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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Pre-sessional working group  
16-20 May 2005

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the  
fourth periodic report of CANADA concerning the rights referred to  
in articles 1-15 of the International Covenant on Economic, Social and  
Cultural Rights (E/C.12/4/Add.15)**

## **I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED**

1. In light of the continuing economic growth and development of Canada, please identify any remaining factors and difficulties impeding the State party's ability to implement its obligations under the Covenant.
2. In relation to paragraph 20 of the report, please provide detailed information on how the FPT Continuing Committee of Officials on Human Rights, the FPT committees of Ministers for Social Services, Ministers of Health, Ministers of Justice and Ministers responsible for the Status of Women deal with issues relating to the implementation of the Covenant and the Committee's concluding observations. In this regard, to what extent is it possible for non-governmental organizations to contribute to the work of these committees?
3. In its previous concluding observations, the Committee was concerned that, in some cases, provincial governments had urged upon their courts an interpretation of the Canadian Charter of Rights and Freedoms denying any protection of Covenant rights, and that provincial courts had in fact opted for such an interpretation of the Charter. What measures have been adopted by the Federal Government as well as the provincial governments to overcome this situation (E/C.12/1/Add.31, paras. 5, 14 and 15)?
4. During the previous dialogue held with the Committee, the State party indicated that it would consider, as part of a comprehensive review of the Canadian Human Rights Act, the Canadian Human Rights Commission's recommendation that the ambit of human rights protection in Canada be expanded to include economic, social and cultural rights. Please provide updated information on this issue.
5. Please provide detailed information on the recommendations of the Commission des droits de la personne et des droits de la jeunesse du Québec, contained in its 2004 *Bilan* (Evaluation) regarding the 25 years of existence of the Québec Charter of Human Rights and Freedoms. What steps has the Government of Québec undertaken regarding these recommendations?

## **II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)**

### **Article 1 - Self-determination**

6. The State party indicates that, since 1998, it has withdrawn the requirement for an express reference to extinguishment of Aboriginal rights and title either in a comprehensive claim agreement or in the settlement legislation ratifying the agreement. According to the Special Rapporteur of the Commission on Human Rights on the situation of human rights and fundamental freedoms of indigenous people, however, the inclusion of clauses in land claims agreements requiring Aboriginal peoples to "release" certain rights has led to serious concerns that this may be merely another term for "extinguishment". Please comment (report, para. 108; concluding observations, para. 18).
7. Please describe the measures taken by the Government of British Columbia to ensure that Aboriginal economic land and resource rights in the province are protected in a way that will

adequately sustain Aboriginal economies and cultures. What consultation process is in place to negotiate with Aboriginal peoples when mining, logging or other industrial use of unceded lands is planned (concluding observations, para. 43)?

### **Article 2 (2) - Non-discrimination**

8. To what extent are social services, social benefits, education and health-care services available to persons without permanent status, undocumented migrants, asylum-seekers and their families in the State party?

9. In relation to paragraph 854 of the report, please clarify which “immigrant categories” are not eligible for the Supports for Independence Programme in Alberta. Please indicate the respective responsibilities of the Federal Government and the provincial government in providing access to minimum social services to such “immigrant categories”.

10. What measures does the State party envisage adopting to remedy the effects of the Federal Indian Act that are discriminatory against Aboriginal women and their children, and in particular to address the issue of second- and third-generation loss of reserve membership if an Aboriginal woman marries outside her reserve community.

### **Article 3 - Equal rights of men and women**

11. Please explain the positions of provincial governments before the Supreme Court of Canada in *Newfoundland (Treasury Board) v. N.A.P.E.* [2004] 3 S.C.R. 381 with respect to fiscal justifications for overriding the right to equal pay for work of equal value.

12. Please provide information on the results of the comprehensive review of section 11 of the Canadian Human Rights Act and of the Equal Wages Guidelines. In addition, please describe specific legislation in all provinces and Territories requiring employers to implement equal pay for work of equal value (report, para. 189; concluding observations, paras. 16 and 53).

13. What has the response of the Government of Québec to the 2004 decision of the Superior Court of Québec declaring that the State, as an employer, is not exempt from implementing the Pay Equity Act? In this regard, please indicate the percentage of female employees who have received the appropriate retroactive salary adjustments.

14. To what extent do Aboriginal women participate on an equal basis with Aboriginal men in the negotiation of self-government agreements, treaties and intergovernmental agreements dealing in particular with employment, health, education, child welfare and other social services for Aboriginal people, as well as in the ongoing consideration of the Federal Indian Act?

