in Montreal by the International Bureau of Children’s Rights on “Making Children’s Rights Work: National and International Perspectives” in November 2004, Jacques Chamberland, Justice of the Court of Appeal in Quebec, discussed all the case law in Canada where the decisions referenced the Convention. Significantly, there were no examples for the Province of Prince Edward Island.

Part of the difficulty is that the province is small, and so too is its government. Right up until the 1960s and 1970s, the public service on the Island was in its

¹³⁵ “Family and Child Services Act,” In *Revised Statutes of Prince Edward Island*, Chapter I, 1981, Charlottetown: Queen’s Printer, 1981.

¹³⁶ “Child Protection Act,” In *Statutes of Prince Edward Island*, 2000, Preamble, Charlottetown: Queen’s Printer, 2000.

“infancy.”¹³⁷ Premier Alex Campbell began re-structuring the provincial government under the Comprehensive Development Plan in the 1970s.¹³⁸ This plan was meant to emphasize and support Island staples such as fishing and farming. In 1967, buildings were built in order to centralize and house the growing number of civil servants. The *Civil Service Act* legislated in that same year prescribed the number of civil servants allowed in the province, but that number grew right up through the 1980s. Island historian Edward MacDonald argues that by the 1980s civil servants of the provincial and federal governments made up the majority of the work force in the province.¹³⁹

The development plan of the 1970s did not include the re-structuring of the Department of Health, which at the time included welfare and protection. The province that claims the most famous fictitious orphan, Anne of Green Gables, had not considered the department most involved with children’s well-being in the province. MacDonald explains that “although ‘social development’ was high on the Development Plan’s list of priorities, health and welfare issues remained outside of its comprehensive mandate.”¹⁴⁰

J.R. Fullerton wrote an article on child welfare in the province in the early 1940s, which is indicative of early Island attitudes. However, his interpretation of child welfare in the province emphasizes surface issues and does not offer a deep analysis of child welfare. He argues that the province did not have a “province-wide” welfare system, similar to those in other provinces, “because the need does not seem evident.”¹⁴¹ He also discussed the Juvenile Court in the province, noting with relief that “fortunately a really bad boy is seldom heard of” in the province, although “the Province has its share of

¹³⁷ MacKinnon, 192.

¹³⁸ MacDonald, 321.

¹³⁹ MacDonald, 322.

¹⁴⁰ MacDonald, 327.

¹⁴¹ Fullerton, J.R. “Child Welfare in ‘The Island’,” *Canadian Welfare* (1941) XVII, no. 6, 25pp.

mischievous ones.”¹⁴² On the other hand, Ron Stanley’s perception of social work right up until the 1990s, when he accepted the job as Director of Child Welfare, was that it was a “needs finding organization.”¹⁴³ There was no system in place to report child neglect or abuse. He explained that child welfare is a way of providing needs to the community, “but at times professional staff were not able to tell if a child needed protection.”¹⁴⁴ Stanley continued to explain that the community did not understand the purpose of child welfare, or of social workers. Fullerton and Stanley speak to a child welfare situation that, over time, has been developing.

Since the administration of the provincial government received an overhaul in the late 1970s, the reorganization of government departments and agencies has been frequent. In the late 1970s, the relevant branches in government were re-organized and became two: the Department of Health and the Department of Social Services.¹⁴⁵ In the 1980s, the two became one: Department of Health and Social Services. There were therein between eleven and seventeen divisions, including Environmental Health, Care and Aging, and Child and Family Services, which itself included such functions as child welfare, assistance, daycare, nutrition.¹⁴⁶ In 1994 the Government of PEI restructured the Health system again. A twenty-four person sub-department was created as the Health and Community Services Agency, an umbrella agency that focused on welfare and early childhood. There was no longer one central office, but four, one for each health region and each with its own board and CEO. There ceased to be a provincial director and each

¹⁴² Fullerton, 26.

¹⁴³ Ron Stanley Interview.

¹⁴⁴ Ron Stanley Interview.

¹⁴⁵ Edward MacDonald, *If You're Stronghearted: Prince Edward Island in the Twentieth Century* (PEI: Prince Edward Island Museum and Heritage, 2000), 328.

¹⁴⁶ Will MacDonald, interview by Kathryn Morrell, Charlottetown-Messines, Quebec, 13 October 2006.

region was responsible only for its respective territory. This system did not work between the years 1994 and 1996, whereupon the heads in the department lost their jobs. After 2002, the department was again restructured, leaving three regions and placing a form of central authority back with the minister. In 2005, the department itself was up to 150 and 200 personnel.

In addition to Health and Social Services, the Department of Justice is a leader in the area of child policy and legislation. The annual reports explain that, in April 1993, the provincial government re-structured the Department of Justice. The Departments of Labour, Community and Cultural Affairs, and Justice were discontinued, while their mandates were amalgamated under the new Department of Provincial Affairs and Attorney General.¹⁴⁷ However, not all of the former department's functions were now covered by the new department. Some were transferred to other existing government sections.¹⁴⁸

Green explained that during his time in the Department of Health and Social Services, the government neglected children and the family and ignored certain issues. Island culture helped shape the government's attitudes towards child policy and legislation, especially "old attitudes" which Green noted permeated political thought. The provincial Deputy Minister of Health and Social Services during the Convention's implementation, Verna Bruce¹⁴⁹, stated that change takes time, especially for Prince Edward Island:

Whether that was because of politics, whether it was because of culture, whether it's religion, whether it was just that, I think it used to be like that in the rest of

¹⁴⁷ Prince Edward Island. Department of Provincial Affairs and Attorney General: *Fiscal Year-end Report for the 3-month period ending March 31 1993*. Charlottetown; Prince Edward Island, 1993, 4

¹⁴⁸ Prince Edward Island. Department of Provincial Affairs and Attorney General, 4

¹⁴⁹ Verna Bruce attended Mount Allison University and Carleton University.

Canada too but they had been just a little bit slower to change, so our change came around this particular point in time and maybe the change happened similar in other parts of Canada. But the thing with these things, you know, policy approaches tend to take 10 or 15 year cycles and we may have just been at the end of that particular cycle.¹⁵⁰

Island politics could not escape the un-yielding tug of Island culture. Island historians Edward MacDonald and Wayne MacKinnon frequently refer to the role of politics in Island culture. MacDonald suggests Island politics were intricately linked to families: “politics was far more than a way to define oneself. It was also a blood sport. Power was the goal, patronage its local expression.”¹⁵¹ Here, patronage acts as the political lubricant. The ease of patronage was linked by MacKinnon to the fact that Canada’s smallest province is also densely populated, allowing Members of the Legislative Assembly to be well known within the community.¹⁵² The provincial government for a significant part of the twentieth century had an “Islanders only” restriction on appointments, bespeaking insularity and self-protection.¹⁵³

Patronage was a problem that also affected the Island’s public service in a distinct way. MacKinnon argued that the PEI provincial system was unique in Canada¹⁵⁴ in the 1960s and 1970s:

For Islanders and their government, accustomed as they were to patronage, paternalism, dependency and partisanship, the process of building a new partnership was fraught with difficulties. Over the next quarter of a century, successive governments would find themselves reorganizing, reforming and rationalizing their structure and operation in an attempt to create that partnership and get it rights. They are still working on it.¹⁵⁵

¹⁵⁰ Verna Bruce, Interview by Kathryn Morrell, 20 October 2006, Charlottetown, 11.

¹⁵¹ MacDonald, 21.

¹⁵² MacKinnon, 192.

¹⁵³ MacKinnon, 194.

¹⁵⁴ MacKinnon, 197.

¹⁵⁵ MacKinnon, 194.

Chair of the PEI Human Rights Commission, Father Leo Trainor, was well placed to recall the problem of patronage in the late 1980s. The government of Liberal Joseph Ghiz had an estimated 118 cases of political discrimination directed against them under examination by the Human Rights Commission.¹⁵⁶ The Commission, Trainor explained, “continued along the same philosophy that...a right is a right is a right, and political discrimination is wrong and it’s been going on for “x” number of years on the Island.”¹⁵⁷ The creation of the Human Rights Commission in 1968 was a national-wide response to the two United Nations Covenants: International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1966.

Historians and commentators such as John Eldon Green, Edward MacDonald, Wayne MacKinnon and Godfrey Baldacchino have proposed or supported the theory of Prince Edward Island’s cultural distinctiveness, as have such Island historical figures as former Premier Alex Campbell. Part of Island culture is founded upon its intense intimacy with religion, reinforced by the province’s size and close proximity of communities.

John Eldon Green was also Regional Director for PEI with National Health and Welfare for a time. In his memoirs *A Mind of One’s Own: Memoirs of an Albany Boy*, he identifies several distinct Island aspects of culture. In chapters such as “Bridging the Island’s great divide,” “A different kind of Catholic,” and “Working with ‘those bastards from away’,” he underlines the centrality of politics and religion.¹⁵⁸ MacDonald also notes the province’s distinct history in his work *If You’re Stronghearted: Prince Edward*

¹⁵⁶ Trainor, 6.

¹⁵⁷ Trainor, 6.

¹⁵⁸ John Eldon Green, *A Mind of One’s Own: Memoirs of an Albany Boy* (Charlottetown: Tangle Lane, 2006).

Island in the Twentieth Century. He argues that “Prince Edward Island carries more of its past with it into the 21st century than perhaps any other province in Canada.”¹⁵⁹

MacKinnon’s work, *Between Two Cultures: The Alex Campbell Years*, is founded on the very idea that Prince Edward Island in the twentieth century was frozen between the past and the future.¹⁶⁰ The uniqueness of Island culture is explained in part, by the fact that:

We, in this province, are caught between these two cultures. The culture of the past, with its problems of back-breaking labour, disease, child mortality, premature aging, inadequate medical facilities and limited educational opportunities, and the culture of the future as represented by modern industrial mechanized states...¹⁶¹

Premier Alex Campbell argues MacKinnon was the first leader to really initiate changes to “a traditional society that [had] been stagnant for generations.”¹⁶² Campbell gave an early speech on 28 May, 1973, titled “between two cultures,” which foreshadowed the economic, political and social changes he was going to bring to the province. And although he brought many changes to the province, Islander’s attitudes towards change persisted. PEI was a small place, separated from the rest of Canada, and bound tightly to its traditions. This made for skepticism and caution.

The problems identified by historians are verified by people involved in the implementation of the Convention. Father Trainor, Chair of the PEI Human Rights Commission and provincial representative to the provincial-territorial-federal Continuing Committee of Officials on Human Rights (CCOHR) between 1988 and 1996, repeatedly noted the cultural resistance to change in the province. In an interview held on 4 September 2006 on his experience with the Convention on the Rights of the Child, he

¹⁵⁹ Edward MacDonald, *If You’re Stronghearted: Prince Edward Island in the Twentieth Century* (Charlottetown, PE: Prince Edward Island Museum and Heritage Foundation, 2000), xii

¹⁶⁰ Wayne MacKinnon, *Between Two Cultures: The Alex Campbell Years* (Stratford; Tea Hill Press, 2005), vii.

¹⁶¹ MacKinnon, vii.

¹⁶² MacKinnon, xi.

underlined several strong feelings associated with religion and politics.¹⁶³ Island culture, its closely knit quality and its links to religious and political allegiance permeated the political culture right up to the late twentieth century.

Another indication of the problems noted by Island historians may be found in a 1990 report written by Charles J McMillan, a professor of international business at York University. In 1989, the Maritime Premiers requested a report on the region's economic and social challenges. It was submitted by McMillan a year later and entitled, *Standing up to the Future: The Maritimes in the 1990s: A report to the Council of Maritime Premiers*. An important introductory point made in this report was that, in the Maritimes, "Old attitudes die hard. Old institutions live on. Mythologies become perpetuated."¹⁶⁴ Similarly, Godfrey Baldacchino, an associate professor of sociology and anthropology both in the University of Prince Edward Island and at the University of Malta, did a report on immigration to Prince Edward Island. He discussed the province's "solid homogeneity and non-multiculturalism, informal communication channels and robust kin and friendship networks [which] provide a strong sense of identity and resilience to the Island society."¹⁶⁵ In Island culture you are one of two things: an Islander or "from away." Before conducting the interviews on the Island used for this thesis, several interviewees tellingly asked who my parents were. The first time I did not respond in the correct manner, to which the interviewee questioned, "you are from PEI right?" The fact that I was an "Islander" smoothed out tensions immediately. Upon my

¹⁶³ Father Leo Trianor, 11.

¹⁶⁴ Charles J McMillan, *Standing up to the Future: The Maritimes in the 1990s* December 1989, Premier's Files Acc 4547, item no. 5, doc no. 10. Public Archives and Records Office of Prince Edward Island, 1.

¹⁶⁵ Baldacchino, 9-10.

arrival, for instance, two interviewees asked who my father was and what part of the Island I was from.

Historian MacDonald noted that, right up into the late twentieth century, the Island population continued to be an ethnically homogeneous group, of western, white Christians.¹⁶⁶ It was also the most densely populated province, with close-knit communities and close neighbours. In the 1973 speech “Between two Cultures,” Premier Alex Campbell spoke on the traditions that founded the “Island way of life”:

The manifestation of a traditional society clinging to its identity and its myths during the process of modernization. The manner in which it dealt with change against the background of its traditional way of life illustrates one of the most distinctive characteristics of the province and its people.¹⁶⁷

Religion was a means of identification and a way of life. Religion filtered into all areas of the “Island way of life.” Until the late twentieth century, there were two paralleled systems of hospitals, orphanages, post-secondary institutions, and nursing schools, one for Roman Catholics and one for Protestants.¹⁶⁸ Two strong religions divided and limited Islanders. “Perception was as important as reality – at times perception was its own reality.”¹⁶⁹ Prince of Wales College was run and imagined as Protestant, and Saint Dunstan’s University, as Roman Catholic. The tensions between the two were electric. MacKinnon explained that “the rocky relationship between the province’s two institutions of higher education, deeply rooted in religious bigotry, prejudice, and discrimination also reflected what was happening in the rest of society.”¹⁷⁰

¹⁶⁶ MacDonald, 355.

¹⁶⁷ MacKinnon, xi.

¹⁶⁸ MacDonald, 18.

¹⁶⁹ MacDonald, 18.

¹⁷⁰ MacKinnon, 85.

The population of the province was almost equally divided between Catholic and Protestant, but the latter rather than the former was usually the majority in government. In Green's memoirs, he wrote of the significance of religion in Island society: "I was constantly being surprised by incidents that highlighted the polarities within the province: we were divided first on the basis of church affiliation, and then on the basis of political affiliation, which often reflected religious divisions as well."¹⁷¹ Growing up in the province, he was aware of the intensity of religion in Island culture, but it was not until he began a career that he realized the depth to which religion permeated that culture.

It is not surprising, then, that religion influenced attitudes towards the Convention on the Rights of the Child. While crossing the country on human rights issues in the 1980s and 1990s, Father Trainor, a Catholic priest, was always hesitant about returning to Prince Edward Island from national meetings held on human rights. He explained that this was due "to the narrow mindedness of Prince Edward Island and the political-ness of the Island, the power that was given to the Members of the Legislative Assembly and the power structure on the Island," which was, he stated, based on "the religious balance on the Island."¹⁷²

As this chapter has highlighted, Island culture is distinct, and plays a role in the way in which society and politics operate. No published work or documentary records draw clear associations between the "Island way of Life" and its impact on children as a group. Interviews with crucial players, however, demonstrate that link, and demonstrate the importance of the past, geography, and religious and political affiliation in what could

¹⁷¹ Green, 127.

