

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

36th session (Geneva, 1 to 19 May 2006)

Reports of States

Canada (fourth and fifth periodic reports)

Information submitted to the Committee

Canada submitted its fourth¹ and fifth² periodic report as well as written replies³ to the Committee's list of issues⁴. Canada's reports outlined measures adopted by the State party since 1994 in the areas of social policy; employment; poverty; homelessness; health care; early childhood development and child care; and family violence. In terms of the practical implementation of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the head of the delegation said that the federal, provincial and territorial governments worked both collaboratively and independently, developing a number of innovative programs. The overwhelming number of non-governmental organisations (NGOs)⁵ present showed that the situation of economic, social and cultural rights is an important concern in Canada. Their strongest concern was that there was no effective follow-up to the Committee's concluding observations nor any implementation or consideration of the recommendations. NGOs submitted parallel reports⁶, which included issues such as the difficult situation of minority groups (African Canadians, indigenous peoples, immigrants); discrimination against women; access to justice; poverty; the national child benefit claw-back; and genetically modified food.

Canada's written replies were thorough but they were quite short and unsatisfactory to most issues raised by the Committee during the sessions. The delegation seemed unprepared to deal with questions asked by most experts. It focused its answers on examples of programs and measures, mostly taken by provinces and thus only applicable in parts of the country.

Themes and issues

Implementation and remedies

One of the main concerns was that previous conclusions and recommendations of the Committee from 1993 and 1998 with regards to many issues have not been followed up. Committee experts actually noted that there had been no progress in economic, social and cultural rights, but regression in their realisation. A Committee member noted that some measures adopted by provinces were in violation of the ICESCR, leading him to ask how the Government was ensuring that all provinces and territories were effectively implementing Canada's international obligations. The delegation explained that Canada has been progressively implementing its commitments under the ICESCR and because of the federal structure certain issues were a matter of federal competence and others of provincial/territorial competence. On the issue of why the ICESCR was not incorporated into Canadian law, the delegation asserted that the ICESCR itself did not require incorporation, but rather application. Measures taken could vary between the provinces but there were mechanisms to ensure implementation of the ICESCR throughout the country and at all levels of government. The Committee also expressed concern at Canada's reluctance to consider economic, social and cultural rights as "justiciable" rights⁷. However experts insisted that there should be a rights-based approach towards issues such as poverty and homelessness. Courts should take account of economic and social rights to ensure that the State party's conduct is consistent with its obligations under the ICESCR. The question of civil legal aid was also raised; cuts in funding for this aid have made it difficult for the poorest to access the courts to enforce their economic and social rights. However the delegation denied these

¹ [E/C.12/4/Add.15](#)

² [E/C.12/CAN/5](#)

³ [E/C.12/CAN/Q/4/Add.1](#)

[E/C.12/CAN/Q/5/Add.1](#)

⁴ [E/C.12/CAN/Q/2](#)

[E/C.12/CAN/Q/5](#)

⁵ African Canadian Legal Clinic, Alternatives North, Amnesty International Canada, Assembly of First Nations, Canadian Bar Association, Canadian Council for Refugees, Canadian Feminist Alliance for International Action and National Association of Women and the Law, Charter Committee on Poverty Issues, Forward, Justice for Girls, Kairos, Ligue des Droits et Libertés, Low Income Families Together, National Anti-Poverty Organisation, Native Women's Association of Canada, Organic Agriculture Protection Fund, Poverty and Human Rights Centre, and Together for Human Rights.

⁶ A compilation of these reports can be found at: <http://www.ohchr.org/english/bodies/cescr/docs/info-ngos/ngocompilation.pdf>

⁷ In this respect, see general comment 9, "the domestic application of the Covenant", adopted by the Committee in 1998, §10.

Canada

difficulties and did not reply to the concerns of the Committee. The experts finally recommended that the Government ensure that civil legal aid be provided to all poor people.

Marginalised groups (Indigenous peoples; African Canadians; immigrants)

Concerns were raised on the inequalities in the attainment of economic and social rights, affecting several groups such as the Aboriginals, African Canadians, and immigrants. Poverty rates remain very high among these disadvantaged and marginalised groups.

Numerous problems exist for indigenous peoples, including unsuccessful land claims, abusive exploitation of resources, increasing poverty, high rates of unemployment, and difficulties in areas such as access to water, health, housing and education. In response to these difficulties, the Canadian government has developed a number of specific programs at federal level. It has also transferred a number of programs and services to the Aboriginal communities, through self-government agreements. Aboriginal women face double discrimination, notably with the inequality relating to Indian status and matrimonial real property on reserve lands (women do not have the same property rights in customary law), to which the Government is trying to find a solution. Young indigenous are often victims of sexual and domestic violence, poverty, higher rates of school drop-out and higher suicide rate than the majority of the population. The issue of the indigenous cultures was also brought up; the delegation explained that measures aiming at indigenous languages and culture promotion had been adopted.

