

Canadian Right to Education framework:

Creating a tool to measure progress on children's access to a quality education

The COVID-19 crisis has exposed and exacerbated inequities worldwide, including within education systems, where 1.6 billion students have been affected by the pandemic. The United Nations recently released a policy brief warning that the combination of worldwide economic impacts and school closures could turn the current learning crisis into a “generational catastrophe” (United Nations, 2020). To prevent this crisis from becoming a catastrophe, governments and stakeholders around the world need to ensure all students have access to a quality education, and to do that, education systems must be grounded in the right to education (Barry, 2020).

For over 20 years, People for Education has been tracking policy and funding changes in Ontario's publicly funded schools and making evidence-based recommendations for improvement. Now, in partnership with the Maytree Foundation, People for Education is working with key stakeholders to articulate both what a quality education should consist of in Canada and how we could ensure all students can fulfill their right to access quality education. Articulating a framework for the Right to Education and creating indicators to measure progress on children's right to a quality education will help ensure that all children and young people benefit from an education system that prepares them for long-term success, no matter the path they choose.

This Canadian Right to Education Framework will measure Canada's progress in achieving the right to a quality education for all students in publicly funded schools. Using clear, specific indicators, the framework will capture the extent to which students are able to pursue a range of pathways that will prepare them to effectively contribute to the country's economic, social, and sustainable future, where socio-demographic factors will no longer be determinants of a student's success at school.

Guided by a Right to Education Advisory Group comprised of rights experts and key stakeholders in the education system, as well as experts in youth engagement, Indigenous education, public education, and equity and inclusion, People for Education will use independent research, consultations with rights experts, and ongoing youth engagement, to define what a quality education means in Canada and how it can be adequately measured across various contexts. The Advisory Group will support the Right to Education initiative by grounding the work in diverse perspectives, connecting the work to other experts, and shaping the content of the framework.

Defining the right to education in Canada

All students have a right to education. This right is enshrined in international and provincial legal documents, including the Universal Declaration of Human Rights (1948) and the Convention on the Rights of the Child (1989). However, in Canada there is no formal mechanism to assess how the country or individual provinces and territories are progressing toward the full realization of this right.

Over 5.6 million students are enrolled in elementary or secondary school in Canada, 92% of whom attend publicly funded schools (Statistics Canada, 2019). For these students to fully realize their right to education, they need to be able to access not only an education, but a *quality* education. Quality public education encompasses the extent to which children are prepared for the future, can overcome intergenerational cycles of oppression and poverty, and have the capacity to experience and promote peaceful and inclusive societies (Barry, 2020).

People for Education's Right to Education initiative recognizes that all of Canada's students must have future-ready skills and global competencies to face the challenges and opportunities of today and tomorrow. These encompass a range of skills often referred to as soft skills, transferable skills, or global competencies (OECD, 2018; RBC, 2018). They include things like the ability to collaborate, communicate effectively, develop a sense of self and society, and think critically and creatively (People for Education, 2019).

“The right to education includes not only the right to access education but also the right to quality education.”

— UNESCO Right to Education Handbook (2019)

Equipping students with future-ready skills is not solely about preparing them for the workforce. It also includes ensuring they can fully participate in all aspects of their lives and society. Development of these skills starts before elementary school, and early childhood education can provide opportunities for children to foster these fundamental skills (McCain, 2020). However, early childhood education is not universally accessible across Canada.

Fulfilling a student's right to a quality education can lead to greater attainment of other socio-economic rights, including improved health and economic outcomes. For those reasons, the right to education is described as linked to other rights and as having a “multiplier effect” (Maytree Foundation, 2018; UNESCO, 2019).

The basis for the right to education in Canada

In 2015, Canada was one of 193 countries of the UN General Assembly to adopt the 2030 UN Sustainable Development Goals (United Nations, 2015a). Of those 17 goals, the fourth goal centres on quality education, which aligns with the right to education: ensuring that all learners from early childhood

education to post-secondary education can access an inclusive and equitable quality education that nurtures “the full realization of their rights and capabilities” (United Nations, 2015b).

In fulfilling students’ right to education in Canada, there is a reciprocal relationship between students (the rights holders) and the state (the duty bearers). As rights holders, students have to be empowered and informed on how to claim their right to education. As duty bearers, the state (federal, provincial, and territorial governments) is legally bound to protect students’ right to education (UNESCO, 2019).