¹⁷² Trainor 10.

only by a gradual evolution towards children's rights. The UN Convention could not transform a province that was not made for or equipped for dramatic change.

Chapter Two
“Off the Edge of Somebody’s Desk”¹⁷³:
A Records Odyssey

From its hearings and the United Nations Committee’s concluding Observations, the Committee learned that due to Canada’s federal nature, the vast array of laws, as well as the differing interpretations of or approaches to them in each province and territory means that Canada lacks uniform standards in a number of key areas with direct impact on children’s rights and that the institutions established to protect children’s rights in each province also perform significantly different functions.¹⁷⁴

Standing Senate Committee on Human Rights
 Interim Report, November 2005

The Standing Senate Committee on Human Rights held hearings on Prince Edward Island in June 2005. The hearings did not provide some of the results that the committee had hoped for, as witnesses were unaware of any individuals or departments responsible for reporting on Prince Edward Island’s section of Canada’s report to the United Nations. The Senate committee wished to identify evidence of the Convention’s implementation in Canada. The federal government had “the exclusive right to conclude formal international treaties on all subjects,”¹⁷⁵ and involved the provinces through correspondence with various provincial departments and through the Continuing Committee of Officials on Human Rights (CCOHR).¹⁷⁶ The provinces, after all, had to do most of the implementation. Some provinces had an ombudsman for the province to advocate for children, while other provinces, such as Prince Edward Island, did not. Senator Landon Pearson explained that this discrepancy meant that implementation was

¹⁷³ Landon Pearson, Interview by Kathryn Morrell, 30 August 2006, Charlottetown, 6.

¹⁷⁴ Canada. Parliament. Senate. Standing Committee on Human Rights. Interim Report: Who’s In Charge Here? Effective Implementation of Canada’s International Obligations with Respect to the Rights of Children. 2005. Available: http://www.canadiancrc.com/Senate_hearings_child_rights_38th/Sen... [November 23, 2006], 4.

¹⁷⁵ Department of External Affairs on International Treaties. 1994, RG 25, Series A-3-c, Box 11581, File 30-3, Vol. (9), (10), and (11). Library and Archives Canada, Ottawa.

¹⁷⁶ Please note this Committee will be discussed in further detail later in the chapter.

often done “off the edge of somebody’s desk.”¹⁷⁷ Implementation of the Convention on the Rights of the Child to Prince Edward Island was erratic and piecemeal. This was made clear during my search for individuals and records on Prince Edward Island’s implementation of Convention policy and legislation. The aim of this chapter is to demonstrate the way in which the process was documented on the Island.

Between June and September 2006, I conducted extensive research on Prince Edward Island with the aim of identifying key individuals, organizations and departments involved in the Convention’s implementation in the province. As my interest, based on the province’s obligations, was in policy and in legislation, the focus of my search narrowed down, but was not limited, to the provincial government. This search uncovered several useful sources and records, but difficulties in finding the authorities responsible at the provincial level for policy and legislation made the work complex and time-consuming. In this respect, the Continuing Committee of Officials on Human Rights,¹⁷⁸ established in 1975 to prevent such complications, was of little assistance.

At the federal level, there are approximately twenty-three departments whose policy and legislation involve children.¹⁷⁹ Departments involved with the Convention at the time of ratification at the federal level included Multiculturalism and Citizenship Canada, Indian Affairs and Northern Development, Health and Welfare Canada and Justice. The Department of External Affairs and International Trade led all these departments, as it was responsible for the direct negotiation of international treaties. In the Government of Prince Edward Island, well-being for children falls under the mandate

¹⁷⁷ Landon Pearson Interview, 6.

¹⁷⁸ The Committee, being the Continuing Committee of Officials on Human Rights (CCOHR), will be discussed in more detail later in this chapter.

¹⁷⁹ Landon Pearson Interview, 21 August 2006, 17.

of the Department of Health and Social Services¹⁸⁰; the legal mechanisms for the protection of children is under the jurisdiction of the Department of Justice. The two corresponding departments at the federal level, Justice and Health, were responsible for writing the federal section of Canada's first report to the United Nations on compliance. Therefore, the provincial Departments of Justice and Health were the first targets in my search for changes to policy and legislation.¹⁸¹

The search for departments and records led me to the Judges Library and to the Law Library, both housed at the Supreme Court of Prince Edward Island, the Public Archives and Records Office, the Law Society, the Department of Justice Office of the Attorney General¹⁸², the Legislative Counsel Office, and individual lawyers.

On 13 June 2006 I began my research at both the Judges and Law library housed at the Supreme Court of Prince Edward Island. I was aware of the legislation that the province identified in its first report to the United Nations Committee on the Rights of the Child. These repositories hold both primary and secondary sources on provincial law and all interrelated issues. I met with the Law Librarian, Pamela Borden. I began a preliminary search of the provincial statutes, but soon found out that the library was missing several years. I used the statutes they had to trace the *Family and Child Services Act*, between the years 1989 and 1994. The section of Canada's first report, directed to Prince Edward Island, most frequently cited this act. Ultimately, no records were found here, but the name of a contact, John Eldon Green, was given to me. He began his professional career in 1950 as "supervisor of welfare services in the Prince Edward Island

¹⁸⁰ The importance of Health and Social Service's involvement reflects such departmental branches as Child and Family Services and the Director of Child Welfare.

¹⁸¹ Landon Pearson Interview, 21 August 2006, 9.

¹⁸² In 1993, the Department of Justice became the Office of the Attorney General.

regional office of National Health and Welfare.”¹⁸³ He was appointed in 1971 as Deputy Minister of Welfare for the Island until his resignation in 1981. He is most closely associated with children’s rights in the province.

The Public Archives and Records Office (PARO) of Prince Edward Island housed the complete set of provincial statutes. The mandate of PARO is that it “acquires, preserves, and makes available for public research the records of the government of this province and private-sector papers and records deemed to be of lasting historical value.”¹⁸⁴ In addition, the archive also has the Journals of Assembly and Hansard. As Hansard was established on Prince Edward Island in 1997, the record of the legislative debates of the Assembly prior to this are audio recordings. The only means to locate relevant information is to dig through the “cue sheets,” which are pages and pages of poorly indexed handmade notes that reference what was said during the debate. Unfortunately, cue sheets are not the equivalent to an index as they tend to leave out much and mostly note random comments, none of which dealt with children. From the Public Archives and Records Office, I gained access to the provincial statutes from every year. In addition, I found an audio recording of the statement on the Convention on the Rights of the Child made by the Minister responsible for human rights in the legislative assembly. I also gained access to the restricted files of the former Premier, Joseph A. Ghiz, who was in office between 1988 and 1993.

¹⁸³ John Eldon Green, *A Mind of One’s Own: Memoirs of an Albany Boy* (Charlottetown, Prince Edward Island: Tangle Lane, 2006), 120.

¹⁸⁴ Prince Edward Island. Community and Cultural Affairs: Public Archives and Records Office of Prince Edward Island. Available: <http://www.edu.pe.ca/paro/about.asp> [3 February 2007].

The Law Society of Prince Edward Island was established in 1876 with a mandate to “regulate the practice of law within the province.”¹⁸⁵ The hope, here, was to find lawyers employed by respective departments, such as the legal services of the Attorney General who, may have been involved either before, during or after implementation. They were, however, unable to assist me, having no knowledge of the Convention or lawyers who may have been involved. I was directed to the Office of the Attorney General, where Legal Services is a section that assigns lawyers of different departments within the government. This section also assigns lawyers to international treaties pertaining to the province. It was here that I met Robert MacNevin, a solicitor with the department. He was unable to help me, but reasoned that Madelyn Driscoll at the Legislative Counsel Office would be able to do so. He offered to contact his federal “counterparts” believing that they would have information on each province. During our meeting, he had asked me if I was familiar with the province’s child protection legislation. I told him what I had read and he continued with the discussion, using the concept of child protection interchangeably with that of children’s rights and the requirements of the Convention. Although child protection is certainly a part of the Convention, it is by no means all of it. This was indicative of a problem: in the province child protection is used to include all areas of children’s rights. I later wrote MacNevin to put some questions to ask his “federal counterparts” regarding such issues as jurisdiction. He responded in a way I discovered to be characteristic, saying “I would not want to be waiting on the feds for this.”¹⁸⁶ It was not until the beginning of September

¹⁸⁵ Law Society of Prince Edward Island: About the Law Society. Available: <http://www.lspei.pe.ca/about.php> [2 February 2007].

¹⁸⁶ Robert MacNevin, <ramacnevin@gov.pe.ca> “Help?!” 28 June 2006 personal e-mail (28 June 2006).

that his “federal counterparts” faxed him copies of the province’s letters supporting the Convention’s adoption and later ratification.

I contacted Debbie Gillespie at the Office of the Attorney General who is, in part, the department’s records manager. A main component of records management is the administration of retention schedules. These are drafted by government on the duration of time that it plans to keep its records, or when it plans to destroy them. This schedule is then brought before a committee that either accepts or rejects the schedule. Unfortunately, retention schedules from the 1980s and 1990s are impossible to locate. She was not familiar with the Convention. She noted that the department did have files on international treaties, but she could find no trace of the Convention anywhere in their files.

Madelyn Driscoll at the Legislative Counsel Office was also unfamiliar with the Convention, but offered to help identify the legislative changes made to the laws listed in Canada’s first report. I made contact with Blair Weeks, Legislative editor at the Legislative Counsel Office. It is a branch of legal and judicial services, and was established with the purpose of drafting legislation for the Government of Prince Edward Island.¹⁸⁷ I gave him a copy of the legislation listed in Canada’s report and explained that I was interested in possible files or drafts on the laws or possible discussions held about the Convention. He agreed to look into it for me. Driscoll and Weeks, however, replied that I could find what I needed in the “annual volumes which we understand are available

¹⁸⁷ Prince Edward Island. Government of Prince Edward Island: About the Legislative Counsel. Available at: <http://www.gov.pe.ca/law/index.php3> [3 February 2007].

at the Archives” and that “we do not foresee being in a position to assist you further at this point in time.”¹⁸⁸

In early July, I was finally contacted by Judy Haldemann from the Legislative Counsel Office, who was interested in my topic and in offering me some information. My inquiry had been with the office for some time, but it was a month before it was passed on to her. She wrote: “I have some expertise in this area having represented the Director of Child Welfare for several years before I came to this office.”¹⁸⁹ I met with Haldemann on 12 July at the Archives where we discussed her background and interests in child protection. She tutored me in researching the evolution of a piece of legislation and what to look for when doing so. We discussed child protection legislation and children’s rights outlined in the Convention. She was in government at the time of the drafting of the Convention, working as a solicitor with legal services at the Office of the Attorney General. In the late 1980s and 1990s, she was assigned by the OAG to the Department of Health and Social Services to work on child protection legislation. Nevertheless, she could not tell me of anyone in government who would be directly involved, apart from John Eldon Green.

In the meantime, I had contacted Charles P. Thompson, Prothonotary and Chief Judicial Officer at the Supreme Court of Prince Edward Island with questions regarding child legislation. Before he was Prothonotary, he had been the Director of Legal Services at the Office of the Attorney General. He brought the discussion on the Convention and children’s law back to English law but he had little more to add.

¹⁸⁸ Madelyn Driscoll. <mtdriscoll@gov.pe.ca> 14 August 2006, personal e-mail, 14 August 2006.

¹⁸⁹ Judy Haldemann, <jmhaldemann@gov.pe.ca> 4 July 2006, “Child Protection Legislation,” Personal e-mail. (4 July 2006).

Nicholas Bala is an expert on child legislation in Canada. He has been on Prince Edward Island on at least two occasions to discuss the role in the Convention's implementation by the NGO community. I was aware of his visit in 1990 based on the province's section of the first Canadian report to the United Nations. I contacted him to see if he could shed any light on the Convention and Prince Edward Island. He responded the same day to report, "I certainly recall coming to PEI to give a presentation on the UN Convention in December 2005...I do not have any notes or real recollection of what I said, but I suspect that it was in part a summary of some work that I did in 1989, which I attach for you."¹⁹⁰ He sent some of his extensive work on the Convention and Ontario and federal compliance. His work in Ontario revolves around the province's legislation and its compliance to the articles in the Convention.

The search for policy involved the Child Welfare League of Canada, UNICEF, the Human Rights Commission of New Brunswick, Canadian Heritage, the International Bureau for Children's Rights, the Human Rights Commission of Prince Edward, the Human Rights Commission of Nova Scotia, and Community Legal Information association, PEI Association of Rights and Freedoms, and Department of Health and Social Services.¹⁹¹

The Child Welfare League of Canada recommended that I "contact UNICEF Canada, which is the leading organization on the UNCRC in Canada."¹⁹² When my grandfather, Rev. Donald A. Campbell, was president of UNICEF PEI, he was given all the files for the island by the former president. This branch does not exist anymore, nor

¹⁹⁰ Nicholas Bala, "Convention on the Rights of the Child" 19 June 2006, <bala@post.queensu.ca> personal e-mail (19 June 2006).

¹⁹¹ Refer to table 1.

¹⁹² Shailah O'Shaughnessy, "Convention on the Rights of the Child," 19 June 2006, <shailagh@cwlc.ca> Personal e-mail (19 June 2006).

has it for some time. When I contacted the Atlantic Regional Director for UNICEF located in Halifax, Nova Scotia, he could not recall ever seeing records from Prince Edward Island, nor did he know where such records might be. I contacted John Humble, Atlantic Regional Director for UNICEF, whose jurisdiction includes Prince Edward Island. I explained that I was looking for “any” information on the Convention’s implementation in Canada, but more specifically in Prince Edward Island. I asked him about the files pertaining to the time when PEI had its own branch. He said that he had not seen records from the province for some time, but that he would check with the national office in Toronto, and the international office in New York. He also said that UNICEF’s mandate was international, and so he did not think that they would have much on Canada. That turned out to be correct.

Ellie Reddin, in the policy division at the Office of the Attorney General, informed me that Leanne Venasse, Senior Policy Officer and Reporter of the Human Rights Program at Canadian Heritage, was the current contact person for the Island representative to the Continuing Committee of Officials on Human Rights (CCOHR). The Human Rights Program is a federal department established to “promote the development, understanding, respect for and enjoyment of human rights in Canada.”¹⁹³ The “mission” of the Human Rights Program is to “promote the development, understanding, respect for and enjoyment of human rights in Canada,” involving nongovernmental organizations, government departments, and the public.¹⁹⁴ Reddin wrote on 16 June 2006, promising to “check our files for any relevant information that

¹⁹³ Canadian Heritage. Human Rights Program, [producer and distributor], Available: http://www.pch.gc.ca/progs/pdp-hrp/canada/comite_committee_e.cfm [February 3, 2007].