## **III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)**

### **Article 6 - The right to work**

15. How have the reduction in unemployment rates and the creation of new jobs described in paragraph 151 of the report benefited visible minorities, indigenous people and youth in

particular. In this regard, please provide comparative disaggregated statistics, for each province and Territory, since the last periodic report.

16. Please provide more detailed information on the content of the Québec Act respecting income support, employment assistance and social solidarity, including the terms and conditions by which participants in employment programmes may qualify for social assistance benefits (concluding observations, para. 30; report, para. 1654).

#### **Article 7 - The right to just and favourable conditions of work**

17. Please provide detailed comparative data covering the period 1998-2004 indicating how the minimum wage in each province and Territory compares with the Low-Income-Cut-Offs (LICO).

18. According to information received by the Committee, agricultural workers are excluded from rules governing hours of work, overtime and statutory holiday pay in British Columbia. Please indicate what rules apply to agricultural workers, the racial, ethnic and gender composition of this group of workers, and whether the situation is the same in other provinces and Territories.

19. Please explain how the State party ensures that its obligations under the Covenant take primary consideration in the adjudication of North American Free Trade Agreement (NAFTA) disputes. In particular, please clarify how the side agreement on workers' rights (North American Agreement on Labour Cooperation) affects the implementation of rights enshrined in articles 7 and 8 of the Covenant.

#### **Article 8 - Trade union rights**

20. The Public Service Act of Québec provides that the Syndicat des fonctionnaires provinciaux represents all public servants who are employees under the Labour Code (report, paras. 1644-1645). It is reported that other laws, such as the Education Acts in Ontario and Nova Scotia and the Civil Service Act in Prince Edward Island, also establish trade union monopolies by naming a bargaining agent. Please explain how such restrictions reconcile with the provisions of article 8 (1) (a) of the Covenant.

21. According to information received, agricultural workers in Ontario are not authorized to unionize. Please comment. Please also indicate whether Ontario plans to amend its legislation in order to recognize the right of all workers to join a trade union, to bargain collectively and to strike (concluding observations, para. 31).

22. Please provide a list of categories of workers that are not allowed to exercise their right to strike, at the federal, provincial and territorial levels, and explain the reasons for such a restriction. In particular, please explain why provincial government employees and employees in public post-secondary educational institutions do not have the right to strike in Alberta (report, para. 847).

#### **Article 9 - The right to social security**

23. Please inform the Committee about the final decision adopted by the Supreme Court of Canada in the case *Gosselin v. Québec*. Please explain the position of the Federal Government and the provincial governments involved in this case (ibid., para. 80).

24. Please provide updated information on the actual proportion of unemployed persons receiving Employment Insurance benefits (Beneficiaries to Unemployed (B/U) ratio), on the results of the analyses and assessments undertaken regarding Employment Insurance benefits, as well as on the percentage of unemployed women, young people, immigrants, visible minorities, seasonal, part-time and contract workers who receive Employment Insurance benefits.

25. What follow-up has been given to the recommendation that a national programme be re-established with specific cash transfers for social assistance and social services that includes universal entitlements and national standards and lays down a legally enforceable right to adequate assistance for all persons in need, a right to freely chosen work, a right to appeal and a right to move freely from one job to another? To what extent were these recommendations taken into account when the Canada Social Transfer replaced the Canada Health and Social Transfer in 2004 (concluding observations, paras. 19 and 40; periodic report, para. 35)?

#### **Article 10 - Protection of the family, mothers and children**

26. The Committee has received information that, in British Columbia, 37 women's centres, providing services to 16 per cent of women and girls in the province, lost their core funding as of April 2004, causing many to close down. Please explain the reasons for this situation. In addition, please comment on the allegations that in British Columbia, children whose parents receive social assistance can be required to seek employment as soon as they reach age 16, and that this requirement can be made a condition of their family's receipt of social assistance.

27. What is the proportion of low-income families, single-mother-headed families and Aboriginal families in each province and Territory whose children are relinquished to foster care? What measures have been taken by the federal and provincial/territorial governments to ensure that affected families have adequate income, housing, and other social supports to enable them to keep their children?

28. Please provide detailed information on Regulation 117 (9) (d) of the 2002 Immigration and Refugee Protection Act and its impact on family reunification. Please also provide data on the number of families who have not qualified for reunification under the new Act because they are recipients of social assistance.

