

■ GRADE 11: LAW

RIGHTS OF ABORIGINAL YOUTH IN CANADA

Purpose: Explain how human rights legislation and the courts attempt to balance majority and minority rights.

Estimated time: 60 minutes

Resources required:

- Blackboard/Whiteboard
- Assign the Character Voices handout to students in advance of Activity 1, and have them prepared to read aloud to the class
- Blank 8"x11" paper for the class

Resources included:

- Printed image of "Scales of Justice" or "Lady Justice"
- Character Voices handout (print one page and divide between three students)
- Convention on the rights of a Child (CRC) handout (one per student)

Activity 1:

1. Begin the lesson by asking students to think of their definition of justice. In many societies, the image of the Scales of Justice or Lady Justice is used (often outside of federal courts) to represent the balance of arguments in legal and moral debates.
 - a. Ask the class their views on whether the Scales of Justice or Lady Justice is an accurate representation of equality in Canadian society.
 - b. With the Character Voices assigned, introduce the characters and have each student read their paragraph to the class in the following order: Justice D'arcy, Chief Courchene and Rita Laboucan.
2. According to the 2010-2011 data from Statistics Canada, there is an unequal number of youth in our correctional system who are Aboriginal. For example, across all reporting provinces, while the average percentage of Aboriginal youth in the population was only 6%, the percentage of these youth in custody was over 25%.
 - a. Ask the class why these statistics seem so unbalanced between Aboriginal and non-Aboriginal youth. Consider for example, factors that First Nations students face on-reserve and other factors that they may face off-reserve that may lead to a higher crime rate.
 - b. What are examples in your society that protect students from engaging in crime? Who advocates for your well-being in your community, and further, in your society?

- c. What would be needed to ensure that all students—regardless of their background—are protected and advocated for?
3. Introduce UNICEF's Convention on the Rights of the Child (or the CRC) by distributing the CRC handout to the class.
 - a. Explain to students that the CRC advocates for the protection of children's rights, to help meet their basic needs and expands their opportunities to allow them to reach their full potential. According to UNICEF, the Convention is a universally acknowledged set of non-negotiable standards and obligations of human rights that should be respected by governments. These rights are founded on respect for dignity and worth of every individual.
 - b. In pairs, have students choose one article of the CRC (preferably one that is approximately a paragraph long) and rephrase it to be written from a first person point of view. For example, Article 1 states "The Convention defines a 'child' as a person below the age of 18.." and students will rewrite to "I am a person below the age of 18."
 - c. Provide students time to read and rephrase the articles, then have them write their summaries on the provided blank 8"x11" paper.
 4. Have students read their newly written articles from their personalized Convention on the Rights of a Child to the class. These will be posted around the class, as a visual reminder that all children and youth are protected by the CRC, and that it is our responsibility to ensure we advocate for these universal rights.

Footnotes

- 1 Youth Correctional Statistics in Canada: www.statcan.gc.ca/pub/85-002-x/2012001/article/11716-eng.htm#a4
- 2 UNICEF Convention on the Rights of a Child: www.unicef.org/crc/
- 3 Aboriginal Justice Inquiry of Manitoba (1991): www.ajic.mb.ca/volumel/chapter1.html

CHARACTER VOICES

The following characters are based on the 1991 "Report of the Aboriginal Justice Inquiry of Manitoba."

Justice Shauna D'arcy

My name is Shauna D'arcy and I work in the Department of Justice in Canada. Here, we are committed to respecting and obeying the law while upholding the highest standards of integrity and fairness. Our laws states that each person's rights and every point of view is given equal representation in this country. Justice respects, protects and balances the people in this country.

Grand Chief David Courchene:

My name is Grand Chief David Courchene, representing the First Nations of Manitoba. While many Canadians believe that the laws in our country equally protect our rights, the overwhelming evidence coming from our people is that the fairness and equity of the Canadian justice system do not apply to us. In relation to Canadian First Nations, the system is significantly unbalanced. Frequently, we do not experience, nor do we see, justice being done; neither do our families, neighbours, parents or grandparents.

