



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/2006/SR.9
12 May 2006

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-sixth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 5 May 2006, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

CONSIDERATION OF REPORTS

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

Fourth and fifth periodic reports of Canada

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.06-41837 (E) 100506 120506

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS

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

Fourth and fifth periodic reports of Canada (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. Coulter, Ms. Desmarais, Ms. Duff, Ms. Edwards, Ms. Fortin, Mr. Hannaford, Mr. Kessel, Mr. Lescot, Ms. Levasseur, Mr. Lewis, Ms. Lodge, Ms. Mandville, Ms. McPhee, Ms. Nassrallah, Mr. St-Pierre, Ms. Stuewer and Mr. Tremblay (Canada) took places at the Committee table.
2. Mr. KESSEL (Canada) said that since the preparation of its fourth and fifth periodic reports, Canada had introduced a number of programmes, policies and measures to further the realization of the rights protected under the Covenant. The federal, provincial and territorial Governments worked together and independently to address human rights issues in such areas as health care, child development, housing and homelessness, justice, and issues affecting Aboriginal peoples, senior citizens and persons with disabilities.
3. Canadian women had made many gains in achieving equality. In 2000, the Government had approved the Agenda for Gender Equality and, in 2004, the federal Standing Committee on the Status of Women had been established in order to raise public awareness of gender equality issues.
4. More Canadians were working and fewer lived in poverty than in 1998. The unemployment rate had reached a 32-year low of 6.3 per cent; most of the positions that had been filled were full-time jobs. Federal investments to support low-income Canadians were having a positive impact: in 2004, about 1.1 million fewer people were living on a low income than in 1996. Provincial initiatives, such as the five-year action plan to combat poverty and social exclusion being implemented by the Government of Quebec, were also expected to reduce economic disparities.
5. Canada believed that the most important investment it could make as a country was to help families raise their children. Particular emphasis had been placed on providing support for families and children in response to the Committee's concluding observations on Canada's third periodic report (E/C.12/1/Add.31). In addition to existing childcare benefits, the Universal Child Care Benefit, which would be introduced in July 2006, would provide Can\$ 1,200 a year for each child under six. Through the Universal Child Care Plan, 125,000 flexible new childcare spaces would be created to meet the needs of families. A series of other measures to support Canadian children and families had been included in the federal budget for 2006.

6. Considerable strides had been made in reducing child poverty: nearly half a million fewer children were living in poverty as compared with a decade earlier, and the low-income rate for children had decreased from 18.6 per cent in 1996 to 12.8 per cent in 2004. The National Child Benefit, a federal, provincial and territorial initiative, had played a key role in reducing child poverty and supporting parents' participation in the labour force.

7. The Government had introduced a variety of initiatives to improve the lives of Canada's Aboriginal peoples. For example, it had developed programmes aimed at providing access to information technology to Aboriginal Canadians and residents of remote communities. In September 2004, the First Ministers and Aboriginal Leaders had agreed to work together to develop a blueprint to improve the health status of Aboriginal peoples and health services in Canada. At the same time, the Government had announced new investments of Can\$ 700 million to be spread out over five years for Aboriginal health programmes and projects.

8. Canada's latest budget allocated Can\$ 450 million for improving water supply and housing on reserve, education outcomes and socio-economic conditions for Aboriginal women, children and families. In addition, it allocated Can\$ 300 million for the provinces to provide off-reserve Aboriginal housing in the North. The Government was making substantial investments in upgrading, maintaining and monitoring water and wastewater systems on First Nations reserves. It was committed to building strong, economically viable and healthy communities, and would continue to work closely with Aboriginal peoples on all health-related issues.

9. In response to the Committee's previous concluding observations concerning the issues of homelessness and inadequate housing, the Government had confirmed the allocation of some Can\$ 800 million to the provinces and territories for the provision of affordable housing.