### **Article 11 - The right to an adequate standard of living**

29. Please explain why the State party has not adopted a poverty line and why, in spite of strong economic growth since 1998, poverty has reportedly worsened in the country. Please indicate the extent of poverty in all provinces and Territories. In addition, please provide detailed information on the provisions of the Québec Anti-Poverty Act 2003 (concluding observations, para. 13).
30. Please indicate whether current provincial and territorial social assistance rates allow recipients to live above the LICO line, and provide a comparison of the level of such rates between 1994, when the Canadian Assistance Plan was in place, and 2004. Please disaggregate these data by sex, visible minorities, indigenous people and immigrant status.
31. According to information received by the Committee, the percentage of working age adults with disabilities living below the LICO line is much higher than for the rest of the population. Please provide relevant data, including comparative statistics, and describe measures adopted to address these disparities.
32. Please provide detailed information on specific strategies undertaken to address the poverty of single mothers, Aboriginal women, visible minority women, women who are recent immigrants, women with disabilities and older single women.
33. Please provide more detailed information, including statistical data, about groups facing food insecurity in the State party and describe the main features and results of Canada's Action Plan for Food Security of 1998 (report, paras. 293 ff.). Please explain why the use of food banks in Canada has reportedly gone up by 26.6 per cent since 1998 with many food banks having difficulties in responding to the demand. Please provide detailed information on the extent to which provinces and Territories are reliant on food banks.
34. Please provide relevant statistics on homelessness in the State party and detailed information about the situation in the 10 cities having a homelessness problem (Halifax, Québec City, Montreal, Ottawa, Toronto, Hamilton, Winnipeg, Calgary, Edmonton and Vancouver). What specific measures have these cities adopted in this regard, and what results have been obtained? What time frame and benchmarks have been set up for monitoring progress (report, paras. 336 ff.; third periodic report (E/1994/104/Add.17), para. 24)?
35. Please provide detailed information on the issue of homelessness and inadequate housing of discharged psychiatric patients. What specific measures have been adopted to address this issue (concluding observations, para. 36)?
36. According to 1996 data, 1.8 million households were in core housing need, representing about 18 per cent of all households in the State party. Please provide updated information on this issue, including estimated budgetary expenditures for housing allocated by the federal, provincial and territorial governments for 2005-2006. In addition, please provide comparative annual statistics on the number of subsidized housing units since the last periodic report (report, para. 333).

37. Please provide more detailed information about the 1999 First Nations Land Management Act regarding matrimonial real property, as well as on the rules adopted by the 14 signatory First Nations in this regard. To what extent have such arrangements been extended to other First Nations, and in particular what measures have been undertaken to ensure that Aboriginal women belonging to these communities are not denied matrimonial real property rights (report, paras. 359-360; concluding observations, para. 29)?

### **Article 12 - The right to physical and mental health**

38. Please provide information about the positions taken by the intervening governments in the case of *Chaoulli v. Québec (Attorney-General)*, on the obligation to protect the right to health under section 7 of the Canadian Charter of Human Rights and Freedoms.

39. According to information received by the Committee, a number of provinces, in particular Alberta, British Columbia and Québec, have expanded the role of private companies in the health system. Please provide detailed information - for each province and Territory - regarding the impact of the growth in private health care on the timeliness and quality of care available in the public system, particularly for the disadvantaged and marginalized groups.

40. Please provide information on public expenditures on long-term care facilities and whether such expenditure is growing in proportion to the growth in the elderly population. According to some information, the situation in long-term care facilities in Ontario and Québec is unsatisfactory. Please comment and describe the measures taken in this regard.

41. Please provide information on the health of the homeless population, and indicate what programmes have been adopted specifically to improve homeless persons' access to health care.

42. What steps has the Federal Government adopted to follow up on the recommendation of the Special Rapporteur of the Commission that emergency measures be taken to address the high rates of diabetes, tuberculosis and HIV/AIDS among Aboriginal people, and that suicide among Aboriginal people be addressed as a priority social issue?

### **Articles 13 and 14 - The right to education**

43. Please provide comparative statistics since 1998 on tuition fees and the average student debt at the federal, provincial and territorial levels (report, paras. 474 and 2153). In addition, please comment on the report that, during the 2004/05 school year, the Government of Québec cut 103 million dollars in loans/bursaries, thus increasing the debt burden of the poorest students at the post-secondary level in Québec.

44. It is reported that a significant education gap continues to exist between First Nations on reserves and Canadians as a whole. Please provide detailed information on this issue and describe the measures taken to address this gap, taking into consideration the projected increased populations of First Nations communities.

**Article 15 - Cultural rights**

45. What measures have been adopted to address the concern expressed by the Special Rapporteur of the Commission on contemporary forms of racism, racial discrimination, xenophobia and related intolerance regarding the discriminatory effect of the Official Languages Act on non-European French speakers in Canada (report, paras. 487 ff.)?

46. Please provide more detailed information about programmes adopted to preserve Aboriginal languages in Canada. To what extent are Aboriginal and minority cultures represented in educational resources and the curriculum (report, para. 494)?

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