

The ODA Accountability Act and the Right to Education: Implications for Canadian Aid to Education

Introduction

The Official Development Assistance (ODA) Accountability Act (Bill C-293) was passed unanimously by all parties on May 29th, 2008. The Act opens the way for communication and implementation of policies, programs and values concerning Canadian aid to education from a human rights standpoint. At the same time, the ODA Accountability Act provides for greater accountability in the distribution of Canadian assistance to education globally. This briefing outlines key issues in international human rights standards in education and review CIDA's strategies to address these standards. Finally, some potential implications for Canadian ODA to education are identified.

ODA Accountability Act

The purpose of the Act is to ensure that all Official Development Assistance is provided in a manner that is consistent with Canadian values, Canadian foreign policy and promotes sustainable development and international human rights standards. The heart of the Bill is found in Section 4, which states that Canadian ODA may only be provided if the competent Minister is of the opinion that it;

- a. Contributes to poverty reduction,
- b. Takes into account the perspectives of the poor, and
- c. Is consistent with international human rights standards.

While the Act does not provide any interpretation guidance for 'contributes to poverty reduction' or 'takes into account the perspectives of the poor', it does provide the interpretation that international human rights standards are based on international covenants to which Canada is a party.

International Human Rights Standards in Education

Education was recognized as a fundamental human right in 1948 by the *Universal Declaration of Human Rights* (UDHR). The Declaration provides the foundational framework for the human rights goals and standards to which Canadian legislation, institutions, and society aspire. In addition to the Declaration of Human Rights (1948), the right to education is enshrined in a range of international conventions to which Canada is a state signatory, including the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 1966), the *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW, 1979), and more recently, the *Convention on the Rights of the Children* (CRC, 1989).¹ The right to education has also been incorporated into various regional treaties. Beyond this, many countries have made provisions for the right to education in their national constitutions.

Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, ratified by Canada in 1976, and the General Comments that provide a more specific understanding of the Articles, provide the most comprehensive approach to education under human rights law. The ICESCR provides for:

- The right to education which is free and compulsory at the primary level; the general availability of secondary education, and the progressive realization of free higher education and technical and professional education;

¹ Details of articles on the right to education, provided for in these and other UN Conventions, can be found in Unesco 2007. *The Right to Education: Normative Framework*. Unesco, Paris.

- Education which is directed to the full development of the human personality and to the strengthening of respect for human rights and freedoms;
- Education which promotes understanding among all ethnic groups, as well as nations and ethnic, racial and religious groups;
- Education which exhibits four interrelated features: availability, accessibility, acceptability (content), and adaptability.

In addition, the ICESCR obliges State Parties to take steps to support other States Parties towards the right to education. This obligation includes providing international assistance, both economic and technical, “to the maximum of their available resources” (ICESCR, 1966, Article 2:1). It also obliges states to ensure that any international agreements a government enters into have no adverse impact on the right to education, and to ensure that their actions, as members of international organizations, including international financial institutions, take account of the right to education. This obligation is further reinforced by Article 10 of the World Declaration on Education for All (1990) and Article 24(4) of the Convention on the Rights of the Child (1989), among others.

CIDA’s Current Education Strategy

Canada’s policies and strategies for ODA to education draw heavily on the Dakar Framework for Action (2000) and the Millennium Development Goals (UN, 2000). However, Canada has only recently begun to use human rights standards in education to inform its international development activities.

The *Sustainable Development Strategy 2007-2009* of the Canadian International Development Agency (CIDA) provides the current direction for the Agency’s programming in education.² Its four result areas are the pursuit of education for all, gender equality, strengthened action against HIV/AIDS, and improved stability and protection for children in crisis setting (CIDA, 2007, Table 5. p. 23). The SDS opens the door to a human rights approach to education programming by emphasizing common principles of a human rights based approach, as well as principles of aid effectiveness and performance management.