Rita Laboucan

My name is Rita Laboucan. I am a teenager from a First Nations community in Manitoba. When defining justice for non-Aboriginals and Aboriginal People, you must understand, there is no single Aboriginal philosophy of justice. We, as Aboriginal People, were never just one group of people in Canada. There are many different languages, cultures and societies that make up our practices,

governance and beliefs. Still, there are shared values of what justice means. I hope we do not define justice for Aboriginal and non-Aboriginals, but instead work to understand how all Canadians can be respected, protected and valued in this country.

Resources

Suggested image search of "Scales of Justice" and "Lady of Justice".

Scales of Justice



Lady of Justice



FACT SHEET

A SUMMARY OF THE RIGHTS UNDER THE CONVENTION ON THE RIGHTS OF THE CHILD

Article 1 (Definition of the child):

The Convention defines a 'child' as person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. The Committee on the Rights of the Child, the monitoring body for the Convention, has encouraged States to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18.

Article 2 (Non-discrimination):

The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn't matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis.

Article 3 (Best interests of the child):

The best interests of children must be the primary concern in making decisions that may affect them. All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children. This particularly applies to budget, policy and law makers.

Article 4 (Protection of rights):

Governments have a responsibility to take all available measures to make sure children's rights are respected, protected and fulfilled. When countries ratify the Convention, they agree to review their laws relating to children. This involves assessing their social services, legal, health and educational systems, as well as levels of funding for these services. Governments are then obliged to take all necessary steps to ensure that the minimum standards set by the Convention in these areas are being met. They must help families protect children's rights and create an environment where they can grow and reach their potential. In some instances, this may involve changing existing laws or creating new ones. Such legislative changes are not imposed, but come about through the same process by which any law is created or reformed within a country. Article 41 of the Convention points out that when a country already has higher legal standards than those seen in the Convention, the higher standards always prevail.

Article 5 (Parental guidance):

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly. Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle. Article 5 encourages parents to deal with rights issues "in a manner consistent with the evolving capacities of the child". The

Convention does not take responsibility for children away from their parents and give more authority to governments. It does place on governments the responsibility to protect and assist families in fulfilling their essential role as nurturers of children.

Article 6 (Survival and development):

Children have the right to live. Governments should ensure that children survive and develop healthily.

Article 7 (Registration, name, nationality, care):

All children have the right to a legally registered name, officially recognised by the government. Children have the right to a nationality (to belong to a country). Children also have the right to know and, as far as possible, to be cared for by their parents.

Article 8 (Preservation of identity):

Children have the right to an identity – an official record of who they are. Governments should respect children's right to a name, a nationality and family ties.

Article 9 (Separation from parents):

Children have the right to live with their parent(s), unless it is bad for them. Children whose parents do not live together have the right to stay in contact with both parents, unless this might hurt the child.

Article 10 (Family reunification):

Families whose members live in different countries should be allowed to move between those countries so that parents and children can stay in contact, or get back together as a family.

Article 11 (Kidnapping):

Governments should take steps to stop children being taken out of their own country illegally. This article is particularly concerned with parental abductions. The Convention's Optional Protocol on the sale of children, child prostitution and child pornography has a provision that concerns abduction for financial gain.

Article 12 (Respect for the views of the child):

When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account. This does not mean that children can now tell their parents what to do. This Convention encourages adults to listen to the opinions of children and involve them in decision-making -- not give children authority over adults. Article 12 does not interfere with parents' right and responsibility to express their views on matters affecting their children. Moreover, the Convention recognizes that the level of a child's participation in decisions must be appropriate to the child's level of maturity. Children's ability to form and express their opinions develops with

age and most adults will naturally give the views of teenagers greater weight than those of a preschooler, whether in family, legal or administrative decisions.

Article 12 (Respect for the views of the child):

When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account.

Article 13 (Freedom of expression):

Children have the right to get and share information, as long as the information is not damaging to them or others. In exercising the right to freedom of expression, children have the responsibility to also respect the rights, freedoms and reputations of others. The freedom of expression includes the right to share information in any way they choose, including by talking, drawing or writing.

Article 14 (Freedom of thought, conscience and religion):

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should help guide their children in these matters. The Convention respects the rights and duties of parents in providing religious and moral guidance to their children. Religious groups around the world have expressed support for the Convention, which indicates that it in no way prevents parents from bringing their children up within a religious tradition. At the same time, the Convention recognizes that as children mature and are able to form their own views, some may question certain religious practices or cultural traditions. The Convention supports children's right to examine their beliefs, but it also states that their right to express their beliefs implies respect for the rights and freedoms of others.

