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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-sixth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 8 May 2006, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Fourth and fifth periodic reports of Canada (continued) (E/C.12/4/Add.15; E/C.12/CAN/5; E/C.12/Q/CAN/2; E/C.12/CAN/Q/4/Add.1; E/C.12/CAN/Q/5/Add.1; HRI/CORE/1/Add.91)

1. At the invitation of the Chairperson, Ms. Chevrier, Mr. Cooke, Mr. Cormier, Mr. Coulter, Ms. Desmarais, Ms. Duff, Ms. Edwards, Ms. Fortin, Mr. Hannaford, Mr. Kessel, Mr. Lescot, Ms. Levasseur, Mr. Lewis, Ms. Lodge, Mr. Lundy, Ms. Mandville, Ms. McPhee, Ms. Nassrallah, Mr. St-Pierre, Ms. Stuewer, and Mr. Tremblay (Canada) took places at the Committee table.

2. Mr. PILLAY requested information on the Government's current position on adopting an official poverty line. He asked whether the State party planned to analyse the impact of poverty on women. The reporting State should indicate whether it would adopt a human rights approach to poverty by integrating economic, social and cultural rights into its poverty reduction scheme.

3. Additional information should be provided on how the State party would prevent further cases of tenants being evicted for minimum rent arrears, before a court had ascertained that the tenants had alternative accommodation. The delegation should indicate what long-term plans would be adopted to increase the availability of social housing. He wished to know why no national housing programme had been introduced.

4. Reports had suggested that unacceptably high numbers of children, particularly Aboriginal and African-Canadian children, had been removed from their parents' care because they were living in inadequate accommodation. He requested additional information on measures to ensure that children were not taken into care as a result of poor housing.

5. Figures for 2004 demonstrated that poor single-parent families had been disproportionately affected by the provincial authorities' right to deduct the National Child Benefit from social assistance entitlements. It would be useful to learn how the Government intended to remedy that situation.

6. It appeared that given the increase in housing costs, shelter allowances and social assistance rates remained inadequate. Reports had shown that homelessness had significantly increased in several provinces between 2000 and 2005. The delegation should comment on the apparent deterioration of the situation in the areas of poverty, homelessness and housing.

7. Mr. RIEDEL asked whether the provincial and federal authorities were fulfilling their obligation to prevent homelessness, particularly in the light of the Gosselin case. It was unclear whether the State party's interpretation of the right to security of the person gave people adequate protection from homelessness. He asked what legislation, other than the Canadian Charter of Rights and Freedoms, provided adequate remedies for homeless people. Reports from NGOs suggested that the problem of homelessness had increased over the past five years. The delegation should provide additional information on measures to address that situation. In its

sixth periodic report, the State party should include disaggregated data on homelessness in order to enable the Committee to ascertain whether measures taken to improve the situation had been effective.

8. The Government's conclusion that the Chaoulli case had been based on a question of legislative policy appeared to constitute a violation of the right to health under article 12 of the Covenant. The Government should clarify its position on that issue. Since the Government could not overturn the Supreme Court decision, it would be useful to know whether it intended to take legislative measures to ensure protection of the right to health.

9. The reporting State should be more specific about the steps that it had taken to reduce the time patients had to wait for medically necessary procedures in the public health system. In particular, he wished to know how much had been spent on that strategy and how effective it had been. The data on the types of health professionals that had been consulted over a two-week period in Quebec constituted a model of best practice. The State party should indicate whether the situation in Quebec was indicative of the practice in other provinces.

10. The State party's reply to question 15 in the list of issues regarding the fifth periodic report seemed to contain a contradiction on the right to water, and he asked whether the Government recognized that right. He requested additional information on measures to ensure equal access to health care, in response to the recommendations made in the Commission on the Future of Health Care in Canada.

11. Mr. RZEPLIŃSKI asked what measures the federal and provincial authorities took to protect women, particularly immigrants, from exploitation in the workplace. It would be useful to learn what steps Canadian anti-discrimination agencies were taking to improve the precarious employment situation of many women.

12. Ms. GHOSE requested the delegation to clarify whether the federal Government had recognized Aboriginal women's associations in its negotiations with mainland Aboriginal bodies.