¹⁹⁴ Canadian Heritage. Human Rights Program. (14 August 2006).

can be shared” and said, “please note that the records may be off-site so it may take a few days to get them. I will try to get back to you by the end of next week.”¹⁹⁵

I also contacted the Bureau international des droits des enfants/International Bureau of Children’s Rights in Montreal with similar questions. The IBCR was established in 1994 as an international nongovernmental organization (INGO) with three main objectives. The first is to create “country profiles on the status of the implementation of the CRC [Convention on the Rights of the Child].”¹⁹⁶ The second and third involve the elimination of child trafficking and exploitation, and the protection of children.¹⁹⁷ They have consultative status with the United Nations Economic and Social Council (ECOSOC) and some of their work for the prevention and protection of children has been adopted by the United Nations.¹⁹⁸ The IBCR’s focus is primarily in the “legal sector, to contribute to the protection and promotion of children’s rights in conformity with the Convention.”¹⁹⁹ Their primary mandate “is to contribute to the promotion and protection of children’s rights, as outlined in the Convention on the Rights of the Child (CRC) and its related protocols.”²⁰⁰ One way they do this is to create “country profiles on the status of the implementation of the CRC,”²⁰¹ which to date have been funded through such organizations as Canadian International Development Agency (CIDA) and

¹⁹⁵ Liane Venasse, <liane_venasse@pch.gc.ca> “CRC Research Interests” 16 June 2006, Personal e-mail (16 June 2006).

¹⁹⁶ International Bureau of Children’s Rights (IBCR): Three Areas of Concern. Available: <http://www.ibcr.org.com> [August 11, 2006].

¹⁹⁷ International Bureau of Children’s Rights (IBCR): Three Areas of Concern. Available: <http://www.ibcr.org.com> [August 11, 2006].

¹⁹⁸ *Making Children’s Rights Work: Country Profiles on Cambodia, Indonesia, Sri Lanka, Timor Leste, and Viet Nam* (Bureau International Des Droits Des Enfants/ International Bureau of Children’s Rights, 2006), - VI

¹⁹⁹ *Making Children’s Rights Work*, -Vi.

²⁰⁰ International Bureau of Children’s Rights: Mission and Objectives. Available: <http://www.ibcr.org.com> [August 11, 2006].

²⁰¹ International Bureau of Children’s Rights: Mission and Objectives. Available: <http://www.ibcr.org.com> [August 11, 2006].

the Swedish International Development Agency (SIDA), but it transpired, there are no Canada profiles.

The mandate of the Prince Edward Island Human Rights Commission is to enforce the *Human Rights Act*, to educate the public on human rights issues, and to advise the government on human rights issues. I reasoned that the Commission would be involved with the Convention's implementation on the island as a result of its mandate, but I was unaware of the degree of this involvement. The Director for the Commission, Greg Howard, was familiar with the Convention. I contacted him and explained that I was interested in any information the Commission could provide on the Convention, and that I was especially interested in documents it may have presented on the topic to the government. The Director informed me that the Commission had destroyed all of their records on the Convention two weeks prior to my phone call! After holding on to these records for quite some time, the Commission had looked to open up some storage space. They contacted the Island representative on the federal-provincial committee, the Continuing Committee of Officials on Human Rights, to see if she needed any of the documents. Ellie Reddin, informed them that she had all the information she needed. I contacted the Human Rights Commissions of both New Brunswick and Nova Scotia to see if they had their own records. If they did, perhaps I could trace a similar pattern of events on the Island. This too, proved a dry hole.

The Community Legal Information Association (CLIA) of Prince Edward Island had hosted a workshop, which was noted as a means of compliance in the provincial section of Canada's 1994 report. I contacted CLIA and was connected to the Executive

Director, Anne Sherman.²⁰² She told me that the documents that I was searching for on the Convention and the province do not exist and that she had been involved in these issues since before the Convention, working at CLIA and at the PEI Human Rights Commission from the 1980s. She also sent the files of the workshop to copy, which included a United Nations Children's Fund (UNICEF)/ Defence for Children International (DCI) information kit, requesting funding support from the Secretary of State for a workshop on children's rights, correspondence on the workshop, newspaper articles selected by the association pertaining to the workshop, and evaluation forms filled out by professionals who attended the workshop. Included within these files from CLIA were the traces of a now defunct association called the PEI Association of Rights and Freedoms. As a provincial NGO, the association had planned to send out an information kit on the Convention to all interested parties. However, as this association exists no longer, and the only known records are housed at CLIA, it is unclear whether this kit was ever completed.²⁰³

The most important department on Prince Edward Island for the implementation of the Convention is Health and Social Services,²⁰⁴ which has as an important part of its mandate the protection and welfare of children and the family. The Director of Child Welfare, Ron Stanley, said that child protection is both directly and indirectly influenced by the Convention, by the Charter of Rights and Freedoms, and by case law. He mentioned the time, however, when he witnessed the Minister signing the Convention. After it was signed, Stanley asked what was next. He was quickly informed that was it.

²⁰² Anne Sherman is also a Human Rights Officer at the PEI Human Rights Commission.

²⁰³ Irene Larkin was the project manager for the PEI Association of Rights and Freedoms in 1990, any follow up with regards to the Association would have to be made with her.

²⁰⁴ Please note that a more in depth history of the Department of Health and Social Services is in the following chapter.

“Provinces are ill equipped to make the Convention a reality,” he said, “it is all flash and talk, with no follow through.”²⁰⁵ He agreed to do a trace on any files on the Convention and he found a file on the Convention in the Minister’s office. After a formal request by letter, the file was released to me for examination.

The Minister of Health during the time of implementation was Wayne Cheverie. On 26 June 2006, I spoke with the former Minister to see if he had any personal files on the Convention or the World Summit in September 1990, or any recollection of their impact and who was involved. He was completely unaware of the Convention. He told me to contact Verna Bruce, his former Deputy Minister, as she might have some awareness of the Convention, and Alexander (Sandy) Stewart at the Executive Council. My e-mail to Stewart was passed along to his assistant, Rose Long, who replied, “I cannot find ANYTHING in our file system that relates to the topic you mentioned – very strange.”²⁰⁶ I later heard from Shaun MacNeill from the Department of Education. He noted that “despite talking with a number of people I’m afraid I don’t have much information to pass on.”²⁰⁷ He had done much initial research on the Convention, but to continue any further would require a formal access to information request, which he said would not likely be productive, “I suspect that such a request would not produce any additional information, at least within this department.”²⁰⁸

Ellie Redden noted in her correspondence on *20 June 2006* that she felt that “a lot of the difficulty you are having is that many of the people who may recall this

²⁰⁵ Ron Stanley, Interview by Kathryn Morrell, 28 June 2006, Charlottetown.

²⁰⁶ Rose Long, “1989 Convention on the Rights of the Child”, 27 June 2006, personal e-mail (27 June 2006).

²⁰⁷ Shaun MacNeill. <“PEI education policies and legislation and the UN convention on the Rights of the Child”>, 8 December 2006, personal e-mail (8 December 2006).

²⁰⁸ Shaun MacNeill. <“PEI education policies and legislation and the UN convention on the Rights of the Child”>, 8 December 2006, personal e-mail (8 December 2006).

information have since retired from the provincial government.”²⁰⁹ Pamela Bordon agreed that many of the lawyers involved in legislative changes 15 years ago would have been retired from government for some time. She too mentioned the name of John Eldon Green. He had been retired from government for some time, but as the former Deputy Minister of Health and Social Services he had been heavily involved with children’s rights on the Island in the late twentieth century. He had not been a civil servant during implementation, but he was still the name most closely associated with children and their rights. The “passage of time” and the “turnover of ...senior staff who may have been involved in policy or legislative discussion” was a main cause cited for the lack of awareness and records by Shaun MacNeill at the Department of Education.²¹⁰ No one in the Department of Education for the province could recall any impact of the Convention on the department, or could “could point [me] towards existing records related to the subject.”²¹¹

Financial constraints, it was becoming clear, were an obstacle to the preparation and keeping of records. Landon Pearson explained:

The provincial governments don’t put into [their], budgets enough money to hire someone to do the work. And the other thing that’s missing from the way the process works is there is no capacity for an NGO committee here to do a parallel report on PEI’s report and PEI may not feel any obligation to engage the NGO community or to engage children although they should and they’d do a better job if they did.²¹²

The most significant reason why there seem to be no records where there should be lies in the very nature of government structure. Ron Stanley, the Director of Child Welfare for

²⁰⁹ Ellie Redden, <ereddin@gov.pe.ca> “Children’s Convention” 20 June 2006, personal e-mail (27 June 2006).

²¹⁰ Shaun MacNeill. <“PEI education policies and legislation and the UN convention on the Rights of the Child”>, 8 December 2006, personal e-mail (8 December 2006).

²¹¹ Shaun MacNeill. <“PEI education policies and legislation and the UN convention on the Rights of the Child”>, 8 December 2006, personal e-mail (8 December 2006).

²¹² Landon Pearson Interview, 20 August 2006, 7.

the province, explained that “government stores some of its dormant files in an offsite location” and “we have gone through two major departmental restructurings since this work was done and many Ministers.”²¹³ With restructuring, records went “hell-west and crooked.”²¹⁴ Unhappy and hurt employees saw documents misfiled and that documents go missing. A further restructuring, since the early 1990s complicated the search even more.

The Continuing Committee of Officials on Human Rights (CCOHR) has been a continuous presence in the Convention question. Father Leo Trainor, Madelyn Driscoll, Robert MacNevin and Ellie Reddin have been Prince Edward Island representatives to the CCOHR. The province had the same representative between 1988 and 1997, Father Trainor, who turned out to be the only one who had any awareness of or knowledge of the Convention. This committee was created so that international treaties would have a better chance of being successfully implemented in Canada as the provinces, territories and federal government could work out any jurisdictional issues through the committee prior to ratification. However, the committee had the same problems of entrenched interests, financial constraints, and poor records management as did the province. Apart from Father Trainor, the Island representatives to the CCOHR were unaware of the Convention and unable to help. Ellie Reddin, the current CCOHR representative lamented: “I understand what you’re looking for, but don’t know how to help you find it!”²¹⁵

²¹³ Ron Stanley, <rdstanley@ihis.org> “Convention” 18 July 2006, personal e-mail (18 July 2006).

²¹⁴ Will MacDonald, interview by Kathryn Morrell, Charlottetown-Messines, Quebec, 13 October 2006.

²¹⁵ Ellie Reddin, <eereddin@gov.pe.ca> “Children’s Convention” 20 June 2006, personal e-mail (20 June 2006).

Father Trainor left his records with the Commission, and they were subsequently destroyed. “I was speaking from my head,”²¹⁶ he stated, when asked where the information came from that he used when he had to report to the CCOHR. However, he was quite knowledgeable about the Convention, and proved eager to talk. Yet, his impression of the meetings and what was accomplished overall was negative. He repeatedly underlined what was not done, and how difficult it was to move against budgetary constraints and an Island culture slow to act.

Two months of research had produced little supporting documentation and little hint of a corporate memory about the Convention. No one, remarkably, was able to tell me what individual or department had worked on the PEI reports to the UN. The most widely-ratified UN human rights Convention had a less than anticipated effect on Island policy and legislation. Still, the search for records had much to teach. The Island bureaucracy was compact, and worked through to spoken and not to written word. Interviews would clearly be crucial in the piecing together of the Convention’s story in PEI. Moreover, the Island’s public service is under-resourced, and functions in a context of political caution, divided loyalties, and entrenched interests. We look back to Chapter One and its lesson – “change comes very difficult to PEI” – and forward to Chapter Three and its study of what change there could be.

²¹⁶ Father Leo Trainor, interview by Kathryn Morrell, 4 September 2006, Charlottetown, 4.

Chapter Three:
“Spotty at Best”²¹⁷:
Prince Edward Island and Implementation

The Committee noted a lack of awareness in government and among children and the general public about the Convention and the rights enshrined in it. In government, even among those dedicated to protecting children’s rights, knowledge of the Convention is spotty at best.²¹⁸

Standing Senate Committee on Human Rights
 Interim Report, November 2005

The Senate Standing Committee on Human Rights noted the lack of awareness in governments across Canada with respect to the Convention on the Rights of the Child, including during the hearings held on Prince Edward Island on 15 June 2005. On that day, Chairman Raynell Andreychuk alluded to this when a witness from the provincial Department of Health and Social Services was having some difficulty answering a question proposed by the committee. Chairman Andreychuk stressed to the witness, “I will even give you a hint: If you are saying ‘not much’, you are not alone.”²¹⁹ In response to this, the witness replied, “in government, we probably haven’t done as much as we could do and perhaps not as much as we will do after this.”²²⁰ The committee had difficulty in locating information in PEI; there was no ombudsman or child advocate to disclose this information, and it was difficult to find those charged with implementation of the Convention. It is difficult, indeed, to see how the Convention directly resulted in legislative or policy changes on the Island. The policies of the provincial government on children have resulted in no child welfare legislation and no child ombudsman or

²¹⁷ Canada. Parliament. Senate. Standing Committee on Human Rights. Interim Report: Who’s In Charge Here? Effective Implementation of Canada’s International Obligations with Respect to the Rights of Children. 2005. Available: http://www.canadiancrc.com/Senate_hearings_child_rights_38th/Sen... [November 23, 2006], 11.

²¹⁸ Senate. Standing Committee on Human Rights, 4.

²¹⁹ Senate. Standing Committee on Human Rights, 11.

²²⁰ Senate. Standing Committee on Human Rights, 11.

advocate within the province, which politicians felt would interfere in their role as representatives to the public as a whole. The aim of this chapter is to identify those individuals, departments, agencies and organizations on Prince Edward Island who were involved in or responsible for the Convention's implementation in the province, to examine what measures were taken by them, to discuss the results of such measures, and to place these actions within the broader context of the literature of the Convention and that of Island political culture.

The international and Canadian literature on the Convention on the Rights of the Child has relevance for province of Prince Edward Island. Geraldine Van Bueren and Phillip E Veerman have written two of the most complete works to date on international laws as they pertain to children. Van Bueren²²¹ is a law professor and the Director for the Programme on International Rights of the Child at the University of London, Queen Mary and Wesfield College. Her work, *The International Law on the Rights of the Child*, published in 1995, is legal and historical in its approach tracing the evolution of children's rights in history as it relates to international law. Much of this study emphasizes the social context within which rights must be placed. Phillip Veerman,²²² an international child advocate and founder of Defence for Children International in Israel, also justifies the importance of societal context in international child law in his work, *The Rights of the Child and the Changing Image of Childhood*, published in 1992. He argues that the "image of childhood" is based on society's definition of the child. This connection is also drawn by Virginia Murphy-Berman, a professor of psychology at the

²²¹ Geraldine Van Bueren, *The International Law on the Rights of the Child* (Dordrecht, the Netherlands: Martinus Nijhoff Publishers, 1995)

²²² Philip E Veerman, *The rights of the Child and the Changing Image of Childhood* (Dordrecht, the Netherlands: Martinus Nijhoff Publishers, 1992)

University of Nebraska. In a co-authored article published in 1996, she argues that cultures alter the way children's rights are defined and affect the relationship between the child and the family.²²³ Michael Freeman, a law professor at University College London, in an article in 2000, discussed the issues surrounding the Convention's implementation across different cultures.²²⁴ Frank D Barry, an associate of the Family Life Development Center at Cornell University in New York, stipulated the important role that communities play in the prescribing of children's rights. In an article in 1999, he criticized article 27, the right to certain standards of living, of the Convention because it did not include the role that communities had to play in order to implement the Convention.²²⁵ The important role of culture is also noted in the Canadian literature. Stephen Toope, President of the University of British Columbia, suggested in 1996 that the Convention's implementation in Canada would spark a "moral self-awareness" in Canadian society that would require a "reassessment of their [adults'] physical, economic and social power over children, and an honest commitment to redefining social spending priorities."²²⁶

Two pediatricians, Francis Rushton and Robert Greenbert, from Beaufort, South Carolina, and the University of New Mexico School of Medicine respectively, emphasized the connection between a child's "physical development" and a child's "standard of living."²²⁷ Arlene Bowers Andrews and Natalie Kaufman also noted the

²²³ Virginia Murphy-Berman, Helen L Levesque, and John J Berman, "U.N. Convention on the Rights of the Child: A Cross-Cultural View" *American Psychologist* 51, no. 12 1996.