However, the SDS is a strategy only, not a policy with an accountability framework for implementation. The strategy lacks the force of policy in terms of guiding programming decisions, ensuring coherence across the work of CIDA, the Department for Foreign Affairs and International Trade (DFAIT) and other ODA implementing governmental departments active in education, monitoring the impact of Canada’s aid to education and ensuring that Canada’s aid to education does not in any way undermine international human rights standards in education.

² On November 20, 2009 Minister Oda announced CIDA’s Children and Youth Strategy. The Strategy emphasises access to basic education particularly for girls, improved quality of education, alternative and innovative learning opportunities for youth with an emphasis on literacy and numeracy, and support to country-led national plans and priorities. The Strategy also commits to helping ensure schools are safe and free from violence and child-friendly spaces for learning. Priorities for action in this Strategy are consistent with previous strategies of CIDA. While continued support to *education is greatly welcomed*, the new strategy does not provide a definition of quality, it does not indicate how performance will be measured, does not specify Canada’s obligations to support developing countries achieve free, compulsory education, nor does it have the force of policy. How this new Strategy will impact CIDA’s current education programs remains to be seen.

Implications for Canadian ODA

Bill C-293 is the impetus for Canada to show leadership and join a growing group of international donors in integrating human rights in their vision and programming. The following recommendations outline how Canada, and more specifically CIDA, can move forward in adopting a human rights approach within the education sector, consistent with the passing of the ODA Accountability Act.

Recommendation #1 - Renew Canada's Education ODA Policy to ensure international human rights standards and principles guide Canada's aid to education.

While CIDA's *Sustainable Development Strategy 2007 – 2009* identifies a strategy for Canadian aid to education, it does not have the force of policy. A new education ODA policy, referencing human rights instruments and standards, should continue to emphasize access, non-discrimination, gender equality, and good quality education. In addition it should also include the full development of the human personality, respect for human rights and cultural identity, the promotion of tolerance within and between nations, principles of freedom, peace and equality and respect for the natural environment. A new education policy should also lay out, in specific terms, the extent of Canada's obligations to support developing countries in the achievement of the right to education.

Recommendation #2 - Ensure Canadian aid to education gives greater focus to the content and purpose of education.

With the 2015 deadline for the Education for All goals fast approaching, Canada needs to reevaluate its education provision in light of the need for a greater quality of education. The human rights approach demands the pursuit of a quality education that includes the opportunity to critically think, reflect, access information, develop skills and actively engage.

Recommendation #3 - Develop performance indicators, consistent with international human rights standards, to measure Canada's performance towards the right to education.

Canada needs to create and develop performance indicators that are integrated into its education sector policy that ensure education programs are achieving active results. In alignment with a human rights approach, these performance indicators should be linked to international human rights standards in education and be sure to measure not just the quantity of education but the quality. Lastly, these performance indicators must ensure that no international agreements Canada has entered into will have a negative impact on the right to education.

Recommendation #4 - Strengthen the capacity of rights-holders to claim their rights.

Because rights constitute entitlements there is considerable emphasis on strengthening the capacity of states (duty-bearers) to meet their obligations to citizens. Canadian aid to education should give greater emphasis to the role of rights-holders and the civil society organizations that represent them. CIDA should build on its leadership role in exploring the role of civil society organizations and aid effectiveness. Support for newly developing National Civil Society Education Funds is one such opportunity. Awareness, freedom of information, association and speech are critical for rights-holders to engage critically with the State around their obligations in education.

Conclusion

Bill C-293 requires three tests for Canadian ODA – contributes to poverty reduction, takes into account the perspectives of the poor, and is consistent with international human rights standards. A human rights approach to Canadian ODA satisfies all three tests. Canada needs to renew its Education ODA Policy to ensure human rights principles and standards guide Canada's aid to education. Canada needs to ensure that no international agreements entered into will have a negative impact on the achievement of the right to education. Finally, Canada should be explicit in its obligation to support developing countries in the achievement of the right to education, particularly in the area of the financing of education. Education has many practical benefits including economic growth, improved family incomes, and increased health benefits, particularly for mothers and children. Good quality education has the potential to promote values of peace, tolerance and equality.

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