13. Ms. BARAHONA RIERA asked whether the State party had a national coordination plan for environmental protection. She wondered whether any problems had arisen in water management and environmental protection as a result of legislative differences between provinces and territories.

14. Mr. KERDOUN asked whether the federal Government planned to amend the Canadian Charter of Rights and Freedoms in order to make economic, social and cultural rights justiciable.

15. The CHAIRPERSON drew attention to the Committee's position on trade liberalization, as expressed in its statement to the Third Ministerial Conference of the World Trade Organization in Seattle in 1999 (E/C.12/1999/9, paras. 5-7). She requested additional information on several cases that had been brought against the State party under chapter 11 of the North American Free Trade Agreement (NAFTA) on investor-State disputes. In particular, the delegation should clarify whether the Government had repealed its ban on a fuel additive that was harmful to the environment and to human health, as part of its settlement of the Ethyl Corporation dispute. It would also be useful to have a full account of the State party's

decision to abandon plans to introduce legislation on cigarette packaging designed to reduce tobacco consumption, after cigarette companies had threatened to challenge such legislation. Under chapter 11 of NAFTA investors' rights were fully justiciable, and investors could challenge Government measures to implement Covenant rights. Chapter 11 therefore appeared to take precedence over human rights. The Committee would welcome the State party's comments on the matter.

16. Ms. EDWARDS (Canada) said that the Canadian Government worked with the provinces and territories, researchers, professional associations and a broad range of agencies and NGOs to prevent violence against women and girls, as evidenced through such initiatives as the National Clearinghouse on Family Violence and the Family Violence Initiative. The Government was funding programmes, such as the Canada Mortgage and Housing Corporation, in order to upgrade nearly 200 existing shelters and establish 39 new shelters for abused women. In 2003/2004 and 2005/2006, Canada had funded an initiative to address violence against women in Vancouver's Downtown Eastside and to raise awareness about and the underlying causes of sexual exploitation and other forms of violence against women.

17. Through Status of Women Canada, Canada had taken measures to address violence affecting Aboriginal communities. It had also provided funding for the World Conference on Prevention of Family Violence in order to ensure a focus on family violence in the Aboriginal community, and in March 2006 had held a policy forum on Aboriginal women and violence.

18. The Department of Justice had prepared multilingual information materials on such issues as harassment, gender equality analysis in the prosecution of family violence cases and spousal abuse. Updated statistical data on violence against women, which included new categories such as criminal harassment, would be released later in 2006.

19. The Canadian Government had been developing a comprehensive policy strategy at both the national and international levels on issues relating to Aboriginal women's human rights. The Sisters in Spirit initiative of the Native Women's Association of Canada addressed the underlying causes of violence and promoted programmes, services and practices to reduce racial and sexual violence against Aboriginal women.

20. Ms. LEVASSEUR (Canada) said that, in cases involving domestic violence, criminal charges were adjudicated on the basis of the offender's behaviour. Such offences included assault, aggravated assault, attempted murder, sexual assault and criminal harassment.

21. Recent amendments to Canada's Criminal Code facilitated the participation of victims of domestic violence in criminal proceedings. Measures to help adult victims and witnesses included the option of providing testimony from behind a screen or through closed-circuit television or a support person, and the prohibition (mandatory in cases involving sexual offences) of the publication of information that identified victims. The "victim impact statement" was used to describe the harm done to or loss suffered by the victim of a given offence. Measures were taken to ensure that, when the accused was released on bail, he or she refrained from any direct or indirect communication with the victim. Courts were allowed to make restitution on their own motion to cover readily ascertainable pecuniary damages, including those resulting from bodily harm.