²²⁴ Michael Freeman, "The Future of Children's Rights" *Children and Society* 14 2000.

²²⁵ Frank D Barry, "Community Wealth for Child Development," In *Implementing the U.N. Convention on the Rights of the Child: A Standard of Living Adequate for Development*, ed., Arlene Bowers Andrews and Natalie Hevener Kaufman (Westport, Connecticut: Praeger, 1999), 133.

²²⁶ Stephen Toope, "The Convention on the Rights of the Child: Implications for Canada," *Children's Rights: A Comparative Perspective* (Brookfield, US: Dartmouth Publishing Company Limited, 1996), 56.

²²⁷ Francis E Rushton and Robert E Greenbert, "The Relationship Between Standard of Living and Physical Development" In *Implementing the U.N. Convention on the Rights of the Child: A Standard of Living Adequate for Development* (Connecticut, Westport: Praeger, 1999), 66.

importance of adequate living conditions within the context of a country's culture.²²⁸ Allen Parkman, an economics professor at the University of New Mexico, discussed in 1999 the role of standard of living in the Convention's successful implementation. He argued that parents are the first line of a child's defense, while the state is the second.²²⁹ Kwong-leung Tang, a social work professor at the University of Northern British Columbia, noted in 2003 the difficulties in implementing the Convention in Canada posed by fiscal restraints and the country's federal nature:²³⁰ "The lack of a unified, child-focused federal approach to policy; the lack of a national monitoring body; and the opposition of pro family groups."²³¹

As we have previously seen, Member of Parliament Joy Langan tried to prevent this as being an issue in Canada in 1989 when she put forth motion M-254 for a Children's Bill of Rights. Although this motion was not passed, it led to an increased awareness of child poverty in Canada. Nevertheless, on PEI the debate on poverty in Prince Edward Island pertaining to children was superficial. Children were viewed as these "baby faced" things and the government did not address questions of poverty, preferring to think of children in traditional terms.

Thomas Simon, a philosophy professor at Illinois State University, argued in an article in 2000 that "the United Nations' Convention on the Rights of the Child makes a misleading reference to rights in its title." The emphasis, he argued, is really on

²²⁸ Arlene Bowers Andres and Natalie Hevener Kaufman, *Implementing the U.N. Convention on the Rights of the Child: A Standard of Living Adequate for Development* (Connecticut, Westport: Praeger, 1999), xvii.

²²⁹ Allen M Parkman, "The Application of Human Capital Theory to Article 27" In *Implementing the U.N. Convention on the Rights of the Child: A Standard of Living Adequate for Development* ed., Arlen Bowers Andrews and Natalie Hevener Kaufman (Westport, Connecticut: Praeger, 1999), 154.

²³⁰ Kwong-leung Tang, "Implementing the United Nations Convention on the Rights of the Child" *Journal of International Social Work* 46, no. 3.

²³¹ Kwong-leung Tang, "Implementing the United Nations Convention on the Rights of the Child: The Canadian Experience." *International Social Work* 46, no.3 (2003): 277-288.

“obligations” rather than on “rights and entitlements.”²³² These obligations, argue Americans Susan Limber and Brian Wilcox in an article in 1996, include changes to constitutional law and State law.²³³ A US representative on the working group that drafted the Convention, concluded that, in order to achieve successful implementation, “each state party must establish and maintain sufficient administrative and judicial mechanisms to ensure domestic enforcement of the standard established in the Convention.”²³⁴

For Prince Edward Island, ratification of the Convention meant domestic enforcement of provincial obligations by the federal government, and complying with those obligations at the policy and legislative levels. The role of the federal government was limited to correspondence requesting support for the signature and ratification of the Convention. In 1990, Nicholas Bala, a law professor at Queen’s University, was quoted in an Island newspaper, the *Guardian*, expressing “concern that Ottawa has shown support for child’s rights, but has ‘been slow’ in enacting progressive legislation to deal with their social problems.”²³⁵ Nor did the federal government push the province to take up its obligations. Bala explained to the Summerside newspaper, the *Journal Pioneer*, that “One of the real uses of the convention is to force governments to approach their

²³² Thomas Simon, “United Nations Convention on the Wrongs to the Child,” *International Journal of Children’s Rights* 8 (2000),1.

²³³ Susan P Limber and Brian L Wilcox, “Applications of the U.N. Convention on the Rights of the Child to the United States,” *American Psychologist* 51, no. 12 1996.

²³⁴ David Balton, “The Convention on the Rights of the Child: Prospects for International Enforcement.” *Human Rights Quarterly* 12 (1990): 120-129.

²³⁵ Tom Killorn. “Children must get Rights Child Advocate Stresses,” *Guardian* 15 December 1990, Charlottetown.

legislation in a pro-active way. Governments don't want to be embarrassed by not meeting international standards."²³⁶ Yet there was not pro-activity – only passivity.

The Premier of Prince Edward Island during the period under study was Liberal Joseph Atallah Ghiz. The Premier was the main link between the federal government and the province in the Convention initiative, based on the Canadian Constitution Act in 1867. His main federal contact on this issue was the Department of External Affairs and International Trade, and more specifically, its Minister. On 2 January 1990, the Premier wrote the Minister to offer the province's support for federal adoption of the Convention, less than a month after the Minister's initial request. He also offered, without being asked, the province's support for adoption of the Convention.²³⁷ If he was quick to offer his support for them, however, he was slower to move subsequently. The new Minister for External Affairs, Barbara McDougall, wrote the Premier on 25 September 1991 seeking his support, but Ghiz did not respond until 3 December 1991 offering confirmation of provincial support.²³⁸ Correspondence within the Premier's files, housed at the Public Archives and Records Office of Prince Edward Island (PARO), does not indicate if this period of delay was due to consultations with his provincial Ministers.

The Premier was also responsible for informing the province of his support for federal adoption and ratification of the UN Convention on the Rights of the Child. Roberta Hubley, provincial Minister of Labour and the Minister Responsible for Human Rights, wrote to Ghiz on March 14, 1990, three months after Clark's letter, and attached

²³⁶ Rob Linke, "Empowers Children with Rights: Agreement on Children's Rights Gets Island Support," *Journal Pioneer* 14 December 1990 Summerside.

²³⁷ Letter: Joseph Ghiz to Joe Clark, Charlottetown, 1990, *Premier's Papers*, Acc 4547, file 1096, Public Archives and Records Office.

²³⁸ Canada. Department of Canadian Heritage: Letter: Joseph Ghiz to Barbara McDougall, Ottawa, 1991.

to her letter a copy of the statement that she was going to present in the Legislative Assembly. This statement seems to be the first public one about the Convention in PEI. Hubley “informed” the House “and the citizens of Prince Edward Island” of the Premier’s actions in offering the province’s support for the signing and ratification of the Convention.²³⁹

J. B. Mair was the Chair for an NGO working group interested in the Convention. He wrote to Ghiz on 8 March 1990 interested in the province’s position on the Convention. Ghiz wrote back on 20 March 1990 informing him that he had responded in a positive light to the Minister regarding the Convention.²⁴⁰ J.B. Mair supported the Convention and wanted the province’s support for it as well. A contrary voice was James Slater, the Assistant to the President of Research and Public Policy, at Focus on the Family Association Canada in Vancouver, British Columbia. On 18 July 1990, he wrote Premier Ghiz voicing his organization’s strong opposition to the Convention. He wrote that “we have been made aware that the UN Convention on the Rights of the Child is currently undergoing a review process in the provinces since Prime Minister Mulroney signed it a few weeks ago.”²⁴¹ The concern of the Family Association Canada regarding the Convention was “that some of the articles appear to have the potential of weakening parental authority in important areas.”²⁴² The “apparent” loss of parental rights was a major issue that followed the Convention wherever it went.

²³⁹ Letter: Roberta Hubley to Joseph Ghiz, Charlottetown, 1990, *Premier’s Papers*, Acc 4547, s. 4, file 1075. PARO.

²⁴⁰ Letter: Joseph Ghiz to JB Mair, Charlottetown 1990, *Premier’s Papers*, Acc 4547, s.4 file 1075: Human Rights. PARO.

²⁴¹ Letter: James A Sclater to Joseph Ghiz, Charlottetown, 1990, *Premier’s Papers*, Acc 4547, s.4 file 1006: Health and Social Services. PARO.

²⁴² Letter: James A Sclater to Joseph Ghiz, Charlottetown 1990, *Premier’s Papers*, Acc 4547, s.4 file 1006: Health and Social Services. PARO.

While on Prince Edward Island for a workshop, which will be discussed in detail later in this chapter, Bala addressed the issue in a local Island newspaper, the *Journal Pioneer*. The Convention, he explained, was a standard for legislation, policy, and institutions to be measured against, and was not “enforceable against parents.”²⁴³ The Convention stipulates that the responsibilities of parents are to be respected and assisted by the state. It is only when there is sufficient evidence that a parent cannot or will not fulfill these duties that the state ought to intervene. This philosophy was the backbone for the child welfare legislation (Bill No. 57) that had not passed a decade earlier in the province.²⁴⁴

The Premier was also the target of concerned or interested Islanders. The perceived loss of parental authority was the main sticking point for one Islander, Marie Harder. Arguing from a similar theoretical perspective as Brian Howe in his 2000 article, Harder wrote Ghiz on 14 March 1991 requesting that a declaration be added to the Convention before the Convention was signed or ratified, protecting parental rights.²⁴⁵ In her letter, she referenced a Toronto lawyer, the vice president of a group, REAL Women, known to be in opposition to the Convention. The family, REAL Women alleged, was now undergoing serious strain. It was the most important unit in Canadian society and REAL believed “that the fragmentation of the Canadian family is one of the major causes of disorder in society.”²⁴⁶ Ms. Harder’s letter listed eight articles that “trumped” parental

²⁴³ Rob Linke, “Empowers Children with Rights: Agreement on Children’s Rights Gets Island Support”, 14 December 1990 *Journal Pioneer* (Summerside, Prince Edward Island).

²⁴⁴ Prince Edward Island. Department of Health and Social Services. Social Services Branch: *Child Welfare Legislation: Background Paper* 1980, 6pp.

²⁴⁵ Prince Edward Island (hereafter PEI). Department of Health and Social Services (hereafter HSS): Letter: Marie Harder to Joseph Ghiz, Charlottetown, 1991.

²⁴⁶ REAL Women of Canada: *Objectives*. Available: <http://www.realwomenca.com/about.htm> [February 3, 2007].

authority.²⁴⁷ At the end of her letter, she attached a pamphlet, “A Voice for Christian Women.” This Christian Women’s pamphlet was printed in a format similar to the Convention, so if one was to glance at each it would be easy to believe the content was the same. However, the text under each article heading was not the article’s text from the Convention, but rather the author’s interpretation of what that article meant.

When John Eldon Green was asked what provincial department would be most involved in the work of the Convention, he responded: the Department of Social Services, not the Department of Education. This was because he felt that “Education is not child-oriented. They say they are, but they’re not child-oriented. They are school oriented, they are system oriented, but they’re not child-oriented.”²⁴⁸ Sharon Myers, childhood historian at the University of Prince Edward Island, noted the same discrepancy. This raises the question of the department’s involvement with the Convention’s implementation in the Province, even though the *School Act* was one of the compliance measures noted by the province in its first report to the United Nations. The search for policy or legislation changes made within the Department of Education indeed turned up no results. Possible results were located in the area of legislation. The 1993 *School Act* “was substantially overhauled,” says Shaun MacNeill, who deals with policy and legislation at the Department of Education.²⁴⁹ This legislation dealt with such issues as corporal punishment and access to information, but that “it is difficult to say how these related to the UN Convention, if at all. My understanding is that the work of other

²⁴⁷ PEI. HSS: Letter: Marie Harder to Joseph Ghiz, Charlottetown. 1991.

²⁴⁸ John Eldon Green, Interview by Kathryn Morrell, 31 August 2006, Charlottetown, 24.

²⁴⁹ Shaun MacNeill <smacneill@edu.pe.ca> “PEI education policies and legislation and the UN Convention on the Rights of the Child” 8 December 2006, personal e-mail (8 December 2006).

jurisdictions played a prominent role in guiding some of these changes, so the link to the UN Convention would be indirect, at best.”²⁵⁰

On Prince Edward Island, the Justice Department is the Department of Provincial Affairs and the Office of the Attorney General (OAG). It has a section called Legal Services, where solicitors for the department are assigned to international treaties. The department, however, has no file on the Convention, or any corporate memory. The Senate Standing Committee on Human Rights did not ask a representative from the OAG to its hearings in June of 2005.²⁵¹ Island witnesses at the hearings, including Janice Ployer, the Healthy Child Development Coordinator, could not answer certain inquiries made by the committee. Instead, they cited names at Legal Services with the Office of the Attorney General. They should or would have more information, it was insisted.²⁵²

Verna Bruce, Deputy Minister of Health and Social Services at the time of the Convention’s implementation, explained that the OAG was involved “because of the concerns around how the Convention was going to impact on children who came into contact with the law.”²⁵³ She went on to further explain that Health “would have been chatting with them a fair amount.”²⁵⁴ This statement is supported by documents in the Department of Health’s file on the Convention, where copies of letters are available which were sent to Justice regarding the Convention. In a letter dated 7 April 1991, Bruce wrote to Dave Henry, also of the Department of Health at Youth Policy, one of many letters exchanged between the two. She was uncertain if the province had “already

²⁵⁰ Shaun MacNeill, <smacneill@edu.pe.ca> “PEI education policies and legislation and the UN Convention on the Rights of the Child” 8 December 2006, personal e-mail (8 December 2006).

²⁵¹ Senate. Standing Committee on Human Rights, 18.

²⁵² Senate. Standing Committee on Human Rights, 13.

²⁵³ Verna Bruce, Interview by Kathryn Morrell, 20 October 2006, Charlottetown, 8.

²⁵⁴ Verna Bruce Interview, 8.

signed” the Convention and asked Henry to check with the Department of Justice, at the time.²⁵⁵ She was referring to the provincial department, she recalled, because “at that level we wouldn’t have our folks reaching out to a federal Department of Justice”; they “would have gone to our own folks.”²⁵⁶

There is a paucity of records concerning the Convention in the OAG, but the former CCOHR Island representative, Father Leo Trainor, underlined the important role that Justice played throughout discussions on the Convention. At the meetings, a senior staff member from Justice would accompany him.²⁵⁷ Yet, there is no surviving record from the department to show what specifically was done, or if any laws were changed as a direct result of the Convention.

