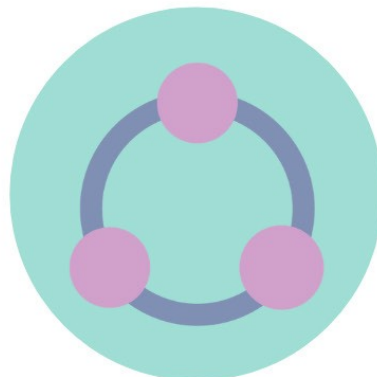


Developing a Canadian Right to Education Framework



Developing a Canadian Right to Education Framework

“ *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

What is the Right to Education Framework?

For over 20 years, People for Education has been monitoring the impact of policy and funding changes on Ontario’s publicly funded schools. Now, in partnership with the Maytree Foundation, People for Education is working with key stakeholders to articulate what a quality education consists of in Canada and how to ensure all students can fully enjoy their right to education.

Education is a core human right, and the Right to Education Framework will provide a tool to track Canada’s progress in achieving the right to a quality education for all students in publicly funded education. The framework is centred in a rights-based approach to education that acknowledges students as rights-holders and adults as duty-bearers within educational institutions. In this work, there is an inextricable link between a quality education and a curriculum that not only teaches human rights, children’s rights and treaty rights, but also supports children and young people in developing the skills and agency required to access and advocate for those rights.

Creating a framework that articulates the right to a quality education will help ensure that Canadian education systems – from early childhood through to post-secondary – create engaged and informed citizens, promote and prioritize well-being, and prepare children and young people for long-term success, no matter the path they choose.

Why is education a fundamental human right?

The right to education is a human right and indispensable for the exercise of other human rights.

- Quality education aims to ensure the development of a fully-rounded human being.
- It is one of the most powerful tools in lifting socially excluded children and adults out of poverty and into society. UNESCO data shows that if all adults completed secondary education, globally the number of poor people could be reduced by more than half.
- It narrows the gender gap for girls and women. A UN study showed that each year of schooling reduces the probability of infant mortality by 5 to 10 per cent.
- For this human right to work there must be equality of opportunity, universal access, and enforceable and monitored quality standards.

UNESCO

How was the draft framework developed?

Beginning in 2018, People for Education convened a right to education advisory group comprising experts in children’s rights, human rights, youth engagement, Indigenous education, and public education, along with key stakeholders in the education system including students and teachers. Through independent research, consultations with rights experts, work with the advisory group, and ongoing youth engagement, People for Education examined what a quality education means in Canada and what indicators could be used to measure Canada’s progress toward achieving quality education for all students.

Why do we need a Right to Education Framework in Canada?

Over a decade ago, UNESCO defined three dimensions to the right to education: access, quality, and respect. However, discussion about education as a right often focuses on access, which in turn is often understood as an issue only for people in the poorer countries of the world.

In Canada, over 5.6 million students are enrolled in K–12 education, with 92% attending a publicly funded institution (Statistics Canada, 2019). Most of Canada’s youth may be walking into public schools, but many are not walking out with access to the same opportunities for upward mobility.

Qualitative and quantitative data reveal persistent inequities in the quality of education that specific student communities receive:

- Persistently lower rates of student achievement are recorded for Indigenous and Black students (Brown, Gallagher-Mackay & Parekh, 2020).
- The proportions of persons with disabilities across Canada who report having “below high school” as their highest educational attainment vary from approximately 25% to 40% compared to approximately 15% to 33% for people without disabilities (Canadian Human Rights Commission, 2017).
- Almost two-thirds of LGBTQIA2+ students report feeling unsafe at school, particularly in places that are gender-segregated such as washrooms and change rooms (Taylor et al., 2011).
- Black students are more likely to be expelled from school. On-reserve schools receive lower rates of funding (People for Education & Global Initiative for Economic, Social and Cultural Rights, 2020).
- In an Ontario-wide survey, 29% of students reported their mental health affects their school grades a “great deal” or “quite a lot” (Centre for Addiction and Mental Health, 2017).