22. The Department of Justice addressed family violence through ongoing activities that focused on criminal law and policy development and supported research, public legal education, and information and evaluation. Additional information was available on the website of the Department of Justice, which would soon post a handbook instructing the police how to respond in situations of domestic violence.
23. Ms. McPHEE (Canada) said that the requested information on the reduction of funding to women's centres and on gender impact analysis in British Columbia would be provided in Canada's upcoming report to the Committee on the Elimination of Discrimination against Women.
24. All jurisdictions, including that of British Columbia, had ministers responsible for the status of women. Depending on the jurisdiction, those ministers received support from agencies, advisory or executive councils, or secretariats or directorates responsible for women's affairs.
25. There had been no family court closures in British Columbia. However, a core service review conducted in 2002 had closed some provincial court facilities, mainly because they were not cost-effective, were underutilized, or needed significant upgrading. Remote access to court services was being supported through improved use of technology and such new processes as fax filing of civil documents and the electronic filing of documents.
26. All provinces and territories had adopted measures to address domestic violence, including violence involving Aboriginal women. Many relevant initiatives could be found in various reports to United Nations treaty bodies.
27. Measures to address prostitution in Canada included the Mobile Access Project and the violence prevention strategy in British Columbia, the Domestic Violence Action Plan in Ontario and a number of programmes and initiatives in Saskatchewan.
28. She pointed out that the provincial court of Manitoba's Domestic Violence Front End Project had won the 2006 United Nations Public Service Award in the category of improving the delivery of services.
29. Ms. McCARTHY (Canada) said that the Government of Newfoundland and Labrador had introduced a new plan that focused on early intervention and prevention of violence against women, children and young people, Aboriginal women and children, senior citizens, persons with disabilities and other persons who had been subjected to violence because of their ethnic origin, sexual orientation or economic status. The plan provided funding for violence-awareness training for front-line service providers and for developing a website with information in various languages on court proceedings related to family violence. New programmes would focus on early intervention for high-risk youth and families, and risk-assessment tools would be used in schools. A cross-departmental violence prevention youth strategy would be established, with a view to preventing bullying, harassment and intimidation. Aboriginal communities would receive grants for violence prevention projects. In order to ensure broader access to judicial services, the Government of Newfoundland and Labrador was taking steps to develop a translation and interpretation service and provide cultural training for the relevant personnel.

30. Newfoundland and Labrador promoted diversity and included anti-racist and anti-sexist messages in public awareness campaigns, and was reviewing existing cultural sensitivity training.

31. Ms. DESMARAIS (Canada) said that the Government of Quebec had recently adopted the Government Action Plan 2004-2009 on Domestic Violence, which focused on the issue of sexual assault. Amendments made to the Civil Code in 2005 enabled tenants to terminate a lease on the grounds of domestic violence or sexual assault. Quebec funded hundreds of shelters for women who were victims of domestic violence; four shelters were specifically intended for Aboriginal women. Some 30 centres provided support in cases of sexual assault.

32. Ms. LODGE (Canada) said that a working group composed of representatives of various Government departments, the national police force, Crown attorneys and the Nunavut Status of Women Council had been established to develop ways to address domestic violence against women in Nunavut. A symposium on violence against women, held in January 2006, had attracted a broad cross-section of participants. For the past two years, the Nunavut Department of Justice had been actively engaged in policy development, and every effort had been made to draft legislation that would help prevent abuse in the family in a culturally sensitive and appropriate manner.

33. Mr. LUNDY (Canada) said that, although Canada accepted the right to family reunification as specified in the Covenant, it did not believe that that right should automatically entitle persons to immigrate to Canada, as families could be reunified in other countries. The provision for family reunification in Canadian law was found in the family class regulations, which stipulated the conditions in which persons resident in Canada could apply for the admission of certain family members. The person who made an application for family reunification was known as the “sponsor”, and the formal application submitted was called a “sponsorship”. The family class regulations also set out the rights of the sponsor in the event that the application was rejected.

34. Mr. COOKE (Canada) said that provincial and territorial property laws did not apply to real property on reserve lands, and there were no federal provisions governing the division of matrimonial real property on reserves. Consequently, individuals on reserves did not have access to the Canadian legal system to resolve issues relating to the division of real property following the breakdown of a marriage or common-law relationship, and women did not have the same protection or remedies available to them. The Standing Committee on Aboriginal Affairs and Northern Development had recommended that the Government should immediately draft legislation or amend the Indian Act in order to make provincial and territorial matrimonial property laws applicable to real property on reserve lands. However, the Constitution gave the federal Government exclusive law-making authority over the reserves. New legislation would have to be developed in partnership with the First Nations and organizations representing them, and with the provinces and territories. Preliminary discussions had already been held with the Native Women’s Association of Canada and the Assembly of First Nations. Under the 1999 First Nations Land Management Act, a signatory First Nation must establish a community process to develop rules and procedures to deal with matrimonial property within 12 months of the date the land code took effect. Information sessions had been conducted to raise awareness of the issue throughout Canada.