The Department of Health and Social Services was the most involved government department with regard to implementation, as it is the department most concerned with child protection and welfare issues. Inter-governmental correspondence in the department regarding the Convention, more often than not, was addressed to the Minister of Health and Social Services, Wayne Cheverie. However, from the documents it is clear that the individual within the department most in touch with the events unfolding was the Deputy Minister, Verna Bruce. In February 1991, Bruce wrote to Arthur “Art” Currie, Deputy Minister of the Office of the Attorney General, discussing the Convention and its implications for the province. In this letter, she noted that “there were strong concerns surfacing about the Convention” and asked if he would like to discuss such issues with her.²⁵⁸ Whether or not the Deputy Minister of Justice responded to this letter is unknown,

²⁵⁵ PEI. HSS: Letter: Verna Bruce to Dave Henry, Charlottetown, 1991.

²⁵⁶ Verna Bruce Interview, 13.

²⁵⁷ Father Leo Trainor Interview, 3.

²⁵⁸ PEI. HSS: *Letter, Verna Bruce to Art Currie*, Charlottetown, 1991.

because again the department does not have any record. In an interview, Verna Bruce stated that “whether they actually responded to the letter is more than I can tell you.”²⁵⁹

Chris Axworthy wrote to Wayne Cheverie on 28 January 1991 regarding the Convention. Axworthy, a federal MP of the New Democratic Party, was writing to the provincial Minister of Health “to inquire about the status of Prince Edward Island’s legislation as it pertains to the United Nations Convention on the Rights of the Child,” and to ask for “a review of Prince Edward Island’s children’s rights legislation” as “a top priority during the next session of the Prince Edward Island legislature.”²⁶⁰ There is no record of a minister’s response, if there was one, to this letter. The Minister of National Health and Welfare, Benoît Bouchard, wrote to Wayne Cheverie on 11 December 1991 regarding the Convention. This letter informed the provincial Minister that the Convention was to be ratified by Prime Minister Brian Mulroney’s government at 3:30pm that day.²⁶¹ Attached to this letter was a note from Deputy Bruce to Joanne Ings, Programming Officer at Health, dated 12 December, asking her “how does this fit with our work?”²⁶² That was the end of that particular paper trail.

The majority of correspondence regarding the Convention was between the Deputy Minister and Dave Henry, Director of Youth Policy, at Health and Social Services. In a letter dated 15 May 1991, Henry wrote to Verna Bruce discussing the formation of a “study group” on the Convention from the three departmental divisions of “Child and Family Services, Mental Health and Nursing to review each article and comment on how the particular articles fit within the province’s legislation and

²⁵⁹ Verna Bruce, Telephone Interview, 14.

²⁶⁰ PEI. HSS: Letter, Chris Axworthy to Wayne Cheverie, British Columbia-Charlottetown, 1991.

²⁶¹ PEI. HSS: *Letter, Benoît Bouchard to Wayne Cheverie*, Ottawa-Charlottetown, 1991.

²⁶² PEI. HSS: Note: Verna Bruce to Joanne Ings, Charlottetown, 1991.

practice.”²⁶³ Bruce explained in a later interview, committees like this one were common to provide the Minister with advice on a particular issue.²⁶⁴

The correspondence shows that a study group was established in 1991 within Health and Social Services to examine the impact of the Convention’s ratification on the department, and to advise the Minister based on their findings. Fifteen years later, the former deputy was unable to recall specifics about this committee, but was able to explain the process of forming such a committee and the reasons for doing so:

If you’ve got an issue like this or you need to be provided with some advice usually it’s a matter of getting the right people around the table and looking at people who may have, perhaps, different points of view and they trying to provide some good advice to the Minister.²⁶⁵

The “right people” in this case were: Rob Thomson, Elaine Rieber, Roma Shaw, Dave Henry and Nancy Lee. Bruce noted that Rob Thomson worked on policy, but would have been a resource for the committee as far as “how legislation worked within the Department of Health and Social Services.”²⁶⁶ This was also reaffirmed in correspondence between Henry and Bruce, where Henry asked if “Rob” could provide advice on legislation.²⁶⁷ Although Elaine Reiber was an unknown quantity fifteen years later, Roma Shaw, Bruce explained, would have represented “the field level.”²⁶⁸ Henry was the main contact between the committee and the deputy. He was also responsible for drafting the letter on the Convention that the provincial Minister of Health would send

²⁶³ PEI. HSS: Letter: Dave Henry to Verna Bruce, Charlottetown, 1991.

²⁶⁴ Verna Bruce Interview, 12.

²⁶⁵ Verna Bruce Interview, 12.

²⁶⁶ Verna Bruce Interview, 6-7.

²⁶⁷ PEI. HSS: *Letter, Dave Henry to Verna Bruce*, Charlottetown, 1991.

²⁶⁸ Verna Bruce Interview, 12.

the provincial Minister of Justice.²⁶⁹ The files have no such letter, however. So there is no way of knowing if the letter was ever sent or what was in it.

Nancy Lee was the Director of Child Welfare at the time and closely associated with children's rights. The Director, Bruce also felt, would have identified that changes would have had to be made to the province's child welfare and child protection act at the time of implementation.²⁷⁰ The reason for this, Bruce explained, was "because up until this time, as I said, the philosophy was really dealing with the child as part of the family. After this we really started thinking about the best interests of the child. So it meant a lot of re-thinking in terms of our legislation."²⁷¹ But, research into child protection issues shows that the "best interests of the child" have been around since the *Family and Child Services Act* in S.P.E.I., 1981. The Director of Child Welfare, Ron Stanley, told me that he has been trying to promote the idea of removing "best interest," from child legislation, and replacing it with rights.²⁷²

The conclusions of the study committee were outlined in a letter from Henry to Bruce dated 18 July 1991. The committee stated at the beginning of its report that it could "see no serious impediments to being able to implement all of the articles."²⁷³ However, following this statement, the committee proceeded to outline nineteen "possible" policy and legislative "issues" with the articles in the Convention. These include minor problems with interpretation of some of the articles, and the articles' vagueness, but also include major obstacles relating to staff and resource shortages, rights outlined in the Convention or protected in any existing provincial legislation, and

²⁶⁹ PEI. HSS: *Letter, Dave Henry to Verna Bruce*, Charlottetown, 1991.

²⁷⁰ Verna Bruce Interview, 7.

²⁷¹ Verna Bruce Interview, 7.

²⁷² Ron Stanley, Telephone Interview, 30 October 2006, Messines-Charlottetown.

²⁷³ PEI. HSS: *Letter, Dave Henry to Verna Bruce*, Charlottetown, 1991.

contradictions between articles in the Convention and existing legislation. Here again the trail ends. We do not know where the findings of the committee next went or what impact they had.

Verna Bruce argued that changes were made to certain legislation at this time, such as welfare and protection, where she felt that the committee's findings would have played a role.²⁷⁴ But she was unwilling to confirm that the reason for these changes was the Convention. "Well, we certainly made a lot of changes to our legislation after that, so again, it's trying to attribute why did we make the changes," explained Bruce.²⁷⁵ The former Deputy is adamant that children at the time in question were being perceived differently by the government.²⁷⁶

As to NGOs, community Legal Information Association (CLIA) showed an interest in the Convention and its meaning for both legislation and policy in the province. CLIA is a non-profit organization that deals in public legal education. Its mandate is to "provide Islanders with understandable, useful information about our laws and our justice system."²⁷⁷ Its main aim was to introduce meaning of the Convention to those individuals professionally involved with children on the Island. The CLIA mandate as it pertains to the Convention is to provide the services of a "resource centre" for legal information to anyone interested.²⁷⁸ The association had a copy of a UNICEF/DCI²⁷⁹ information kit that was sent out to NGOs across the country. The association's main involvement in the Convention was a workshop, held 13 December 1990 (almost a year

²⁷⁴ Verna Bruce Interview, 12.

²⁷⁵ Verna Bruce Interview, 12.

²⁷⁶ Verna Bruce Interview, 9.

²⁷⁷ Community Legal Information Association. Available: <http://www.isn.net/cliapei/> [February 2, 2007].

²⁷⁸ PEI. Community Legal Information Association (hereafter CLIA): *General Application form. The Rights of the Child: An Educational Workshop*, Charlottetown, 1990.

²⁷⁹ United Nations Children's Fund/ Defence for Children International

before the Canada ratified the Convention), and called “Children Have Rights Too!” This was to be a one-day workshop “designed to inform people who work with children and youth regarding the United Nations Convention” and consisting of both presentations and practical exercises.²⁸⁰ Keynote speakers for the workshop were Dave Henry, Director of Youth Policy, Les Zelinski, Solicitor for the Department of Justice, and law professor Nicholas Bala.²⁸¹ The workshop would include academics, child advocates, and representatives from both the provincial departments of Health and Justice.

Most of the correspondence within the association’s file concerns the workshop. However, there are also documents from the Prince Edward Island Association of Rights and Freedoms. The PEI association is no longer active on the Island, and there are no records extant. Irene Larkin was the association’s project manager and in a letter dated 9 October 1990, she proposed developing and distributing kits on the Rights of the Child for such media as the public, the media and children and students.²⁸² For this purpose Larkin requested funding in the amount of \$11,500.00, for “there is a serious lack of human rights education and awareness programs in schools, for the general public and for special interest groups.”²⁸³ Whether or not such a study ever took place is not shown in the contemporary documents from the PEI association.

In March 1990, CLIA president Tom Rich learned that his workshop, “The Rights of Children: An Educational Workshop”, had been granted \$3,104.00 from the Minister of State Multiculturalism and Citizenship Canada, provided CLIA submit a report and

²⁸⁰ PEI. CLIA: “*Children Have Rights Too*”!, Charlottetown, 1990.

²⁸¹ PEI. CLIA: “*Children Have Rights Too*”!.

²⁸² PEI. PEI Association of Rights and Freedoms: *Letter: Irene Larkin*, Charlottetown, 1990.

²⁸³ PEI. PEI Association of Rights and Freedoms: *Documents requesting funding*.

evaluation on the workshop when it was completed.²⁸⁴ Helen Durie was the workshop's project co-coordinator. She sent letters to personnel in government who would be interested in the workshop, such as Marie MacDonald from the Department of Child and Family Services and Nancy Lee. The workshop, she explained, would be half a day, and would consist of discussions covering every issue from children's rights, child-adult relationships, and legislation and policy as it relates to the Convention.²⁸⁵

The workshop received some publicity in two local newspapers: the *Guardian* and the *Journal Pioneer*. The main objectives of the workshop were outlined in the final report compiled by CLIA and sent to a contact at the Secretary of State for External Affairs. The three objectives were to garner publicity, to increase awareness, and "to provide an opportunity for the professional community and the public to discuss means of providing greater protection to children."²⁸⁶ An interesting aspect of this workshop was that it included a panel discussion by youth from the community. This aspect of the workshop was apparently greatly appreciated and admired by the people in attendance. Coordinators of the project felt that it had a great impact on the community and within the province, and that as a result of the workshop awareness of children's rights was engendered:

Prior to this workshop, there had been very little awareness of the U.N. Convention on the Rights of the Child and the implications of children's rights. Following the workshop, a number of participants indicated that they would be arranging for information sessions on children's rights and the Convention in their workplace.²⁸⁷

According to the final report, the workshop's success was based on a keen interest from the Department of Health and Social Services. Attached with the final report was an

²⁸⁴ PEI. CLIA: *Letter, Tom Rich from Gerry Weiner*, Charlottetown, 1990.

²⁸⁵ PEI. CLIA: *Letter, Helen Durie to Nancy Lee*, Charlottetown, 1990.

²⁸⁶ PEI. CLIA: *Final Report: The rights of children –an Educational Workshop*. Charlottetown, 1990.

²⁸⁷ PEI. CLIA: *Final Report*.

evaluation sheet. The report argued that awareness increased, a fact supported by some of the comments made on the evaluation sheet. However, several of comments were rather negative: “somewhat too fast,” “He got the point across. I didn’t understand all of it, but I got the main idea,” “It got the point across but a lot of the words were a little hard to follow.”²⁸⁸

Jim Wyatt, the Director of the Human Rights Commission, was the sole individual responsible for examining “the province’s legislation to determine if it complies with the 54 articles in the complex U.N. Document.”²⁸⁹ Sadly, we know nothing of this process, or even if it took place. The PEI Human Rights Commission is not covered by the same regulations and restrictions under the province’s Records Management Program, and so any evidence of its work has been destroyed.

Departments involved in the Convention’s implementation at the provincial government’s level were Education, Justice, and Health and Social Services. Of the three departments, only one had records, and those records from the Department of Health and Social Services were “spotty at best.” So too, then, must our knowledge be of the direct impact of the Convention on the province. And so, too, must we conclude was the province’s commitment to the improvement of children’s rights.

²⁸⁸ PEI. CLIA: *Workshop Evaluation “Children Have Rights Too”!* Charlottetown, 1991.

²⁸⁹ Rob Linke, “Empowers Children With Rights: Agreement on Children’s Rights Gets Island Support” 14 December 1990, *Journal Pioneer* (Summerside, Prince Edward Island)

Chapter Four:
“Nag, Nag, Push, Push”²⁹⁰:
The Federal Push Behind Prince Edward Island’s Response to the
Convention on the Rights of the Child

One of the key concerns expressed by witnesses is the federal government’s unwillingness to directly incorporate international human rights treaties; however, the government has an obligation to make best efforts to comply with international treaties domestically through domestic implementation, no matter what jurisdictional hurdles are entrenched in the Constitution.²⁹¹

Standing Senate Committee on Human Rights
Interim Report, November 2005

In 2005, the Standing Senate Committee on Human Rights acknowledged the same problems as did the United Nations Committee on the Rights of the Child in 1995 in its concluding observations. It stated its concern about the discrepancies between governmental legislation and practice in Canada, but pointed out that Canada was bound to observe fully the obligations assumed by ratifying the Convention regardless of provincial-federal-territorial relations.²⁹² Federal-provincial relations regarding the Convention in Prince Edward Island show that the provincial government had a passive resistance to the Convention. Federal-provincial relations concerning the Convention also included the World Summit held in 1990 and the National Action Plan in 1991. Based on the correspondence of the provincial government and provincial NGOs, federal-provincial relations regarding the Convention on the Rights of the Child, the World Summit and the National Action Plan show that these were only a priority insofar as reaction to federal initiative was concerned. Therefore, the implementation of the

²⁹⁰ Landon Pearson, Interview by Kathryn Morrell, 19 August 2007, 14.

²⁹¹ Canada. Parliament. Senate. Standing Committee on Human Rights. Interim Report: Who’s In Charge Here? Effective Implementation of Canada’s International Obligations with Respect to the Rights of Children. 2005. Available: http://www.canadiancsrc.com/Senate_hearings_child_rights_38th/Sen... [November 23, 2006], 4.

²⁹² United Nations. CRC: *Concluding Observations*, CRC, 24 and 26/05/95, 2.

Convention in the province was gradual at best and did not directly flow from ratification.