10. At the international level, Canada had been actively promoting various aspects of economic, social and cultural rights. It had participated in the development of the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection and Promotion of the Diversity of Cultural Expressions. It had assumed an active role in the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities. Canada had actively supported the drafting of the new International Health Regulations, adopted in 2005 by the World Health Assembly, and would continue to support international tobacco control initiatives.

11. Canada recognized the importance of creating an enabling international environment and worked together with developing nations in international cooperation projects. Its international development programmes focused on many aspects relating to the realization of economic, social and cultural rights.

12. Mr. PILLAY said that many of the concerns expressed in the Committee's previous concluding observations had not been given the attention they deserved. In its concluding observations on Canada's second periodic report (E/C.12/1993/5), the Committee had raised the issues of social housing, homelessness and food security. The fact that provincial and territorial Governments were required to match federal funds allocated to housing in order to draw on them meant that those funds could not be accessed if no matching funds were available.

13. In its concluding observations on Canada's third periodic report, the Committee had urged the Government to increase social assistance rates to realistic levels. Poverty, homelessness and food security remained pertinent issues, despite the fact that Canada had adequate resources, institutions and infrastructure to address them. The main problem was that the Government did not appear to consider economic, social and cultural rights to be justiciable. He urged the Government to adopt a rights-based approach to economic, social and cultural rights that would be accompanied by accountability mechanisms, and to afford legal remedies to persons who claimed that their rights under the Covenant had been violated.

14. According to a number of NGO reports, Canada had not ensured the progressive realization of some of the rights contained in the Covenant, such as the rights to housing and to social security. The reporting State should indicate whether that information was correct. He enquired whether the State party had established programmes to meet the needs of disadvantaged and marginalized groups.

15. Mr. RZEPLIŃSKI said that the Government's reply to question 3 in the list of issues regarding the fourth periodic report had been insufficient. It would have been useful to receive a reply from the Supreme Court. The State party should indicate whether the Covenant could be invoked in the federal and provincial courts. Further information should be provided on the willingness of the Prime Minister, the councils of ministers and legislators to incorporate the provisions of the Covenant into domestic legislation. He asked whether any candidates for the posts of federal or provincial court judges who wished to make reference to the provisions of the Covenant in their judgements had been appointed.

16. Mr. SHEN Yongxiang said that some provincial and territorial authorities had adopted policies that violated a number of their obligations under the Covenant. According to international law, the federal Government was responsible for implementing all the provisions of the instruments that the State party had ratified. He therefore wished to know what measures the federal Government had taken to ensure that all the rights under the Covenant were implemented throughout all provinces and territories.

17. Mr. MALINVERNI requested additional information on the effectiveness and the achievements of the Continuing Committee of Officials on Human Rights. Since the State party had recognized that its federal structure impeded ratification of some international instruments, he wished to know whether Canada had considered ratifying any of the International Labour Organization (ILO) conventions, even if it had to make reservations to some provisions. The delegation should indicate whether the federal structure had resulted in any other difficulties apart from ratification of ILO conventions.