Article 15 (Freedom of association):

Children have the right to meet together and to join groups and organisations, as long as it does not stop other people from enjoying their rights. In exercising their rights, children have the responsibility to respect the rights, freedoms and reputations of others.

Article 16 (Right to privacy):

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

Article 17 (Access to information; mass media):

Children have the right to get information that is important to their health and well-being. Governments should encourage mass media – radio, television, newspapers and Internet content sources – to provide information that children can understand and to not promote materials that could harm children. Mass media should particularly be encouraged to supply information in languages that minority and indigenous children can understand. Children should also have access to children's books.

Article 18 (Parental responsibilities; state assistance):

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments must respect the responsibility of parents for providing appropriate guidance to their children – the Convention does not take responsibility for children away from their parents and give more authority to governments. It places a responsibility on governments to provide support services to parents, especially if both parents work outside the home.

Article 19 (Protection from all forms of violence):

Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them. In terms of discipline, the Convention does not specify what forms of punishment parents should use. However any form of discipline involving violence is unacceptable. There are ways to discipline children that are effective in helping children learn about family and social expectations for their behaviour – ones that are non-violent, are appropriate to the child's level of development and take the best interests of the child into consideration. In most countries, laws already define what sorts of punishments are considered excessive or abusive. It is up to each government to review these laws in light of the Convention.

Article 20 (Children deprived of family environment):

Children who cannot be looked after by their own family have a right to special care and must be looked after properly, by people who respect their ethnic group, religion, culture and language.

Article 21 (Adoption):

Children have the right to care and protection if they are adopted or in foster care. The first concern must be what is best for them. The same rules should apply whether they are adopted in the country where they were born, or if they are taken to live in another country.

Article 22 (Refugee children):

Children have the right to special protection and help if they are refugees (if they have been forced to leave their home and live in another country), as well as all the rights in this Convention.

Article 23 (Children with disabilities):

Children who have any kind of disability have the right to special care and support, as well as all the rights in the Convention, so that they can live full and independent lives.

Article 24 (Health and health services):

Children have the right to good quality health care – the best health care possible to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. Rich countries should help poorer countries achieve this.

Article 25 (Review of treatment in care):

Children who are looked after by their local authorities, rather than their parents, have the right to have these living arrangements looked at regularly to see if they are the most appropriate. Their care and treatment should always be based on "the best interests of the child". (see Guiding Principles, Article 3)

Article 26 (Social security):

Children – either through their guardians or directly – have the right to help from the government if they are poor or in need.

Article 27 (Adequate standard of living):

Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.

Article 28: (Right to education):

All children have the right to a primary education, which should be free. Wealthy countries should help poorer countries achieve this right. Discipline in schools should respect children's dignity. For children to benefit from education, schools must be run in an orderly way – without the use of violence. Any form of sure that children are not abducted, sold or trafficked. This provision in the Convention is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.

Article 36 (Other forms of exploitation):

Children should be protected from any activity that takes advantage of them or could harm their welfare and development.

Article 37 (Detention and punishment):

No one is allowed to punish children in a cruel or harmful way. Children who break the law should not be treated cruelly. They should not be put in prison with adults, should be able to keep in contact with their families, and should not be sentenced to death or life imprisonment without possibility of release.

Article 38 (War and armed conflicts):

Governments must do everything they can to protect and care for children affected by war. Children under 15 should not be forced or recruited to take part in a war or join the armed forces. The Convention's Optional Protocol on the involvement of children in armed conflict further develops this right, raising the age for direct participation in armed conflict to 18 and establishing a ban on compulsory recruitment for children under 18.

Article 39 (Rehabilitation of child victims):

Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.

Article 40 (Juvenile justice):

Children who are accused of breaking the law have the right to legal help and fair treatment in a justice system that respects their rights. Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings.

Article 41 (Respect for superior national standards):

If the laws of a country provide better protection of children's rights than the articles in this Convention, those laws should apply.

Article 42 (Knowledge of rights):

Governments should make the Convention known to adults and children. Adults should help children learn about their rights, too. (See also article 4.)

Articles 43-54 (implementation measures):

These articles discuss how governments and international organizations like UNICEF should work to ensure children are protected in their rights