Federal-provincial relations on the Convention included the World Summit and the National Action Plan. Minister of External Affairs Joe Clark sent a letter to Premier Joseph Ghiz on 16 January 1990 explaining to him federal involvement in the World Summit for Children. The Summit was an initiative of the United Nations Children's Fund (UNICEF) and was not a UN event, although the World Summit Declaration and Agenda for Action were later adopted by the United Nations' General Assembly.²⁹³ The first of many goals of the Summit was to foster international support for the signature and ratification of the United Nations Convention on the Rights of the Child. Minister Clark told Premier Ghiz that the World Summit was already set for September 29th and 30th of that year. This letter also informed Premier Ghiz that the Government of Canada had accepted an invitation to attend and that Prime Minister Brian Mulroney had "accepted an invitation to co-chair the Summit, along with Prime Minister Benazir Bhutto of Pakistan."²⁹⁴ In an interview with the former Prime Minister, Mr. Mulroney, he explained that the Convention "became one of our international priorities, so to the extent that we were able to help the process and support it, we did."²⁹⁵ A means of accomplishing this goal was through the Summit.

In addition to the involvement of Canada and Pakistan other participating countries in the Summit included Egypt, Mexico, Mali and Sweden.²⁹⁶ Minister Clark's explanatory letter noted, indeed, that over 150 Heads of State planned to attend the

²⁹³ Landon Pearson Interview, 21 August 2007, 19.

²⁹⁴ Letter, Joe Clark to Joseph Ghiz., 1990, *Premier's Papers*, Acc 4547, s.4, file 1096: Inter-Governmental PARO.

²⁹⁵ Brian Mulroney, Interview by Kathryn Morrell, 21 November 2006, Messines-Montreal, 4.

²⁹⁶ Landon Pearson Interview, 19 August 2006, 7.

Summit to “draw attention to the state of the world’s children and to seek a commitment to the survival, protection, growth and development of children around the world from the world’s leaders.”²⁹⁷ Seven months after External Affairs had requested the province’s support for the signing of the Convention, Clark wrote a letter describing the World Summit for Children and its ties to the UN Convention on Children’s Rights. “The Summit,” explained Clark, “will also provide an excellent opportunity to give impetus to the signature, ratification and implementation of the Convention on the Rights of the Child.”²⁹⁸

The World Summit took place between Canada’s signature and its ratification of the Convention. Former Canadian Senator and child advocate, Landon Pearson, noted that “the World Summit, I think, was the impulse for the Convention to be ratified by enough countries to come into force. So the Convention actually came into force just after the World Summit.”²⁹⁹ She also explained the importance of the Prime Minister’s role in the push for ratification. “It was something that he did well [his role as co-chair] and as a result, as a result of that, because of his role co-chairing that, he pressed for Canada’s ratification.”³⁰⁰ “Into force” means that, once twenty countries sign a treaty or human rights instrument, it becomes international law. There is limited federal-provincial and intergovernmental correspondence strictly on the World Summit.

From the World Summit came the National Action Plan (NAP). This time, however, the explanatory letter came from the federal Department of National Health and

²⁹⁷ Letter, Joe Clark to Joesph Ghiz, 1990, *Premier’s Papers*, Acc 4547, s.4, file 1096: Inter-Governmental Letter, PARO..

²⁹⁸ Letter, Joe Clark to Joesph Ghiz, 1990, *Premier’s Papers*, Acc 4547, s.4, file 1096: Inter-Governmental Letter, PARO..

²⁹⁹ Landon Pearson Interview, 21 August 2006, 19.

³⁰⁰ Landon Pearson Interview, 19 August 2006, 19.

Welfare. Margaret Catley-Carlson, Deputy Minister of National Health and Welfare wrote to Verna Bruce, provincial Deputy Minister of Health and Social Services, on 27 June 1991 explaining the involvement and increased efforts required of the province as a result of the NAP. The letter explained that, following the Summit on 20 June 1991, the Social Services Ministers had a meeting in Toronto, where “they agreed that provincial input would be important to the success of the plan”³⁰¹ the ten-point National Action Plan. Prime Minister Brian Mulroney had asked the National Minister of Health and Welfare to “follow up” on the country’s obligations after the World Summit.³⁰²

The NAP meant that the province’s health department had to report to National Health and Welfare. A letter from Bruce addressed to the Director of the provincial Women’s Secretariat, Diane Porter, dated 31 July 1991 explained that “the outcome” of the World Summit, the NAP and National Health and Welfare’s accountability to the Prime Minister “was that each Province would provide information on their respective programs and policies as they relate to the 10 points of the Action Plan.”³⁰³ On 5 December 1991, Benoit Bouchard, the Minister of National Health and Welfare, wrote to Wayne Cheverie, Minister of Health and Social Services. The provincial Minister of Health replied that “as requested, my department has coordinated information from Prince Edward Island for the National Action Plan for the World Summit of Children.”³⁰⁴

Apart from the goal of worldwide ratification of the Convention, there were other aims, or areas of concern, set at the World Summit. These areas of concern for the

³⁰¹ PEI. HSS: *Letter, Margaret Catley-Carlson to Verna Bruce*, Charlottetown, 1991.

³⁰² Government of Canada. *Convention on the Rights of the Child: Backgrounder/Convention/Summary/Canada’s Reservations and Statement of Understanding/Children’s Issues: Home and Abroad/Partners on the Convention/Importance of Parents.*

³⁰³ PEI. HSS: *Letter, Verna Bruce to Diane Porter*, Charlottetown, 1991.

³⁰⁴ PEI. HSS: *Letter, Wayne Cheverie to Benoit Bouchard*, Charlottetown, 1991.

world's children were later listed in several documents pertaining to a 1991 NAP "that will guide nations and international agencies. These goals will address the basic health, nutrition, social and economic problems that are at the root of much child suffering throughout the world."³⁰⁵ At the Summit this became a "ten point National Action Plan." The points were listed in the documents from the provincial Department of Health and Social Services as being the Convention, child health, food and nutrition, role of women, maternal health and family planning, role of the family, basic education and literacy, children in especially difficult circumstances, protection of children during armed conflicts, children and the environment, and alleviation of poverty and revitalization of economic growth.³⁰⁶

Federal-provincial relations regarding the Convention, the World Summit and the NAP must be placed within the context of PEI's small weight in the Confederation arrangement, a theme continually raised in the sources. Representation by population was a selling point for all provinces that entered into Confederation, but it became a cause of concern and a bone of contention when the federal government cut the number from five to four.³⁰⁷ Historian Edward MacDonald explains that, when the seats were cut to five, "the Island government grumbled, but did not formally protest."³⁰⁸ However, it spoke up when the seats were cut to four. He adds that "the Island had always tried to make up in influence what it lacked in numbers."³⁰⁹ Representation by population proves

³⁰⁵ Letter, Joe Clark to Joseph Ghiz, 1990, *Premier's Papers*, Acc 4547, s.4, file 1096: Inter-Governmental Letter, PARO.

³⁰⁶ PEI. HSS: *Province of PEI Response: National Action Plan World Summit for Children*, Charlottetown, 1991.

³⁰⁷ Edward MacDonald, *If You're Stronghearted: Prince Edward Island in the Twentieth Century* (PEI: Prince Edward Island Museum and Heritage Foundation, 2000), 51.

³⁰⁸ MacDonald, 51.

³⁰⁹ MacDonald, 51.

to be a flash point in the Island's insecurities when it comes to provincial-federal relations. It also sparks to the deep-rooted insecurities.

The size of Prince Edward Island has always been a touchstone of Island culture, in both positive and negative ways. Being the smallest province in the country has shaped its identity and its relations with others; however, it has also given birth to resentment when dealing with others. At federal- provincial meetings Ministers spoke in order of their province's importance, and deputies did not speak at all.³¹⁰ The corresponding closeness of neighbours, professionals and politicians defined intra-Island relations and guided political relations within the province.³¹¹

Between 1989 and 1991 Joseph A. Ghiz was both Premier of Prince Edward Island and Minister of Justice. Between the years 1989 and 1992, Wayne Cheverie was the Minister of Health and Social Services. In 1992, Wayne Cheverie was both Minister of Justice and Minister of Health and Social Services. In 1993, Walter E McEwen was Minister of Provincial Affairs and Attorney General (formerly the Department of Justice) and in 1994 was the Minister of Health and Social Services. In 1994, Alan Buchanan was the Minister of Provincial Affairs and Attorney General, and had been the Minister for Health and Social Services the previous year.³¹²

As highlighted in previous chapter, the Department of Health and Social Services was one of the two major provincial government departments involved with implementation. Verna Bruce, Deputy Minister of Health and Social Services at the time, was one of the leading facilitators of changes during this period in the department's

³¹⁰ John Eldon Green, *A Mind of One's Own: Memoirs of an Albany Boy* (PEI, Tangle Lane, 2006),

312.

³¹¹ MacDonald, 21.

³¹² PEI. Department of Health and Social Services: Annual Reports 1989-1994, Charlottetown.
PEI. Department of Justice (OAG) 1989-1994, Charlottetown.

history. She noted the province's lack of influence on national matters in an interview: "PEI is so small and we are never, usually, consulted on anything – we tend to be informed but not very often consulted...one of our frustrations was always we felt that instead of consulting with us in advance they were always informing us after the fact."³¹³

Size also influenced NGOs, such as the PEI Human Rights Commission. In response to a question on his role as chair for the Human Rights Commission, Father Leo Trainor recalled a joke that dealt with the size of PEI's Commission at the time – a joke, he also noted, that could still be running over a decade later. "Somebody from another jurisdiction would call and say oh, could I speak to someone involved with compliance?"³¹⁴ to which the response would be, you are speaking to him. The reason, he went on to explain, was because the Commission started out with only two people, the Executive Director and the Chair. Much later, the Commission gained some much needed "support staff", but for much of the time he spent there, the office staff were two in number.³¹⁵

Father Trainor also noted the province's lack of influence and he, like Verna Bruce, associated it with the size of the province. In response to an interview question pertaining to the Island's political position, he simply stated that it was a "small fish in a big pond."³¹⁶ He also discussed size within the context of federal provincial relations: "We, in the smaller jurisdictions, did the best we could to ensure that what was asked of us was done. When you compare us to the big wigs, the big people we just basically had to go along."³¹⁷ So the Island representative would not try to make any waves at meetings and would do what was expected, to be, as he explained, "the token

³¹³ Verna Bruce Interview, 9.

³¹⁴ Father Leo Trainor Interview, 3

³¹⁵ Father Leo Trainor Interview, 3

³¹⁶ Father Leo Trainor Interview, 3.

³¹⁷ Father Leo Trainor Interview, 4.

representation.”³¹⁸ He would attend the CCOHR meetings with representatives from the Department of Justice.³¹⁹ Justice was most likely involved because any decisions made at the CCOHR would require an examination of the province’s legislation to establish that it did not present any problems.

The reality for the Government of Canada was that it anticipated the signature and ratification of the UN Convention on the Rights of the Child based on their “extensive consultations” with the provinces and territories.³²⁰ It seemed that, for the federal government, these consultations would have been conducted through the CCOHR. Federal-provincial and provincial-provincial correspondence highlight that the provincial government only reacted to the federal government as the result of a specific request. The PEI representative to the CCOHR from the end of the 1980s to the end of the 1990s, Father Trainor, noted this in an interview when discussing the role of the Island delegation to the meetings. “Well, we would only bring it up in relationship to a request, if you would, from the federal government.”³²¹

Correspondence within the provincial government pertaining to the Convention, the World Summit and the NAP shows only a response to federal requests for support and general information. The only correspondence within the provincial government dealing with the Convention, apart from the letters noted by Premier Joseph Ghiz, was from the Department of Health and Social Services. The only federal-provincial correspondence was one letter from the Minister of National Health and Welfare, Benoît

³¹⁸ Father Leo Trainor Interview, 3.

³¹⁹ Father Leo Trainor, Interview, 3.

³²⁰ Letter, Joseph Clark to Joe Ghiz, 22 December 1989, *Premier’s Papers*, Acc 4547, s.4, file 1096: Inter-Governmental.

³²¹ Father Leo Trainor Interview, 11.

Bouchard, informing PEI of Canada's ratification of the Convention.³²² The only other correspondence from out of the province was the letter written to Minister Cheverie by Chris Axworthy, a federal NDP Social Policy/Anti-Poverty Critic. It is unknown if this letter was ever responded to.³²³

Inter-governmental correspondence on the Convention within HSS was more frequent. This may be attributed to the fact that departments had to report to their ministers. Correspondence within the Department of Health regarding the Convention dealt mainly with the establishment of a one-day committee that was to meet in order to provide advice to the Minister. Verna Bruce was in charge of setting this up, and corresponded frequently with Dave Henry of Health and Social Service's branch on Youth Policy. They discussed this matter in April 1991. The following month, on 15 May 1991, Henry wrote to Bruce implying in the letter that he would be the one drafting the letter that the Minister of Health would send to the Minister of Justice regarding comments on the Convention. Two months later, on 18 July 1991, Henry again wrote to Bruce with the results of the committee, but it is unclear whether or not Henry drafted a ministerial letter.

Based on all provincial obligations for ratification, the records show that, aside from Premier Ghiz's offer of support to the federal government, the only provincial department involved in any way with the Convention was Health and Social Services. Its correspondence was generally limited to one active initiative, the one-day committee meeting whose conclusions may or may not have been used in any way. There are no records that establish any kind of involvement with provincial NGOs, or either the World

³²² PEI.HSS: Letter: To Wayne Cheverie from Benoît Bouchard, Charlottetown, 1991.

³²³ PEI. HSS: Letter, Chris Axworthy to Wayne Cheverie, Charlottetown, 1991.

Summit or the National Action Plan. There is one record from the Prince Edward Island Association of Rights and Freedoms referencing a promotional kit for the Convention, which would be made available locally. It is unknown if the association ever got their funding. There is no trace of an information kit supplied by the association.

Apart from the PEI Association of Rights and Freedoms, Community Legal Information Association (CLIA) was the only NGO to do anything productive, holding a workshop. The association is affiliated with the National Association of Women and the Law, Community Schools and the Department of Education.³²⁴ However, it is unclear if the workshop changed regulations, legislation or policy within these affiliated fields. The number of educators present is unknown. That being said, as we have seen, the department of education has no reference to the Convention on the Rights of the Child within their related acts or in their policies.³²⁵ How the association first heard of the Convention is unclear, as the provincial government is an unlikely source, but it could have something to do with the United Nations Children's Fund (UNICEF)/Defence for Children International (DCI) briefing kit found in their file on the workshop. Correspondence on 27 April 1990 discussed the workshop with departments in the provincial government including letters to Nancy Lee, Director of Child Welfare, Anne Sherman, Executive Director of CLIA, Marie MacDonald, Director of Child and Family Services, and Jim Mair, PEI Human Rights Commission.³²⁶

Records show that the only correspondence within the provincial government solely concerning the World Summit was between the Minister of External Affairs, Joe

³²⁴ PEI. CLIA: *General Application Form: The Rights of the Child and Educational Workshop*, Charlottetown.

³²⁵ Shaun MacNeill. "PEI education policies and legislation and the UN convention on the Rights of the Child", 8 December 2006, personal e-mail (8 December 2006).

³²⁶ PEI. CLIA: Letter, Helen Durie to Nancy Lee et al., Charlottetown, 1990.

Clark, and Premier Joseph Ghiz in 1990. Correspondence concerning the NAP, however, is much more extensive, but did not involve federal-provincial correspondence by the Premier. The provincial department responsible for the NAP was the Department of Health and Social Services. This goes back to the World Summit, when the Prime Minister assigned the National Minister of Health and Welfare the task of “follow up.” Provincially, this meant that Health and Social Services was responsible to “follow up” with the province’s National Action Plan.