How has COVID-19 added urgency?



This is a crucible moment for education, one that will test our resolve and collective commitment to the idea that education is indeed a universal human right.



Fernando Reimers, Harvard Graduate School of Education, 2020

COVID-19 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 warned that the combination of worldwide economic impacts and school closures could turn the current learning crisis into a “generational catastrophe” (United Nations, 2020). In Canada, researchers are beginning to collect and report on data that demonstrates students from low socio-economic backgrounds are facing challenges accessing virtual school because of a lack of connectivity and devices (Pathways to Education, 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).

The “multiplier effect” of education

Students who access a quality education are more likely to be aware of their other human rights and have greater ability to advocate for them. For example, fulfilling a student’s right to education can lead to greater attainment of other socio-economic rights, including improved health and economic outcomes, as well as poverty reduction. 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).



Human rights treaties consistently frame education as integral to the full development of the human personality and a sense of dignity and self-worth, as well as being indispensable to the promotion of peace, democracy, environmental sustainability, citizenship, and for realising other human rights.

The right to education is based on the premise that a “well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence”, while recognising that education is also an enabler and multiplier right serving as “the primary vehicle by which socially and economically marginalised adults and children can lift themselves out of poverty” (UN Committee on Economic, Social and Cultural Rights, General Comment 13, para. 1). This powerful and inclusive vision of education as an equalising force in society is dependent on States building equitable public education systems.



The Abidjan Principles

Canada's responsibility for education as a human right

Canada has a responsibility to ensure all children and young people fully enjoy their right to education. This is true even though Canada does not have a national department of education, and responsibility for education sits with the provinces and territories.

The right to education was recognized as a core human right in the Universal Declaration of Human Rights in 1948. Canada formally recognized the right to education in 1976, when it ratified the International Covenant on Economic, Social and Cultural Rights. Canada has signed on to a number of international conventions and covenants since then:

- In 1970, Canada ratified the Convention on the Elimination of All Forms of Racial Discrimination, which calls for the state parties to adopt measures in education and teaching to combat prejudices that lead to racial discrimination.
- In 1981, Canada ratified the Convention on the Elimination of All Forms of Discrimination Against Women, which protects women's equal access to and equal opportunities in education.
- In 1991, Canada ratified the Convention on the Rights of the Child, which recognizes education as a legal right for every child.
- In 2010, Canada ratified the UN Convention on the Rights of Persons with Disabilities, which protects the right to education of persons with disabilities and proclaims the right to inclusive education and the steps that must be taken to achieve it.
- Canada is a signatory to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), and began the process for its full implementation in December 2020 with the introduction of federal legislation. Article 14 of UNDRIP states that Indigenous people have the right to create and oversee their educational systems, providing education in their own languages with pedagogy appropriate to Indigenous ways of knowing.
- The Canadian Charter of Rights and Freedoms, part of the Canadian Constitution, protects minority language educational rights.
- In 2015, Canada adopted the 2030 Agenda for Sustainable Development. Sustainable Development Goal (SDG) 4 is to "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all." While SDG 4 is the education goal, 10 of the 17 SDGs are related to education (Council of Ministers of Education Canada, 2020).

Universal Declaration of Human Rights 1948

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.



**ENSURE INCLUSIVE AND EQUITABLE QUALITY EDUCATION AND
PROMOTE LIFELONG LEARNING OPPORTUNITIES FOR ALL**

Defining the right to quality education

While Canada recognizes education as a core human right, there is no mechanism in place at the federal or provincial/territorial level to determine how the right to education is being upheld across the country. Canada has participated in a national voluntary review of its progress on the UN Sustainable Development Goals, specifically the goal of quality education, but the report and statistical annex do not report on progress toward the specific targets that are essential to ensuring this goal is met in its entirety, “to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” (United Nations, 2015a).

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 goals 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, we need a Canadian Right to Education Framework to capture the extent to which learners are having their right to a quality education fulfilled.