18. He enquired whether steps would be taken to enable the courts to take a more direct approach to economic, social and cultural rights.
19. The delegation should comment on the accuracy of reports from several NGOs that there had been a regression in the enjoyment of some economic, social and cultural rights. In particular, he requested information on the reported decrease in social welfare spending over the past 10 years.
20. Mr. SADI asked whether the new Government in Ottawa would take an approach to some of the issues under consideration that differed from that of previous Governments. He requested information on the geographical distribution of the State party's increased prosperity. The delegation should indicate whether the Government had taken any decision to increase its official development assistance to the target set by the General Assembly.
21. The reporting State should provide more information on the extent to which the provisions of the Covenant and of other international instruments that the State party had ratified were taken into account during policy debates, particularly on such issues as same-sex marriages and age of consent. The reporting State should provide examples of how federal and provincial human rights institutions gave effect to the Covenant.
22. He asked whether the federal Government believed that multiculturalism would continue to thrive in Canada, or whether it shared the opinion of some moderate thinkers in Europe who considered multiculturalism a failure.
23. The delegation should provide further information on the extent to which NGOs had played a meaningful role in preparing the fourth and fifth periodic reports.
24. He wished to know whether Aboriginal women had gained the right to make complaints under the Canadian Human Rights Act.
25. Mr. KESSEL (Canada) said that there had been many improvements in social conditions during the period covered by the fourth and fifth periodic reports. It was therefore clear that Canada had lived up to its commitment to ensure the progressive implementation of economic, social and cultural rights.
26. Ms. LEVASSEUR (Canada) said that, under the Canadian federal system, the provisions of the Covenant were implemented through legislative and administrative measures adopted by different authorities. Under the Vienna Convention on the Law of Treaties, it was not always possible to ratify an international instrument that was not unanimously supported by all provinces and territories, even by making a reservation. Moreover, it was unclear whether a reservation would give the federal Government the authority to implement rights in a province or territory that refused to do so. In principle, the federal Government could not replace the sovereign authority of the provincial or territorial Governments. There was, however, an effective permanent mechanism that facilitated consultation between the federal, provincial and territorial authorities concerning the implementation of international instruments.

27. She said that section 15 of the Canadian Charter of Rights and Freedoms guaranteed equal economic and social rights for all, and that the courts ruled on remedies for violations of such rights. Canada had been promoting economic, social and cultural rights through many specific federal and provincial acts, programmes and policies. Violations of those rights could generally be appealed to an independent court; under federal law, individuals could appeal to an administrative tribunal, the superior court of a given province or the Federal Court. While section 7 of the Charter was applicable in Canada, the Supreme Court had not yet decided on the scope of its application. Persons who felt they had been discriminated against could file complaints with the various federal and provincial human rights commissions. The Federal Court, rather than the Canadian Human Rights Commission had the final say in appointing a tribunal to rule on a given matter.

28. While measures to implement economic, social and cultural rights varied from province to province, human rights were uniformly observed throughout Canada, particularly since the Canadian Charter of Rights and Freedoms applied to all levels of government. The Supreme Court interpreted such rights under the Canadian Charter.

29. The different measures taken by the various provinces to implement rights could be an advantage. If several provinces had legislation on an issue not covered under another province's legislation, the Supreme Court could compel the latter to adopt relevant legislation, as it had done with regard to the prohibition of discrimination on the grounds of sexual orientation.

30. The Government was committed to ensuring full human rights protection for Aboriginal people. Together with the Department of Indian Affairs and Northern Development, the Department of Justice was examining how to address the issues raised by section 67 of the Canadian Human Rights Act since the repeal of section 67 would directly affect the rights of Aboriginal people.

31. Since the Supreme Court had declared that obligations under international treaties and conventions were relevant to the interpretation of the Canadian Charter of Rights and Freedoms, courts increasingly referred to those instruments.

32. The Department of Justice had confirmed its intention to raise the age of sexual consent from 14 to 16 years. The aim of that measure was not to criminalize sexual activity between consenting young persons but to protect them from adult sexual predators.

33. Ms. DESMARAIS (Canada) said that the Government of Quebec had adopted a series of measures to implement the Covenant. The Quebec Charter of Human Rights and Freedoms contained an entire chapter on economic, social and cultural rights, including, inter alia, the right to free public education and the right of parents to choose private schools for their children. The Government of Quebec had adopted many laws relating to articles 7, 9, 11 and 13 of the Covenant, including an action programme to combat poverty and social exclusion. There were remedies for persons who believed that they had been victims of discrimination.

