

QUESTIONS PUT BY THE RAPPORTEUR IN CONNECTION WITH THE
CONSIDERATION OF THE 17th and 18th PERIODIC REPORTS OF

CANADA

(CERD/C/CAN/18)

Composition and distribution of the population

1. Has the State party undertaken any steps to implement the recommendations of the United Nations High Commissioner for Refugees (UNHCR)¹ to ensure accurate and reliable data collection on stateless persons under its jurisdiction?

Article 1

2. Does the State party intend to review the use of the term “visible minorities” in light of the Committee’s concern that it does not appear to cover fully the scope of article 1 of the Convention?²

Article 2

3. Please indicate in detail which recommendations of the Royal Commission on Aboriginal Peoples were responded to and in what way, as requested by the Committee in its previous concluding observations³.
4. Please indicate why the State party has not ratified the 1954 Convention relating to the Status of Stateless Persons, and explain the current policy of the State party vis-à-vis stateless persons whose asylum applications have been rejected and thus have no formal status in Canada.
5. Please indicate if the policy and practices of the Department of Citizenship and Immigration with regard to the detention of undocumented asylum-seekers has an adverse effect on particular groups of asylum seekers due to their country conditions which renders it difficult for them to obtain the necessary identification documents.

¹ UNHCR report “Statelessness in Canadian Context” (2003)

² CERD, Concluding Observations, 13th and 14th periodic reports of Canada, A/57/18, paras.315-343, 1 November 2002, § 328

³ CERD, Concluding Observations, 13th and 14th periodic reports of Canada, A/57/18, paras.315-343, 1 November 2002, § 329

6. What is the current status of the new citizenship bill? Has the State party reacted to the recommendations of the House of Commons Standing Committee on Citizenship and Immigrations contained in its report: “Updating Canada’s Citizenship Laws: It’s Time”, and if so, please provide details.⁴
7. The Special Rapporteur on Racism highlighted in his report the poor coordination at national level in the struggle against racism and discrimination, and the lack of information exchanges between provinces concerning their policies and practices⁵. Please indicate whether the State party has taken, or plans to take, inter-provincial initiatives to share “good practices” in the efforts to combat racism in Canada.
8. Please indicate whether the State party intends to ratify: a) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and b) the International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples.

Article 4

9. Further to the information provided in paragraphs 53-55 of the periodic report, please provide detailed information on the number of prosecutions and convictions, and on the sanctions imposed, under sections 318 and 319, and paragraph 718.2(a)(i) of the Criminal Code for incitement to racial or interethnic hatred.
10. Please indicate if there is specific penal legislation in the State party which meets the requirement of article 4 (b) of the Convention, that is, to prohibit organizations which promote and incite racial discrimination.
11. Please provide information on any cases dealt with by the courts relating to hate speech against members of the Arab and Muslim communities since the examination of Canada’s last report.
12. What is the current status of the Anti-Terrorism Bill C-36 which proposes amendments to the Criminal Code and the Canadian Human Rights Act for the purpose of, inter alia, strengthening the existing legal protection against incitement to racial or interethnic hatred?

Article 5

13. Notwithstanding the commitments mentioned in page 78 of the report⁶, what is the position of the State party with regard to the specific civil society suggestions put forward as a result of the consultations on the Anti-Terrorism Act, as outlined in pages 77-78 of the report, including the recommendations

⁴ House of Commons Standing Committee on Citizenship and Immigrations, “Updating Canada’s Citizenship Laws: It’s Time”, October 2005, § 21-25

⁵ Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, Mission to Canada, E/CN.4/2004/18/Add.2 (15-26 September 2003) , § 77

⁶ 17th and 18th periodic reports to CERD, CERD/C/CAN/18, 5 April 2006, page 78, Appendix 2

to add an “Anti-Discrimination Clause” to the Act and to undertake a “race analysis” and “gender analysis” on how the legislation impacts minorities?

14. Has the State party adopted steps to implement the recommendations contained in the reports of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, including the recommendation for agencies, including the Royal Canadian Mounted Police (RCMP), to have clear policies and more training on issues of racial, religious and ethnic profiling?
15. Please provide further information on the State party’s proposed initiatives under “Addressing Race-Based Issues in the Justice System” in its Action Plan against Racism⁷, including the timeframe. What is the current status of progress, in particular, with regard to the assessment of the problem of over-representation of certain groups in the justice system and the allegations of racial profiling by police and security forces?
16. Please provide statistical data on the number and the countries of origin of victims of trafficking, as well as information on the assistance provided to victims of trafficking.
17. The Special Rapporteur on the human rights of migrants⁸ welcomed in her report the State party’s plans to draw up codes of conduct for security staff in detention centres for immigrants. Have any such initiatives been implemented?
18. Please comment on the concern expressed by the Committee on Economic, Social and Cultural Rights (CESCR) in its concluding observations that the new approaches adopted by the State party to the issue of the Aboriginal rights on land and resource ownership do not differ much from the previously taken extinguishment and surrender approach⁹. Please indicate whether the State party has completed its study of other approaches based on recognition and coexistence of rights¹⁰.
19. What is the current status of efforts undertaken by the State party, if any, to address residual discrimination against First Nations women and their children in matters relating to Indian status, band membership and matrimonial real property on reserve lands?¹¹
20. The Special Rapporteur on Racism noted in his report that the manner in which section 39 (1) of the Official Languages Act is implemented in practice discriminates against non-European French speakers in Canada in the