The Committee noted that there seemed to be a racial component to poverty, which was striking several minorities, including the African Canadians and the Aboriginals. The delegation noted that the Government had developed programs taking into account the diverse needs of all communities.

Concerning the situation of migrant workers, the Committee was worried about the denial of the right to family reunification and the fragile situation of women caregivers. The delegation explained that the Government was working to encourage integration and participation of immigrants into the labour market.

Work and social assistance

The Committee noted the relatively low level of unemployment in Canada. However, its distribution seems to be very unequal, with great disparities among provinces. In some provinces, unemployment benefits have decreased, and are only partially provided and limited in terms of duration. Furthermore the minimum wage does not ensure the realisation of the right to an adequate standard of living. The delegation presented governmental measures, which include targeted wage programs, self-employment programs, job creation partnerships, and skills development programs. It also explained that specific programs for encouraging youth and Aboriginal employment were also proving effective.

Unemployment benefits are insufficient and social assistance benefits are very low, affecting the most disadvantaged groups, especially women and the Aboriginals. However the delegation assured that it was easy to qualify for employment benefits and that they provided sufficient income. The Committee nevertheless stated that the delegation had not provided enough information as to whether current social assistance rates allowed recipients to enjoy an adequate standard of living.

Adequate standard of living

On poverty, all Committee members agreed that despite Canada's economic prosperity, the number of people living under poverty was increasing (particularly child poverty). This issue was brought up many times during the sessions. 11% of the population still lived in poverty in 2004. An important question was the lack of definition of a poverty line, which compromises the evaluation of the number of people living in poverty. However the Committee insisted that it was essential to define poverty indicators, to be able to determine programs and plans of action directed to the poorest population.

Several Committee experts focused on the issue of housing. The Committee expressed important concerns on the homelessness phenomenon, especially widespread among certain categories of the population. The estimated number of homeless persons in Canada still ranges from 100,000 to 250,000. Not only should there be national programs to expand social and affordable housing, but there should also be judicial remedies for homeless persons. The Committee also expressed concern regarding forced evictions of tenants who cannot pay for their accommodation. The main province facing this issue, Ontario, has however very recently adopted a new piece of legislation aiming to eliminate unfair eviction processes, in line with the

Canada

Committee's recommendations⁸. The federal government should ensure that all those affected by forced evictions are provided with alternative accommodation.

Responding to Committee's concerns on the high incidence of domestic violence, the delegation presented the diverse programs and initiatives developed throughout the country to combat this problem. The Committee underlined that domestic violence needs to be included as a specific offence in the criminal code.

The Committee reiterated its disapproval of the national child benefit claw-back, which it had already considered in 1998 as having a discriminatory and disproportionate impact on poor single-parent families on welfare. Canada explained that it was intended to reduce child poverty and promote the labour market, and considered the measure as successful in this respect. The Committee also expressed concerns regarding the new program for childcare benefits recently announced, and the lack of childcare spaces. However the delegation assured that the Government would invest in 2007 to create new childcare spaces, with a goal of 25'000 new spaces each year.

Conclusions and next steps

In its concluding observations⁹, the Committee recalls that most of its 1993 and 1998 recommendations have not been implemented. These include the need for a legal redress available to individuals; a legally, enforceable right to adequate social assistance benefits; disparities between Aboriginal people and the rest of the population; absence of the official poverty line; insufficiency of minimum wage and social assistance; and the child benefit claw-back. The Committee included most of NGOs concerns in its comments and questions.

Some Committee experts mentioned the report by the Special Rapporteur on indigenous peoples, who visited Canada in 2004. Its priority concerns and recommendations were similar to those of the Committee, namely the living conditions, the poverty gap, the land question, and the educational needs of the Aboriginals.

Canada appeared before the Human Rights Committee in October 2005. It was concerned about a possible extinguishment of inherent aboriginal rights, an issue that the Committee on Economic, Social and Cultural Rights also tackled. It also recommended that Canada adopt measures for the promotion and protection of Aboriginal languages and cultures; ensure that all victims of discrimination have full access to tribunals and to an effective remedy; and end discrimination suffered by Aboriginal women in matters of reserve membership and matrimonial property.

⁸ See general comment 7, "the right to adequate housing: forced evictions", adopted by the Committee in 1997, §11.

⁹ E/C.12/CAN/CO/5, at <http://www.ohchr.org/english/bodies/cescr/docs/E.C.12.CAN.CO.5.pdf>