35. Ms. DUFF (Canada) said that, since the inception of the National Child Benefit initiative, Government investment in child benefits had increased by 150 per cent. In July 2006, the maximum child benefit would be Can\$ 3,200 for one child. Provinces and territories had the flexibility to allocate federal funds to social programmes according to their respective priorities, and therefore social assistance payments under the National Child Benefit varied. The “clawback” represented reinvestments made in programmes and services that benefited low-income families with children. A recent joint federal, provincial and territorial evaluation had found that the National Child Benefit initiative was meeting its established objectives.

36. Ms. McPHEE (Canada) said that, in Ontario, funds from the National Child Benefit were reinvested in a childcare supplement for working families, children’s mental health programmes and children’s treatment centres. Under the National Child Benefit initiative, the federal Government had committed itself to increasing its share of payments over 10 years. When the National Child Benefit had been introduced, Saskatchewan had immediately increased benefits to the fully mature National Child Benefit level by topping up the federal amount, and as the federal portion of the payments grew, the provincial portion had been reduced accordingly. Saskatchewan had been reinvesting its savings in other programmes, such as family health benefits and an employment supplement.

37. Ms. DUFF (Canada) said that in 2004 the proportion of children living in low-income families was 12.8 per cent, or 865,000 children, a slight increase compared to 12.4 per cent in 2003. However, that rate had decreased considerably from 18.6 per cent, or 1.3 million children, in 1996. The Government was working to improve the self-reliance of low-income families through a range of initiatives, including support for skills development and affordable housing. In the recent budget, a commitment had been made to increase the child disability benefit.

38. Regarding the question of regression in poverty figures, she said that, with the exception of the recent 0.4-per-cent increase in child poverty, each of the categories referred to in the written replies had shown improvements in the period 1996-2004. There had been a dramatic decrease in poverty among older people as a result of investments in old-age security programmes, a guaranteed income supplement and the Canada Pension Plan. Significant support was provided to persons with disabilities in the areas of income support, employment and tax relief to overcome low income and other barriers.

39. Ms. LEVASSEUR (Canada) said that the Criminal Code prohibited all forms of sexual activity with a person below the age of consent. All non-consensual sexual activity, regardless of age, constituted sexual assault. While the current age of consent to non-exploitative sexual activity was 14, exceptions were made in the case of 12- or 13-year-olds who engaged in sexual activity with a peer who was less than two years older and with whom there was no relationship of authority, trust or dependency. The age of consent relating to exploitative conduct, such as prostitution or pornography, was 18. Under the peace bond system, any person who had reasonable grounds to fear that another person might commit a sexual offence against one or more persons under the age of 14 could submit the relevant information to a provincial court judge. If satisfied by the evidence, the judge could order the defendant to enter into a “peace bond” for a maximum of 12 months.

40. The federal Government ensured that men and women were treated equally in the provision of criminal legal aid. Although civil legal aid was not a requirement of the International Covenant on Civil and Political Rights, the federal Government also provided legal aid in immigration and refugee cases, and the Canadian Charter of Rights and Freedoms required that legal aid should be provided in child apprehension matters. Resources were allocated to civil legal aid in the provinces, and there were many programmes to facilitate access to justice without the necessity of legal intervention. The federal Government had also developed guidelines that had resulted in increased levels of child support, which benefited women.