34. The Government of Quebec attached importance to health and social services, as demonstrated by the resources that the Quebec Department of Health and Social Services had allocated to social services, which had increased by over 60 per cent over the past four years.
35. Mr. LEWIS (Canada) said that two days earlier, the Government of Ontario had proposed a new law on residential tenancies with a view to improving protection for tenants and landlords, ensuring fairer rent increases and promoting investment in rental housing. Under the proposed law, tenants would be able to bring relevant matters before a court or obtain mediation. The new act would base the annual rate-increase guidelines on the consumer price index and would ensure that landlords installed “smart metres” in buildings to promote energy efficiency. It would also disallow all rent increases if a landlord failed to maintain his or her building.
36. The Government of Ontario had been proactive in addressing housing issues, through substantial investments in various housing programmes. The Social Housing Reform Act gave administrative responsibility for social housing to the local government, and required the service managers who administered social housing to establish an internal review process to deal with housing issues. The Government of Ontario planned to establish criteria for giving persons with disabilities access to new municipal housing projects.
37. Ms. McCARTHY (Canada) said that the Government of Newfoundland and Labrador had recorded a significant surplus in its budget for 2006. Newfoundland and Labrador had demonstrated increased self-reliance, currently generating 68 per cent of its own revenue. The current year’s investment budget reflected the significant role that the oil industry played in the province’s economy. The 2005 Atlantic Accord between the Government of Canada and the Government of Newfoundland and Labrador on Offshore Revenues had helped the province to reduce its debt-servicing expenses significantly and had given the Government greater flexibility to increase spending in such priority areas as education, infrastructure, culture, health, and poverty reduction.
38. Ms. McPHEE (Canada) said that, through the Continuing Committee of Officials on Human Rights, federal, provincial and territorial Governments consulted and shared information on international human rights treaties in order to enhance Canada’s implementation of its international human rights obligations. Each jurisdiction assigned an official representative to serve on the Continuing Committee, and members were responsible for ensuring continuous liaison on human rights issues among departments and agencies within their Governments, and for sharing information, approaches and views between Governments. In addition to the meetings it held twice a year, the Continuing Committee also maintained contact throughout the year by means of conference calls. The Covenant and the concluding observations of the Committee on Economic, Social and Cultural Rights were a standing item on the Continuing Committee’s agenda.
39. In relation to question 2 on the list of issues relating to the fourth periodic report, she said that, when the Canadian Government prepared its reports to the Committee, it routinely invited NGOs and Aboriginal organizations to share their views. It also held information sessions with NGOs and Aboriginal organizations prior to Canada’s appearances before various United Nations committees. Most Government departments consulted with NGOs on specific programmes and policies that served to implement human rights. The Department of Foreign Affairs and International Trade held annual consultations with NGOs on human rights.

Federal Government officials were continuing their efforts to improve the consultation process with civil society on human rights treaties. The Department of Canadian Heritage routinely shared the feedback that it received from civil society on its human rights programme, with members of the Continuing Committee and with several Government departments. Provinces and territories also shared information received directly from NGOs.

40. Mr. SHEN Yongxiang, noting that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples had expressed concern about the agreements that the Government of Canada had concluded with Aboriginal peoples, asked whether the Government agreed with the Special Rapporteur's assessment of the situation and whether it planned to address any of the issues that had been raised. He wished to know whether the Government had any particular difficulties with the draft United Nations declaration on the rights of indigenous peoples.

41. Mr. MALINVERNI asked whether the Government was taking any targeted measures in favour of the most disadvantaged racial groups. He expressed concern at the high level of prostitution among indigenous women and wondered what was being done in that regard.

42. Ms. GHOSE said that she had heard that NGOs considered the Government's level of consultation with civil society to be insufficient. If that was true, measures needed to be taken to rectify that situation.

43. She wondered whether the plans to change the mandate of the Canadian Human Rights Commission and establish a human rights tribunal had been implemented.

44. With regard to the acknowledgement that there was increasing poverty among Aboriginal people, she wondered whether the trickle-down theory was being applied. In her view, the use of the term "Indian" to refer to the indigenous population was inappropriate. She would welcome additional information on why "Indians" must be registered and the difference between programmes and benefits delivered to Indian Band members and those delivered to registered Indians.