A Canadian Right to Education Framework must ensure the success of every student – no matter their geographical location, socio-economic status, ability, sexuality, gender, or race – so that all children and young people are future-ready, and 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 become a tool for overcoming inter-generational cycles of poverty and oppression.

The right to a quality education will recognize that all of Canada’s children and young people must graduate with the skills and global competencies necessary to face the challenges and opportunities of today and tomorrow. Future-ready skills and competencies encompass a range of skills also known as soft skills and transferable skills (OECD, 2018; RBC, 2018). These skills include the ability to collaborate, communicate effectively, develop a sense of self and society, think critically and creatively, and continue to learn (People for Education, 2019). While some provinces, such as British Columbia, Ontario, and Quebec, have been incorporating these skills into some of their curricula, a defined quality education will ensure that all students can learn these skills no matter where they are in Canada.

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 will also be part of the accountability process.

The Right to Education Framework includes early childhood education because 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).

Indigenous rights and the right to education



A wide range of factors can affect learning for Indigenous peoples across all stages, from early childhood education, kindergarten to grade 12, and post-secondary education. These factors operate from the individual to broader societal and environmental levels and are primarily associated with historic and contemporary impacts of colonialism, including socio-economic marginalization, inappropriate education systems, and inequitable funding for education.



— National Collaborating Centre for Aboriginal Health, 2017

It is critically important to distinguish Indigenous rights from a universalizing human rights framework.

The Right to Education Framework must uphold the rights of Indigenous people. The Framework recognizes existing standards for Indigenous education developed by Indigenous-led organizations such as the World Indigenous Nations Higher Education Consortium (WINHEC), which has developed standards and benchmarks for both K–12 and post-secondary Indigenous educational institutions. The Right to Education Framework is not intended to replace or encompass Indigenous peoples’ rights in connection to education nor does it address the right of First Nations to control of First Nations education.

The greatest injustice and barrier to Indigenous education rights continues to be the erasure and invisibility of Indigenous knowledge systems. Indigenous communities require proper resources and investments into organizations and governance structures to determine an Indigenous rights framework for 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. Also, the long-standing impact of residential schools, colonization, gaps in educational achievement and the loss of language has created barriers for Indigenous students to have their right to education fulfilled (Chiefs Assembly on Education, 2012).

A right to education framework in Canada must also 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 rights and treaty rights.

In 2016, the Government of Canada announced its full support of the United Nations Declaration on the Rights of Indigenous Peoples. Article 14 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 a happy, healthy, economically secure, and civically engaged life. Systemic barriers (e.g., racism and poverty), which have been compounded by the pandemic, have prevented all students from accessing a quality education. In the wake of the COVID-19 pandemic, global movements addressing racism have urged for equity and justice. These movements have reinforced the fact that current education systems are not built for all learners.

The right to education has 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.



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 has been a foundational element in the development 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).



I know what mitochondria are, but I don't know my rights.



Youth Participant, #CanadaWeWant 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, along with ongoing work completed on the framework, People for Education is continuing to engage in youth consultations through its ongoing partnership with the Students Commission of Canada. These consultations intentionally engage youth from diverse backgrounds and lived experiences and reflect representation from various regions across Canada.

Challenges and opportunities specific to Canada

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

It is a challenge to ensure that the 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.

It is also critical to recognize that the nature of publicly funded education systems in Canada is inherently colonial. Historically, public education has been a tool for erasing and undermining Indigenous cultures. We now recognize that public education does not serve everyone equally, particularly Indigenous students. While efforts are made to include Indigenous ways of knowing in public education, these efforts nevertheless require Indigenous knowledge to be adapted to a colonial school system which is antithetical to the original purpose of including Indigenous knowledge.

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.

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 a Canadian Right to Education framework, Canada will have a way to monitor our progress toward ensuring that all students have access to the education they need to be future-ready and ensuring that socio-economic and demographic factors are no longer a predictor of their success.