Figure 1. Rights holders and duty bearers (European Commission, n.d.)



Table 1. Existing Canadian legislation that connects to the right to education

Legislation	Connection to the right to education
Canadian Charter of Rights and Freedoms (1982)	Minority-language education rights for French-speaking communities outside Quebec and English-speaking communities in Quebec
Ontario Education Act (1990)	Right to attend elementary and secondary school without payment of a fee
Ontario Human Rights Code (1962)	Right to equal treatment, without discrimination based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability

Indigenous right to education

In Canada, over 1.6 million people identify as Indigenous, with Indigenous youth being one of the fastest-growing demographics in the country (Statistics Canada, 2020). Yet graduation rates for Indigenous students in provincially-run schools are substantially lower than graduation rates for non-Indigenous students. In addition, the long-standing impact of residential schools, colonization, gaps in educational achievement, and the loss of language have created barriers for Indigenous students to have their right to education fulfilled (Chiefs Assembly on Education, 2012).

The Right to Education Framework that People for Education is proposing must acknowledge and include Indigenous specificity among rights holders. While the majority of Indigenous students in Canada attend provincially-run and funded schools and live off-reserve, 120,000 students live on reserve lands with most attending on-reserve schools. For Indigenous students, the right to education is a human rights issue, as well as an issue of inherent Indigenous and Treaty rights.

In 2016, the Government of Canada announced its full support of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Article 14 of UNDRIP states that Indigenous Peoples have a right to establish and control their educational systems and institutions and to provide education in their own languages and in a manner appropriate to their cultural methods of teaching and learning (United Nations, 2008). Treaty rights are also recognized by Section 35 of Canada's Constitution Act, 1982. While rights and obligations are specific to each treaty, expectations about adequate funding for education and systems that reflect and address the needs of Indigenous communities are set out in all treaties.

Addressing the barriers to fulfilling the right to education

By developing a framework for the right to education that includes all the aspects of a quality education that will make students future-ready, Canada will have a way to keep track of its progress to ensure that all children have the opportunity to lead happy, healthy, economically secure, and civically engaged lives. Systemic barriers (e.g., racism and poverty) – which have been amplified by the pandemic – have prevented many students from accessing a quality education. And global anti-racism movements have reinforced the fact that our current education systems are not built for all learners. The Right to Education Framework must have a specific emphasis on addressing the barriers faced by students in accessing quality learning opportunities, particularly those who are vulnerable, Black, Indigenous, and experiencing marginalization. This is where Canada needs to do better.

“While it is clear that the education crisis has disproportionately affected the most vulnerable and marginalized, it did so against a backdrop of entrenched, recognised structural inequality.”

— United Nations Special Rapporteur, 2020

Youth engagement

Meaningful youth engagement must be a foundational element of the Canadian Right to Education Framework. People for Education has partnered with the Students Commission of Canada to have the voices and perspectives of youth from across Canada represented in discussions about the right to a quality education. Children's right to participate in and express their opinions freely on matters that pertain to them is enshrined in the UN Convention on the Rights of the Child. Discussions about quality education cannot occur without the participation of the youth who personally experience the system.

In March 2020, People for Education led discussions on the future of public education at the #CanadaWeWant Conference organized by the Students Commission of Canada. Over the span of a week, a group of youth from across Canada participated in a series of workshops facilitated by People for Education and created recommendations on how public education needs to change to fulfill their right to a quality education. The youth were between the ages of 12 and 25 and included youth who identified as Indigenous, racialized, differently abled, and 2SLGBTQ+. Their recommendations were grounded in their own lived experiences along with the conference's guiding lenses: rural and remote experiences, addressing structural racism, truth leading to reconciliation, and children's rights (Students Commission of Canada, 2020).

From those discussions, the youth identified the need for Canadian education standards that are modern, relevant, and adaptable. They also identified the need for education that fosters cultural respect and addresses social barriers. One youth mentioned that "for some Indigenous students, it can feel normal to have racist teachers" and reflected on how this cannot foster a safe learning environment. Another youth mentioned feeling "shocked w[ith] the lack of unity in education across Canada," particularly in terms of the "prejudice that exists again[st] other provinces when applying for post-secondary" (Students Commission of Canada, 2020). All young people in Canada should be able to thrive in a safe learning environment and to feel prepared for any post-secondary path anywhere in Canada.