⁷ 17th and 18th periodic reports to CERD, CERD/C/CAN/18, 5 April 2006, § 68

⁸ The Special Rapporteur on the human rights of migrants, Mission to Canada, E/CN.4/2001/83/Add.1 (17-30 September 2000), §§ 78,87

⁹ Para. 16, E/C.12/CAN/CO/4, E/C.12/CAN/CO/5

¹⁰ Page 8, Replies of the Government of Canada to the 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/CAN/Q/4/Add.1, 25 April 2006

¹¹ Concluding Observations, Committee on Economic, Social and Cultural Rights, E/C.12/CAN/CO/4, E/C.12/CAN/CO/5, 22 May 2006, §45

provision of French-speaking services, such as access to francophone schools or access to benefits¹². Please indicate whether the State party envisages amending the current rules in place so as to grant French-speaking status to non-European French-speakers, regardless of ethnic origin or first language spoken.

21. Following the report of the Special Rapporteur on Racism¹³, has the provincial government of Quebec taken any initiatives to address problems of unemployment, job instability, underemployment and poverty particularly affecting people of African descent?
22. Notwithstanding the information provided in paragraph 117 of the periodic report, please indicate whether the State party has taken any measures to follow up the recommendation of the Special Rapporteur on Racism, to re-examine the conditions of the relocation of communities of African origin or their descendants, particularly from Africville.¹⁴
23. Given the wide-ranging disparities among the eligibility requirements for the provision of social assistance, education and health care services in different provinces/territories for different “immigrant categories”, does the State party intend to standardize the requirements so that all non-citizens under the jurisdiction of the State party enjoy the same rights and entitlements without discrimination throughout the country?
24. Please identify factors that contribute to the difficulties faced by migrant workers in accessing benefits towards which they pay contribution, and what measures the State party has undertaken to remedy the situation.
25. Please identify the difficulties experienced, if any, in the State party’s efforts to address the critical health problems disproportionately affecting the Aboriginal peoples, including diabetes, tuberculosis and HIV/AIDS as well as the high rate of suicide.
26. Please indicate what measures have been undertaken by the State party to support African Canadian students in their access to education and to reduce their disproportionately high drop-out rate, especially at the secondary level.
27. Has the State party taken any steps to follow up the outcome recommendations of the last National Gatherings on Indigenous Knowledge that took place in May and June 2005?

Article 6

¹² Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, Mission to Canada, E/CN.4/2004/18/Add.2 (15-26 September 2003) , §§ 64-67

¹³ Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, Mission to Canada, E/CN.4/2004/18/Add.2 (15-26 September 2003) , § 51

¹⁴ Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, Mission to Canada, E/CN.4/2004/18/Add.2 (15-26 September 2003) , § 81 (n)

28. According to the periodic report, out of the 478 complaints of racial discrimination filed with the Canadian Human Rights Commission from 2001 to 2004, 72% were deemed admissible¹⁵. Please provide further statistical information on these cases, according to i) the types of racial discrimination alleged; and ii) the outcome decisions.
29. It is stated in paragraph 80 of the report that the Court Challenges Program was extended to March 31, 2009, after its 2003 evaluation found that it had been successful in supporting test cases of national significance in order to clarify the rights of official language minority communities and the equality rights of disadvantaged groups¹⁶. However, the Committee has received information that the Program was cancelled in September 2006. Please comment.
30. Please indicate the reasons for the delay in amending the Canadian Human Rights Act so as to repeal section 67 which excludes the Indian Act from the scope of the Canadian Human Rights Act. What is the position of the State party with regard to the recommendation of the Canadian Human Rights Commission that in addition to repealing section 67, the Act should be amended so as to include an interpretive clause to guide the Canadian Human Rights Commission and Tribunal in adjudicating complaints involving First Nations Peoples?
31. Please provide information on complaints received in the last 4 years by the Canadian Broadcast Standards Council (CBSC) against programmes that appear to disseminate ideas based on racial superiority or hatred or incitement to racial discrimination.

Article 14

32. Please indicate whether the State party envisages making the necessary declaration under article 14 of the Convention to accept the Committee's competence to receive individual complaints in the near future.

¹⁵ 17th and 18th periodic reports to CERD, CERD/C/CAN/18, 5 April 2006, § 78

¹⁶ 17th and 18th periodic reports to CERD, CERD/C/CAN/18, 5 April 2006, § 80