41. Mr. LEWIS (Canada), referring to the situation in Ontario, which was indicative of the practice in other provinces, said that although criminal matters had traditionally formed the bulk of legal aid work, the provision of services had been broadened to cover civil matters involving abused women, children, the mentally ill, the homeless and Aboriginal people. Legal Aid Ontario, an independent agency, provided eligible individuals with legal aid certificates that allowed them to hire a private lawyer of their choice. In 2003-2004, the criminal/civil ratio for the 163,000 legal aid certificates issued had been approximately 60/40. Services were also provided at legal aid clinics that dealt with specific areas of law, including worker's compensation, the environment and housing, or with specific groups of people such as older people, people with disabilities or First Nations. Another alternative was the engagement of duty counsel or court services lawyers, who assisted clients in criminal, family and youth matters. The six law schools in Ontario's universities also provided legal aid services in such areas as small claims court issues and landlord and tenant matters.

42. Ms. LEVASSEUR (Canada) said that no time frame had been fixed for the interdepartmental committee that was working on a legislative framework for pay equity disputes. She could not provide a definitive reply to the question of whether a person who considered that his or her minimum wage did not guarantee an adequate standard of living could bring a case before the courts.

43. With regard to the Gosselin and Chaoulli cases, she stated that article 7 of the Canadian Charter of Rights and Freedoms guaranteed the right to life and security, and article 15 guaranteed the right to equality. All violations of the Charter were justiciable, and international obligations were taken into account when interpreting the Charter. The relevant case law was contained in the fourth periodic report (E/C.12/4/Add.15). The Government did not consider it necessary to amend the Charter, as the Covenant required only that rights should be implemented through policies, programmes and legislation, as was the case in Canada. With regard to the Chaoulli case, she noted that the declaration of invalidity had been suspended for one year - which meant that it would be applied in one year's time and not that the court would reconsider the case.

44. Ms. DUFF (Canada) said that, rather than designating an official poverty line, Canada's national statistics agency had developed a range of methods for measuring low income. The most common method used was the low-income cut-offs, which referred to households' available after-tax income. Other methods included the low-income measure, which was often used in international comparisons, the market basket measure, and the basic needs index. The Government considered a poverty line to be an arbitrary measurement and preferred instead to use measures of low income to indicate the extent to which some Canadians were less well off than others. The current methods for measuring low income used in Canada all tended to follow

the same trends, which had enabled the Government to note steady progress in all low-income indicators since Canada's last appearance before the Committee in 1998. Canada's approach to measuring low income was similar to that used in many other countries.

45. Ms. McPHEE (Canada) said that Manitoba's shift to a single-tier system of social assistance represented an improvement over the former two-tier system in that it eliminated administrative duplication and allowed for greater consistency of delivery across the province. Most of the other provinces had already adopted the single-tier system when the change had been introduced in Manitoba.

46. Factors taken into account by the provinces in establishing minimum wage rates included the consideration of standard economic indicators, national wage comparisons, the strength of the relevant provincial economy and the results of public consultations on the matter. Many provinces and territories also used the national low-income cut-off in setting the minimum wage.

47. Factors taken into account in establishing social assistance levels included provincial comparisons, minimum wage considerations, access to other supplemental benefits, the relevant jurisdiction's fiscal capacity and the results of stakeholder consultations. Some jurisdictions included low-income cut-offs among the variables used in setting social assistance rates.

48. Assessments of the adequacy of support for persons with low incomes in Saskatchewan were required to take all income support programmes - not only the minimum wage - into account. Saskatchewan had responded to the issue of poverty by developing a comprehensive social support system, which included allowances for housing and childcare, and income and employment supports. Increases in many of those benefits would become effective in May 2006.

49. The minimum wage in Newfoundland and Labrador was reviewed every two years by a committee of Government and stakeholder representatives prior to its establishment by regulation. The province's 2006 budget included an integrated package of anti-poverty initiatives that focused on early intervention, poverty prevention and measures to promote self-reliance among persons with low incomes.

50. Mr. LESCOT (Canada) said that, in order to give effect to anti-poverty legislation, the Government of Quebec had developed a five-year action plan to combat poverty and social exclusion. The action plan included such measures as social assistance payments, the provision of 16,000 new units of affordable housing, the fitting out of 6,000 housing units for disabled persons, increased family allowances for families with children, and the establishment of additional low-cost kindergartens.

51. Quebec had taken measures to reduce poverty in the province through targeted action. Since 1998, the total number of individuals, women and children living below the poverty line had decreased considerably. Although the number of single-parent families remained high at 30 per cent of all families, it nevertheless represented an improvement over the figure for 1998, which had stood at 45 per cent.