References

- Abidjan Principles. (2019) *Guiding Principles on the human rights obligations of States to provide public education and to regulate private involvement in education*
https://static1.squarespace.com/static/5c2d081daf2096648cc801da/t/5dc414bb9f409d285dc9abf2/1573131454068/Online+version_A4_WEB_COUV%2BTEXTE_THE-ABIDJAN-PRINCIPLES_Nov_2019.pdf
- 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>
- Brown, R. S., Gallagher-Mackay, K., & Parekh, G. (2020). Redefining risk: Human rights and elementary school factors predicting post-secondary access. *Education Policy Analysis Archives*, 28, 21. <https://epaa.asu.edu/ojs/article/view/4200>
- Canadian Human Rights Commission. (2017). *Left Out: Challenges faced by persons with disabilities in Canada's schools*. <https://www.chrc-ccdp.gc.ca/eng/content/persons-disabilities-canada-education-not-always-open-door-chrc-report>
- Centre for Addiction and Mental Health. (2017). *The mental health and well-being of Ontario students: findings from the Ontario student drug use and health survey*.
<http://www.camh.ca/-/media/files/pdf---osduhs/mental-health-and-well-being-of-ontario-students-1991-2017--summary-osduhs-report-pdf.pdf>
- 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>
- Council of Ministers of Education Canada. (2020). *Ensuring inclusive and equitable quality education: Sustainable Development Goal 4 in Canada*. Council of Ministers of Education, Canada.
<https://www.cmec.ca/Publications/Lists/Publications/Attachments/407/Sustainable%20Development%20Goal%204%20in%20Canada%20EN.pdf>
- 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>
- Pathways to Education. (2020). Impacts of the COVID-19 pandemic on low-income communities
<https://www.pathwaystoeducation.ca/research/impacts-of-the-covid-19-pandemic-on-low-income-communities/>
- People for Education. (2019). *The new basics*. <https://peopleforeducation.ca/the-new-basics/>
- People for Education & Global Initiative for Economic, Social and Cultural Rights. (2020). *List of*

Issues for Canada's 2020 United Nations CESCR Review. [Submission to 66th Pre-Sessional Working Group].
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICS%2fCAN%2f41466&Lang=en

- 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
- Taylor, C. & Peter, T., with McMinn, T. L., Elliott, T., Beldom, S., Ferry, A., Gross, Z., Paquin, S., & Schachter, K. (2011). *Every class in every school: The first national climate survey on homophobia, biphobia, and transphobia in Canadian schools.* Final report. Toronto: Egale Canada Human Rights Trust. <https://egale.ca/wp-content/uploads/2011/05/Every-Class-In-Every-School-Final-Report.pdf>
- United Nations. (2020). *Policy brief: Education during COVID-19 and beyond.* https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2020/08/sg_policy_brief_covid-19_and_education_august_2020.pdf
- United Nations. (2015). *Sustainable Development Goals.* <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>
- United Nations. (2008). *United Nations Declaration on the Rights of Indigenous Peoples.* <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-%20rights-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.mlti>



© **People for Education. 2020**

People for Education is an independent, non-partisan, charitable organization working to support and advance public education through research, policy, and public engagement.

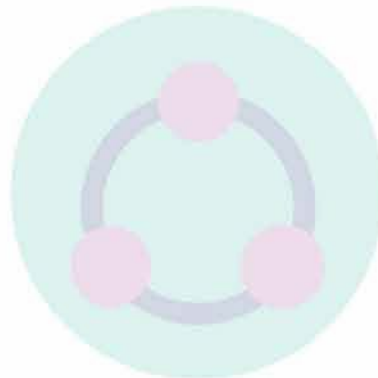
Charitable No. 85719 0532 RR0001
728A St Clair Avenue West, Toronto, ON, M6C 1B3
416-534-0100 or 1-888-534-0100
www.peopleforeducation.ca

Authors

Elyse K. Watkins and Joanna Kotasinska

Document Citation

People for Education (2020). *Developing a Right to Education Framework for Canada*. Toronto, ON, People for Education.





People for Education
728A St. Clair Avenue West
Toronto, ON M6C 1B3

www.peopleforeducation.ca
info@peopleforeducation.ca

1.888.534.0100
416.534.0100