Based on the recommendations from youth at the #CanadaWeWant Conference, People for Education has revised the draft Framework and is planning further youth consultations through its ongoing partnership with the Students Commission of Canada. These consultations will intentionally engage youth from diverse backgrounds and lived experiences and reflect representation from various regions across Canada.

What a Canadian Right to Education framework might include

Consultations with various stakeholders are ongoing to create a framework with clear, specific indicators. But ultimately, the Canadian Right to Education framework will show how all students in Canada will be able to graduate with the skills and competencies they need to lead successful lives, whatever path they choose.

Students need skills and competencies that will prepare them for the future

A quality education will allow students to be successful in a modern economy. Young people need to be equipped with skills necessary to thrive in a rapidly changing, complex world. People for Education refers to these skills as "the new basics" (OECD, 2018; People for Education, 2019; RBC, 2018). Students need the skills required to be lifelong learners, to think creatively and critically, to collaborate and to communicate, and to understand themselves and those around them. While some provinces, such as British Columbia and Ontario, have been incorporating these skills into some of their curricula, we must ensure that all students can learn these skills no matter where they are in Canada.

Every student in Canada has the right to access the same quality of education

A quality education should be available to every student, no matter their geographical location, socio-economic status, ability, sexuality, gender, or race. A Canadian Right to Education Framework must ensure the success of every student so that all students are future-ready and so that socio-economic and demographic factors are no longer a predictor of their success. Students should be able to choose from a multitude of pathways and education should provide the mechanism for overcoming inter-generational cycles of poverty and oppression.

Challenges and opportunities specific to Canada

Creating a Canadian Right to Education Framework that will help to ensure a quality education for all students across the country is a challenging and complex process, in particular because Canada has multiple, different education systems managed by provinces, territories, and, through Indigenous Services Canada, the federal government.

It will also be a challenge to ensure that a Canadian Right to Education Framework is inclusive of the needs of all students no matter where they are in Canada, while remaining sensitive to the ways in which a quality education may have different meanings and requirements for different regions and communities.

Along with those challenges, it is critical to recognize that the nature of publicly funded education systems in Canada is inherently colonial, and that historically, public education has been used as a tool for erasing and undermining Indigenous cultures. Public education does not serve everyone equally, particularly Indigenous students.

The challenges in developing the Canadian Right to Education framework create an opportunity for stakeholders and experts from across Canada to come together and share what they believe is needed in such a framework. Upcoming public consultations will provide space for these challenging discussions, so we can ensure that the framework is as representative of Canadians as it can be.

Why Canada needs to define the right to quality education

Currently, there is no mechanism in place at the federal or provincial/territorial level to determine how the right to education is being upheld across Canada. While Canada has participated in a national voluntary review of its progress on the UN Sustainable Development Goals (SDGs), specifically SDG #4: “to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” (United Nations, 2015a), it is currently not reporting on specific targets that are essential to ensuring this goal is met in its entirety.

In 2008, Canada’s Council of Ministers of Education released a pan-Canadian statement related to the right to education, *Learn Canada 2020*. The document describes four pillars of lifelong learning: early childhood education, elementary and secondary education, post-secondary education, and adult

learning and skills development (CMEC, 2008). While the pillars resonate with the goal of access to a quality education, they do not include an explicit definition of the right to education in Canada.

For Canada to ensure that all children and students are adequately prepared for the future, a Canadian Right to Education Framework needs to be developed to capture the extent to which learners are having their right to a quality education fulfilled.

The goal of the Framework is to provide a mechanism to help ensure that all of Canada's students are adequately prepared to participate in work, life, and society. Assessing how the country or individual provinces and territories are progressing toward the full realization of the right to education will require transparency and advocacy. Reporting on aspects of the Canadian Right to Education framework would also be part of the accountability process.

Next steps for the right to education in Canada

All Canadian students have the right to access primary and secondary education. However, crisis after crisis continues to expose the fact that *access* alone is not enough. Every student in Canada must have the right to access a *quality* education. This is not the current reality for many students across Canada but with a national framework enshrined in rights, it could be their future.