52. Mr. COULTER (Canada) said that childcare was one of the Government's five key priorities. By providing Can\$ 1,200 a year for every child under the age of 6, the Universal Child Care Benefit would enable the parents of Canada's 2.1 million pre-schoolers to choose the

childcare option best suited to their family's needs. Receipt of that benefit did not prejudice the receipt of a range of other federal support measures. The federal Government would work together with the provinces and territories to address the impact that the Universal Child Care Benefit might have on access to provincial benefits.

53. Beginning in 2007-2008, the Government would invest Can\$ 250 million a year to create 25,000 childcare spaces. The Government had notified all provinces and territories that the existing early learning and childcare funding agreements with the federal Government would be phased out. Although only three jurisdictions had signed such agreements, a one-year transition period for funding at the level set out in the 2005 budget would be provided in 2006-2007, even for the 10 jurisdictions that had not signed a funding agreement.

54. A number of additional measures had been announced in the 2006 budget: a 1-per-cent reduction in the Goods and Services Tax, a fitness tax credit for physical fitness programmes for each child under age 16, an increase in the child disability benefit, and an increase in the maximum allowable amount for pension credit, which would benefit 2.7 million pensioners. The Government had allocated Can\$ 800 million to the provinces and territories for the provision of affordable housing and an additional Can\$ 300 million to meet needs for off-reserve housing for Aboriginal Canadians in the North. Some Can\$ 450 million would be allocated to improving water supply and housing on reserve, education outcomes and socio-economic conditions for Aboriginal women, children and families. Lastly, he said that some 655,000 low-income Canadians would be removed altogether from the tax rolls.

55. Ms. FORTIN (Canada) said that the federal Government provided employment benefit and support measures to unemployed Canadians through partnerships with the provinces and territories. Funding for such measures was based on labour market variables, including the number of long-term unemployed, and the employment and unemployment rates. The employment insurance programme was designed to respond automatically to changes in local market conditions by modifying entrance requirements and adjusting benefit entitlement schedules in each of the designated 58 employment insurance economic regions. The unemployment benefits included income support, skills development programmes, employment assistance and financial assistance and planning for the start-up of new businesses.

56. According to a recent labour survey, the employment growth rate among women in the first four months of 2006 had been brisk, and currently stood at 1.5 per cent, as compared with 0.2 per cent for men. The unemployment rate for women was 5.3 per cent, which was slightly below that for men. Although women's unemployment rate had declined in recent years, the number of women who received unemployment benefits had increased. That was partly due to the change to an hours-based employment insurance system, which greatly increased coverage for part-time workers, most of whom were women.

57. Through the Youth Employment Strategy, the federal Government would provide Can\$ 395 million to help young people who faced barriers to employment. The strategy was aimed at single parents, Aboriginal youth, young people with disabilities, recent immigrants and high-school dropouts. The strategy was designed to help young Canadians between the ages of 15 and 30 to gain work experience, access career and labour market information, develop skills and find and keep good jobs.

58. The Aboriginal Human Resources Development Strategy was designed to expand the employment opportunities of Aboriginals across Canada by enabling Aboriginal organizations and networks to tailor employment programmes and services to the individual needs of communities. Its objectives were to help Aboriginal people become self-sufficient, build strong communities and develop long-term employment. Aboriginal women could benefit from the First Nations and Inuit Child Care Programme, which involved the creation of childcare spaces.

59. The integration of immigrants, particularly women, into the Canadian labour market posed an ongoing challenge. The participation of immigrant women had been 74 per cent in 2004, as compared with 89 per cent for immigrant men. In general, the participation of immigrant women in manual work was higher than their participation in professional employment. The objective of the Internationally Trained Workers Initiative was to facilitate the integration of internationally trained workers and immigrants into the Canadian labour force. The programme included an active partnership with the provinces and territories, as well as with other public and private sector partners. Key components of the programme included foreign credentials recognition, language training and the provision of labour market information. The latest federal budget had allocated Can\$ 18,000 to be spread out over two years for the establishment of a Government agency to evaluate foreign credentials.

The meeting rose at 1 p.m.