Premier Ghiz wrote a note to Verna Bruce about the National Action Plan, briefly noting that the province had supported the ratification of the Convention. However, this note also raises the question about the amount of involvement the Premier actually had when he stated, “in our report on the National Action Plan which I assume was sent to Ottawa last week, we supported ratification of the Convention.”³²⁷

The NAP, not the Convention or the World Summit, was the only event to generate some correspondence from the provincial Minister of Health. On 21 November 1991, the Minister of Health sent out a letter addressed to all provincial Ministers, to which he attached the government’s response to the NAP. He was asking for their input; however, it seems that Nancy Guptil, Minister of Labour, November 1991 to 1993, was the only one who wrote back. She sent a letter to the Minister of Health, Wayne Cheverie, on 26 November 1991 with her suggestions for the National Action Plan.³²⁸ Cheverie in turn wrote Bruce telling her to incorporate the changes into the province’s plan, but there is no evidence suggesting what those changes were.

³²⁷ PEI. HSS: *Posted Note, Joseph Ghiz to Verna Bruce*, Charlottetown, unknown date.

³²⁸ PEI. HSS: *Letter, Nancy Guptill to Wayne Cheverie*, Charlottetown, 1991.

The responsibility for “following up” with the National Action Plan fell on Joanne Ings, Planning Officer with Health and Social Services, with some assistance from the Deputy, Verna Bruce. To coordinate the provincial report, she contacted various civil servants in varying branches of the department, and in some cases went outside of the department. On 21 November 1991 Ings contacted Jim Wyatt, Director of the PEI Human Rights Commission, asking him to review the government’s response to the National Action Plan to verify the information. On 26 November 1991 he responded, stating that it seemed “ok” discussing federal reservations, but that at this point, reservations were “more in long term consideration.”³²⁹ Ings contacted Lamont Sweet on 9 August 1991 and on 4 September 1991, requesting the Chief Health Officer’s input on Health programs for children, AIDS, as well as food and nutrition.³³⁰ On 23 August 1991, she contacted Richard Davies, Director of the Division of Environmental Health, requesting his input on National Action Plan topic number nine – children and the environment.³³¹

On the same day, 23 August 1991, Davies wrote Sweet regarding clean water and the environment to get his input on the focused areas of land quality, water quality, air quality and housing.³³² Verna Bruce contacted Diane Porter at the Women’s Secretariat on 31 July 1991 to get her expertise on the policies surrounding point number three – the role of women, maternal health and family planning, role of the family.³³³ It was also explained in a note between Dianne Porter and Verna Bruce that Isabel Christian

³²⁹ PEI. HSS: *Letter, Joanne Ings to Jim Wyatt*, Charlottetown, 1991.

³³⁰ PEI. HSS: *Letters from Joanne Ings to Lamont Sweet*, Charlottetown, 1991.

³³¹ PEI. HSS: *Letter, Joanne Ings to Richard Davies*, Charlottetown, 1991.

³³² PEI. HSS: *Letter, Richard Davies to Lamont Sweet*, Charlottetown, 1991.

³³³ PEI. HSS: *Letter, Verna Bruce to Diane Porter*, Charlottetown, 1991.

“prepared information to the Department of Education,”³³⁴ although it was not stated which department Christian was affiliated with. This was all the information contained in Health’s file discussing Education, and the Department of Education has no record at all. Posted notes and short hand letters circulated within and without of the department regarding the National Action Plan, and it is undeniable that federal pressure was the main instigator.

The finished product from Joanne Ings *Province of Prince Edward Island Response: National Action Plan World Summit for Children* (December 1991) was five pages long. Paragraph one of point one states that “relevant departments of Government of Prince Edward Island have reviewed the Convention and support the ratification of it by the federal government.”³³⁵ The correspondence work must have been laborious, especially when the pains of pulling information from a government department are considered. Yet, what were the “relevant departments?” Health was, of course, quite involved, but departments such as Education had little input, and departments such as Justice had apparently no involvement whatsoever.

Discussions held the Department of Health such as the committee set up by Bruce and Henry earlier that same year may or may not have been incorporated into the provincial response. The comments of the committee were given to Bruce in July of that year, but clearly they were not incorporated into point one of the province’s NAP. Paragraph two of point one states that “there are no Acts of the PEI Legislative Assembly which currently contravene any of the Articles of the United Nations Convention. There are some legislative areas which conflict with the spirit of the Convention in that the

³³⁴ PEI. HSS: *Note, Diane Porter to Verna Bruce*, Charlottetown, unknown date.

³³⁵ PEI. HSS: *Joanne Ings, Province of Prince Edward Island Response: National Action Plan World Summit for Children*. Charlottetown, 1991, 1.

rights of the child are not specifically stated. These areas have been identified for corrective action.”³³⁶ This “corrective action” was not discussed or alluded to in any of the documents found on the Convention within any provincial department. Whether the “corrective action” took place is highly doubtful, especially when one considers the fact that Child Protection legislation, for example, did not specifically note “children’s rights” until the *Child Protection Act* of 2000. The final point, paragraph four of point one of the NAP, stated that “issues of policy implementation arising from legislative change will be addressed thereafter to fully meet the true spirit of the Convention.”³³⁷ The meaning of paragraph four is quite vague, but calls into question whether the issues were “addressed.”

The federal push appears to have been the provincial government’s sole motivation for its response to the Convention. Federal pressure flowing from Prime Minister Mulroney’s promises was the main consideration for the provincial government. Landon Pearson recalled her experience dealing with provincial responses on the Convention through her role as a Canadian Senator. The provinces were slow to respond:

So, we met regularly and evaluated the materials coming through and found out what was where and who had sent in their stuff yet and which offices were outstanding. You know, nag, nag, push, push – all that kind of thing. So it was an interactive process.³³⁸

The provincial response consisted of either offering support or providing information on the current state of child policy and legislation, and not on implementation. At different stages the Convention on the Rights of the Child was taken seriously within the province, especially by the Department of Social Services and

³³⁶ PEI. HSS: *Joanne Ings, Island Response*, Charlottetown, 1991, 1.

³³⁷ PEI. HSS: *Joanne Ings, Island Response*, Charlottetown, 1991, 1.

³³⁸ Landon Pearson Interview, 19 August 2006, 14.

Health, but never enough to become an active priority. However, the NAP was a consideration for the provincial Health and Social Services because they were accountable to federal Health and National Welfare and only accountable for current information and not in the implementation of the 10 points.

Verna Bruce inferred that the Convention was not a priority for higher officials within the department because they were not really being consulted by Ottawa. This, she suggested, could also explain the lack of awareness:

At that stage of my career, working on an international convention was something that you remember because others just came and went and we didn't really engage [in them] very much or certainly I hadn't been. So this is sort of the first one that came through that we had a high level of engagement and commitment to, but I could see for him [Minister of Health and Social Services Wayne Cheverie], because we didn't really get consulted or involved a lot in the national conversations, which is where he would have had the opportunity probably to be more aware of it, we were using it actually to shape things we were doing on the Island so he would have looked at it as the outcome rather than having any kind of a particular influence.³³⁹

She also suggested that the Convention may not have been a priority at the time of its implementation, but that children as a group would have been:

I don't know whether people actually made the convention itself a priority but there's absolutely no question that how we were dealing with children and completely rethinking our approach to children, did become a priority in government.³⁴⁰

When there are no records drawing the connections, it is difficult to prove a statement like the one made by Verna Bruce. She argues that children were a priority in government at the time, and like the evolution in child protection legislation, gradual change has taken place. The CCOHR representative, Father Trainor, says that "everything's taken seriously on PEI" so the Convention must have been implemented,

³³⁹ Verna Bruce Interview, 10.

³⁴⁰ Verna Bruce, 9.

but his evidence for this was only “I assume it was done.”³⁴¹ Changing personnel, poor record-keeping or no existing records made it difficult for the Convention to remain at the forefront of a government’s agenda. It easily got lost in the shuffle. The implementation of the Convention was, in fact, poorly organized and weakly implemented.

Both John Eldon Green and Landon Pearson argued that children are not worth a road in the eyes of the government, meaning that roads are more important to the government than children. Children, Green explained, are “not worth a shit, they don’t vote, they’ve no say, they cost money. If we could run the schools cheaper we could do an awful lot more roads, have a better road system.”³⁴² Landon Pearson stated that we should “spend a little less on roads and a little more on women’s shelters, for example.”³⁴³ She added that “unless somebody takes some thing as a priority they spread themselves out and things don’t happen then people in government change, and it’s not the same people there anymore – and that’s what you’re finding out here.” The field of human rights requires a “stable and continuous presence.”³⁴⁴

In conclusion, federal-provincial correspondence regarding the Convention, the World Summit and the National Action Plan shows that the provincial government had only a passive involvement. In each situation the federal government was either informing the province of actions already taken or was requesting provincial information required because of federal action already taken. In this respect, the provincial government’s response to the Convention and all related outcomes was to comply with the federal government’s requests, and not to concern itself with the Convention’s

³⁴¹ Father Leo Trainor Interview, 13.

³⁴² John Eldon Green Interview, 9.

³⁴³ Landon Pearson Interview, 16.

³⁴⁴ Landon Person Interview, 21 August 2006, 18.

implementation. This is evident in the province's NAP, which states that there are conflicts between provincial legislation and the Convention, but does not address their correction. No active action was taken by the provincial government outside of those federal requests. Gradual changes have occurred in the province, if for no other reason than that in children's rights have continued to evolve and develop. There have been amendments to provincial legislation, but none of these reference the Convention. Nor is there any case law within the province that references the Convention. Therefore, the Convention did not directly result in any immediate changes to provincial policy or legislation as a result of ratification in 1991.

**Conclusion:
A Passive Response**

*Law, national and international, are words on paper. They may codify attitudes, but the real results depend upon how they are implemented and what is done to follow up and reach the ideals.*³⁴⁵

*Statement made by Norway's Ombudsman
Report by the Canadian Coalition for the Rights of Children, 1997*

The implementation of the Convention on the Rights of the Child in the province of Prince Edward Island had a limited impact on the provincial government of Prince Edward Island and on provincial NGOs. The Convention was signed by Canada on 28 May 1990 and ratified on 13 December 1991. The Convention sets international standards in children's rights and institutionalizes attitudes towards children. Jurisdictions, at least in theory, integrate these standards and attitudes into their respective policies and legislation. The Canadian dual system for the taking on of international instruments, and the parameters of jurisdiction outlined in the Canadian *Constitution Act* of 1867, require that the province pass legislation on children in accordance with the respective articles in the Convention. For Prince Edward Island, this meant examining existing provincial human rights laws, and other existing legislation.³⁴⁶ In the provincial section of Canada's first report to the United Nations on compliance, the legislation listed therein fell under the jurisdiction of three provincial departments, Education, Justice and Health and Social Services. Yet, the Convention's ratification resulted in limited involvement from the provincial Department of Health and Social Services, and no involvement from the provincial Departments of Education and Justice.

³⁴⁵ Canada: Canadian Coalition for the Rights of Children. *Canada and the United Nations Convention on the Rights of the Child: Developing A Monitoring Framework*. Ottawa, 1997.

³⁴⁶ Standing Senate Committee on Human Rights, 4.

In a statement to the Provincial Legislature, Roberta Hubley, the Minister responsible for Human Rights in the province, defined the Convention as a “an important vehicle to promote the rights of the children in Canada and around the world.”³⁴⁷ The Convention was not actively opposed by government or NGOs. It was instead just passively accepted.

The historiography of childhood supports the notion of the centrality of attitudes, society and culture in children’s rights. Joy Parr argues that family and childhood are products of culture and society, not biology. She also discusses the introduction of the state into the family sphere and its impact in the twentieth century. There are no published works on childhood and Prince Edward Island, but Island culture is heavily influenced by its “uniqueness” as identified by Atlantic historians such as Margaret Conrad and James Hillier, R.A. Rawlyk and Edward MacDonald. This “uniqueness,” in the guise of strong allegiances, political caution and entrenched interests, is crucial in understanding Island passivity towards children’s rights in childhood.

The Canadian Council on Social Development (CCSD) identified the link between child well-being and the Departments of Education, Health and Social Services. In the 1990s, the CCSD noted a decline in services in these areas, which ultimately led to a decline in children’s rights. In Prince Edward Island, the Department of Health and Social Services had the lead role in the implementation of the Convention in the province, and as such should have had a key position in guaranteeing children’s rights as set by the Convention. As we have seen, it did not have such a position. Until the 1990s in Prince Edward Island social work and child welfare were unknown quantities for many

³⁴⁷ Statement by Roberta Hubley, Prince Edward Island. Legislative Assembly. [sound recording], 1990, Public Archives and Records Office of Prince Edward Island (hereafter PARO).

Islanders and abuses went unnoticed. The guaranteeing of children's rights in the province was piecemeal, and required attitudinal shifts before rights could be advanced, as noted by childhood historian Patricia Rooke. Jeffery Wilson agrees that laws cannot precede attitudinal shifts, especially because children are not themselves in a position to effect change. PEI's evolution towards a rights based child protection legislation did not come about until the twenty-first century in the child protection act. There may be some connection between that and the Convention, but the link cannot be established firmly.

In addition to the legislative impact, this thesis has also undertaken to identify the actions taken by the provincial government and provincial NGOs resulting from the Convention's implementation to the province. Works by Katherine Covell and Brian Howe argue that full compliance has still not taken place in the twenty-first century and that further legislative, practice and policy changes are required. They also argue that changes to date have been made based on a reactive, not a proactive motivation. In PEI, the provincial government's response to the Convention's implementation was reactive and not proactive. Sonja Grover discusses the necessary role of NGOs for successful implementation. In PEI, the Community Legal Information Association's one day workshop on the Convention did not influence the implementation process. The PEI Human Rights Commission was deeply involved with the implementation process, not as an NGO, but as an extension of the provincial government. Stephen Toope and Kwong-leung Tang both add that the implementation process is complicated by jurisdictional issues, and clearly the Island had the jurisdictional authority to move decisively. But it did not have incentives. The federal government had the incentive but not the

jurisdiction. To that equation should be added PEI's resentment at being treated as a small province, an outsider.

In the late 1990s, Island culture was strongly influenced by religion and politics. Island culture molded political attitudes, which were embedded in provincial policy and legislation pertaining to children. The language of the province's child protection legislation, since 1910, traces the evolution of many children's rights, but areas of health, welfare, protection and poverty were not usually on the political agenda.

Federal-provincial relations regarding the Convention included the World Summit and the National Action Plan. Provincial correspondence pertaining to each of these events demonstrates a passive involvement on behalf of the provincial government. When a provincial department was held accountable for information, as in the case of the NAP, its response was more substantiated, resulting in a report. However, the initiatives taken in reaction to federal requests only resulted in information on the current state of children's rights in the province and did not at any time involve a detailed discussion on implementation or action thereon. Aside from federal requests, the Convention and the events surrounding it were not a priority for the province. No amendment or enactment of any provincial legislation references the Convention, nor does any provincial case law. Therefore, the Convention did not directly result in any immediate changes to provincial policy or legislation as a result of its ratification in 1991.

The erratic nature of the province's response to the Convention is evident in the search for records between June and September 2006. The government departments where I had anticipated finding records on the Convention had no documents. Of the three departments most involved with children in the province, Education, Justice and

Health and Social Services, only the latter had any records. Island representatives to the federal-provincial Continuing Committee of Officials on Human Rights were generally not aware of the Convention, and none had records pertaining to it. The CCOHR representative is the person who receives the federal request for a provincial report on compliance, which he or she then theoretically includes in Canada's report to the United Nations Committee on Children's Rights. However, none of the representatives knew who had made the report in the past or who would continue to do this in the future.