Currently, there is no Canada-wide consensus on what defines a quality education. It is here that we have the opportunity to work together, from coast to coast to coast, to define what a quality education means in and for Canada. Through connecting to and listening to the diverse lived experiences of those who call Canada home, we can ensure that the definition of 'quality education' is as representative of Canadians as it can be.

By defining the right to education explicitly in the Canadian Right to Education framework, Canada will have a way to measure its progress toward ensuring the success of every student so that all students are future-ready and so that socio-economic and demographic factors are no longer a predictor of their success.

People for Education will hold online public consultations on the Canadian Right to Education framework. These consultations will be an opportunity to review the draft framework and to ensure that the framework is as representative and inclusive of Canadian students as possible.

References

- Barry, K. B. (2020). *Right to education: Impact of the COVID-19 crisis on the right to education; concerns, challenges and opportunities*. United Nations Human Rights Office of the High Commissioner. <https://www.ohchr.org/EN/Issues/Education/SREducation/Pages/COVID19.aspx>
- Chiefs Assembly on Education. (2012). *A portrait of First Nations and education*. Assembly of First Nations. https://www.afn.ca/uploads/files/events/fact_sheet-ccoe-3.pdf
- Council of Ministers of Education, Canada (CMEC). (2008). *Learn Canada 2020*. <https://www.cmec.ca/Publications/Lists/Publications/Attachments/187/CMEC-2020-DECLARATION.en.pdf>
- European Commission. (n.d.). *Rights holders and duty bearers*. European Commission. <https://europa.eu/capacity4dev/sites/default/files/learning/Child-rights/2.8.html>
- Government of Canada. (2019). *First Nations education transformation*. Government of Canada. <https://www.sac-isc.gc.ca/eng/1476967841178/1531399315241>
- Maytree Foundation. (2018). *What should the right to education look like in Canada?* <https://maytree.com/stories/what-should-the-right-to-education-look-like-in-canada/>
- McCain, M. N. (2020). *Early Years Study 4: Thriving kids, thriving society*. Margaret and Wallace McCain Family Foundation Inc. https://earlyyearsstudy.ca/wp-content/uploads/2020/02/EYS4-Report_01_15_2020.pdf
- Organization for Economic Co-operation and Development (OECD). (2018). *Preparing our youth for an inclusive and sustainable world: The OECD PISA Global Competence Framework*. <https://www.oecd.org/education/Global-competency-for-an-inclusive-world.pdf>
- People for Education. (2019). *The new basics*. <https://peopleforeducation.ca/the-new-basics/>
- Royal Bank of Canada (RBC). (2018). *Humans wanted: How Canadian youth can thrive in the age of disruption*. https://www.rbc.com/dms/enterprise/futurelaunch/_assets-custom/pdf/RBC-Future-Skills-Report-FINAL-Singles.pdf
- Statistics Canada. (2020). *Statistics on Indigenous peoples*. Government of Canada. https://www.statcan.gc.ca/eng/subjects-start/indigenous_peoples
- Statistics Canada. (2019). *Elementary–secondary education survey for Canada, the provinces and territories, 2017/2018*. Government of Canada. <https://www150.statcan.gc.ca/n1/daily-quotidien/191024/dq191024b-eng.htm>
- Students Commission of Canada. (2020). *The future of public education in Canada: A #CanadaWeWant theme*. https://www.studentscommission.ca/assets/pdf/en/node-reports/conference-reports/canada-we-want-2020/Future-of-Public-Education_CWW-Report_06-09-2020.pdf
- United Nations. (2020). *Policy brief: Education during COVID-19 and beyond*. https://www.un.org/sites/un2.un.org/files/sg_policy_brief_covid-19_and_education_august_2020.pdf
- United Nations. (2015a). *Sustainable Development Goals*. <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>
- United Nations. (2015b). *Transforming our world: the 2030 Agenda for Sustainable Development*. <https://sustainabledevelopment.un.org/post2015/transformingourworld>
- United Nations. (2008). *United Nations Declaration on the Rights of Indigenous Peoples*. <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>
- United Nations Educational, Scientific, and Cultural Organization (UNESCO). (2019). *Right to education handbook*. <https://unesdoc.unesco.org/ark:/48223/pf0000366556/PDF/366556eng.pdf.multi>