45. She requested information on the study on additional approaches to the release of rights mechanism, including approaches based on the recognition and coexistence of rights, and asked when the study would be completed.

46. She would welcome additional information on the situation in Lubicon which, according to NGO sources, was a matter for concern, particularly in the light of police intervention in peaceful demonstrations. She wished to know more about the self-government agreements currently under negotiation between the Government and the First Nations.

47. She asked whether there was any federal legislation that guaranteed equal pay for equal work, as it appeared that women's incomes were only 71 per cent of men's and that the principle of equal pay for equal work was implemented only in certain provinces. She expressed concern that federal law was activated only if there was a complaint, which was a long and costly process. She asked whether the Government planned to implement the 2004 recommendations of the task force on pay equity concerning a new proactive pay equity law and a new pay equity commission and tribunal and, if not, what alternatives were envisaged.

48. Mr. MARCHÁN ROMERO, referring to the gold-mining activities carried out by Canadian companies in territories under dispute between the United States of America and the Western Shoshone nation, requested information on measures that the Canadian Government was taking to address that issue. She noted that the Committee had recommended that Canada should regulate the conduct of its companies outside national territory.
49. Regarding the sale of oil deposits in the Lubicon territory without prior consultation with the population, it appeared that the ongoing negotiations between the Government and the Lubicon had reached an impasse because federal negotiators had not received instructions to address substantive issues, including compensation. He would be interested to hear the delegation's comments on that situation.
50. Mr. KOLOSOV expressed concern at the discrimination against non-citizens working in Canada. The right to family reunification was one of the most critical issues. Although there was a sponsorship system for family reunification, sponsorship was prohibited if the applicant was receiving social assistance. He asked whether the provinces played any role in dealing with immigrants. Since the right to non-discrimination in the provision of Government benefits and the right to collective bargaining were denied to foreign workers, such workers were defenceless. The separation of children from their parents was contrary to the Convention on the Rights of the Child. He expressed concern that debt recovery was a condition of family reunification, and that immigrants could not be reunified with previously undeclared dependants. It had been reported that the processing time for family reunification applications was unduly long. The delegation should provide additional information on that issue and indicate whether there were any plans to simplify the procedure.
51. Ms. BARAHONA RIERA asked what mechanisms were in place to coordinate federal and provincial policies and programmes, particularly those for women and families. She wished to know whether there was any successor to the Federal Plan for Gender Equality, which had been due to run until 2004. She would be interested to hear what difficulties had arisen in the application of the Plan. She requested detailed information on the legal framework for gender equality policies and the application of the 2001 recommendations of the Parliamentary Standing Committee on the Status of Women. She expressed concern that funding for legal aid was provided primarily in criminal cases; that discriminated against women, who were generally involved in civil and family cases. She wished to know why funding for legal aid had been reduced and why family courts and ministries on the status of women had been closed in some provinces.
52. Mr. RZEPLIŃSKI enquired whether the Government had a plan of action to combat poverty. He wished to know why one in nine Canadians lived in poverty.
53. Mr. RIEDEL said that, since the Committee was interested in the situation in the State party as a whole, it was not helpful to give isolated examples, such as the commendable social housing legislation in Ontario, unless similar measures had been taken in all provinces. He asked what would happen if a province violated one of Canada's international obligations.

54. The CHAIRPERSON asked how the Government responded when investors challenged environmental or health policies in the context of the North American Free Trade Agreement. Regarding the ongoing privatization of basic services, she wished to know to what extent the Government was in a position to fulfil its treaty obligations.

55. Mr. TIRADO MEJÍA asked whether the Government had complied with the recommendations, contained in the Committee's concluding observations on Canada's third periodic report, that the State party should request the Canadian Judicial Council to provide all judges with copies of the concluding observations and encourage training for judges on Canada's obligations under the Covenant, and that it should ensure the wide dissemination in Canada of the concluding observations.

The meeting rose at 1 p.m.