The limitations of this study have gone towards proving its argument. Chapter Two on the search for records bears witness to the limited impact of the Convention on the province. Problems such as a lack of awareness and interest, loss of corporate memory and retirements complicated the search for records. Departments that should have been involved in the Convention's implementation were clearly not. In addition, poor records management and government restructuring limited what records were found, as was the case with Health and Social Services. The Human Rights Commission has destroyed their records, although further study of the role of Human Rights Commissions in other provinces with respect to implementation may be an avenue into further insights about the way the Convention is received and interpreted. It is possible that similar problems surrounding the Convention's implementation such limited financial and human resources, and jurisdictional issues between different governing levels would affect most small states. Although there is still more detailed research to do that would reflect upon the values of childhood, families and specific sectors of law regarding children in Prince Edward Island, this thesis has been a general analysis of the provincial state institutions in relation to the Convention on the Rights of the Child.

This thesis aims to contribute to the study of the United Nations Convention on the Rights of the Child in Prince Edward Island to childhood in Prince Edward Island. No other work on the Convention in Canada has examined Prince Edward Island; moreover, other works, such as the reports in British Columbia, Alberta and Ontario, provide a purely current and legal examination of the Convention within their respective jurisdictions. This thesis goes beyond those accounts and beyond the purely legal. It offers insight into the provincial government's attitude towards children in the late twentieth century in its policies and legislation. It also draws connections between the nature of the Island's political culture and the Convention's implementation. In the final analysis, it demonstrates the importance of the contextual study of historical events, which can never be understood unless placed in their unique setting of time and place.

**Table 1:
Records Search: Contacts Made Between June and September 2006 in the
Government and Nongovernmental Organizations**

International
Nongovernmental Organizations

Agency/Department/Organization	People Contacted	Reasons for Contact
United Nations Children's Fund (UNICEF)	1. John Humble, Atlantic Regional Director	1. Provincial or regional information on the Convention
International Bureau of Children's Rights (IBCR)	1. Vrej Atabekian	1. Information on the Convention by region, or specifically by province

Canada
Government

Agency/Department/Organization	People Contacted	Reasons for Contact
Canadian Heritage	1. Liane Venasse, Senior Policy Officer and Reporter of Human Rights Program 2. Cassie MacPhee, Canadian Heritage	1. Provincial records on human rights, specifically 2. Provincial records on the Convention
Former Prime Minister of Canada	1. Brian Mulroney	Federal-provincial relations, Canadian Perspective, Process
Library and Archives Canada (LAC)	All files on the Convention are restricted and are currently being reviewed by ATIP.	1. External Affairs 2. Cabinet 3. Convention

Canada
Nongovernmental Organizations

Agency/Department/Organization	People Contacted	Reasons for Contact
Canadian Child Advocates	1. Landon Pearson, former Canadian "children's" Senator 2. Nicholas Bala, Law Professor, Queen's University	1. Provincial-federal relations, Canadian Perspective, process 2. Island Workshops, legislation
Child Welfare League of Canada (CWLC)	1. Shailah O'Shaughnessy	NGO information on region or specific to provinces

NB Human Rights Commission (NBHRC)	1. Tracey Hogan	NGO information on region or specific to provinces
NS Human Rights Commission (NSHRC)	1. Corrine Keffer	NGO information on region or specific to provinces

Prince Edward Island
Government

Agency/Department/Organization	People Contacted	Reasons for Contact
Canadian Heritage, Provincial Division	1. Marie Claire	Records on the Convention specific to the province.
Department of Education	1. Cindy Wood, acting manager, Program and Evaluation 2. Shaun MacNeill, policy and legislation	1. Policy and legislation 2. Policy and legislation
Department of Health and Social Services (HSS)	1. Will MacDonald, Director of Child and Family Services 2. Ron Stanley, Director of Child Welfare 3. Wayne Cheverie, former Minister 4. John Eldon Green 5. Verna Bruce, former Deputy Minister	1. Policy 2. Policy and legislation 3. Policy or records 4. Childhood on PEI prior to the Convention 5. Records on policy and legislation
Executive Council	1. Alexander (Sandy) Stewart	EC Orders or files on the Convention
Hansard	1. Jeff Bursay	Mention of the Convention in the Legislative Assembly
Legislative Counsel	1. Shawn Flynn, Chief legislative counsel 2. Madelyn Driscoll, former CCOHR 3. Blair Weeks, Legislative Editor 4. Judy Haldemann, solicitor child protection, formerly	1. Legislation 2. CCOHR information and records 3. Drafts or meetings regarding legislative compliance 4. Legislation

	with the Department of Justice	
Office of the Attorney General (OAG), Legal Services	1. Ellie Reddin, CCOHR Rep 2. Robert MacNevin, Solicitor for Legal Services, and former CCOHR 3. Debbie Gillespie, administration 4. Edison Shea, current Deputy Minister	1. CCOHR records and files 2. Legislation, Lawyers involved with compliance 3. Any Justice records on the Convention 4. Records – legislation
Public Archives and Records Office (PARO)	1. Jill McMicken-Wilson, archivist	1. Legislation (statutes), Premier's Papers, Journals of the Legislative Assembly
Supreme Court of Prince Edward Island, Judge and Law Libraries	1. Pamela Borden, librarian 2. Charles P Thompson, Chief Judicial Officer, formerly Director of Legal Services (OAG)	1. Legislation (Statutes) 2. Child Legislation and their origins

Prince Edward Island

Nongovernmental Organizations

Agency/Department/Organization	People Contacted	Reasons for Contact
Community Legal Information Association (CLIA)	1. Anne Sherman, Executive Director	Files and records on workshops and the Convention
Law Society of Prince Edward Island	1. Unknown	Lawyers involved with provincial compliance through legislation
PEI Association of Rights and Freedoms	1. Anne Sherman	Any information on this now defunct organization
PEI Human Rights Commission (PEIHRC)	1. Greg Howard, Director 2. Father Leo Trainor, former CCOHR rep	1. NGO records on the Convention 2. PEI relations and perspective on Convention, CCOHR information and records
University of Prince Edward Island (UPEI)	1. Simon Lloyd, PEI Special Collections 2. Sharon Myers, Childhood Historian 3. Edward MacDonald,	1. Annual reports, PEI and the Convention 2. Childhood on PEI 3. PEI political history

	Island Historian	
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Table 2:
Provincial Child Protection Legislation,
Statutes of Prince Edward Island, 1910-2000

Date	Title	Location
1910	<i>An Act for the protection of neglected and dependent children, 1910: This Act may be cited as The Children's Protection Act of Prince Edward Island</i>	Statutes of Prince Edward Island 1910
1922	<i>An Act to Amend an Act for the Protection of neglected and Dependent Children</i>	S.P.E.I., 1910.
1950	<i>An Act for the Protection of neglected, Dependent and Delinquent Children. Also cited as, The Children's Protection Act.</i>	S.P.E.I., 1950
1951	<i>The Children's Protection Act</i>	Revised Statutes of Prince Edward Island, 1951
1954	<i>An Act to Amend the Children's protection Act</i>	S.P.E.I., 1954
1959	<i>An Act to Amend the Children's protection Act</i>	S.P.E.I., 1959
1960	<i>An Act to Amend the Children's protection Act</i>	S.P.E.I., 1960
1961	<i>The Children's Protection Act</i>	S.P.E.I., 1961
1969	<i>An Act to Amend the Children's protection Act</i>	S.P.E.I., 1969
1970	<i>An Act to Amend the Children's protection Act</i>	S.P.E.I., 1970
1972	<i>An Act to Amend the Children's protection Act</i>	S.P.E.I., 1972
1975	<i>An Act to Amend the Children's protection Act</i>	S.P.E.I., 1975
1977	<i>An Act to Amend the Children's protection Act</i> - The Children's Protection Act is repealed by Family and Child Services Act, 1981; Proclaimed 15 January 1982	S.P.E.I., 1977
1981	<i>Family and Child Services Act</i>	S.P.E.I. 1981
1982	<i>An Act of Amend the Family and Child Services Act</i>	S.P.E.I., 1982
1983	<i>An Act of Amend the Family and Child Services Act</i>	S.P.E.I., 1983
1988	<i>Family and Child Services Act</i>	Revised Statutes of Prince Edward Island
1990	<i>An Act of Amend the Family and Child Services Act</i>	S.P.E.I., 1990
2000	<i>Child Protection Act</i> - Family and Child Services Act repealed by Child Protection	S.P.E.I., 2000

Table 3:
**PEI Legislation Mentioned in Canada's First Report Submitted on 17 June
 1994 to the United Nations Committee on the Rights of the Child**

Act	Department
<i>Adoption Act</i> R.S.P.E.I. 1988	Department of Health and Social Services
<i>Age of Majority Act</i> R.S.P.E.I. 1988	Office of the Attorney General
<i>Custody Jurisdiction and Enforcement Act</i> R.S.P.E.I. 1988	Office of the Attorney General
<i>Liquor Control Act</i> R.S.P.E.I. 1988	Department of Development and Technology
<i>Family and Child Services Act</i> R.S.P.E.I. 1988	Department of Health and Social Services
<i>Maintenance Enforcement Act</i> R.S.P.E.I. 1988	Office of the Attorney General
<i>Marriage Act</i> R.S.P.E.I. 1988	Department of Health and Social Services
<i>PEI Human Rights Act</i> R.S.P.E.I. 1988	Office of the Attorney General
<i>School Act</i> R.S.P.E.I. 1988	Department of Education
<i>Vital Statistics Act</i> R.S.P.E.I. 1988	Department of Health and Social Services
<i>Youth Employment Act</i> R.S.P.E.I. 1988	Office of the Attorney General

Table 4:
Unofficial Summary of the UN 1989 Convention on the Rights of the Child
by the Author³⁴⁸

Part I

Article	Summary by Author
Article 1	Definition of a child – under 18 years unless otherwise specified by domestic legislation.
Article 2	Non-discrimination – Protection from discrimination and from punishment based on such factors as age, sex, race, political or religious affiliation.
Article 3	Best Interests of the Child – That a child’s best interests are paramount consideration for authorities.
Article 4	Every child has economic, social and cultural rights
Article 5	Every child has the right to be looked after by their parent or guardian.
Article 6	Every child has the right to life.
Article 7	Every child has the right to a name and to be cared for by their parent or guardian.
Article 8	Every child has the right to an identity and name.
Article 9	Every child has the right to have access a parent/parents from whom it may be separated from.
Article 10	Responsibility of state parties to ensure that a child has access to its parent/parents.
Article 11	Every child has the right to protection against trafficking.
Article 12	Every child has the right to express their views.
Article 13	Every child has the right to freedom of expression.
Article 14	Every child has the right to freedom of thought, conscience and religion.
Article 15	Every child has the right to freedom of association.
Article 16	Every child has the right to privacy.
Article 17	Responsibilities of states parties to ensure children access to media.
Article 18	Responsibility of states parties to recognize the rights of parents/guardians.
Article 19	Every child has the right to protection from abuse, violence, neglect and exploitation.
Article 20	Every child has the right to assistance from the state when protection from the family is not available.
Article 21	Principle of best interest be paramount in adoptions.
Article 22	Refugee children have the right to protection and humanitarian assistance.
Article 23	Physically and mentally disabled children also share these rights and require special assistance from states parties.

³⁴⁸ Full text for the Convention on the Rights of the Child is available at Canadian Heritage on-line at http://www.pch.gc.ca/progs/pdp-hrp/docs/crc/cn_e.cfm [12 April 2007].

Article 24	Every child has the right to the highest standards in health.
Article 25	Every child has the right to a review of treatment when in state run care facilities or programs
Article 26	Every child has the right to social security and insurance.
Article 27	Every child has the right to adequate living standards that promote physical, mental, social and moral development.
Article 28	Every child has the right to education.
Article 29	Responsibility of states parties to provide certain standards in education.
Article 30	Every child has the right to share its cultural, religious and linguistic heritage.
Article 31	Every child has the right to play.
Article 32	Every child has the right to protection from economic exploitation.
Article 33	Every child has the right to protection from the use of drugs and drug trafficking.
Article 34	Every child has the right to protection from sexual exploitation.
Article 35	Every child has the right to protection from abduction and trafficking.
Article 36	Every child has the right to protection from any other form of exploitation.
Article 37	Every child has legal rights and protection from torture.
Article 38	Every child has the right to rights in times of armed conflict.
Article 39	Every child has the right to social reintegration programs for victims of human rights violations
Article 40	Every child convicted of breaking penal law has certain legal rights.
Article 41	Domestic and international laws that better provide rights for children will not be trumped by the Convention.

Part II

Article	Summary by Author
Article 42	States parties shall work to disseminate the Convention to both children and adults.
Article 43	The establishment of the UN Committee on the Rights of the Child.
Article 44	The establishment of the reporting system by states parties to the Committee established in article 43.
Article 45	States parties are to undertake international cooperation in order to fully implement the Convention.

Part III

Article	Summary by Author
Article 46	The Convention is open for signature by all states.
Article 47	The Convention is subject to ratification by all states.
Article 48	The Convention is open for accession by all states.
Article 49	After the 20 th accession or ratification, the Convention will enter into force.
Article 50	States parties may file amendments with the UN Secretary-General.

Article 51	Reservations by all states parties will be made available.
Article 52	States parties may denunciate.
Article 53	The UN Secretary-General is the depository.
Article 54	Translated copies of the Convention will be deposited with the UN Secretary-General.



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Ethics Approval Form

This is to certify that the Carleton University Research Ethics Committee has examined the application for ethical approval. The committee found the research project to meet appropriate ethical standards as outlined in the *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* and, the *Carleton University Policies and Procedures for the Ethical Conduct of Research*.

X New approval

Renewal of original approval

Original date of approval:

Date of approval for change	16 August 2006
Researcher	Kathryn Morrell
Status	M. A. candidate
Department	Department of History
Supervisor	Professor Dominique Marshall & Professor Norman Hillmer
Title of project	Prince Edward Island and the 1989 United Nations' Convention on the Rights of the Child: Children's Rights and Child Legislation on Prince Edward Island in the Twentieth Century

Co-investigators: **X None**

Ethics approval expires on: **16 August 2007**

All researchers are governed by the following conditions:

Changes to the project: Should there be any changes to the project the researcher is required to advise the Carleton University Research Ethics Committee of the changes prior to the continuance of the research.

Adverse events: Should any participant suffer adversely from their participation in the project the researcher is required to report the matter to the Carleton University Research Ethics Committee.

Suspension or termination of approval: Failure to conduct the research in accordance with the principles of the *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* and the *Carleton University Policies and Procedures for the Ethical Conduct of Research* may result in the suspension or termination of the research project.

Leslie J. MacDonald-Hicks
Research Ethics Committee Coordinator
For the Chair of the Carleton University Research Ethics Committee
Prof. Antonio Gualtieri

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³⁴⁹ All primary records for this thesis, with the exception of the interviews, will be housed at the Landon Pearson Research Centre at Carleton University. Interviews and transcriptions will be housed at the Public Archives and Records Office of Prince Edward Island.

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